May 2022 Examination

PAPER 3

Business Compliance

Part I and Part II Suggested Answers

Candidates will be given credit for relevant points not on the mark scheme.

1.

In order to claim bad debt relief, a trader must:

- have written off the debt in your day to day VAT accounts and transferred it to a separate bad debt account. **(1/2)**
- The value of the supply must not be more than the customary selling price. . **(1/2)**
- The debt must not have been paid, sold or factored under a valid legal assignment **(1/2)**
- The debt must have remained unpaid for a period of 6 months after the later of the time payment was due and payable and the date of the supply. **(1/2)**

For Alex, the debt from 25 August 2021 has now been outstanding for more than 6 months from the due date. The payment received is allocated to the earliest supply first **(1/2)** and so the following amount of bad debt relief can be claimed as follows:

	£
Total value of supplies	2,280
Payment received	(1,500)
Debt outstanding **(1/2)**	780

The amount outstanding in relation to the debt from 25 August is £780 and so the bad debt relief using the VAT fraction is £130 (£780 x 1/6). **(1/2)**

No bad debt relief is due on the debt from 2 September as under normal payment terms, the debt has not yet been outstanding for 6 months. **(1/2)**

2.

1) An export of footwear to Canada is a zero rated transaction. **(1/2)**
2) An import of electrical components from China will be liable to VAT on entry. **(1/2)** The VAT will become recoverable input tax if the goods then become stock or assets of the taxable business**.** **(1/2)**
3) Electronic marketing services supplied from another country will be treated as being supplied where the customer belongs, so the UK. **(1/2)** Yue is a business customer and will therefore have to account for VAT using the reverse charge procedure.**(1/2)**
4) Electronic services used by Yue personally, as a non business customer**,** **(1/2)**will be treated as a supply made in the UK and she will therefore be liable to UK VAT on the purchase.**(1)**

3.

1)

Plumb Ltd will make a deduction of 20% of the total of labour and travelling expenses and lunch costs. **(1/2)** Therefore the amount of the deduction and the net amount paid to Jenson is:

	£
Invoice amount	2,534
Less 20% x (£1,575 + £125+£32) **(1)**	(346)
Amount paid to Jenson**(1/2)**	2,188

2)

The CIS300 form details the following:

- Amounts paid to sub-contractors in the period;**(1/2)**
- The amount of tax deducted (if any); and**(1/2)**
- If any materials were provided by the sub-contractor.**(1/2)**

The return must be received by HMRC no later than 14 days after the end of the tax month.**(1/2)** As Plumb Ltd is late filing the CIS300, it will be liable to a penalty of £100.**(1/2)**

Max 2

4.

1)

The amount of the contribution to charity will be deducted from salary before it is paid. **(1/2)** For occupational pensions, tax relief is given at source and so the amount of contribution will also be deducted from salary before income tax is calculated. **(1/2)**

2)

The amount of salary subject to PAYE is therefore:

Salary	£ 58,000
Less Deductions:	
Gift aid **(1/2)**	(2,900)
Pension **(1/2)**	(3,480)
Total subject to PAYE	51,620

NIC however is paid on the gross amount of salary.**(1/2)**

Income Primary NIC:	
(£50,270-£9,568) x 12%**(1/2)**	4,884
(£58,000-£50,270) x 2%**(1/2)**	155
	5,039
Secondary NIC	
£(58,000 - £8,840)x 13.8%**(1/2)**	6,784

5.

	£
Personal Allowance	**(1/2)**12,570
Less benefits	**(1/2)** (760)
Net allowance	11,810

Tax code = S1181L**(1)**

6.

As a director, Martha has an annual earnings period. **(1/2)**Therefore, her NIC liability will be:

	£	
Total earnings (10 x £4,000) +(2 x £4,500) + £5,000 **(1/2)**		54,000
Primary NIC:		
(£50,270-£9,568)x 12% **(1/2)**		4,884
(£54,000-£50,270) x 2%**(1/2)**		75
		4,959

7. **(maximum 3 marks)**

For each company car:

Form P46(Car) **(1/2)** by 2 November 2021 **(1/2)**

P11D **(1/2)** by 6 July 2022 **(1/2)**

CSOP:

By 6 July 2022 **(1/2)**

Registration/ self-certification/ notification of CSOP **(1/2)**

Annual return **(1/2)**

8.

	£
Levy on salaries and bonuses only	
(£600,000 × 9 **(1/2)** + £900,000 **(1/2)** + 0 **(1/2)**) × 0.5% **(1/2)**	31,500
Less levy allowance 9/12 × £15,000 **(1/2)**	(11,250)
Levy payable to date for 2021/22	20,250
Less levy paid to date **(1/2)**	(14,000)
Levy payable for m/e 5 January 2022	6,250

9.

The due date for filing both tax returns was 30 April 2021 **(1/2)**.

A penalty of £100 per return is due as the returns were late **(1/2).** A further £100 per return is due as the returns were more than three months late **(1/2)**.

The return for the one month ended 30 April 2020 was submitted more than 18 months **(1/2)** after the end of the accounting period and so a tax-geared penalty arises of 10% of the unpaid tax at that date **(1/2)**.

The return for the year ended 31 March 2020 was submitted more than 24 months after the end of the accounting period so a 20% tax-geared penalty arises **(1/2)**.

10. **(maximum 3 marks)**

Sara was pregnant and the letter from the doctor would provide evidence of the due date **(1/2)**.

She gave at least 28 days' notice (31 days from 1 October 2021) of the date she wanted her statutory maternity pay to start **(1/2)**.

She has been continuously employed for at least 26 weeks **(1/2)** into the 15th week (from 21 December 2020 into the qualifying week beginning 25 July 2021) **(1/2)**.

Her average weekly earnings for the eight weeks ending with the payday in the qualifying week (30 July) are (500 + 600)/2 × 12 /52 = £126.92 (£127) **(1)*** that is, at least £120 **(1/2)**.

**½ for calculation of average over two months, ½ for picking the correct two months*

11.

	£	Number	
Free shares	3,600		**(1/2)**
Partnership shares £15,000 × 10%	1,500		**(1/2)**
Matching shares 2 × 1,500 *follow through from p'ship shares*	3,000		**(1/2)**
Total worth of shares	8,100		
Number of shares (£10/share)		810	**(1/2)**

Taxable amount = 810 × £7 (lower of value on allocation/ salary surrender and value on withdrawal) = 5,670 **(1)**.

12.

Frank should appeal the closure notice **(1/2)** for the 2019/20 return by 15 May 2022 / within 30 days **(1/2)**.

Frank is within the time limit of 12 months from the due filing date (31 January 2023) **(1/2)** so should amend his 2020/21 tax return **(1/2)**.

Credit given for stating Frank should pay any extra tax due if his tax liability was incorrectly reduced by the mistake

13. **(maximum 3 marks)**

Clare's travel expenses of £600 are exempt **(1/2)** as she is UK resident **(1/2)**, travelling to and from the UK **(1/2)** to perform duties outside the UK **(1/2)**.

Clare is absent from the UK for at least 60 days for these duties **(1/2)**, and so the cost of spouse Sue's flight of £750 is also exempt **(1/2)**.

Clare cannot deduct the rent costs which she paid for without reimbursement ie no effect on her employment income **(1/2)**.

Tutorial note

The Danish office is not a temporary workplace because Clare is not performing a task there of limited duration. She works there for more than 24 months performing duties there for at least 40% of her time.

Part II

14.

1)

Exempt supplies and any supplies of capital assets are not taken into account.**(1/2)** The future prospects test will not apply as there are no reasonable grounds for believing that the taxable turnover in the next 30 days alone will exceed the threshold. **(1/2)**

The historic test is relevant. The taxable monthly turnover is:

	£
Standard- rated supplies	10,660
Zero-rated supplies	1,880
	12,540**(1)**

The threshold of £85,000 was exceeded after 7 months, so by the end of November 2021.**(1)**Harper should therefore have notified HMRC within 30 days of the end of the month in which the threshold was exceeded, so by 30 December 2021**(1/2)**. She should then have become VAT registered from 1 January 2022.**(1/2)**

2)

The following records must be kept digitally:

- Business accounting records
- Details of any VAT accounting schemes used
- Copies of all VAT invoices which have been issued by the business;
- All VAT invoices which have been received by the business;
- Documentation relating to all imports and exports,
- Credit notes, debit notes and similar documents which evidence changes in the consideration for supplies made or received; and
- A VAT account

(1/2 per record, maximum 3 marks). Any relevant points will be credited.

As Harper uses third party businesses to market her goods, she will need to keep digital records of the transactions made on her behalf by the third party websites. **(1)**

All transactions must be added to the digital records, but businesses do not need to scan paper records like invoices or receipts.

3)

	Taxable supplies £	Exempt supplies £	Total supplies £
Wholly attributable input tax:			
Taxable supplies	2,350**(1/2)**		2,350
Exempt supplies		1,420(1/2)	1,420
Non attributable: Recoverable % = £37,620 / (£37,620+£12,660) (Note) = 75% rounded up **(2)**			
Attributable to taxable supplies: 75% x 1,950**(1/2)**	1,463		1,462
Attributable to exempt supples: 25% x 1,950**(1/2)**		488	488
Input VAT	**3,813**	**1,908**	**5,720**

Note: The output tax on the capital items will appear on the VAT return but is not taken into account for partial exemption purposes.**(1)**

De minimis tests

Test 1
Is the monthly average attributable to exempt supplies £625 or less?**(1/2)**

£1,908/3 = £636 per month so test failed.

The test is failed and so only the input VAT relating to taxable supplies, i.e £3,813 is recoverable.**(1/2)**

4)

The accounting entries would be:

Sales

Dr Bank/debtors	£56,676 **(1/2)**	
Cr Sales/turnover		£50,280**(1/2)**
Cr VAT control		£6,396**(1/2)**

Purchases/expenses

Dr Purchases/expenses	£29,000**(1/2)**	
Dr VAT control	£ 5,720**(1/2)**	
Cr Bank/creditors		£34,720**(1/2)**

15.

1)

	£
Tax adjusted trading profits for period ended 30 June 2021	99,000
Less overlap (W1) **(1/2)**	(25,950)
Assessable trading income	73,050

W1 – Overlap profits

	£
2018/19	
1 July 2018-5 April 2019	
(9/18 x £155,700)**(1/2)**	77,850
2019/20	
12 months to 31 December 2019	
12/18 x £155,700) **(1/2)**	103,800

Overlap = 3/18 x £155,700 = £25,950 **(1)**

Payment on account due in July 2022 and January 2023 is 50% of the 2020/21 tax liability so £12,250. **(1)**

As Anish's assessable trading income in 2021/22 is £73,050, his overall tax liability is:

	£
Tax adjusted trading profit	73,050
Less Personal allowance**(1/2)**	(12,570)
Taxable income	60,480
Income tax liability:	
£37,700 x 20%**(1/2)**	7,540
£22,780 x 40%**(1/2)**	9,112
Total tax liability	16,652

As Anish has already paid £12,250 then he should claim a reduction in the payment account in July 2022 so that he only needs to pay £4,402 (£16,652-£12,250). **(1)**

2)

The gift of assets to employees will need to be reported on form P11D.**(1/2)**

Caroline will be assessed on a benefit based on the use of the car in the car, so 3/12**(1/2)** x £39,000 x **(1/2)**33%**(1/2)** = £3,218.

Where a car is then gifted, the benefit assessed as the difference between market value and the price paid by the employee. Therefore, there is a further benefit assessable on Caroline of £2,000 (£22,000-£20,000).**(1/2)**

The total benefits for Caroline in 2021/22 are £5,218. Class 1A NIC at 13.8% will be paid of £720.**(1/2)**

For Barney, there will be a taxable benefit relating to the use of the asset for 3 months during the tax year, so £3,200 x 20% x 3/12 = £160.**(1/2)**

The taxable benefit on the transfer of the asset is the greater of:

- the current market value
- the market value of the asset when first provided less any amounts already taxed under the private use rules.

So Barney's position is as follows:

- current market value = £1,275
- market value of asset when first provided less benefits to date = £1,760 (£3,200-£1,440[W1])**(1) for W1**

W1 –

19/20	£3,200 x 20% =	£640
20/21	£3,200 x 20% =	£640
21/22	£3,200 x 20%x3/12=	£160
		£1,440

The total benefits for Barney in 2021/22 are £1,920. Class 1A at 13.8% will be paid of £265.**(1/2)**

3)

Where contributions into a pension scheme exceed the annual allowance of £40,000, there will be an income tax charge. For high income individuals, the annual allowance is reduced to £4,000.

Caroline's total contributions are £53,500 for 2021/22 and so she will be taxed on £49,500 as her annual allowance will be reduced to the minimum of £4,000.**(1)**

Barney has unused annual allowances from the past three years which can be carried forward on a FIFO basis and offset against his contributions this year, after using the allowance for 2021/22. As Barney has an annual allowance of £40,000 in 2021/22 and £28,000 remaining of his annual allowance for each of the last three tax years, he will not be subject to an Income Tax charge in relation to pensions.**(1)**

16.

1) **Why Tony is a deemed/off-payroll worker (maximum 4 marks)**

Tony provides services to Fun plc through an intermediary, Ant Ltd **(1/2)** in which he holds more than 5% of the shares **(1/2)**.

Fun plc is a medium or large company as it has more than 50 employees **(1/2)** and annual turnover of more than £10.2 million **(1/2)**. It is a UK resident company/company with a UK connection **(1/2)**.

If Tony were to guide the tours under a direct contract between Tony and Fun plc, he would be considered an employee of Fun plc **(1/2)**.

This is because he cannot send a substitute to do the tours – he was not allowed to use Sue when ill **(1)**.

Also Fun plc controls when and how Tony delivers the tours by dictating the route and script **(1)**.

There is mutuality of obligations as Fun plc must give three days work per week, and Tony must do this work **(1)**.

For the employment status factors (last three marks), ½ for recognising the factor and ½ for specifically applying to the scenario. The guaranteed work could also be used to indicate lack of financial risk/ability to profit by Tony.

2) **PAYE and NIC re off-payroll arrangement** **(maximum 4 marks)**

Fun plc (the fee-payer) must deduct PAYE **(1/2)** and class 1 primary NIC from the payment made to Ant Ltd **(1/2)**. Fun plc must also pay class 1 secondary NIC on the payment **(1/2)**.

Fun plc must report this on or before the payment is made to Ant Ltd **(1/2)** on the FPS **(1/2)**. The PAYE and NIC must be paid electronically by 22nd of the following month **(1/2)**.

When Ant Ltd pays a salary to Tony, Ant Ltd does not deduct PAYE and NIC to the extent that the salary is within the amount of the net payment received from Fun plc **(1/2)**. The amount is recorded on the FPS as non-taxable income **(1/2)**.

There is no PAYE or NIC deducted from the dividend paid to Tony **(1/2)**.

3) **Legal rights and protections of employees** **(maximum 3 marks)**

Employees:

- enjoy rights under employment protection legislation **(1/2)**

- rank as preferential creditors on the insolvency of their employers **(1/2)**

- are entitled to certain social security benefits **(1/2)** such as jobseeker's allowance and statutory redundancy pay (or other suitable example) **(1/2)**

- have entitlement to auto-enrolment in a pension scheme **(1/2)**

- receive some protection where an employer disposes of their business as a going concern under the TUPE regulations **(1/2)** resulting in employment contracts being transferred with the business **(1/2)**.

4) **Class 1A**

	£	£	
Van benefit	3,500		**(1/2)**
Fuel benefit	<u>669</u>		**(1/2)**
	4,169		
Pro-rate for 6 months		2,085	**(1/2)**
Training course		-	**(1/2)**
Flowers		60	**(1/2)**
Private medical insurance		200	**(1/2)**
Music workshop ticket		<u>-</u>	**(1/2)**
		2,345	
Class 1A @ 13.8%		324	**(1/2)**

17.

1) **CT61 returns** **(maximum 4 marks)**

A CT61 return is required for the two months ended 30 June 2021 **(1/2)**. Income tax was withheld by Louise on the royalty payment **(1/2)** so this return should show the amount of tax suffered of £4,000 × 20/80 = £1,000 **(1/2)**.

A CT61 return is required for the quarter ended 31 December 2021 **(1/2)** with a brought forward amount of £1,000 **(1/2)**.

Bunie Ltd withholds income tax on the debenture interest paid to individuals so the CT61 should show the amount of £1,800,000 × 7% **(1/2)** × 1/3 **(1/2)** × 20% **(1/2)** = £8,400.

The net amount of £8,400 - £1,000 = £7,400 is shown as payable to HMRC **(1/2)**.

2) **Corporation tax instalment payments**

14 November 2021 **(1/2)** 3/8 × £266,000 = £99,750 **(1/2)**

14 February 2022 *3m after first payment on 14th* **(1/2)** £99,750 *same as first payment* **(1/2)**

14 April 2022 **(1/2)** £266,000 - £99,750 - £99,750 = £66,500 *balancing figure of three* **(1/2)**

3) **Loan to participator**

s.455 charge:

£500,000 × 32.5% = £162,500 *with no pro-rating* **(1/2)**.

Cost to Sanjeev:

	£
Interest payable for 3 months **(1/2)** *inclusion as cost* £500,000 × 0.5% **(1/2)** × 3/12 **(1/2)**	625
Income tax on loan benefit 40% **(1/2)** × ((500,000 × 2% **(1/2)** × 3/12 **(1/2)**) – 625 **(1/2)**)	750
	1,375

4)

PCRT Standards for Tax Planning **(maximum 4 marks)**

Standard - Lawful **(1/2)**

Alison breaches this Standard under the proposals as she should have drawn the directors' attention to the fact the law is uncertain **(1/2)**

and that HMRC is known to take a different view of the law. *Or* They should have been told what would be reasonable to expect HMRC to believe the application of the law to be **(1/2)**.

They should have been advised of the risks and likely cost that might be incurred to determine any dispute **(1/2)**.

Standard - Advising on tax planning arrangements **(1/2)**

Alison has breached this Standard as she should not have created, encouraged or promoted tax planning arrangements or structures **(1/2)** that

set out to achieve results that are contrary to the clear intention of Parliament in enacting relevant legislation – Alison knows that this is an error in the legislation **(1/2)** and/or

are highly artificial or highly contrived – this involves several entities and transactions **(1/2)** - and seek to exploit short comings within the legislation – she has used the error to the client's advantage **(1/2)**.