May 2023 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.

Part I

1. **(3 marks)**

Total VAT payable = £4,472 - £3,143 = £1,329

Output VAT

(£18,000 / £26,000) x £37,000 **(1/2)**/ 6 = £4,269 **(1/2)**
(£3,000 / £26,000) x £37,000 **(1/2)** / 21 = £203 **(1/2)**

Total output VAT = £4,472

Input VAT

£18,000 x 1/6 = £3,000 **(1/2)**

£3,000 x 1/21 = £143 **(1/2)**

Total input VAT = £3,143

2. **(max 3 marks)**

The compatible software package must perform the following functions, as required by the regulations:

- keep records in a digital form **(1/2)**
- preserve digital records in a digital form **(1/2)**
- creating a VAT return from the digital records held in the functional compatible software and; **(1/2)**
- provide HMRC with this information digitally by using the API platform **(1/2)**
- Providing HMRC with VAT data on a voluntary basis**(1/2)**
- Receiving information from HMRC via the API platform in relation to a relevant entity's compliance obligations**(1/2)**

If Yunfan has non-compatible software he must use bridging software**(1/2)** to digitally connect the software to HMRC systems to submit a VAT return**(1/2).**

3. **(max 3 marks)**

- VAT deregistration would be compulsory on a change of status (ie where a business has changed from a sole trader to a limited company) **(1/2).**
- The deregistration can be done online or with a VAT7 form**(1/2).**
- HMRC must be notified of the deregistration within 30 days of the event**(1/2).**
- Adam and the new company, Woozle Limited, may agree to transfer the VAT registration number**(1/2).**

When deregistering, VAT must be accounted for on the final VAT return of any assets forming part of the business assets which are on hand at the last day of registration as if they were supplied in the course or furtherance of the business unless the VAT on the deemed supply would not be more than £1,000.**(1)**

The charge on deregistration will be a deemed supply. **(1)**

4. **(3 marks)**

Dr Bank/debtors (Gross) £21,575**(1/2)**

Cr Sales (Gross of VAT less the flat rate percentage) (£21,575 x 89.5%) £19,310**(1/2)**

Cr VAT control a/c (10.5%x VAT inclusive sales) (£21,575 x 10.5%) £2,265**(1/2)**

Dr Purchases (Gross) £6,212

Cr Bank/creditors (Gross) £6,212 **(1/2) for both entries**

The VAT Creditor**(1/2)** is £2,265**(1/2)**

5. **(4 marks)**

For the car the relevant % is 5% so the benefit will be £27,500 x 5% x 5/12 = £573. **(1)**

For the house Lucas will be taxed on the annual value of £9,500 x 5/12 = £3,958 **(1)** less rent paid of £500 so £3,458.**(1/2)**

There will be no additional accommodation benefit as the original cost of the property was £65,000. Even though the market value is now more than £75,000, as the original cost was below £75,000 there will never be an additional charge for tax. **(1)**

Lucas will be assessed on the cost of the bills which is £3,250. **(1/2).**

Total amount assessable = £7,281

6. **(4 marks)**

Mohsin is providing services to a large client through an intermediary. Dent Plc must therefore look at the arrangement and decide whether Mohsin would be an employee (under the usual employment status rules) if it was to deal with him directly rather than through Technix Ltd . **(1/2)**It will need to issue a status determination statement to Mohsin. **(1/2)** If it does decide that he would be an employee (as is likely to be the case here), it will need to calculate a deemed direct payment after accounting for PAYE/ NIC when payment is made to Technix Ltd. **(1/2).** Dent plc will need to add Mohsin to the payroll **(1/2)** and account to HMRC for the PAYE/NIC relating to the contract. **(1/2)**

Mohsin should show his engagement with Dent plc as employment on his self-assessment return and Dent plc will be the employer. **(1/2).** The employment income will be shown as the deemed direct payment which has been subject to income tax and NIC.**(1/2)**. If Mohsin extracts any funds from Technix Ltd, the amount of the deemed direct payment will be deducted to prevent double taxation.**(1/2)**

Max 4 marks

7. **(4 marks)**

	£	
Earnings:		
Salary (£2,900 × 12)	34,800	**(1/2)**
Bonus	40,000	**(1/2)**
1,300 × 12 × (£0.50 - £0.45) *excess over 45p, applied to all mileage*	780	**(1/2) + (1/2)**
	75,580	
(£50,270 - £11,908) **(1/2)** × 13.25% **(1/2)**	5,083	
(£75,580 - £50,270) **(1/2)** × 3.25% **(1/2)**	823	
Class 1 primary NIC	5,906	

8. **(2 marks)**

Alison does not qualify for Statutory Maternity Pay as she had not been in continuous employment for at least 26 weeks **(1/2)** into the 15th week before the week the baby is due **(1/2)**, as she has only been employed since 1 July 2022.

Roger will have already received the maximum Statutory Sick Pay **(1/2)**, having been off sick for more than 28 weeks by 2022/23 **(1/2)**.

9. **(3 marks)**

	£
Levy on salaries and commissions only	
(£2,400,000 **(1/2)** + £140,000 **(1/2)** + 0 **(1/2)**) × 0.5% **(1/2)**	12,700
Less levy allowance 3/12 × £15,000 **(1/2)**	(3,750)
Levy payable to date for 2022/23	8,950
Less levy paid to date **(1/2)**	(6,100)
Levy payable for m/e 5 July 2022	2,850

10. **(2 marks maximum)**

Yogalita Ltd must submit two corporation tax returns **(1/2)**: for the year ended 31 December 2022 and the three months ended 31 March 2023 **(1/2)**. Both returns **(1/2)** must be submitted within 12 months of the end of the period of account ie 31 March 2024 **(1/2)**, provided this is later than three months after the notice to file the returns has been received **(1/2)**.

11. **(2 marks)**

S**(1/2)**1257**(1)**L **(1/2)**

12. **(4 marks)**

	£	
Cash payment – partially exempt	45,000	**(1/2)**
Less exempt amount	(30,000)	**(1/2)**
Pension contribution – exempt	0	**(1/2)**
Use of camera £2,000 **(1/2)** × 20% **(1/2)** × 1/12 **(1/2)**	33	
Restrictive covenant payment – fully taxable	12,000	**(1/2)**
Training course - exempt	0	**(1/2)**
	£27,033	

Tutorial note

Strictly, the £30,000 exemption is set first against the cash payment, hence the presentation here. However, candidates who add the camera benefit to the cash payment before deduction of £30,000 (demonstrating the inclusion of the benefit in s.403 ITEPA 2003) would still be given full credit.

13. **(maximum 3 marks)**

The income tax is deducted as PAYE from Judd's cash pay **(1/2)** in December, meaning £10,000 is collected this way **(1/2)**.

As December's pay is then reduced to nil, the class 1 primary NIC of £1,625 is fully deducted from Judd's January 2023 pay **(1/2)**.

Pool plc must still pay the full income tax of £22,500 and NIC of £1,625 to HMRC **(1/2)** by the due date of 22 January 2023 (19 January 2023 if not paid electronically) **(1/2)**.

The remaining PAYE of £12,500 which has not been deducted **(1/2)**, must be collected by Pool plc directly from Judd within 90 days of the end of 2022/23 (4 July 2023) **(1/2)**.

If this is not collected from Judd by then, further Class 1 NIC is due, charged on the remaining tax of £12,500 itself **(1/2)**.

Part II

14.

1) (maximum 6 marks)

	£	£	
Output tax			
UK sales of toys (£28,000 x 20%)		5,600	**(1/2)**
Imports of toys from India (£25,000 x 20%)		5,000	**(1)**
Marketing consultancy services from South Africa (£2,400 x 20%) (B2B)		480	**(1)**
Input tax			
Imports of toys from India (£25,000 x 20%)	5,000		**(1/2)**
Marketing consultancy services from South Africa (£2,400 x 20%)	480		**(1/2)**
		(5,480)	
VAT liability		5,600	**(1/2)**

UK sale of children's books which would be a zero rated supply and could have been shown as zero rated output tax on the return. **(1/2)**

The import of toys from Northern Ireland where normal domestic VAT would be charged. The seller would have charged VAT to MPC at the standard rate of 20% (£1,250 x 20% = £250). MPC would recover this as input tax on their VAT return. **(1/2)**

Exports to South Africa are zero rated **(1/2)**

Import of books from France – these would be zero rated supplies in the UK so are treated as such when imported from France **(1/2)**

Tutorial note – these ½ marks are awarded for either an explanation or for showing as zero on the VAT return.

As an alternative to postponed VAT accounting MPC could have used the duty deferment scheme. Under this scheme MPC would have paid the import VAT on the goods imported from India to HMRC by 15th of the month following import rather than via the VAT return.**(1)** Therefore the liability reported on the VAT return would be reduced by £5,000 to £600. **(1)**

2) (maximum 6 marks)

MPC can suffer a penalty point for each missed deadline. **(1/2)** A penalty point is not automatically awarded, but instead HMRC must notify MPC if it is awarding a penalty point relating to a particular missed deadline. **(1/2)**

As MPC submits returns on a quarterly basis the threshold for awarding a penalty is four points. **(1/2)**

A quarterly VAT return is due by one month and seven days after the end of the prescribed accounting period. **(1/2)**

So MPCs first late return is the return to 31 March 2022. **(1/2)** HMRC may award one penalty point. **(1/2)**

Of the next four returns those submitted for the quarters ended 30 September 2022 and 31 December 2022 were late, with the other two on time. **(1)**

So prior to the 30 June 2023 return HMRC may award a total of three penalty points to MPC. **(1/2)**

If the return to 30 June 2023 is filed late then a fourth penalty point may be added and MPC will then suffer a £200 penalty. **(1)**

If future return is filed late then penalty points will not increase above four points but an additional £200 fine may apply. **(1/2)** The points will reset to zero when all quarterly returns are submitted on time for 12 months (ie four consecutive returns). **(1/2)**

3) (4 marks)

If the shop in Morecambe is capable of separate operation **(1/2)**then it is likely that the TOGC provisions will apply and the transfer will be outside the scope of the VAT and therefore, no VAT will need to be paid or charged on the purchase.**(1)**

For there to be a TOGC for VAT purposes, all of the following must apply:

- the assets, such as stock-in-trade, machinery, goodwill, premises, and fixtures and fittings, must be sold as part of the TOGC **(1/2)**
- the buyer must intend to use the assets in carrying on the same kind of business as the seller - this does not need to be identical to that of the seller, but the buyer must be in possession of a business rather than simply a set of assets **(1/2)**
- where the seller is a taxable person, the buyer must be a taxable person already or become one as the result of the transfer, which is satisfied in this situation**(1/2)**
- in respect of land or buildings which would be standard-rated if it were supplied, the buyer must notify HMRC that they have opted to tax the land by the relevant date, and must notify the seller that their option has not been disapplied by the same date**(1/2)**
- there must not be a series of immediately consecutive transfers of the business **(1/2)**

15.

1) **(4 marks)**

Tax year	Assessable trading profits £	
19/20 1 January 2020- 5 April 2020 3/18 x £49,500	8,250	**(1/2)**
20/21 No accounting period in tax year so tax profits from 6 April 2020 to 5 April 2021 12/18 x £49,500	33,000	**(1)**
21/22 Tax 12 months profit ending on 30 June 2021 12/18 x £49,500	33,000	**(1)**
22/23 Current year basis Profits of accounting period ended 30 June 2022	57,600	**(1/2)**

Overlap profits are £24,750. **(1)**

2) **(3 marks)**

Peggy must register as an employer with HMRC when she starts employing staff and before the employees first pay date. **(1)**Peggy will need to operate PAYE on Adam's salary as it is more than £533 per month.**(1/2)**

Income tax and NIC, as his salary is above the lower earnings limit, will need to be deducted from Adam's salary and paid over to HMRC.**(1/2)**

Whilst Mary is not required to pay and Income tax or NIC due to her earnings being less than the threshold for both, **(1/2)** Peggy will still need to include Mary on the Full Payment Submission.**(1/2)**

3) **(2 marks)**

Adam will be eligible as he is working full time and earning more than the National Living. wage. **(1/2)**

Adam will need to set up and pay into a childcare account online. **(1/2)**The money in the account can then be used to pay approved childcare providers. **(1/2)**

Employee contributions are topped up by 25% from the government. For every £8 Adam puts into the account, the government will put in a further £2 up to a maximum of £2,000 per year. **(1/2)**

4) **(maximum 2 marks)**

All employers must offer a workplace pension scheme. This is called 'automatic enrolment'. **(1/2)**

Peggy must automatically enrol employees into the scheme and make contributions if all of the following apply:

- They are classed as workers **(1/2)**

- They are aged between 22 and state retirement age **(1/2)**
- They earn at least £10,000 per year**(1/2)**

Therefore, Adam will need to be enrolled, but Mary does not. **(1/2)**

5) **(3 marks)**

Adam and Mary have the have the following implied duties:

- Faithful service **(1/2)**
- Obey lawful and reasonable instructions **(1/2)**
- To exercise reasonable care, skill and competence**(1/2)**
- Account for all money and property received during employment **(1/2)**
- Personal service **(1/2)**
- Not to disclose or use for personal gain trade secrets/ confidential information **(1/2)**

16.

1) **Whether the Construction Industry Scheme applies** **(4 marks)**

Haulbig Ltd is a deemed contractor **(1/2)** for the CIS rules as its expenditure on construction operations in the previous 12 months **(1/2)** of £3,350,000 exceeds £3 million **(1/2)**.

However, Haulbig Ltd is not required to apply the scheme to the construction payment for the toilet block at the Liverpool depot, as this is a building used by the company itself **(1/2)**.

The Kent warehouse is rented out so CIS rules apply **(1/2)** to the construction of the staff room **(1/2)** and the resurfacing of roads **(1/2)** but not to the architects' fees **(1/2)**.

2) **Residence, domicile and taxation of salary** **(4 marks)**

Ria spent more than 183 days in the UK in 2022/23 and so is UK resident **(1/2)**.

However, because she left to work full-time overseas **(1/2)**, the split year treatment applies **(1/2)**, meaning she is treated as non-UK resident once working in the Netherlands **(1/2)**.

Her domicile is unchanged (still UK) due to the secondment **(1/2)** as the UK is the place of her permanent home/ she has the intention to reside permanently in the UK **(1/2)**.

Ria is charged UK Income Tax on her salary for the period of the year while she is UK resident **(1/2)**. Once she is non-UK resident and performs her duties outside the UK, she is not charged to UK Income Tax on her salary **(1/2)**.

Tutorial note

At Paper 3, candidates are not required to have detailed knowledge of residence or domicile, but rather an understanding of the concepts and the effect on liability - marks are awarded accordingly. For example, candidates get credit for recognising that Ria becomes non-resident in 2022/23, without having to identify precisely when.

3) **Dan's employment income** **(4 marks)**

	£	
Salary	80,000	
Online course to learn Dutch	0	**(1/2)**
Membership fee for professional institute	(400)	**(1/2)**
Season ticket for ordinary commuting	0	**(1/2)**
Plane ticket for Dan	0	**(1/2)**
Plane ticket for Lisa	500	**(1/2)**
Dan's hotel room and meals	0	**(1/2)**
Client entertaining	0	**(1/2)**
Laundry bill *(>£10 per night)*	230	**(1/2)**
	80,330	

17.

1) Close company (maximum 4 marks)

For a company to be close it must be UK resident, which Hat Ltd is **(1/2)**.

Whether the company is close then depends on who controls it **(1/2)** by owning more than 50% **(1/2)** of shares, voting power, distributable profits, or assets on a winding up.

The 200 new shares issued give 1,200 in total **(1/2)**.

Directors Sam and Evan together own only 17% of the shares (200) so directors do not control the company **(1/2)**.

Colette and Debra are associates because they are married, and so Debra's shareholding is attributed to Colette (and vice versa) **(1/2)**. Debra's son Paul's shareholding of 50 shares is also attributed to Debra **(1/2)**, giving 250 shares (21%).

This means that four other individuals plus Debra (with her associates) together own 650 (54%) **(1/2)**, i.e. five or fewer participators control the company **(1/2)** and so it is close.

2) Exercise of options (2 marks)

EMI shares – income tax charge as options were granted at a discount

	£	
Lower of:		**(1/2)**
Market value of grant of options, £26		**(1/2)**
Market value on exercise of options, £100	26	**(1/2)**
Less exercise price (£10)	(10)	**(1/2)**
	16	
Taxable amount 50 × £16 *amount per share sufficient*	£800	

3) Loan transactions

(1) **Tax implications for Sam in 2022/23 of his loan and write-off (maximum 3 marks)**

As a director, Sam has a taxable loan benefit **(1/2)** of £40,000 × 2% **(1/2)** × 3/12 **(1/2)** = £200, charged to Income Tax at 45% (£90) **(1/2)**.

Sam is charged income tax on the loan write-off as a dividend **(1/2)** ie £15,740 (39.35% × £40,000) **(1/2)**, assuming no dividend allowance remains. *equal credit if dividend allowance given*

Sam is charged Class 1 primary NIC **(1/2)** of £1,300 (3.25% × £40,000) **(1/2)** on the write-off.

(2) **Tax implications for Hat Ltd of the transactions with Colette (3 marks)**

Colette made a repayment of £5,000 or more (£28,000) but borrowed a further £5,000 or more (£18,000) **(1/2)** within a period of 30 days **(1/2)**.

Therefore, only the net amount of £10,000 (£28,000 - £18,000) is treated as being repaid **(1/2)**.

Hat Ltd receives a repayment of its s.455 tax **(1/2)** of £3,250 (£10,000 × 32.5%) **(1/2)** on its normal corporation tax due date for the year ended 31 December 2022 ie 1 October 2023 **(1/2)**.

4) **Basis of charge (maximum 4 marks)**

The work could be charged on the basis of time and expenses **(1/2)**, according to the skill and resources deployed **(1/2)**. Provision should be included for varying the amount where extra work is performed eg if a specific matter is uncovered which requires going back to earlier returns **(1/2)**.

Alternatively, a fixed fee could be charged **(1/2)**, based upon a clear scope of work and proper costing of the work to be undertaken **(1/2)**.

It may be appropriate to charge a contingent fee based on the amount of VAT saved **(1/2)**. However, this risks no fee if the review uncovers VAT underpaid, rather than overpaid **(1/2)**. A contingent fee may therefore pose a risk to objectivity **(1/2)**, and the reviewer would have to be careful to ensure that their conduct meets, and is seen to meet **(1/2)**, the principles of objectivity and integrity.

The engagement letter should set out the action to be taken should subsequent events cancel the tax saving on which the contingent fee is based **(1/2)**, and whether the fee should be repaid, with interest **(1/2)**.