(Ensure this number matches your candidate number on your desk label and on your candidate attendance form)

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☐ Tick box if you have answered in accordance with Scots Law

☐ Tick box if you have answered in accordance with Northern Ireland Law

Please tick which Advanced Technical Paper you have attempted (if not already ticked below)

☐ Taxation of Owner-Managed Businesses

☐ Domestic Indirect Taxation

☐ Inheritance Tax, Trusts & Estates

☑ Human Capital Taxes

☐ Taxation of Individuals

☐ Cross-Border Indirect Taxation

☐ Taxation of Major Corporates

☐ Please tick here if you have used an extra answer booklet (ensure you attach your second answer booklet to the first using a treasury tag which will be provided).

Advanced Technical

You must ensure that the Advanced Technical Papers chosen are not the same as the corresponding Awareness Modules you have sat or will be sitting.

Instructions

Your script will be scanned electronically. Failure to comply with these instructions may lead to your script not being marked. You must:

(a) Complete the details on this page and in the booklet using BLACK or BLUE ballpoint pen only.
(b) Write on both sides of the page.
(c) Not write in the margin areas indicated.
(d) Start a new page for each question you answer and indicate the question number in the box provided at the top of each page.
(e) Not remove any pages from this answer booklet or damage it in any way.

Please do all of the above before the end of the examination.

For use by examiner only

1		**6**	
2		**7**	
3		**8**	
4		**9**	
5		**10**	

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QUESTION NUMBER 2

To: Frank Carpenter
From: Alan Jones
Date: xx/xx/xxxx
Subject: PAYE and NIC

Dear Frank

Further to our call please find the tax and National Insurance Contribution ("NIC") rules outlined below.

Finance Director ("FD")

The withdrawal of money can be classed as a loan from the company to the FD, although ideally a loan agreement should have been formalised. From a tax and NIC perspective, no loan benefit arises where the value of the loan over the year does not exceed £10,000.

In terms of employer reporting, where a loan to an employee does exceed £10,000 in a tax year, ~~the~~ a loan benefit charge should be calculated and reported on the FD's form P11D. Employers calculate

the charge under the 'averageing' method. In the FD's case a loan benefit will have arisen in both the 2017/18 and 2018/19 tax year as follows:

- 2017/18: (0 + 12,000)/2 × 2.5% = £ 150
- 2018/19: (12,000 + 24,000)/2 × 2.5% = £ 450

The above calculation assumes that the FD paid no interest on amounts borrowed throughout either tax year.

Additionally, Class 1A NIC should have been reported on the company's form P11D(b) and an amount due each year as follows:

- 2017/18: £150 × 13.8% = £20.70
- 2018/19: £450 × 13.8% = £62.10

In terms of repayment, if the FD uses a bonus to pay of the loan then this should be after PAYE and Class 1 NIC has been deducted from the bonus.

Marketing Director ("MD")

The MD's wife in receipt of earnings, is received even

though she's not employed by the company. The amounts paid to her will be deemed to be earnings of the MD by virtue of his employment with the company. As such, in 2017/18 and 2018/19 the MD should have had an additional £5,200 processed via payroll each month for PAYE / Class 1 NIC purposes.

Managing Director ("Mgr D")

Whilst the yacht was purchased for client entertaining purposes it appears that its primary use has been for staff purposes, notably the Mgr D. As such, a charge arises under the use of an Asset ~~legs~~ legislation, this charge is levied at 20% of the assets market value each relevant tax year.

The charge for a full tax year in both 2017/18 and 2018/19 will be as follows:

£650,000 × 20% = £130,000 + 24,000 = £154,000

This amounts should have been added to the Mgr D's form P11D and subject to Class 1A reported on the company's form P11D(b). Please note, an apportionment for actual use of the asset may be available where the access to the

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asset was restricted. As such, we could potentially apportion the charge by reference to when the Mgr. D used the yacht as follows:

£130,000 ~~*~~ + 24,000 = 154,000 x 5/52 = £14,808

As you can see the difference in the amount of charge is significant, especially considering the Mgr D will be required to pay tax at 45%. Please note, for an apportionment to be considered there must be a genuine restriction on the Mgr. D from accessing the yacht for the periods when not used. If use of the yacht was available on demand then a full year's charge will apply. ~~and~~

Next Steps

There appear to have been a number of reporting failures both in respect of forms P11D/P11D(b) and payroll. We would recommend disclosing these to HMRC at the earliest opportunity. The benefit of this is that it can help reduce the amount of any penalties significantly, in certain cases to Nil.

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HMRC will charge interest on the errors.

Regards

Alan Jones.

QUESTION NUMBER 3

To: Neville Stott

From: John Briggs

Date: 16 April 2019

Subject: Site Closure

Dear Neville

Further to your email dated 14 April 2019, please find my comments below for your further consideration.

Suggestion 1

An exemption is available for works transport services subject to the following conditions being met:

- The service is available generally to employees of the employer concerned,
- The main use of the service is for qualifying journeys by those employees,
- The service is used only by the employees for whom it is provided.

Pleasen note, the vehicle must be able to take in excess of 8 people to qualify for relief. The provision of this service should qualify for an exemption for the first 12 months as proposed. It may, however, be worthwhile seeking HMRC approval that condition 1 (above) applies

as strictly the service is only being provided to a specific group of employees which may contravene the exemption.

Suggestion 2

The provision of a travel allowance in most forms should be subject to PAYE and Class 1 NIC deductions via payroll. An exception to this may be where an allowance has been pre-agreed with HMRC in respect of business related travel, although this isn't the case here.

Unfortunately, Ipswich cannot be considered to be a temporary workplace as this only applies where either:

- The employee intends to be at a location for <24 months, or
- The employee spends <40% of their time at a workplace.

In this case, Ipswich will be the main place of work, therefore, Temporary Workplace Relief ("TWR") is unavailable.

Suggestion 3

An exemption is also available for certain relocation costs provided to employees, however, stringent conditions apply. The move of residence must be considered first and adhere to the following conditions:

QUESTION NUMBER 3

- A: The change of residence results from a number of cases, one being an alteration of the place ~~of~~ where the employee is normally to perform their duties.
- B: Change of residence is made wholly or mainly to allow the employee to reside within a reasonable daily travelling distance of the new location.
- C: The employee's former residence is not within a reasonable daily travelling distance.

On initial review, ~~to~~ the above conditions would appear to apply to the 15 staff who live north of Norwich. Although those south of Norwich will only be within 35 minutes of the new location, therefore, they won't qualify under conditions B and C.

In terms of those living north of Norwich who will qualify above, ~~providing that~~ may qualify for tax relief on any allowance amount. For this to be the case, the employer must validate expenditure, and also check that the amounts are spent on qualifying relocation expenses:

- Acquisition benefits and expenses
- Abortive acquisition benefits and expenses
- Disposal benefits and expenses

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- Transporting belongings
- Travel and Subsistence
- Replacement of domestic goods.

An expenses in respect of the above items will qualify for tax relief upto a value of £8,000. In any other case where an allowance is provided and cost incurred on non-qualifying items then tax and NIC will be due on the relevant amount.

Suggestion 4

Firstly, this option wouldn't qualify for the same exemption as discussed under suggestion 1, as ~~at~~ the vehicle has <8 seats.

This option would also give rise to a benefit-in-kind charge on the employees who use the MPV as they'd be using it for home to work journeys, otherwise known as "ordinary commuting". As Ipswich cannot be considered ~~a~~ for TWR, the "ordinary commuting" rules apply tax on the provision of an costs or travel service provided from home to work for employees.

The benefit charge would be calculated under the ordinary car benefit rules, ~~also~~ along with a fuel

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benefit charge. This benefit would then ~~either~~ need to be apportioned across each employee using the MPV and reported on forms P11D. This will result in them incurring tax on ~~their~~ the vehicle/fuel and the company Class 1A NIC which doesn't align with your aim to minimise costs.

Suggestion 5

As ~~aug~~ outlined under suggestion 3, this option wouldn't meet any of the first 3 conditions in respect of moving residence.

If the allowance were to be used in this way then the costs would be treated as non-qualifying relocation expenses. As such, tax and NIC liabilities would arise for both the individual and the company.

Conclusion

Suggestion 1, subject to HMRC approval would appear to be the best short-term option.

Regards

John Briggs.

QUESTION NUMBER 5

Memo

Subject: Termination Payment

Date: 28 April 2019

The information detailed below is based upon the facts outlined in Jose Marchant's email dated 26 April 2019. In addition, the legislation and guidance which the rules are based upon are true as of the date outlined at the top of this document.

Option 1

Upon becoming UK resident following termination of the secondment, Steve would cease to qualify for Foreign Service Relief ("FSR"). FSR only applies where an individual is non-resident in the UK at date of termination.

~~The~~ As for the remainder of the termination package, the Statutory Redundancy Pay amount would qualify as a genuine termination payment. This would be qualify under s.401 ITEPA '03 ~~as txpt~~ for exemption upto an amount of £30,000 from both tax and NIC. Please ~~a~~ note, this payment would utilise the £30,000 exemption in preference to any other payment.

The one month's base salary will be treated in one of two ways:

- Ex-gratia payment, therefore, also falls under s.401.
- Taxable under general earnings.

Based on the fact that the company has a policy stating that ~~the~~ a fixed amount will be paid, this amount will be taxable. HMRC will consider this payment to be customary given its written in policy.

The Pay in Lieu of Notice ("PILON") will be taxable to the extent that the employee would have received this amount of pay had they worked their notice. As Steve is receiving an amount equal to 3 month's base salary, under the PENP rules he'll be taxable on the full amount of the PILON.

Option 2

As Steve would be UK non-resident at the point of termination, then no tax would arise in respect of a genuine termination payment if any of the following provisions apply:

- 3/4 or more of the period of employment ending with the date of service are overseas, or

QUESTION NUMBER 5

- the period of service ending with that date exceeded 10 years, the whole of the last 10 years, or
- if the period of service ending with that date exceeded 20 years, one-half or more of that period, including any 10 of the last 20 years.

In Steve's case, the period overseas is not substantial enough to meet any of the above criteria. He would still qualify for FSR based on time overseas divided by the total length of his employment.

Again, any statutory redundancy pay and PILON would not be taxable in the UK as Steve would be non-resident in the UK.

By way of a comparison, please see below an analysis of the UK tax/NIC position in respect of each option:

	1	2
Statutory Red. Pay	6,245	~~[illegible]~~ 250,100
Redundancy Pay: (240,000/12 x 11 years)	220,000	—
PILON	60,000	61,500
Damages	—	15,000
Total Payment	286,245	326,600

Option 1: Taxable amount

		uk
	£	£
Statutory Redundancy Pay	6,245	
Redundancy Pay		220,000
PILON		60,000
(S.401 exemption)	(30,000)	
		—
Taxable and NIC amount		280,000

Est. tax and NIC:

Tax @ 45%: 280,000 × 45% = 126,000

~~Ee~~ NIC @ 2%: 280,000 × 2% = 5,600

Er NIC @ 13.8%: 280,000 × 13.8% = 38,640

170,240

Option 2: Taxable amount

	o/s	uk
	£	£
Statutory Redundancy Pay	250,100	~~250,100~~
PILON	61,500	~~61,500~~
Damages	~~15,000~~	15,000
(S.401 amount): 15,000 × 61/145 (Months)	~~(6,310)~~	(6,310)
		~~8,690~~
UK taxable amount		8,690

~~Est. tax and NIC~~:

~~Tax @ 45%: 8,690 ×~~ 45

QUESTION NUMBER | S

Recommendations

Make payments into qualifying pension scheme then amount contributed fully exempt from tax and or NIC.

QUESTION NUMBER 6

Accountants

Address

Alex Peters

Bugfix Ltd

Address

Date

Dear Alex,

Further to our meeting, I am writing to you in regard to the company's childcare services ~~of~~ to employee's from a UK tax and NIC perspective. Please find the various rules and considerations outlined below.

Directors

The allowance paid to each of the director should have been processed via payroll for PAYE and NIC purposes.

Given that this process has been going on for a number of years, the company should consider making a disclosure to HMRC in respect of underpayment of PAYE/NIC. Making the disclosure without being

QUESTION NUMBER 6

prompted by HMRC will help the company in the case where any penalties are levied by HMRC. In the case of an unprompted disclosure, penalties can be reduced to Nil in certain cases. Interest will be due.

Childcare Vouchers

I note that the company has been ~~[illegible]~~ providing vouchers to all employees at a flat rate of £55 per week. Please note, that HMRC permits vouchers to be provided at this rate for basic rate employees only.

Where an employee is ~~on~~ a higher rate (40%) tax payer the value of vouchers is £28 and for additional rate (45%) tax payers it's £25. As such, the company will have a number of payroll failures in respect of the employees who were able to sacrifice salary in return for vouchers where they were a higher rate tax payer.

Whilst the company should disclose these errors to HMRC, they should also seek to update the policy and salary sacrifice scheme as soon as possible.

QUESTION NUMBER 6

Workplace Nursery

The provision of a workplace nursery by the company may qualify for a tax exemption, subject to the following criteria being met:

- A: The child is a child/stepchild of the employee and is maintained (wholly or partly) at the employee's expense.
- B: The premises used are not used wholly or mainly as a private dwelling, and
  Any applicable registration requirements are met.
- C: The premises on which the care is provided are made available by the scheme employer alone.
  Please note, certain shared arrangements may apply.
- D: The ~~scheme~~ care is provided under a scheme that's open to the scheme employer's employees generally, or generally to employees at a particular location.

Subject to the above criteria applying being met then no taxable benefit is deemed to arise. Please note, Condition A should qualify the two employees for whom you had concerns over.

QUESTION NUMBER 6

Liability due to Errors

First of all, HMRC typically seek to recover underpaid income tax upto 4 closed tax years, in some cases they can go back to 6 closed tax years where they consider the behaviour to be careless. In Bugfix's case, it is likely to be deemed that the behaviour resulting in these errors was careless.

The amounts on which any tax / NIC will be due are as follows:

- Directors: £238.33 × (12 month × ~~8~~ 6 years) = 17,159.76
  ↳ Only covers 2013/14 - 2018/19 × 2 directors
  £ 34,319.52

- Employees receiving vouchers (higher rate only)
  ↳ Only covers 2013/14 - 2018/19

(£55 - £28) = £27 × 70 employees = £1,890
× ~~43~~ (52 week × 6 years)
£ 589,680

Penalties for careless behaviour vary depending on whether they are disclosed to HMRC in a prompted or unprompted manner. ~~If~~ The range is ~~8~~ 0% - 30% of the

QUESTION NUMBER 6

liability, with 30% - 15% being the range for a prompted disclosure and 15% - 0% for an unprompted disclosure.

Yours sincerely
Accountant.

QUESTION NUMBER 1

To: Malcolm Stratton

From: Tax Advisers

Date: xx/xx/xxxx

Subject: Sharon Liu

Dear Malcolm

Please find our analysis of Sharon's circumstances outlined below for your consideration.

Package 1

- As Sharon would be under a UK contract of employment, she'd be liable to UK National Insurance Contributions ("NIC") from day one. This would give rise to class 1 NIC, due by both employee and employer on her gross salary.

As she would become UK resident upon starting her role, assuming she retains Canadian Domicile then she would be able to claim the remittance basis of taxation, although as he has no other sources of income this may not be beneficial. She'd lose her personal allowance if she claims it, although having said that she'll lose her PA anyway due to her level of earnings.

QUESTION NUMBER 1

One reason she may wish to claim the remittance basis, is if she has overseas workdays during the tax year. If so she'd be eligible, under the remittance basis, to claim Overseas Workday Relief ("OWR") in respect of the overseas days. This would be available providing that she's been non-resident in the UK for 3 consecutive tax years out of the last 5 tax years prior to becoming UK resident. If OWR is available and claimed, then any earnings should be paid into an overseas bank account. Preferably an account where only employment income is deposited, that way she can freely remit the UK apportioned amount.

Package B

As you note, tax equalisation can be expensive for the company and difficult to administer. HMRC do enable employers to setup modified payroll schemes under an Appendix 6 arrangement, which could aid the company from an administrative perspective.

Employers must apply to HMRC to operate an Appendix 6 arrangement. Once in place, employers estimate monthly withholdings at the beginning of the tax year, pay the estimated amounts to HMRC and then complete a

QUESTION NUMBER | 1

true-up at tax year-end to ensure all earnings have been captured and the correct income tax ~~and~~ ~~NIC~~ paid over.

One benefit under tax equalisation is that if any tax repayments are due then the company retain these. Additionally, Sharon would be left with the same net earnings she's accustomed to, although I note concerns she has regarding her costs being higher in the UK. To help resolve this the company may wish to pay her a Cost of Living Allowance ("COLA"). Typically, where a COLA is paid the company do not equalise this aspect of the package as it's in additional to what she'd have received if she'd have stayed at home.

Cost Comparison

Option 1:

	£
Salary	250,000
(PA): Not available with/without remittance	N/A
Taxable Earnings	250,000

~~To~~ Tax Due: 34,500 × 20% = 6,900

115,500 × 40% = 46,200

QUESTION NUMBER	1

100,000 × 45% = 45,000

Total Tax Due 98,100

NIC : Employee :

12% : (46,350 − 8,424) × 12% = 4,551

2% : (250,000 − 46,350) × 2% = 4,073

8,624

Employer :

13.8% : (250,000 − 8,424) × 13.8% = 33,337

Summary:	
Tax Due	98,100
Ee NIC	8,624
Er NIC	33,337
Salary	250,000
	390,061

Total Er Cost: 283,337

Option 2 :

~~Gross £~~		Net £	Tax £
~~43,125~~	~~− 20%~~ =	~~345~~ 34,500	8,625
~~192,800~~	~~− 40%~~ =	115,500	77,000
~~181,818~~	~~− 45%~~ =	100,000	81,818
			167,443

QUESTION NUMBER 1

Tax Due: £167,443

No NIC due as a result of certificate of coverage

Summary: UK Tax Due	167,443
Salary	250,000
Total Company Cost	417,443

Canadian Tax = 250,000 × 30% = 75,000

The Company would be £92,443 out of pocket under the equalised approach as UK tax (grossed-up) is significantly higher than Canadian withholdings.

Recommendation

Go with Option 1, consider slight uplift in pay to ease Sharon's concerns re. cost of living. This is cause under option 1 the cost to the company is significantly less.

QUESTION NUMBER 4

We must firstly assess whether Delia is UK resident in 2019/20 due to her number of workdays and/or her ties to the UK. Under UK legislation, an individual's residency position is assessed under the Statutory Residency Test ("SRT"). ~~The SR~~

The SRT is broken down into 3 parts each of which must be assessed in the following order:

- Automatic overseas test
- Automatic UK test
- Sufficient ties test

In Delia's case the position under SRT is as follows:

Automatic Overseas Test

1 - Not in point as she spends >16 days in the UK during 19/20.

2 - Not in point as she has been UK resident in the prior three tax years, she also spends more than 46 days in the UK during 19/20.

3 - Doesn't apply as she spends >31 days working in the UK during 19/20.

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Automatic UK Test

1 - Not in point as Delia spends <183 days in the UK during 19/20.

2 - Doesn't apply as she spends more than a permitted amount of time in an overseas home.

3 - Doesn't work full-time in the UK.

Sufficient Ties Test

As she departed the UK but still spends approximately 76 days in the UK in 19/20, then if Delia has at least 3 UK ties then she'll be considered UK resident in 19/20. Her position under the ties is as follows:

Ties

- Family: Delia's husband remains UK resident.
  ↳ As such the tie is met.
- Accommodation: She has a UK home available to her for 91 consecutive days and spends one or more night there.
  ↳ As such the tie is met.
- Work Tie: She works in the UK for >40 days in 19/20
  ↳ As such the tie is met.
- 90 day: Was present in the UK in either or both of the previous tax years.

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↳ As such the tie is met.

Delia has sufficient ties in the UK in 2019/20, therefore, she falls to be UK resident. She'll also be considered resident in Germany during the same period. As such, we must revert to the tax treaty to understand which country takes preference.

Under the treaty, Delia has a permanent home in both the UK and Germany, therefore, this cannot be used to determine ~~for~~ the decision. We next must assess where her centre of vital interests rests. Given she owns the property in the UK and her husband resides in the UK, this would be the UK. Consequently, she remains ultimately resident in the UK. As such, being UK resident and domiciled she's taxable in the UK on her worldwide earnings on an arising basis.

Under Article 14, Germany retains the right to tax the income, so have to claim tax relief on UK tax return to avoid double taxation

French Property

As this is immovable property, under Article 6 of

QUESTION NUMBER 4

the DTA. France retains the right to tax any income derived from the property. Again, relief via UK return to avoid double tax.

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