November 2024 Examination

PAPER 1

Personal Taxation

Part I Suggested Answers

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

1. Ranvir – Availability of gift relief

	Gift relief (GR) available?	Reasons	
A Ltd	Yes	Any number of unquoted trading company shares gifted qualifies for gift relief. As this is a sale at undervalue, the transaction has a gift element. Provided the gain is more than the excess of actual Sale Proceeds compared to Original Cost, this disposal is eligible for GR.	½ ½ ½
B plc	No	A gift of quoted trading shares is only eligible if Ranvir holds at least 5% of the voting rights of the company. Ranvir only has a 0.053% interest therefore this disposal is not eligible for GR.	½ ½
C plc	Yes	Investment company shares are not qualifying assets under s165. However, any asset on which there is an immediate charge to IHT (e.g. putting asset into a discretionary trust) qualifies under s260 therefore this disposal is eligible for GR.	½ ½
D Ltd	No	Any number of unquoted trading company shares are qualifying assets, however these shares have been sold for full market value and as such there is no gift element in the transaction. Therefore this disposal is not eligible for GR.	½ ½

Max 4 marks

2. Armstrong – Market value of investments for capital gains tax purposes

	Valuation	
Quoted shares in X plc	Value at simple average price: Average price = (241.90p + 243.30p) x ½ = 242.60p Value of shares = (7,500 x 242.60p)= £18,195	 ½ ½
Units held in an HL Fund (an authorised unit trust)	Value at the lower quoted bid price: Value of units = (6,800 x 168.00p) = £11,424	½ ½

3. Francesca – Double taxation relief

Double taxation relief (DTR) under the unilateral relief provisions is calculated on each source of overseas income separately. **(½)**

The relief is given as a deduction from Francesca's income tax liability **(½)** and is calculated as follows:

Lower of **(½)**

(i) Overseas withholding tax suffered **(½)**

(ii) UK tax on the overseas source of income **(½)**

In order to calculate the UK tax on Francesca's overseas income, it is taxed as the top slice of income **(½)** and needs to be considered on a source by source basis **(½).**

To maximise the relief, we usually deal first with the top slice which will be source with the highest rate of overseas tax. **(½)**

In this example, this would mean deal with the French interest (savings income) first as it is taxed at 45% and no savings allowance is available as Francesca is an additional rate taxpayer) **(½).**

For each source of Francesca's overseas income, relief is therefore given for the overseas tax as the rate is lower than the UK rate. (½) **Max 4 marks**

4. Michael – Qualifying loan interest relief

Tax relief is given on interest paid during a tax year on 'qualifying loans' as an allowable deduction from 'total income' in an individual's taxable income computation. (½)

Loan to purchase plant and machinery for use in employment

- qualifying interest relief is available (½)
- for the year the loan is taken out and for the next three years only (½)
- as the equipment is used partly for employment and partly for private use, Michael needs to agree with HMRC the employment use proportion (½) as only the employment proportion of the interest is eligible for relief (½)

Loan to buy shares in an employee-owned company

- as Stayble Ltd is unquoted, trading and employee-owned, (½) qualifying interest relief is available (½)
- provided Stayble Ltd is resident in the UK or an EEA state. (½)

Max 3 marks

5. Ammar – Trust income

	Gross income	Type of income	Tax credit	
IIP trust Interest	(£2,608 x 100/80) = £3,260 ½	Savings ½	(£3,260 – £2,608) = £652	½
Discretionary trust Dividends	(£1,232 x 100/55) = £2,240 ½	Non-savings ½	(£2,240 – £1,232) = £1,008	½

6. Harry – Income Tax and NIC on termination package

Income tax – payable by Harry

	£	£	
Contractual restraint of trade payment – fully taxable		25,000	½
Employer contribution into registered pension scheme – Exempt		Nil	½
Ex gratia payments:			
Cash termination payment	75,000		½
Market value of company car gift	18,000		½
	93,000		
Less: Tax free amount	(30,000)		½
		63,000	
Taxable termination payments subject to income tax		88,000	
Income tax (£88,000 x 45%)		39,600	½

National insurance contributions – payable by Harry

	£	
Taxable termination payments subject to NICs *(Note 1)*	25,000	½
Class 1 primary NICs (£25,000 x 2%) *(Note 2)*	500	½

Tutorial notes:

1. *The contractual restraint of trade payment is liable to Class 1 primary NICs.*

   The contribution into the pension scheme is exempt both income tax and NICs.

   The ex gratia termination payments (cash and car) are both exempt from NICs payable by the employee.

   However the company (Potter plc) will pay 13.8% Class 1A NICs on the £63,000 excess over the tax free £30,000 amount.

2. *As Harry is an additional rate taxpayer, he will be liable to Class 1 primary contributions on the restraint of trade payment at 2%.*

7. Diana – Administration – Due dates

Event	Due date	***Tutorial notes: Time limit***	
Original filing of the 2021/22 tax return	31.1.23	*31 January following the end of the tax year*	½
Diana voluntary amendment to return	31.1.24	*Within 12 months of the due date for filing*	½
HMRC correction of arithmetic error	10.2.24	*Within 9 months of the date of receipt of the return*	½
HMRC to issue a formal enquiry notice	31.7.24	*As the return was submitted late:* *By end of the calendar quarter following the anniversary of the actual filing date* *Actual filing date = 10.5.23* *Anniversary = 10.5.24*	½
Diana to appeal against the closure notice	16.11.24	*Within 30 days of the closure notice*	½
Retention of records to support the return	17.10.24	*Normally kept for 22 months after the end of the tax year, but where an enquiry has not been completed by this date, records must be kept until the enquiry is completed (i.e. the closure notice date)*	½

8. Amrita

Chargeable gain arising on the grant of the sub-lease (a short lease out of a short lease) (See Tutorial Note)

	£	
Premium received (20 year lease)	75,000	½
Less: Deemed cost		
(£130,000 x 0.15086) (W1)	(19,612)	½
	55,388	
Less: Property income assessment (W2)	(46,500)	W
Chargeable gain	8,888	

Tutorial note:

This situation is the granting of a short lease out of a short lease. Although there was 55 years left on the original lease when it was acquired, when the sub-lease is granted there are only 47 years remaining on the original lease.

Workings

(W1) Deemed cost

$$\frac{\%(\text{years left on lease at grant of sublease}) - \%(\text{years left on lease at end of sublease})}{\%(\text{years left on lease when acquired})}$$

$$\frac{\%(47\text{ years}) - \%(27\text{ years})}{\%(55\text{ years})} = \frac{98.902 - 83.816}{100} = 0.15086$$ 1½

(W2) Property income assessment on receipt of premium

	£	
Premium received	75,000	
Less: 2% x (n – 1) x premium		
2% x 19 years x £75,000	(28,500)	
	46,500	1½
	=======	

Alternative calculation:

P x (51 – n)/50

= £75,000 x (51 – 20)/50

= £46,500

9. Carlos

Furnished holiday lettings (FHL)

	Available for letting (days)	**Actually let (days)**	**Decision** *(see Note 1)*	
The Croft	≥ 210	≥ 105	FHL	½
Bramble Cottage	≥ 210	< 105	see below	
Orchard House	< 210	≥ 105	Not FHL as not available for at least 210 days	½
The Nook	≥ 210	≥ 105	FHL	½

Bramble Cottage is not let for 105 days, but the **average** 'actual occupation' of all the properties that satisfy the 210 day availability test (The Croft, Bramble Cottage and The Nook) is 106 days (working). Accordingly, Bramble Cottage will be treated as a FHL. **(½)**

Working:

(110 + 90 + 118) ÷ 3 = 106 days, which is ≥ 105 days on average **(½)**

Rent of room to Dimitris

Rent received = (£800 x 9 months) = £7,200

This is less than £7,500 and therefore the rental income is exempt from income tax; none of it is taxable. **(½)** *(see Note 2)*

Tutorial notes:

1. *All of the properties in Penzance are*
   - *furnished*
   - *in the UK, and*
   - *are not normally available for longer term occupation (i.e. not occupied by the same tenant for a continuous period of more than 31 days).*

   Accordingly, the decision as to whether or not the property is furnished holiday lettings revolves around the availability of the property and the actual letting periods.

2. *The rent-a-room relief limit is an absolute limit of £7,500 for the tax year.*

   If the room is not let for the full year (e.g. only for 9 months), we do not compare the income received to the limit time apportioned (i.e. we do not compare the income of £7,200 to £5,625 (£7,500 x 9/12) and conclude that the income is taxable).

10. Fiona and David

1) David is Fiona's son

Mother and son are connected persons for capital gains tax purposes

Investment land is not a qualifying asset for gift relief purposes **(½).**

Gift from Fiona to David

	£	
Market value (26.10.19)	75,000	
Less: Cost	(40,000)	
Chargeable gain	35,000	½
	=======	

Sale by David

	£	
Sale proceeds	120,000	
Less: Deemed cost (MV at 26.10.19)	(75,000)	
Chargeable gain	45,000	½
	=======	

2) David is Fiona's husband

Spouses are not connected persons, special rules apply

Gift from Fiona to David

	£	
Deemed sale proceeds	40,000	
Less: Cost	(40,000)	
Nil gain/nil loss event	Nil	1
	=======	

Sale by David

	£	
Sale proceeds	120,000	
Less: Deemed cost (original cost to Fiona)	(40,000)	
Chargeable gain	80,000	½
	=======	

Tutorial note:

The effect of the nil gain/nil loss treatment is that the gain at the time of the gift (£35,000) is deferred until the subsequent disposal by the second spouse.

The same total gain will be assessed but not in two stages.

11. Sally – VCT investment

- **Investment relief in 2019/20**

  only available on the first £200,000 of the £250,000 investment

  = (£200,000 x 30%) = £60,000 ½

- **Income tax on dividends received:**

		£	
Exempt dividends	£12,300 x (200,000/250,000)	9,840	
Taxable dividends	£12,300 x (50,000/250,000)	2,460	½
		12,300	
		=======	

Income tax on taxable dividends:

	£		£	
Covered by dividend allowance	1,000	x 0%	0	½
Taxable at additional rate	1,460	x 39.35%	574	½
	2,460		574	
	=====		====	

- **Sold at a loss within 5 years of investment:**

  Withdrawal of investment relief

  = 30% of the sale proceeds received relating to the first £200,000 investment

  = 30% x £210,000 x (200,000/250,000)

  = £50,400 1

12. Raoul – UK residency status – 2023/24

(see Tutorial Note)

Raoul does not satisfy any of the 'automatic overseas residence' tests in 2023/24 **(½)** as he:

- has been resident in the UK for at least one of the previous three tax years, **(½)** and
- spent more than 15 days in the UK, **(½)** and
- does not work abroad. **(½)**

Raoul does not spend 183 days or more in the UK **(½)** and does not work in the UK in 2023/24 **(½)** so he does not satisfy two of the 'automatic UK residence' tests.

However, he will be treated as automatically UK resident as he satisfies the 'UK home' automatic residency test **(½)** as:

- there is a period of at least 91 consecutive days (of which at least 30 fall in 2023/24) **(½)** when Raoul:
  - has a UK home in which he spent at least 30 days, **(½)** and
  - has an overseas home, but in which he spent fewer than 30 days **(½)**

Max 4 marks

Tutorial note:

Raoul in the UK for 61 days = > 15 days < 183 days

In his Florida home = three weeks = 21 days

Step 1: Consider whether satisfies automatic overseas resident tests	***Satisfied?***
UK resident for one or more of the previous three tax years and present in the UK for fewer than 16 days	*X*
Not UK resident in all of the previous three years and present in UK for fewer than 46 days	*X*
Meet the working abroad condition: *Work full time abroad and spend fewer than 91 days in the UK*	*X*
Step 2: Consider whether satisfies automatic UK resident tests	
Present in the UK for 183 days or more	*X*
Meet the working full time in the UK condition	*X*
Meet the UK home condition	√

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13.

1)	Non-savings income £	Savings income £	Total £
Salary	80,000 (½)	-	80,000
Interest	-	2,000 (½)	2,000
Benefits (W1)	13,185	-	13,185
Total income	93,185	2,000	95,185
Less: gifted shares	(7,800) (½)	-	(7,800)
Personal allowance	(12,570) (½)	-	(12,570)
Taxable income	72,815	2,000	74,815

	£		
Basic rate band	37,700		
Pension contribution			
(5% x £80,000) x 100 / 80	5,000	(½)	
Adjusted basic rate band	42,700	@ 20% (½)	8,540
Higher rate band on NSI	30,115	@ 40% (½)	12,046
Savings allowance	500	@ 0% (½)	-
Higher rate band on SI	1,500	@ 40% (½)	600
	74,815		21,186
Less: PAYE			(19,000) (½)
Income Tax payable			2,186

W1 Benefits

	£
Loan (W2)	327
Car (W3)	10,058
Debt repayment	1,350 (½)
Medical insurance	1,450 (½)
	13,185

(½) for not including any earnings/benefit re the employer's pension contribution.

W2 Loan

		£	£
Average method:	£(30,000 + 25,000)/2 (½) x 2.25% (½)		619
	Less interest paid:		
	6/4/23 – 5/2/24: £30,000 x 1% x 10/12	250 (½)	
	6/2/24 – 5/4/24 : £25,000 x 1% x 2/12	42 (1)	
			(292)
			327

W3 Car		£
List price		36,000
Sunroof	£(1,750 (½) – 500) (½)	1,250
Adjusted list price		37,250
Percentage	20 (½) + ((110 (½) – 75) / 5) (½)	27%
Benefit	£37,250 x 27% (½)	10,058

(12)

2)

	£
Taxable benefits	13,185 **(½)**
Less: debt repayment	(1,350) **(½)**
Chargeable to Class 1A NICs	11,835
Class 1A NICs @ 13.8% **(½)** =	1,633

Class 1A NICs due by 22 July 2024 **(½)**.

(2)

3)

Holden's dismissal due to jury service is automatically unfair.**(½)**

The potential awards for unfair dismissal are:

- Re-instatement in the same job **(½)**
- Re-engagement in another suitable job with the same employer **(½)**
- Compensation **(½)**
  - Basic award **(½)**
  - Compensatory award **(½)**
  - Punitive additional award **(½)**

Max (3)

14.

1) The analysis of Tomas's domicile depends on whether Tomas's parents were married **(½)** when he was born.

If his parents were married:

- Tomas would have a domicile of origin in the UK **(½)** as he would take it from his father **(½).**
- On reacquiring UK tax residence **(½)**, he would immediately become deemed domiciled in the UK **(½)** because he was born in the UK **(½)** with a UK domicile of origin **(½)**.
- Tomas will therefore be taxed in the UK on his non-UK income and gains on the arising basis **(½)** while UK tax resident.

If his parents were not married:

- Tomas would have a domicile or origin in Utopia **(½)** as he would take it from his mother **(½).**
- On reacquiring UK tax residence **(½)**, he would not be deemed UK domiciled **(½)**.
- Assuming his non-UK domiciled status is secure, Tomas can choose to be taxed in the UK on his non-UK income and gains on either the arising basis **(½)** or the remittance basis **(½)** while UK tax resident.

In both scenarios, he would have acquired a domicile of dependency in Ruritania **(½)** when his father acquired a domicile of choice there as he was under the age of 16. **(½)** Once Tomas reached the age of 16 **(½)** he would have acquired a domicile of choice in Ruritania **(½).** That domicile of choice will probably continue through his short period of UK residence as he retains the intention to reside in Ruritania permanently or indefinitely **(½)**.

Max (8)

2) 1) The acquisition of UK Gilts will be a remittance **(½)** as it relates to the acquisition of a UK asset **(½)**.

2) The gift to his 20-year-old son will not be a remittance **(½)** as he is not a relevant person and Jerome does not benefit from the funds in the UK **(½)**.

(2)

3) The funds from more recent tax years are deemed to be remitted before the funds from earlier tax years **(½)**. Within each tax year, the order of remittances will be rental income before capital gains **(½)** before his inheritances **(½)**. The capital gains on the shareholdings will be remitted before the capital gains on the artwork **(½)**.

(2)

15.

1)

Hamza is deemed to have disposed of his shares in Small Ltd for total consideration of £80,000. **(1/2)**

As only part of this was received in cash, **(1/2)** Hamza will only pay CGT on the cash element. **(1/2)**

The chargeable gain must be calculated using the part disposal rules. **(1/2)** The proceeds of sale are the cash received **(1/2)** and as 62.5% (W1) of the consideration was received in cash, 62.5% of the original cost of the Small Ltd shares is the allowable cost. **(1/2)**

	£	
Proceeds	50,000	**(1/2)**
Less: Cost (W1)	(15,625)	**(1/2)**
Chargeable gain	34,375	
Less: Annual exempt amount	(6,000)	**(1/2)**
Taxable gain	28,375	
CGT @ 20% **(1/2)**	**5,675**	

(W1)

Cost = A/(A+B) x cost of original shares in Small Ltd

Cost = ((50,000 / (50,000 + 30,000)) = 62.5% x £25,000 **(2) See Tutorial note**

Cost = £15,625

Tutorial note - (1/2) mark each for correct values for A, B and the original cost value, so 2 marks in total

The base cost of the shares in Big plc is the remaining part of the cost of the Small Ltd shares. **(1/2)**

As (100 – 62.5=) 37.5% of the consideration was received in shares in Big plc, **(1/2)** the base cost of the shares is 37.5% of the original cost of the Small Ltd shares. **(1/2)**

This means Hamza is deemed to have bought 300 Big plc shares in April 2021 for:

£25,000 x 37.5% = £9,375. **(1/2)**

The gain will be reported on Hamza's Self-Assessment tax return **(1/2)** and the due date for payment of the tax is 31 January 2025. **(1/2)**

10 marks

2)

If Hamza only received shares in Big plc but no cash, the old shares are being swapped for new shares, ie a 'paper for paper' exchange. **(1/2)** There would be no disposal for capital gains tax purposes and no chargeable gain arising for Hamza in 2023/24. **(1/2)**

Hamza would be deemed to have bought 800 Big plc shares in April 2021 **(1/2)** for £25,000. **(1/2)**

If Hamza had been eligible for BADR then he would consider making an election to disapply the share for share rules **(1/2)** and realising a gain of £55,000 (£80,000 - £25,000) **(1/2)** in 2023/24. The deadline for the election to disapply the share for share rules in 31 January 2026. **(1/2)**

The gain after applying the annual exempt amount would be taxed at 10% **(1/2).**

Hamza would be deemed to have bought 800 Big plc shares in June 2023 **(1/2)** for £80,000. **(1/2)**

Max 4 marks

16.

1)

Jamie's is entitled to multiple periods of Private Residence Relief (PRR):

	Occupation Months	**Absent Months**	**Total Months**	
September 2010 - 2011 1 year deemed occupation (N1)	12 **(1/2)**		12	
September 2011 - 2015 Actual occupation (N2)	48 **(1/2)**		48	
September 2015 - 2016 1 year deemed occupation (N3) Property let (N6)	12 **(1/2)**		12	
September 2016 - 2021 Actual occupation (N4)	60 **(1/2)**		60	
September 2021 - December 2022 Property let (N6)		15 **(1/2)**	15	
January 2023 - September 2023 9 months deemed occupation (N5)	9 **(1/2)**		9	
	141	15	156	**(1/2)**

Jamie's chargeable gain is as follows:

	£
Gain	700,000
Less: PRR **(1/2)**	
£700,000 x 141/156 **(1)**	(632,692)
Chargeable gain	67,308

Notes

(N1)

There is a period of ‘absence’ for the first 12 months, **(1/2)** but renovation prior to occupation is a qualifying event **(1/2)** and as the period is less than 24 months **(1/2)** it is covered by PRR.

(N2)

From 1 September 2011 to 1 September 2015, Jamie occupied the property as their main residence **(1/2)** so this is actual occupation **(1/2)** and covered by PRR.

(N3)

From 1 September 2015 to 1 September 2016 is deemed occupation **(1/2)** as Jamie lived there as their main residence both before and after this period. **(1)** As such, any period up to 3 years **(1/2)** qualifies as deemed occupation.

(N4)

From 1 September 2016 to 1 September 2021, Jamie again occupied the property as their main residence, so as with (N2) this is actual occupation **(1/2)** and covered by PRR.

(N5)

The final 9 months are treated as deemed occupation **(1/2)** because Jamie occupied the property as their main residence at some point during their period of ownership. **(1/2)**

(N6)

Lettings Relief is not available to Jamie. **(1/2)** This is because the property was let out in full. **(1/2)** Jamie would need to have lived in part of the property while the tenant lived in another, distinct part **(1)** in order to qualify for Lettings Relief.

13 marks

2)

As Jamie has sold a UK residential property at a gain, **(1/2)** they must file an online property return **(1/2)** and make a payment on account of the CGT due within 60 days **(1/2)** of completion. This amount is deducted from the final tax payable by 31 January following the tax year. **(1/2)**

2 marks