



Practical Tax People

Association of
Taxation Technicians

May 2015 Examination

PAPER 3

Business Compliance

Part II Suggested Solutions

1.

1) **Statutory Sick Pay (SSP)**

To be eligible for SSP, an employee must:

- have an employment contract
- have done some work under their contract
- have been sick for 4 or more days in a row (including non-working days) - known as a 'period of incapacity for work'
- have average weekly earnings of at least £111 a week
- give the employer the correct notice
- give the employer proof of their illness if they miss 7 days of work.

(1/2 mark per condition) up to 3 marks

The rate of SSP is £87.55 a week (1/2 mark) for up to 28 weeks (1/2 mark) and is paid in the same way as wages (1/2 mark) with deduction of income tax and NIC. (1/2 mark)

Max 4 marks

2) **Statutory Maternity Pay (SMP)**

To be eligible for SMP, an employee must:

- have worked for the employer continuously for at least 26 weeks up to the 'qualifying week' - the 15th week before the expected week of childbirth
- have average weekly earnings of at least £111 a week (gross) in an 8-week 'relevant period'
- give the correct notice and proof that they are pregnant.

(1 mark per condition up to maximum of 3 marks)

SMP for eligible employees can be paid for up to 39 weeks, usually as follows:

- the first 6 weeks - 90% of their average weekly earnings (AWE) before tax (1 mark)
- the remaining 33 weeks - £138.18 a week or 90% of their AWE (whichever is lower) (1 mark)

Income Tax and National Insurance need to be deducted (1/2 mark) and it is paid via payroll. (1/2 mark)

Max 5 marks

3) **Record keeping**

For SSP Crowther Ltd must keep records for HM Revenue and Customs including:

- all sickness periods lasting at least 4 days
- the SSP payments
- the weeks Crowther Ltd did not pay and why

(1/2 mark per record max 1)

Form SSP2 is used for this. (1/2 mark)

For SMP, Crowther Ltd must maintain records of:

- proof of pregnancy, e.g. MATB1 form which confirms baby's due date
- start of SMP period
- SMP paid
- SMP reclaimed; and
- the weeks SMP was not paid and why.
(1/2 mark per record max 2)

Records can be kept on form SMP2 or Crowther Ltd's own records. (1 mark)

Keep all records for 3 years from the end of the tax year they relate to (1 mark).

Max 5 marks

2.

1)

Simplified test one

Is the monthly average total input tax £625 or less?

$$\frac{\pounds 1,267}{3} = \pounds 422 \text{ per month } \checkmark \text{ part one passed (1/2 mark)}$$

Is the value of exempt supplies no more than 50% of the value of total supplies for the period?

$$\frac{\pounds 20,300}{\pounds 52,800} = 38.45\% \checkmark \text{ part two passed (1/2 mark)}$$

Both parts passed (1/2 mark) so Elfin Ltd is de minimis so the whole input tax for the period is recoverable. (1/2 mark)

2)

Hogsmeade Ltd does not pass test one (1/2 mark) as monthly average input tax is more than £625 per month. (1/2 mark).

Therefore we need to check if Hogsmeade Ltd passes simplified test two.

Is the monthly average of total input tax incurred less input tax directly attributable to taxable supplies £625 or less? (1/2 mark)

$$\frac{\pounds 52,590 - \pounds 33,000}{12} = \pounds 1,633 \text{ per month - part one failed so test two failed (1/2 mark)}$$

Therefore the standard test needs to be performed:

	Taxable supplies £	Exempt supplies £
Wholly attributable input tax (1 mark)	33,000	
Non attributable input tax		8,300
Recoverable %		
100,000/152,000 = 66% (1 mark) (rounded up)		
Attributable to taxable supplies	7,451	
£11,290 x 66% (1/2 mark)		
Attributable to exempt supplies		3,839
£11,290 x 34% (1/2 mark)		
Input VAT	<u>40,451</u>	<u>12,139</u>

Test for de minimis

Is the monthly average attributable to exempt supplies £625 or less?

$$\frac{\underline{£12,139}}{12} = £1,012 \text{ per month so this test failed (1 mark)}$$

Or – alternative mark (see note) - Is the proportion of VAT on exempt supplies no more than 50% of all input VAT for the period?

$$\frac{\underline{£12,139}}{£52,590} = 23.08\% \text{ (1 mark)}$$

De minimis test not passed so £12,139 needs to be repaid. (1 mark)

Note - if the business fails part 1 of the de minimis test, it is not de minimis so technically not required to apply part 2.

3)

A business can join the scheme if its VAT taxable turnover in the next 12 months is expected to be £150,000 or less. (1 mark) The VAT taxable turnover is the total of everything that is sold during the year that is liable for VAT. It includes standard, reduced rate or zero rate sales or other supplies. It excludes the actual VAT that is charged, VAT exempt sales and sales of any capital assets. (1 for definition taxable turnover)

4)

Conditions:

Two or more companies may register as a VAT group if they meet the following criteria:

- each company has a fixed establishment in the UK (1/2 mark)
- one of them controls the other or they are under common control, for example both are subsidiaries of a parent company. (1/2 mark)

Operation:

A VAT group is treated in the same way as a single taxable person registered for VAT on its own (1/2 mark). The registration is made in the name of the 'representative member', who is responsible for completing and submitting a single VAT return and making VAT payments or receiving VAT refunds on behalf of the group (1/2 mark).

However, all the members of the group are jointly and severally liable for any VAT debts (1/2 mark).

Advantages of group VAT registration:

- VAT group members do not need to account for VAT on goods and services supplied between group members. (1/2 mark)
- Administration savings can result because only one VAT return needs to be completed and submitted for the whole group. (1/2 mark)

Group members:

The members of the group could be Optical Ltd, Eye Ltd, Lashes Ltd and Retina Ltd. (1/2 mark)

Brow Inc is a non-UK company and Lens Ltd is less than 50% owned by Optical Ltd therefore these companies do not meet the admissions criteria (1 mark).

5)

When accepting a new client, a member should:

- Comply with the identification requirements set out in the anti money laundering guidance (1 mark).
- Request the client's permission to communicate with a previous adviser (1 mark).
- Contact the previous adviser in writing, requesting all information which is necessary in respect of the new client (1 mark).
- Issue an engagement letter to the client, outlining the basis upon which fees are charged, the scope and nature of the engagement, period of engagement and agreement from client (1 mark).

Maximum 3 marks. Credit will be given for any relevant points

3.

1)

Form CIS 300 should be submitted monthly to HMRC (1/2 mark) within 14 days of the end of the tax month of payment i.e. by the 19th (1/2 mark).

If a form is late, a fixed £100 penalty is charged (1/2 mark) and an additional fixed £200 penalty is charged if the form is two months late (1/2 mark). After six months the penalty rises to the greater of £300 or 5% of the deductions on the form (1 mark) and this penalty will be charged again if the form is twelve months late (1/2 mark).

A statement should be provided to subcontractors paid under deduction (1/2) within 14 days of the end of the tax month of payment i.e. the 19th (1/2 mark). A penalty of up to £300 (1/2 mark) may be charged if the statement is not provided, with a further penalty of £60 a day (1/2 mark) if the failure continues.

Max 5 marks

2)

The scheduled review is an annual review (1/2 mark) carried out by HMRC.

During the review, HMRC will check that all returns and remittances are up to date (1/2 mark) although certain failures are ignored (1/2 mark).

If Harrison Ltd fails the review, gross payment status will be withdrawn (1/2 mark) although Harrison Ltd can appeal against the decision. (1/2 mark)

2 marks maximum

3)

Deduction due at 30% as HMRC has not been able to match subcontractor's record. (1/2 mark)

	£
Total invoice amount	13,500
Labour (10,000 x 30%)	(3,000) (1/2 mark)
Materials – no deduction	- (1/2 mark)
Plant hire costs – no deduction	- (1/2 mark)
Travel expenses (500 x 30%)	<u>(150)</u> (1/2 mark)
Amount payable to subcontractor	<u>10,350</u> (1/2 mark)

3 marks

4)

The CIS deduction can be offset against the company's payments due under PAYE (1/2 mark). If there are any excess deductions at the end of the tax year, repayment in writing must be requested from HMRC. (1/2 mark).

1 mark

5)

A worker is an individual who undertakes to do or perform personally any work or service. (1 mark)

Key statutory protections and benefits workers are entitled to: (any 3 of the following, 1 mark for each up to a maximum of 3 marks):

- The National Minimum Wage
- Rights under the Working Time Regulations
- Protection from discrimination under the Equality Act
- Protection for whistle-blowers under the Public Interest Disclosure Act
- Protection against unauthorised deductions from pay and less favourable treatment because of being part time.

Note - Candidates will not be penalised for not correctly stating the applicable Act/Regulations, providing they clearly state the key protection/benefit.

4.

Enterprise Management Incentives Scheme

- There is no requirement to offer the scheme to all employees; it can be offered to selected employees only. (1 mark)
- Discounts can be offered on the agreed option price, (1/2 mark) however this will lead to a tax charge on the exercise of the option. (1/2 mark)
- Providing that the option is granted at market value (1/2) and the exercise takes place within 10 years of grant (1/2 mark) there will be no tax due on the exercise of the options.
- The company should register the scheme with HMRC (1/2 mark) and notify HMRC of the details of the option agreement within 92 days. (1/2 mark)

4 marks total, credit will be given for any other valid points relating to the directors' specific questions.

Save As You Earn option scheme

- The scheme must be offered to all employees (1/2 mark) although employees with less than 5 years' service can be excluded. (1/2 mark)
- Discounts can be offered on the agreed option price (1/2 mark) of up to 20% of the market value of the shares at the date the option is granted. (1/2 mark)
- There is no tax on the exercise of the option. (1 mark)
- The company should register the scheme with HMRC (1/2 mark) and certify that the scheme satisfies the conditions. (1/2 mark)

4 marks total, credit will be given for any other valid points relating to the directors' specific questions.

Procedure for allotment of shares

1 mark for each of the following points:

- An application to buy shares must be made to the directors directly.
- Shares are allotted and issued.
- The names of the allottees are entered in the register of members soon after and they then become members.
- A return of allotment is made to the Registrar containing prescribed particulars and a statement of capital within one month.