

Examiners Report

Exam Name and Code: Business Planning: Tax - BP:T A/2024

Date of exam – 16 July 2024

Paper performance overview

what worked well with candidates and areas that they were weak on, how they responded.

There was a wide range in the quality of answers produced. A small number of candidates showed sound knowledge and understanding of the technical issues and set out their answers clearly using grammatically complete short sentences and short paragraphs.

Unfortunately, many scripts were not well set out with poor English and insufficient explanation. Many of the phrases typed made little sense. Complete sentences were hard to find. These scripts were frequently littered with typing errors which made them even harder to understand. Minor typing and spelling errors are inevitable given the pressure of an exam but some candidates took this beyond acceptable levels. These candidates were often also the weakest from a tax technical point of view as well.

Candidates need to ensure that their answers are relevant to the question set. The big danger of an open book exam is that candidates just copy out their notes whether they are relevant to the facts in the question or not. Answers must specifically address the issues raised in each question.

Question 1 performance (include each syllabus area covered)

The syllabus areas covered were: 1a, 1b, 1e, 1g, 1i, 1n, 2a, 2b, 2f, 3a

The question involved a group of companies. There were disposals of companies who had previously been involved with intra-group transfers. There was also the acquisition of a loss making company. Candidates had to identify the tax impact of the disposals and discuss how the loss of the newly acquired company could be utilised. The question then asked about a variety of proposed acquisitions and tax saving schemes and how effective they might be.

Both of the companies sold had received properties in the 6 previous years through nil gain nil loss transfers. The key issues were the resultant degrouping charges and the interaction with the substantial shareholdings exemption. The first part of the question was the best answered of the 3 sub requirements. However, many of the weaker scripts completely missed the degrouping charges in the first place which limited their potential to earn marks.

The next part of the question required advice on plans to buy companies with brought forward capital losses and whether these could be used to shelter future group gains. A disappointing

number of candidates seemed completely unaware of the pre-entry capital loss rules. Many set out general rules about group loss relief which were completely irrelevant to capital losses. Many also included a calculation of associated companies and how the limits for marginal relief are adjusted for them, which wasn't relevant to the question.

The final suggestion should have offered easy marks for discussing the application of the controlled foreign company rules. Some students took this opportunity well but weaker candidates completely missed that these rules might apply.

Though this is an open book exam, candidates must know the rules and when they apply. Otherwise they will not be able to recognise the implications of scenarios set out in the exam question.

Question 2 performance (include each syllabus area covered)

The syllabus areas covered were 1a, 1c, 1m, 1o, 1p, 1q, 2a

The taxpayer in this question ran a sole trader business and had made losses for the prior 2 years. He decided to incorporate the business. Candidates had to decide on the best use of the sole trade losses and also discuss the tax implications of incorporation. They also had to assess some suggestions for making the incorporation more tax efficient.

The first part of the question was generally well answered. There were lots of marks available for discussing the implications of incorporation over a wide range of taxes.

Candidates must ensure that they read the question and answer the question that has been set. The question explicitly said not to talk about the taxation of the company going forward. Many candidates felt obliged to copy out all their notes about capital allowances for the company and relief for R&D expenditure even though there was no R&D in the question!

Candidates should avoid making up their own question to answer. The question said "Brian has been a sole trader and is planning to incorporate after April 2024". If a candidate decides to address what would have happened if he had incorporated 3 years earlier this will score no marks.

Part 2 of the question asked students to identify possible uses of the losses in the final years of the sole trade. Those students who identified the options and set them out in an organised way scored very well. Other answers were confused and disorganised.

In part 3, it is suggested that the taxpayer incorporates leaving a balance outstanding on a loan account. Several candidates said this would lead to a s455 close company charge. This is incorrect. The charge arises if the company lends money to the shareholder. The loan in this instance is from the shareholder to the company.

Students were further asked to discuss the implications of not putting the business premises into the company. Students who discussed availability of BADR on the gain on the property scored no marks as there would clearly be no disposal of the property hence no gain to tax.

Overall the answers to this final part were very disappointing

Question 3 performance (include each syllabus area covered)

The syllabus areas covered were 1q, 1r, 1s, 1t, 2a, 2f, 3a, 3b, 3d

The question involved an employee taxpayer who had a secondment abroad and made capital disposals of a range of different assets. Candidates had to assess the residence status of the taxpayer in all relevant years and describe the CGT implications of the disposals. They needed to show an understanding of the temporary non resident CGT rules and when UK assets are chargeable in the hands of a non UK resident. The question also required application of the main residence exemption.

The question then went on to ask about a “too good to be true” tax planning scheme, which should have been a standard ethical issue.

The residence issues were generally dealt with quite well. Few answers were fully correct but most made enough relevant points to pass this section.

The answers to the disposals of UK assets while non UK resident were frankly dreadful. Almost no candidates seemed to be aware that UK residential property owned by non residents became liable to UK (non resident) CGT from April 2015. Knowledge of the main residence relief was patchy. Some candidates had clearly heard of the CGT temporary non resident rule, but most were unable to apply it to the facts in the question.

The standard ethical issue should have offered the easiest marks in the question. However, many candidates had wasted so much time earlier typing out irrelevant notes that they ran out of time for this part. If students choose to use acronyms they should use them correctly. It is perfectly acceptable to abbreviate “disclosure of tax avoidance schemes” to DOTAS. References to POTUS are not relevant in a tax exam answer.

Summary and helpful hints

Candidates should be aware that BP:T is primarily a written exam with a few calculations to back up the narrative points. Some candidates wasted time with lengthy calculations that were not required to answer the questions.

As noted in several places above, it appeared that many students had been misled by the open book nature of this exam. Tax advice for clients involves applying tax rules to practical scenarios. If the rules are not properly known and understood candidates cannot apply them to the scenarios set out in the questions. There was much evidence of candidates copying out swathes of notes in areas that were simply not relevant to the question set. For example, it is true that companies must use their own loss before claiming group relief. However, if none of the claimant companies has a loss this point is not relevant and will not score.

Many candidates wasted time typing out the question before answering it. This is a complete waste of time.

In many of the weaker scripts it was very difficult to know which part of the question was being answered. As stated on the exam question, candidates should use sub-headings to structure their answers and let the marker know which part of the question they are attempting to

answer.