May 2023 Examination

PAPER 1

PERSONAL TAXATION

Part I Suggested Answers

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

1. Monica – Annual allowance charge – 2022/23

	£	
Employee OPS contributions (£150,000 x 15%)	22,500	½
Employers OPS contributions (£150,000 x 20%)	30,000	½
Total gross pension contributions in 2022/23	52,500	
Less: Annual allowance available (see working)	(49,000)	W
Amount to be taxed as top slice of income	3,500	
AA charge (£3,500 x 45%)	1,575	½

Working: Annual allowance available in 2022/23

		£	
2022/23		40,000	½
Unused AA b/f from last three tax years (FIFO)			
2018/19	> 3 years (see note)	–	½
2019/20	(£40,000 – £35,000)	5,000	½
2020/21	(£40,000 – £37,000)	3,000	½
2021/22	(£40,000 – £39,000)	1,000	½
		49,000	

Tutorial note:

(i) *Only the unused AA from the previous three tax years is available.*

A statement in the answer somewhere to demonstrate knowledge of this fact is required to gain the ½ mark, although it does not need to be shown as above.

(ii) *Monica is an additional rate tax payer, therefore the AA charge is at 45%.*

2. Serina – Property income – 2022/23

	£	£	
Taxable premium [£86,500 x (51 – 25) ÷ 50] (see note (i))		44,980	1½
Rental income (£1,200 x 11 months) (see note (ii))	13,200		1
Less: Allowable expenses (£1,380 + £985)	(2,365)		½
		10,835	
Property income		55,815	

Tutorial note:

(i) *Alternative calculation*

	£
Premium	*86,500*
Less: 2% x £86,500 x (25 – 1)	*(41,520)*
Taxable to income tax	*44,980*

(ii) *The cash basis is the default position for property income. Accordingly, as the rent is received in advance on the first of each month, there are 11 receipts of rent in the tax year 2022/23.*

The answer assumes that the expenses incurred pre-renting the property on 1 June 2022 were incurred between 6 April 2022 and 31 May 2022 and are therefore allowable in 2022/23.

Full credit would have been given if in your answer you stated that you assumed the expenses were incurred between 1 January 2022 and 5 April 2022, and accordingly would not be allowable in 2022/23.

3. Hamza – Reliefs – 2022/23

Private Residence Relief:

		Number of months			
		Total	Exempt	Chargeable	
1.2.05 to 30.4.07	Owner occupied	27	27		½
1.5.07 to 30.6.15	Working elsewhere in the UK	98	48 [1,3]		
			36 [2,3]	14 [4]	½
1.7.15 to 31.7.22	Owner occupied	85	85		½
		210	196	14	
		====	====	====	

	£	
PRR relief (£650,325 x 196/210)	606,970	½
	=======	
Letting relief	Nil	
	=======	

Notes:

1. Covered by the 'maximum 4 years working elsewhere in the UK' rule. **(½)**
2. Covered by the 'any reason' rule for up to 3 years. **(½)**
3. Each period of deemed occupation must be both preceded and followed by actual occupation at some point. **(½)**
4. There is no letting relief as the whole property is let; there is no shared occupancy with the owner. **(½)**

4. EIS scheme

Income Tax relief

- Georgia can claim relief against her income tax liability for funds used to subscribe for shares in a K Ltd. **(½)**
- There is an annual investment limit of £1 million for 2022/23. **(½)**
- The relief is 30% of the amount invested, provided she has sufficient income tax liability to match against the relief. **(½)**

  Accordingly, the maximum amount of investment relief that can be obtained is £300,000 (30% x £1,000,000). **(½)**
- Georgia could invest all £1.5 million and carry back £500,000 of the investment to offset in the previous tax year 2021/22 income tax computation, provided the maximum relief has not been utilised already in that previous tax year. **(½)**
- If the company is a knowledge intensive company, the annual investment relief limit is £2 million for 2022/23, so the maximum investment relief is £600,000. **(½)**

Max 1½ marks

Capital Gains Tax relief

- It is also possible to defer capital gains arising on other asset disposals as the sale proceeds are used to invest in EIS shares. **(½)**

  The deferred gain will only become chargeable when Georgia disposes of her EIS shares. **(½)**
- On disposal after 5 years the qualifying EIS shares will be exempt from capital gains tax **(½)** as they will have been held for at least 3 years after acquisition. **(½)**
- If a loss arises on the disposal of the EIS shares, it is an allowable loss but the loss should be reduced by the income tax relief retained **(½)**

Max 1½ marks

(Total max 3 marks)

5. Olivia – Remittance basis election

Income Tax

	Remittance basis election	
	£	
Overseas rental income	25,600	
UK employment income	25,000	
	———	
Total income	50,600	½
Less: PA	(Nil)	½
	———	
Taxable income	50,600	
	======	
Income tax		
£		
37,700 x 20%	7,540	½
12,900 x 40%	5,160	½
———	———	
50,600	12,700	
======	======	

Capital Gains Tax

Overseas commercial investment property	50,000	½
Less: AEA	(Nil)	½
	———	
Taxable gains	50,000	
	=======	
Capital gains tax @ 20%	10,000	½
	=======	
Income tax	12,700	
Capital gains tax	10,000	
	———	
	22,700	
Add: Remittance basis charge	30,000	½
	———	
	52,700	
	=======	

Tutorial notes:

(i) *As the remittance basis election is made, the personal allowance for income tax purposes and the annual exempt amount for capital gains tax purposes are not available.*

(ii) *The gain is taxed at 20% as the property is commercial, not residential.*

(iii) *As a long term UK resident, the remittance basis charge will apply.*
The charge is £30,000 as Olivia has been UK resident for at least 7 of the last 9 tax years.

6. Melinda – Total NICs payable – 2022/23

	£	£	
Class 1 primary NICs			
(£50,270 – £11,908) x 13.25%	5,083		1
(£59,880 – £50,270) x 3.25%	312		1
	5,395	5,395	
Class 1 secondary NICs			
(£59,880 – £9,100) x 15.05%		7,642	1
Class 1 A NICs			
(£13,860 + £5,815) x 15.05%		2,961	1
		15,998	

Tutorial notes:

(i) There are no allowable deductions when calculating class 1 NICs, therefore the information about payments into Melinda's pension scheme should be ignored.

(ii) Employer contributions into the pension scheme are an exempt benefit for both income tax and NIC purposes.

(iii) As Melinda is a director, the NICs should be calculated on an annual basis (not monthly or weekly) using the lower threshold of £11,908 for 2022/23.

7. Business asset disposal relief

(Note: Table format is not required but equally acceptable if used, but an explanation of the following is required):	**Nigella gift of shares to Irina**	**Irina sale of shares**	
Employee or officer of the company?	Yes	No	½ ½
Company's main activities are in trading?	Yes	Yes	½ ½
Owned shares for at least 2 years?	Yes	Yes	½ ½
For at least 2 years before gift/sale, it is a personal trading company? - own at least a 5% interest in shares, and - have at least 5% of the voting rights, and - entitled to at least 5% of the distributable profits, and - entitled to at least 5% of the assets on a winding up of the company?	Yes	No	½ ½

(½ mark for mention of each more detailed condition but must be applied to scenario and overall max 3 marks for application of conditions)

Accordingly, Nigella is entitled to BADR on the gift of her shares **(½)** but Irina is not entitled to BADR on the sale of her shares. **(½)**

(max 4 marks)

Tutorial note:

Nigella has at least a 5% interest in Z Ltd both before and after the bonus issue:

Shares owned by Nigella	***Issued share capital***	***% interest***
52,800	*1,000,000*	*5.28 %*
61,600	*1,166,666*	*5.28%*

It is assumed that the shares also carry equal voting rights, rights to distributable profits and rights to assets on a winding up

8. Joshua

	£	£	
Gross bank interest	2,250		
	======		
Interest received – cash amount from trustees		1,800	
Joshua's income tax liability on interest (£2,250 – £500 SA for HR taxpayer) x 40%	700		1
Less: Deducted at source by trustees	(450)		½
	–––––		
Additional income tax payable by Joshua under self-assessment		(250)	
		–––––	
Net after tax cash amount received from the trust		1,550	½
		======	
Gross dividends	2,740		
	======		
Dividends received – cash amount from trustees		2,500	
Joshua's income tax liability on dividends (£2,740 – £2,000 DA) x 33.75%	250		1
Less: Deducted at source by trustees	(240)		½
	–––––		
Additional income tax payable by Joshua under self-assessment		(10)	
		–––––	
Net after tax cash amount received from the trust		2,490	½
		======	

Tutorial notes:

(i) The trustees tax the gross interest and dividend income received in the tax year of receipt at the basic rate and distribute the income to the life tenant net of this basic rate of tax.

The life tenant then brings the gross income into their income tax computation and the income tax liability on each source of income is calculated in the normal way at the life tenant's marginal rate of tax.

A tax credit is then received for the basic rate of tax deducted at source by the trustees.

(ii) With employment income of £60,000, Joshua is a higher rate taxpayer.

He is therefore taxed at 40% on the interest income (after the £500 Savings Allowance), and 33.75% on the dividend income (after the £2,000 Dividend Allowance).

(iii) The tax is deducted in practice from the income in two parts – the basic rate by the trustees in their computation and then the higher rate amount by Joshua in his computation under self-assessment.

An alternative short cut calculation of the net after tax cash amount can be calculated by deducting the total amount of tax payable at the higher rate from the gross amounts:

Interest = (£2,250 – £700) = £1,550

Dividends = (£2,740 – £250) = £2,490

9. Luka

- The chargeable gain arising is the actual capital profit made **(½)**, calculated as the difference between the actual sale proceeds received and the cost of the shares **(½)**
- The gift relief claim is the balancing difference between the capital gain before reliefs and the chargeable amount. **(½)**
- Gift relief = £30,030 **(1½)**

  (13,650 shares x (£5.20 MV – £2.50 Cost) – (£3.00 – £2.50) capital profit)))

Note: Marks are available for the explanation of the calculations, therefore full marks will not be gained if only calculations with no explanation are given.

(3 marks)

Tutorial notes:

(i) The amount per share at each event needs to be calculated as follows to determine that it is a sale at undervaluation:

- *MV per share = £5.20*
- *Cost per share = (£129,000 ÷ 51,600) = £2.50*
- *Actual SP per share = (£40,950 ÷ 13,650) = £3.00*

(ii) The gift relief can be directly calculated (as above) or the full computation can be performed as follows:

- *Capital gain before reliefs = £36,855 (13,650 shares sold x (£5.20 – £2.50)*
- *Chargeable gain = £6,825 (13,650 shares sold x (£3.00 – £2.50))*
- *Gift relief = £30,030 (£36,855 – £6,825)*

10. Mia – pre-owned asset charge

- Mia has gifted cash which has been used to purchase an asset that Mia enjoys the benefit of. This is not a gift with reservation but the sculpture is treated as a pre-owned asset and is subject to an income tax charge. **(½)**
- Income tax charge in 2022/23

  Mia is assessed on notional income of:

	£	
Value of sculpture x HMRC ORI% (£300,000 x 2%) (Note)	6,000	1½
	=====	
	Max 1½ marks	

- As the amount exceeds £5,000, there will be an income tax charge. **(½)**
- If Thomas had only spent £200,000 on the sculpture

  The notional income would be £4,000 (£200,000 x 2%). **(½)**

  However, as the notional income is less than £5,000, **(½)** Mia will have no income tax charge. **(½)**

Max 1½ marks

Tutorial note:

If the notional income exceeds £5,000, the full amount is assessed (not the excess over £5,000).

While the sculpture remains in her garden, for the first tax year and subsequent four tax years (including 2022/23), the 15% p.a. increase in value of the sculpture each year is not relevant.

However, if Mia continues to benefit from the sculpture in her garden after five tax years, a revaluation of the sculpture will be required and must be used to calculate future charges.

(One and a half marks allocated as follows:

1 mark for starting with £300,000 and not a revalued amount, and ½ mark for applying correct ORI of 2%)

(Max 3 marks)

11. SAYE schemes

Q plc

- All employee must be eligible to participate in the scheme. **(½)**
- Employees with less than 5 years' service can be excluded. **(½)**
- The exercise price cannot be less than 80% of the market value of the shares at the time of the grant of the options (i.e. maximum discount allowed is 20%). **(½)**
- Minimum exercise price is £3.84 (£4.80 x 80%). **(½)**

(Max 2 marks)

Jahmelia – Taxation on the exercise of CSOP options

- The exercise of CSOP options is within 3 years of the grant.

  Normally if exercised within 3 years, the individual is liable to IT and NICs **(½)** on the difference between the market value at the date of exercise and the cost of the shares. **(½)**
- Amount liable is £990 ((£3.30 – £2.75) x 1,800 shares). **(½)**
- However, as Jahmelia's employment ended due to her retirement, there is no tax on the exercise of the share options **(½)** provided the exercise is within 6 months of leaving. **(½)**

(Max 2 marks)

(Max 4 marks)

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12.

Ajay's Income Tax computation 2022/23

	Non-savings	Interest	Dividends	
	£	£	£	
Employment income	190,000			(1/2)
Accommodation (W1)	26,800			(1/2)
Company car benefit (W2)	5,711			(1/2)
Treasury Stock interest		3,000		(1/2)
Dividends (W3)			3,925	(1/2)
Net income	222,511	3,000	3,925	
Less:				
s.131 loss – Beguine Ltd (N2)	(8,000)			(1/2)
Gift of quoted shares (N3)	(13,000)			(1/2)
Personal Allowance (N4)	(NIL)			(1/2)
Taxable income	201,511	3,000	3,925	

Income Tax:				
	£		£	
Non-savings income	37,700	x 20%	7,540	(1/2)
Non-savings income (higher rate)	112,300	x 40%	44,920	(1/2)
Non-savings income (additional rate)	51,511	x 45%	23,180	(1/2)
Savings income (N5)	3,000	x 45%	1,350	(1/2)
Dividend income (N6)	2,000	x 0%	0	(1/2)
Dividend income	1,925	x 39.35%	757	(1/2)
			77,747	
Less: Tax deducted at source				
PAYE deducted			(82,000)	(1/2)
Income tax payable/(repayable)			**(4,253)**	(1/2)

Workings

(W1) Accommodation

	£	£	
Higher of: **(1/2)**			
Rent paid by Pax Ltd	24,000		**(1/2)**
Annual value of the property	28,000		**(1/2)**
Rent is higher		28,000	
Less: Ajay's contributions (£100 x 12)		(1,200)	**(1/2)**
Taxable benefit		26,800	

(W2) Car benefit

	£	
List price	48,000	
Less: Capital contribution	(3,500)	**(1/2)**
Revised list price	44,500	

	£	
Cash equivalent: £44,500 x 14% (N1)	6,230	**(1/2)**
Less: Non-availability (£6,230 x 1/12) **(1/2)**	(519)	**(1/2)**
Taxable benefit	5,711	

(W3) Dividend income

	£	
Total dividends received	4,500	
Less: VCT dividends (N5)	(575)	**(1/2)**
Taxable dividends	3,925	

Notes

(N1) Car benefit

1-50g/km and electric range is under 30 miles, relevant CO_2 percentage = 14%. **(1/2)**

There is no fuel benefit, as only business fuel was reimbursed by Pax Ltd. **(1/2)**

(N2) Beguine Ltd

As a qualifying company under the EIS, a claim can be made under s.131 ITA 2007 to offset the loss on the sale of the shares against income. **(1/2)**

The qualifying loss for 2022/23 is £8,000 (see below). **(1/2)** No income tax relief is clawed back as the shares were owned for at least three years. **(1/2)**

	£	£
Proceeds		6,000
Less: Cost	(20,000)	
IT relief – £20,000 x 30%	(6,000)	
		(14,000)
Allowable loss		(8,000)

(N3) Gift of shares – Aelpha Ltd

The AIM counts as a recognised stock exchange **(1/2)** and so it is a valid gift of quoted shares to charity.

The market value of the shares (£12,750) and the legal fees (£250), as incidental costs of transfer, are deductible. **(1/2)**

(N4) Personal Allowance

Income is greater than the £125,140 threshold, therefore Ajay does not have any Personal Allowance. **(1/2)**

(N5) Interest income

As an additional rate taxpayer in 2022/23, Ajay is not entitled to a Personal Savings Allowance.

(N6) Dividend income

The VCT dividends are exempt. This is because the investment was less than £200,000. **(1/2)** It is irrelevant that Ajay did not subscribe for the shares but instead purchased them from another investor. **(1/2)**

Ajay is entitled to a Dividend Allowance of £2,000 for 2022/23, irrespective of whether he is a basic, higher or additional rate taxpayer.

Max 17 marks

2)

Regarding the employment contract, any two from the following:

- The names of the employer and employee. **(1)**
- The date when employment began and the date on which the employee's period of "continuous employment" began. **(1)**
- The job title or description of the work the employee is employed to undertake, and any probationary period. **(1)**
- Details of remuneration including the intervals at which it is paid. **(1)**
- Length/period of notice required on either side to terminate contract. **(1)**
- Terms and conditions relating to hours of work, holidays and holiday pay. **(1)**
- Information on where rules on health and safety may be found. **(1)**
- The period of employment (if not indefinite). **(1)**
- Details of the currency in which remuneration will be paid, additional remuneration due and any terms and conditions relating to return to the UK if the employee is required to work outside the UK for more than one month. **(1)**

Max 2 marks

13.

Zeena's chargeable gains computation 2022/23

Under the matching rules, there were no shares sold on the same day as the date of disposal, **(1/2)** but Zeena bought some shares on 15 June 2022 which is within the 30 days after the disposal date of 1 June 2022. **(1/2)**

Therefore, under the matching rules the shares bought on 15 June 2022 are sold first: **(1/2)**

	£
Proceeds (W1)	16,500
Less: Cost	(15,000) **(1/2)**
Chargeable gain	1,500 **(1/2)**

Under the matching rules the remaining 5,000 shares sold on 1 June 2022 are matched to the s.104 pool (W2): **(1/2)**

	£
Proceeds (W1)	16,500
Less: Cost (W4)	(6,000) **(1/2)**
Chargeable gain	10,500 **(1/2)**

Chargeable gains for 2022/23:

	£
Gain on shares matched under 30 day rule	1,500
Gain on s.104 shares	10,500
Total chargeable gains	**12,000** **(1/2)**

(W1)

5,000/10,000 **(1/2)** x £33,000 **(1/2)** = £16,500 **(1/2)**

(W2)

s.104 pool:

Date	*Number of shares*	*Cost £*
15 February 1998	10,000	12,000 **(1/2)**
Less:		
Sale March 2006 (W3)	(1,000)	(1,200) **(1/2)**
	9,000	10,800
12 May 2022	15,000	18,000 **(1/2)**
Total	24,000	28,800
Less:		
Sale 1 June 2022 (W4)	(5,000)	(6,000) **(1/2)**
Balance c/f	19,000	22,800

(W3)

1,000/10,000 **(1/2)** x £12,000 **(1/2)** = £1,200

(W4)

5,000/24,000 **(1/2)** x £28,800 **(1/2)** = £6,000

10 marks

14.

(1) Poppy can calculate her taxable property income on the cash basis as her gross property income **(½)** does not exceed £150,000 **(½)** for the year. This limit is assessed on a cash basis **(½)** and is reduced proportionately if the property business is not carried on for the whole tax year **(½)**. Therefore, her threshold for 2022/23 is £125,000 (10/12 x £150,000) **(½)**.

Her cash property income receipts for the year are £115,500 (11 x £10,500) **(½)** and she is therefore entitled to use the cash basis **(½)**. She can however make an election to use the accruals basis **(½)**. If she did so her income for 2022/23 would be £105,000 (10 x £10,500) **(½)**. The election would need to be made by 31 January 2025 **(½)**.

(Max – 4 marks)

(2) William's taxable property income:

Clearly preferable to use the cash basis **(½)**.

		£		£
Rental income	8 x £2,150 **(½)**			17,200
Shower addition (capital)		-	**(½)**	
Council Tax		1,800	**(½)**	
Buildings insurance	£(1,200 + 2,500)	3,700	**(1)**	
Interest on mortgage		-	**(½)**	
Repainting the windows		1,750	**(½)**	
Car - mileage	500 x £0.45	225	**(½)**	
Toll	12 x £10	120	**(½)**	
				(7,595)
Taxable property income				9,605

(3) William now has the obligation to file an annual tax return **(½)**. If completing a paper **(½)** return, the deadline for filing is 31 October 2023 **(½)**; if filing online **(½)**, the deadline is 31 January 2024 **(½)**. In each case the deadline is, if later, 3 months after the tax return is issued **(½)**.

Penalties for late filing:

- Initial penalty of £100 **(½)**
- More than 3 months late **(½)** - £10/day for 90 days **(½)**
- More than 6 months late **(½)** – the greater of 5% of tax due and £300 **(½)**
- More than 12 months late **(½)** – the greater of 5% of tax due and £300 **(½)**

(Max – 6 marks)

15.

1) The actions to take/issues to consider before issuing an engagement letter are:

- Undertake client identification as per anti-money laundering procedures **(½)**.
- Assess whether Colin/Jackie represent an acceptable risk for your firm **(½)**.
- Assess whether you have the necessary skills to service Colin and Jackie's needs **(½)**.
- Assess whether there are any potential conflicts of interest **(½)**.
- Obtain professional clearance from previous advisers **(½)**.

(Max – 2 marks)

2) A gain arises on the UK residential property (½) – the post 5 April 2015 gain **(½)** would be subject to CGT when disposed of in 2022/23 under the non-resident Capital Gains Tax rules on UK residential property**.**

	£
Proceeds	900,000 **(½)**
Market value on 5 April 2015	(600,000) **(½)**
Chargeable gain	300,000

If beneficial, Colin could make an election for the gain arising over his entire period of ownership to be time-apportioned between pre- and post-5 April 2015. Only the post 5 April 2015 gain would be chargeable. The chargeable gain would be = 7.5/8.5 **(½)** x £(900,000 – 500,000) **(½)** = £352,941. This is clearly not beneficial **(½).** Another alternative is for a normal calculation of sale proceeds less cost but this is only beneficial in a loss making situation **(½).**

3) If Colin regains UK residence in 2023/24, he would be caught by the temporary non-UK resident (TNR) rules **(½)**.

These rules cause certain capital gains realised during a period of temporary non-UK residence to be deemed to arise in the tax year of the individual's return to the UK **(½)**.

A period of temporary non-UK residence is a period of fewer than 5 years **(½).**

The rules only apply to gains realised on the disposal of assets that were owned when the individual became non-UK resident **(½)**.

The rules only apply to individuals who had been UK resident for at least four of the seven tax years **(½)** prior to the year of departure.

Jackie will not be caught by the TNR rules **(½)** as she was not UK tax resident for at least four of the seven years prior to the year of departure from the UK.

In relation to the post-departure transactions:

Ruritanian residential property – the gain on disposal of this property would be caught by the TNR rules if Colin regains UK residence in 2023/24 **(½)**. However, as Colin is not UK domiciled, he could claim the remittance basis **(½)** and so avoid a UK tax charge if he did not remit the sale proceeds to the UK **(½)**.

The chargeable gain is:

		£
Proceeds	**(½)**	704,545
Cost	**(½)**	(312,500)
Chargeable gain		392,045

UK residential property - The pre-5 April 2015 element of the gain that was not charged to CGT in 2022/23 will be subject to CGT under the TNR if Colin regains UK residence in 2023/24 **(½).** This chargeable gain will be £100,000 (£900,000 - £500,000 - £300,000) **(½)**.

Painting – the gain on disposal of this asset would not be caught by the TNR rules **(½)** as it was acquired after his departure from the UK **(½)**.

Shares in Ruritanian company – the gain on disposal is not subject to CGT, irrespective of when Jackie regains UK residence **(½).**