



## **November 2017 Examination**

---

### **PAPER 3**

---

### **Business Compliance**

---

#### Part I Suggested Answers

---

1.

If a supply has been made for which a trader has not been paid then they may claim bad debt relief (a repayment of the VAT paid). **(1 mark)**

The conditions which must be met are as follows:

- The trader must have already accounted for and paid VAT on the supply **(1/2 mark)**
- The bad debt must have been written off in the accounts **(1/2 mark)**
- The value of the supply must not be more than the customary selling price **(1/2 mark)**
- The debt must have remained unpaid for a period of six months from the later of the date of supply and the due date of the invoice. **(1/2 mark)**
- The claim must be made within four years and six months from the later of the date of supply and the due date for payment. **(1/2 mark)**

**Max 3 marks**

2.

Normally when a transfer of business takes place, any assets of the business sold must have VAT charged on them individually at the appropriate rate. **(1/2 mark)**

A transfer of going concern means that there has been neither a supply of goods nor a supply of services and any such transfers are outside the scope of VAT. **(1/2 mark)**

The conditions which must be met are as follows:

- the assets must be sold as part of the transfer of a 'business' as a 'going concern'
- the assets are to be used by the purchaser with the intention of carrying on the same kind of 'business' as the seller (but not necessarily identical)
- where the seller is a taxable person, the purchaser must be a taxable person already or become one as the result of the transfer
- in respect of land which would be standard rated if it were supplied, the purchaser must notify HMRC that he has 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
- where only part of the 'business' is sold it must be capable of operating separately
- there must not be a series of immediately consecutive transfers of 'business'
- there must be no significant break in trading.

**(1/2 mark per condition maximum 2 marks)**

3.

|  | £            | £               |
|--|--------------|-----------------|
| Income from relevant engagements                                       |              | 60,000          |
| Less 5% deduction <b>(1/2 mark)</b>                                    |              | <u>(3,000)</u>  |
|  |              | 57,000          |
| Less Travelling expenses <b>(1/2 mark)</b>                             | 1,000        |                 |
| Professional indemnity insurance <b>(1/2 mark)</b>                     | 500          |                 |
| Pension <b>(1/2 mark)</b>  | <u>5,000</u> |                 |
|  |              | <u>(6,500)</u>  |
| Deemed employment income   |              | 50,500          |
| NIC due on deemed employment payment                                   |              | <u>(6,124)</u>  |
| Net deemed employment payment<br>(£50,500 x 100/113.8) <b>(1 mark)</b> |              | <u>(44,376)</u> |

The deemed payment should be reported on the full payment submission on or before the end of the tax year – 5 April 2017. **(1 mark)**

4.

$\text{£}20,000 / 12 \text{ months} = \text{£}1,667 \text{ per month} - \text{£}1,457 \text{ threshold (1/2 mark)} \times 9\% \text{ (1/2 mark)} \times 6 \text{ months} = \text{£}113 \text{ (1/2 mark)}$

$(\text{£}22,000 / 12) - \text{£}1,457 \times 9\% = \text{£}34 \text{ (1/2 mark)}$

Total deductions during 2016/17 =  $\text{£}147$

5.

|  | <b>Taxable<br/>£</b> | <b>Exempt<br/>£</b> |
|--|----------------------|---------------------|
| Wholly attributable                                |                      |                     |
| Taxable <b>(1/2 mark)</b>                          | 4,300                |                     |
| Exempt <b>(1/2 mark)</b>                           |                      | 775                 |
| Non attributable input tax                         |                      |                     |
| $72,000 / 72,000 + 33,200 = 69\% \text{ (1 mark)}$ |                      |                     |
| Attributable to taxable supplies:                  |                      |                     |
| $\text{£}925 \times 69\% \text{ (1/2 mark)}$       |                      |                     |
| Attributable to exempt supplies:                   | 638                  |                     |
| $\text{£}925 \times 31\% \text{ (1/2 mark)}$       |                      |                     |
|  |                      | <u>287</u>          |
| Input VAT  | <u>4,938</u>         | <u>1,062</u>        |

De minimis test:

Is the monthly average attributable to exempt supplies  $\text{£}625$  or less?

Monthly average =  $1,062 / 3 = 354$  – so test passed **(1/2 mark)**

Is the proportion of VAT on exempt supplies no more than 50% of all input VAT for the period?

$1,062/6,000 = 18\%$

So both tests are passed and the full  $\text{£}6,000$  is recoverable **(1/2 mark)**

6.

- Summer barbecue cost per head  $\text{£}90$  ( $\text{£}9,000 / 100$  attendees) – annual events exemption should be used against this event **(1/2 mark)**
- Christmas party cost per head  $\text{£}125$  ( $\text{£}5,000 / 40$  attendees) – taxable
- The anniversary hamper is considered a trivial benefit as it is not linked to performance and is less than  $\text{£}50$ . **(1/2 mark)**

PSA calculation:

- Tax due:  $\text{£}5,000 \times 100/60 \times 40\% = \text{£}3,333 \text{ (1 mark)}$
- NIC due:  $\text{£}5,000 \times 100/60 \times 13.8\% = \text{£}1,150 \text{ (1 mark)}$

Candidates may also calculate 13.8% on tax due ( $\text{£}460$ ) + 13.8% on value of benefit ( $\text{£}690$ )

- Class 1B National Insurance Contributions are payable on PSAs **(1/2 mark)**
- The due date is 19 October 2017 (22 October if paid electronically) **(1/2 mark)**

7.

| Item  | CIS deduction           |
|---|-------------------------|
|   | £                       |
| Labour – 20% <b>(1/2 mark)</b> deduction applies                                      | 2,000 <b>(1/2 mark)</b> |
| Materials – no deduction required as cost to the subcontractor <b>(1/2 mark)</b>      | 0                       |
| Equipment hire – no deduction required as cost to the subcontractor <b>(1/2 mark)</b> | 0                       |
| Total deduction   | 2,000                   |

The payment should be reported to HMRC on Form CIS 300 **(1/2 mark)** which must be submitted to HMRC by 19 June 2017 **(1 mark)**

The deduction should be remitted to HMRC by 19 June 2017 or 22 June if paying electronically. **(1/2 mark)**

8.

The point of sale scheme involves identifying the different rates of VAT for goods sold at the point of sale using an electronic till **(1 mark)**. The till will automatically calculate the VAT due on the standard rated and reduced rated sales **(1 mark)**.

The apportionment scheme involves recording the total takings for the day (daily gross takings) and apportioning this between standard rated and reduced rated sales **(1 mark)**. The apportionment may be done based upon the amount of goods purchased for resale at each rate **(1 mark)**.

9.

Molly's taxable salary will be £47,500, as she receives tax relief via payroll on her pension contributions **(1/2 mark)**. The employer's contributions are not a benefit in kind and do not increase her taxable income **(1/2 mark)**.

Molly's salary for NIC purposes remains £50,000. No deduction can be taken in respect of her employee pension contributions **(1/2 mark)**. The employer contributions do not affect her National Insurance position. **(1/2 mark)**.

10.

Employers need to issue employees **(1/2 mark)** with a form P60 **(1/2 mark)** by 31 May following the end of the tax year. **(1/2 mark)**

The final payroll report (which may be an employer payment summary or a full payment submission) **(1/2 mark)** must be sent to HM Revenue and Customs **(1/2 mark)** on or before the employees' final pay day for the tax year. **(1/2 mark)**

11.

|   | Subject to tax            | Subject to NIC            |
|---|---------------------------|---------------------------|
| 6 month contractual PILON is subject to tax and Class 1 NIC in full as general employment income      | £30,000 <b>(1/2 mark)</b> | £30,000 <b>(1/2 mark)</b> |
| Compensation for loss of office is taxable to the extent it exceeds £30,000 but is not subject to NIC | £10,000 <b>(1/2 mark)</b> | £0 <b>(1/2 mark)</b>      |
| Legal fees paid directly to a solicitor are exempt from tax/NIC                                       | £0 <b>(1/2 mark)</b>      | £0 <b>(1/2 mark)</b>      |
| Payment directly into approved pension schemes is not subject to tax/NIC                              | £0 <b>(1/2 mark)</b>      | £0 <b>(1/2 mark)</b>      |
| Total   | £40,000                   | £30,000                   |

Note – candidates who assumed the PILON was non-contractual received equal credit.

12.

Total earnings = £50,000. **(1 mark for identifying annual earnings period)**

Primary contributions:

$(£43,000 - £8,060) \times 12\% = £4,193$  **(1/2 mark)**

$(£50,000 - £43,000) \times 2\% = \underline{£ 140}$  **(1/2 mark)**

Total = £4,333

Secondary contributions:

$(£50,000 - £8,112) \times 13.8\% = £5,781$  **(1 mark)**



## **November 2017 Examination**

---

**PAPER 3**

---

**Business Compliance**

---

Part II Suggested Answers

---

1.

A Tax Adviser

Address

Managing Director

Pecan Ltd

London

Date

**(1 mark for letter format)**

Dear Managing Director

Thank you for your letter. The answers to your queries are set out below.

### **New clients**

Our professional guidelines permit us to pay a commission to a third party in relation to the introduction of a new client, provided that:

- We have no reason to believe, and do not believe, that undue pressure or influence was exerted on the prospective client by the third party; **(1 mark)**
- Before accepting instructions, we had disclosed to the prospective client, in writing, both the amount and nature of the fee, commission or other reward and the identity of the third party recipient; **(1 mark)**

Therefore as long as full disclosure of the commission is made then we would be allowed to accept new clients under these circumstances. **(1 mark)**

**Max 3 marks**

### **VAT accounting**

|                |                            |                            |
|----------------|----------------------------|----------------------------|
| Dr Cash        | £147,000 <b>(1/2 mark)</b> |                            |
| Cr Sales       |                            | £122,500 <b>(1/2 mark)</b> |
| Cr VAT control |                            | £24,500 <b>(1/2 mark)</b>  |
| <br>           |                            |                            |
| Dr Purchases   | £76,200 <b>(1/2 mark)</b>  |                            |
| Dr VAT control | £15,240 <b>(1/2 mark)</b>  |                            |
| Cr Cash        |                            | £91,440 <b>(1/2 mark)</b>  |

### **VAT time of supply**

VAT becomes due at the time of supply. The basic tax point is the date on which the goods are removed or made available to the customer. **(1/2 mark)**

The actual tax point may occur before or after the basic tax point as follows:

- If payment is received before the basic tax point, the actual tax point is the date of payment **(1/2 mark)**
- If an invoice is issued before the basic tax point, the actual tax point is the date of the invoice **(1/2 mark)**
- If an invoice is issued within 14 days after the basic tax point then the actual tax point is the date of the invoice. **(1/2 mark)**

For the transactions you have identified then the tax points would be:

- (a) 26 March as the invoice is within 14 days of the basic tax point **(1 mark)**
- (b) For the deposit the actual tax point of payment is before the basic tax point so 1 March **(1 mark)** and the balance would be on 8 March which is the basic tax point. **(1)**

### **Overseas transactions**

- (a) The sale of goods to a VAT registered trader in another EU country is a dispatch and zero rating will apply to the transaction provided evidence of removal from the UK is retained. **(1 mark)**
- (b) The sale of goods outside of the EU is classed as an export and zero rating for VAT will apply provided that evidence that the goods have actually been exported is obtained. **(1 mark)**
- (c) The dispatch of goods to an individual in an EU country is subject to VAT in the member state of origin. Therefore, the dispatch from the UK is subject to VAT at the standard rate of 20%. **(1 mark)**
- (d) Services are being received by Pecan Ltd from another EU country for the purposes of business, so the supply is deemed to be made in the UK. **(1 mark)** VAT is charged in the UK under the reverse charge system which changes the basis of the VAT charge from the origin system. **(1 mark)** Pecan Ltd must account for output VAT on the supply which is then the input tax for the supply.

I trust that this answers your enquiries. Please let me know if I can be of further assistance.

Yours sincerely

A Tax Adviser



2.

### **VAT registration and compliance**

The company must notify HMRC if, at the end of any month, turnover in the previous 12 months exceeds the VAT registration threshold (currently £83,000). **(1/2 mark)**. The company has 30 days to notify HMRC **(1/2 mark)** and will be registered with effect from the start of the following month **(1/2 mark)**. Under current projections the limit will be exceeded in nine month's time, notification would be required at the end of month ten and registration would take effect from the start of month 11 **(1/2 mark)**.

As an alternative to waiting until the registration threshold is exceeded, the company could register for VAT on a voluntary basis at an earlier date **(1/2 mark)**.

When the company is registered it will be required to charge VAT to its customers **(1/2 mark)** and issue VAT invoices to all business customers **(1/2 mark)**.

In addition, every quarter a VAT return must be completed which records the output tax and input tax of the business. **(1/2 mark)** The return must be filed and any resulting VAT paid 1 month and 7 days after the end of the quarter. **(1/2 mark)**

**Maximum 3 marks, credit will be given for all relevant points not on the mark scheme.**

### **Payroll queries**

The payroll report (the Full Payment Submission) needs to be submitted to HMRC on or before the time a payment is made. **(1/2 mark)**. The income tax and NIC withheld should be paid to HMRC on or before the 19<sup>th</sup> after the end of the tax month (22<sup>nd</sup> if paid electronically). **(1/2 mark)**.

A payment to an employee is considered to be 'made' at the earlier of when the payment is made **(1/2 mark)** or when they become contractually entitled to the payment **(1/2 mark)**. As the employee is still contractually entitled to his full salary **(1/2 mark)**, this should be the amount used as a basis for payroll reporting and withholding **(1/2 mark)**.

### **Childcare vouchers**

A basic earnings assessment to determine the tax free amount of childcare vouchers needs to be carried out when an employee joins the scheme **(1/2 mark)** and at the beginning of each tax year **(1/2 mark)**.

The calculation is as follows:

|                             |                                    |
|-----------------------------|------------------------------------|
| • Salary                    | £41,000 <b>(1/2 mark)</b>          |
| • Add contractual benefits: | £2,500 <b>(1/2 mark)</b>           |
| • Less payroll giving:      | (£1,000) <b>(1/2 mark)</b>         |
| • Less personal allowance:  | <u>(£11,000)</u> <b>(1/2 mark)</b> |
| • Earnings:                 | £31,500                            |

The employee is therefore considered a basic rate taxpayer **(1/2 mark)** under the basic earnings assessment and can receive £55 per week tax free in childcare vouchers. **(1/2 mark)**

### Company car

Car benefit: Appropriate % =  $(145 - 95)/5 + 16 = 26\%$  **(1 mark)**

$26\% \times \pounds 19,500$  **(1/2 mark for list price)** =  $\pounds 5,070 \times 6/12$  **(1/2 mark for pro rating)** =  $\pounds 2,535$

Fuel benefit =  $\pounds 22,200 \times 26\%$  **(1/2 mark)** =  $\pounds 5,772 \times 6/12$  **(1/2 mark)** =  $\pounds 2,886$

Total benefits =  $\pounds 5,421$ . This will be subject to income tax at 40% so an additional  $\pounds 2,168$  for the sales director. **(1/2 mark)**

The company will have to pay Class 1A National Insurance Contributions at 13.8% so there will also be an additional cost of  $\pounds 5,421 \times 13.8\% = \pounds 748$  **(1/2 mark)**

### Appointment of director

This must be carried out following the procedure specified in the company's Articles of Association. **(1/2 mark)**.

Most Articles provide for appointment to be made by:

- Ordinary resolution **(1/2 mark)** and
- A decision by the board of directors. **(1/2 mark)**

Notice must also be given to the Registrar within 14 days of any changes in the directors **(1/2 mark)**, together with the consent of any new director to act. **(1/2 mark)**

### Max 2 marks

#### Share scheme

- There is never any income tax on the grant of options under EMI **(1/2 mark)**
- EMI shares exercised after a 10 year holding period lose their tax advantaged status **(1/2 mark)**. Income tax will be calculated based on the market value of the shares at the date of exercise less the option price paid **(1/2 mark)**
- If the options are exercised after a 2 year period and they were granted at a discount, the income tax on exercise will be calculated as follows:
  - The lower of
    - Market value of shares at date of grant **(1/2 mark)** or
    - Market value of shares at date of exercise **(1/2 mark)**
  - Less the option price **(1/2 mark)**

Income Tax is due under PAYE if the shares are readily convertible assets **(1/2 mark)**. If the shares are not readily convertible assets, income tax is payable personally by the employee under self-assessment. **(1/2 mark)**

3.

### **Benefits**

To calculate the taxable amount to be added to payroll each month, the cash equivalent of the benefit (£600) should be divided by the number of payments in the year (12) = £50, which should be added to the employee's salary each month and subjected to tax. **(1 mark)**

The reports required are as follows:

- A P11D(b) is still required to report the NIC due on the benefit **(1/2)** which should be submitted to HMRC by 6 July following the tax year **(1/2 mark)**
- A statement of the benefits received during the year and the cash equivalent value **(1/2 mark)** must be provided to employees by 31 May following the tax year **(1/2 mark)**
- Class 1A NIC is payable by the employer **(1/2 mark)** which must be paid by 19 July following the tax year (22<sup>nd</sup> if paid electronically). **(1/2 mark)**

### **Travel expenses**

- HMRC will normally require evidence from a sampling exercise in order to agree a bespoke rate **(1/2 mark)**. Employers will have to satisfy HMRC that their sample is random in order for HMRC to agree to the proposed bespoke rate **(1/2 mark)**
- Employers must have a checking system in place **(1/2 mark)** to ensure that payments are only made when the employee would be able to claim a corresponding deduction. **(1/2 mark)**

### **Compliance obligations**

The amount of the late filing penalty is: £100 per month/part month that the return is late = 7 months x £100 = £700 **(1 mark)** x each group of up to 50 employees (2 groups) = £1,400 **(1 mark)**

For the late paid Class 1A NIC: A penalty of 5% of the unpaid NIC **(1/2 mark)** will be charged as the payment is more than 30 days late **(1/2 mark)**. A further 5% **(1/2 mark)** will be charged as the payment was still outstanding more than 5 months after the first penalty was charged **(1/2 mark)**.

4.

### **Giovanni**

Giovanni will be entitled to the full UK personal allowance as he is an EEA resident **(1 mark)**.

If Giovanni is considered UK resident for the 2017/18 tax year, he will be liable to UK income tax on his worldwide income **(1/2 mark)** during 2017/18 including his income from Middle Way. **(1/2 mark)**

If he is not UK tax resident in 2017/18, he will only be liable to UK income tax on his UK income arising in the tax year **(1/2 mark)** i.e. the salary from his UK secondment **(1/2 mark)**

Giovanni's UK residence position will be determined using the Statutory Residence Test **(1/2 mark)**.

He will be considered UK tax resident if he is present in the UK for 183 days or more in the tax year **(1/2 mark)** so if his full time secondment lasts until April 2018 he will be UK tax resident. **(1/2 mark)**.

If his secondment lasts only 5 months, he may not become UK tax resident as he will not have spent more than 183 days in the UK **(1/2 mark)**, however other factors (such as UK homes, ties with the UK etc) will need to be taken into consideration **(1/2 mark)**.

*5 marks maximum – credit will also be given for any other relevant points made.*

### **Ben**

- Initial/return flight: There are no income tax or NIC consequences of this expense. **(1/2 mark)**
- Spouse/children: There are no income tax or NIC consequences of this expense for Ben's spouse and two youngest children as Ben is based overseas for at least 60 days continuously. **(1/2 mark)**. However, as the oldest child is over 18 **(1/2 mark)**, these expenses will be a benefit in kind **(1/2 mark)** and Class 1A NIC will be due on these costs **(1/2 mark)**
- Language lessons would fall within the work related training exemption **(1/2 mark)**, so there would be no income tax or NIC consequences of this expense. **(1/2 mark)**
- No relief is allowable for the hotel costs for family visits **(1/2 mark)**, therefore when these costs are reimbursed they should be subjected to PAYE **(1/2 mark)** and Class 1 NIC via the payroll **(1/2 mark)**.

### **Sarah**

The following points should be considered:

- If the request does not come from Sarah, the firm should obtain Sarah's written consent prior to providing papers to a successor **(1 mark)**
- Where original documents are handed over, copies should be taken to maintain proper professional records **(1 mark)**
- Where documents belong to the firm, you should co-operate in providing copies of documents relevant to the client's ongoing tax affairs **(1 mark)**
- If there is a risk that Sarah may use the information to support a claim against your firm, you should consult the firm's professional indemnity insurers and consider legal advice. **(1 mark)**

*Other relevant points in the Ethics Manual will be given credit.*