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# **Taxation II**

## **Republic of Ireland**

2<sup>nd</sup> Year Examination

**August 2011**

**Paper, Solutions & Examiner's Report**



### NOTES TO USERS ABOUT THESE SOLUTIONS

The solutions in this document are published by Accounting Technicians Ireland. They are intended to provide guidance to students and their teachers regarding possible answers to questions in our examinations.

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## **Accounting Technicians Ireland**

**2<sup>nd</sup> Year Examination : Autumn 2011**

**Paper : TAXATION II (Republic of Ireland)**

Wednesday 17<sup>th</sup> August 2011 - 2.30 p.m. to 5.30 p.m.

### **INSTRUCTIONS TO CANDIDATES**

#### **PLEASE READ CAREFULLY**

**For candidates answering in accordance with the law and practice of the Republic of Ireland.**

**Candidates should answer the paper in accordance with the appropriate provisions up to and including Finance Act 2010. The provisions of the Finance Act 2011 should be ignored.**

**Allowances and rates of taxation, to be used by candidates, are set out in a separate booklet supplied with the examination paper.**

**Answer QUESTION 1, QUESTION 2 and QUESTION 3 (Compulsory) in Section A and ANY TWO of the four questions in Section B. If more than TWO questions are answered in Section B, then only the first two questions, in the order filed, will be corrected.**

**Candidates should allocate their time carefully.**

**All workings should be shown.**

**All figures should be labelled as appropriate e.g. €, units, etc.**

**Question 1 begins on Page 2 overleaf.**

**The following inserts are enclosed with this paper:**

- **Tax Reference Material**
- **Multiple Choice Answer Sheet (Question 6)**

**SECTION A****Answer QUESTION 1, 2, 3 (Compulsory) in this Section****QUESTION 1 (Compulsory)**

- a) Gerard Donegan commenced practicing as a self-employed accountant on the 1<sup>st</sup> May 2008. Details of his income are as follows:-

Period ended 30 <sup>th</sup> June 2009	€84,000
Year ended 30 <sup>th</sup> June 2010	€63,000

All the equipment used in this business was the subject of finance leases, except his computer system which cost €10,000 on 1<sup>st</sup> July 2008.

Gerard has been separated from his wife Barbara since August 2001. Details of the financial separation arrangements that were drawn up on the 10<sup>th</sup> of January 2002 are as follows:-

	<b>Per month €</b>
Maintenance payments to Barbara	500
Maintenance payments for the benefit of his two children	800

The children live with Gerard for three months of the year. They have no income in their own right.

Gerard's other outgoings for the income tax year 2010 are as follows:-

	<b>€</b>
1. Permanent health contributions	400
2. Payments to approved nursing home towards upkeep of his mother	1,950

His mother's only income is a non-contributory old age pension.

**Requirement:**

- (i) Compute Gerard's Case II income after capital allowances for the tax years 2008, 2009 and 2010.
- 8 Marks**
- (ii) Compute the Income tax payable by Gerard for the income tax year 2010 on the assumption that there was no election for joint assessment.
- 8 Marks**

**QUESTION 1** (*Cont'd*)

b) Shane Ryan is single and had the following income and outgoings for 2010:-

<b>Income</b>	<b>€</b>
Case II income before capital allowances	140,000
Capital allowances	23,500
Net Dividend received from an Irish company	4,000
Net Deposit interest received from Allied Irish Bank	1,500
<b>Outgoings</b>	
Retirement annuity qualifying for tax relief	15,000
Medical Insurance	1,250

Compute the PRSI/Health contribution and Income levy payable for Shane for the Income tax year 2010.

**4 Marks**  
**Total 20 Marks**

**QUESTION 2 (Compulsory)**

Sunrise Ltd. is an Irish trading company resident and incorporated in Ireland. It commenced to trade on 1<sup>st</sup> October 2009 and prepared a nine month set of accounts to 30<sup>th</sup> June 2010. The results are as follows:-

	<b>Notes</b>	<b>€</b>	<b>€</b>
Gross profit			600,000
Other income	1		50,000
Expenses:			
Directors remuneration		280,000	
Staff wages/salaries		195,000	
Motor expenses	2	55,000	
Rent and rates		90,000	
Legal fees	3	60,000	
Sundry		46,000	
Depreciation		28,500	
Bad debts – written off		14,000	
Light and heat		<u>16,000</u>	<u>784,500</u>
Net loss			(134,500)
Dividend paid	4		<u>10,000</u>
Loss retained			<u>(144,500)</u>

**Notes:**

- 1.** Other income is made up as follows:-

	<b>€</b>
Dividend received from another Irish company	26,850
Deposit interest Gross	<u>23,150</u>
	<u>50,000</u>

- 2.** Motor expenses comprise the following:-

		<b>€</b>
Delivery trucks		32,500
Finance Director's car	09 XX165	14,500
Sales Director's car	09 XX351	<u>8,000</u>
		<u>55,000</u>

**Continued on the next page.**

**QUESTION 2 (Cont'd)**

The breakdown of the motor expenses for the cars is as follows:-

<b>Car</b>	<b>Emissions</b>	<b>Value of car €</b>	<b>Business Use</b>	<b>Lease rental €</b>	<b>Running expenses €</b>
09 XX165	160g/km	28,000	80%	9,000	5,500
09 XX351	130g/km	22,000	100%	<u>5,000</u>	<u>3,000</u>
				<u>14,000</u>	<u>8,500</u>

- 3.** Legal fees include the following:-

	<b>€</b>
Defence of an unfair dismissal claim	3,500
Penalty for illegal dumping	10,000
Collection of bad debts	20,000
Planning and design of new offices	<u>26,500</u>
	<u>60,000</u>

- 4.** Sunrise Ltd. is owned equally by five shareholders, each of whom received a dividend of €2,000 on the 10<sup>th</sup> May 2010. The five shareholders are:-

Moon Ltd. – an Irish resident company.  
 Star Ltd. – a UK resident company.  
 Susan Roche – a UK resident individual.  
 Declan Byrne – an Irish resident individual.  
 Audrey Price – an Irish resident individual.

- 5.** Details of the assets purchased by the company during its first accounting period are:-

	<b>€</b>
1 <sup>st</sup> October 2009 – two delivery trucks	80,000
1 <sup>st</sup> January 2010 office furniture	<u>10,000</u>
	<u>90,000</u>

**Continued on the next page.**

**QUESTION 2** (*Cont'd*)**Requirement:**

- (i) Calculate the corporation tax of Sunrise Ltd. for its accounting period ended 30<sup>th</sup> June 2010, claiming maximum reliefs. **11 Marks**
- (ii) State the time limit, if any, for the loss claim made by Sunrise Ltd. in its accounting period ended 30<sup>th</sup> June 2010. **1 Mark**
- (iii) State the filing date of Sunrise Ltd's corporation tax return for its accounting period ended 30<sup>th</sup> June 2010. **1 Mark**
- (iv) Calculate the dividend withholding tax for Sunrise Ltd. for the dividend paid on the 10<sup>th</sup> May 2010. **5 Marks**
- (v) State the payment date of the dividend withholding tax calculated in (iv) above. **2 Marks**

**Total 20 Marks**

**QUESTION 3** (*Compulsory*)

- (a) Withholding tax in capital gains tax applies to the disposal of specified assets. You are required to list three specified assets.

**3 Marks**

- (b) Jonathan and Magdalena are married and jointly assessed. They are both resident and domiciled in Ireland. They have the following disposals in 2010:-

- (1) On the 1<sup>st</sup> May 2010 they sold their main residence (owned jointly) together with  $\frac{1}{4}$  acre that they had used as a garden for €650,000. Legal fees on disposal were €8,500. The house had been purchased from Jonathan's brother on 30<sup>th</sup> April 1992 for €80,000. Its market value on that date was €90,000. In January 1993 they spent €5,000 repairing the roof. Jonathan is a doctor and he used 20% of the house for business use. On 1<sup>st</sup> October 2006, Jonathan got the opportunity to work in Great Ormond Street under Dr. Newman, a renowned pediatrician, and Magdalena and himself both moved to London until 1<sup>st</sup> January 2009, when they returned to live in the house. The house was let to their nephew Brian while they were away in London.
- (2) Magdalena's Uncle Bob had lived in Spain for many years. When he died in May 1999 he left 20 acres of land in Spain to Magdalena. Bob had originally purchased the 20 acres in September 1980 for €10,000. Its market value in May 1999 was €12,500. Magdalena had previously sold 5 acres in August 2006 for €9,500. The market value of the remaining 15 acres was €16,000. In September 2010, Magdalena sold 5 more acres for €12,000. The market value of the 10 acres remaining in September 2010 is €20,000.
- (3) Jonathan sold a painting in December 2010 for €2,000. He had purchased this painting in May 2002 for €2,950.
- (4) In December 2010, Magdalena gifted her niece June 2,000 shares in Invest Ltd. The market value of the shares in December 2010 was €2 each. Magdalena's dealings in Invest Ltd. is as follows:-

<b>Acquisitions</b>	<b>Number</b>	<b>Cost €</b>
1/5/1995	3,000	1.25 each
16/10/1998	2,000	1.95 each
<b>Disposal</b>	<b>Number</b>	<b>Sales proceeds €</b>
10/8/2007	2,000	2.00 each

**Requirement**

- (i) Calculate Jonathan and Magdalena's capital gains tax for 2010.

**16 Marks**

- (ii) State Jonathan and Magdalena's filing date for the above disposals.

**1 Mark****Total 20 Marks**

**SECTION B****Answer any TWO of the FOUR questions in this section****QUESTION 4**

(a) Explain the principal differences between 'VAT exempt' and 'Zero rated' activities. **4 Marks**

(b) For the following items calculate the amount of VAT included in each case:

(i)	Mobile phone bill	€72.60
(ii)	Meal at a restaurant	€56.75
(iii)	ESB bill	€203.89
(iv)	Visit to dentist	€80.00
(v)	Visit to Vet	€90.80
(vi)	Glass of wine	€6.05
(vii)	Accountant's fee for VAT return	€484.00
(viii)	Course fee for Accounting Technician	€750.00

**6 Marks**

(c) State the factors a trader should take into account in deciding whether to register for VAT.

**5 Marks**

(d) Set out a taxpayer's obligation with regard to the maintenance of records for VAT purposes.

**3 Marks**

(e) Outline the VAT position if the owner of a business takes goods out of the business for his own private use.

**2 Marks****Total 20 Marks**

**QUESTION 5**

- (a) Robert and Clare are married. They have joint assessment for 2010 with Clare as the assessable person. Robert has been self-employed since 2005 and Clare is in employment. Details of their income and outgoings for 2010 are as follows:-

**Income**

Robert

Tax adjusted trading income before capital allowances:-

	€
Year ended 30 <sup>th</sup> September 2009	28,000
Year ended 30 <sup>th</sup> September 2010	35,000

*Capital allowances*

2009	4,000
2010	4,500

Robert's only other income is yearly rental income from a Cork property after expenses of €5,000.

Details of Clare's salary are as follows:-

2009	€30,000	PAYE deducted	€3,000
2010	€28,000	PAYE deducted	€2,850

**Outgoings** (All paid to 31<sup>st</sup> December 2010)

Robert (Aged 38 years)

- (i) Retirement annuity premium of €4,000
- (ii) Qualifying medical expense of €500

Clare (Aged 41 years)

- (i) Qualifying course fee of €1,000

**Continued on the next page.**

**QUESTION 5** (Cont'd)**Requirement**

(i) What is the latest date that a retirement annuity can be paid and tax relief granted for 2010?

**2 Marks**

(ii) Calculate Robert's retirement annuity relief available for 2010.

**3 Marks**

- (b)** Peter, Paul and John are partners since 2007. They each borrowed €30,000 capital to invest in the partnership. Peter and Paul are involved on a full time basis in running the partnership. John is in full time employment and is only involved on a part time basis. In 2008 Paul received a repayment of €10,000 of his capital of €30,000 to help pay outstanding personnel debt. Each partner paid interest of €3,000 in 2010 on the loan of €30,000.

**Requirement**

(i) List the conditions necessary to get tax relief for money borrowed to invest in a partnership.

**3 Marks**

(ii) Calculate the tax relief available for each partner (if any) for the interest of €3,000.

**3 Marks**

(iii) State where this relief is given in the income tax computation.

**1 Mark**

- (c)** (i) Briefly explain the term 'covenant'.

**2 Marks**

(ii) Give two examples of a covenant allowed for tax purposes.

**3 Marks**

(iii) Alex Murray has a nephew Eoin aged 4 years. Eoin is permanently incapacitated. Alex has set up a ten year covenant of €5,000 per annum for his nephew. Alex is employed and his only income is a yearly salary of €80,000.

Explain whether or not this covenant is allowed for income tax and if there are any limitations.

**3 Marks****Total 20 Marks**

**QUESTION 6**

The following multiple choice question consists of TEN parts, each of which is followed by FOUR possible answers. There is ONLY ONE correct answer.

**Requirement**

Indicate the right answer in each of the following TEN parts.

**N. B.** Each part carries 2 marks.

**Total 20 Marks**

*Candidates should answer this question by ticking the appropriate boxes on the answer sheet which is supplied with the examination paper.*

- [1]** Which of the following assets is not a specified asset for CGT purposes:-
- (a) Land in the State.
  - (b) Buildings in the State.
  - (c) Vase.
  - (d) Minerals in the State.
- [2]** Peter and Aisling are married. In 2010 Peter sold an asset and made a gain of €10,000. His wife Aisling sold an asset and made a loss of €2,000. You are required to calculate their capital gains tax liability for 2010 assuming maximum reliefs are claimed:
- (a) €2,000
  - (b) €1,683
  - (c) €1,365
  - (d) €2,183
- [3]** Which one of the following taxes is a form of indirect taxation?
- (a) Income tax.
  - (b) Capital gains tax.
  - (c) Value added tax.
  - (d) Corporation tax.

**Continued on the next page.**

**QUESTION 6** (Cont'd)

- [4]** What is the rate of professional services withholding tax?
- (a) 35%
  - (b) 15%
  - (c) 20%
  - (d) 41%
- [5]** Lorraine and Gavin are married. Gavin is employed with an income of €50,000. Lorraine is self employed with an income of €20,000, a retirement annuity allowable for tax purposes of €2,000 and a permanent health insurance premium of €500. Lorraine and Gavin have joint assessment. What is their married lower rate band for the tax year 2010?
- (a) €72,800
  - (b) €62,900
  - (c) €65,400
  - (d) €63,400
- [6]** What is the rate of corporation tax that would apply to a dividend received by an Irish company from a French company out of trading income? All necessary elections have been made.
- (a) 25%
  - (b) exempt
  - (c) 20%
  - (d) 12½%
- [7]** An Irish company sold a retail outlet in July 2010 for €280,000. Legal fees on disposal were €5,000. The company purchased the retail outlet in March 2000 for €58,500. Legal fees on acquisition were €3,000. The company's accounting period is the year ended 30<sup>th</sup> September 2010. You are required to calculate the gain that would be included in the company's Corporation Tax Computation for the year ended 30<sup>th</sup> September 2010.
- (a) €403,260
  - (b) €201,630
  - (c) €200,360
  - (d) €202,210

**Continued on the next page.**

**QUESTION 6** (*Cont'd*)

**[8]** Which of the following is an exempt activity for VAT?

- (a) Children's clothes.
- (b) Oral medicine.
- (c) Books.
- (d) Educational services.

**[9]** Mark Taylor is provided with a company car. His employer paid €25,000 for the car. The original market value of the car was €30,000. Mark paid €500 for the road tax of the car. Mark works full time and is away from his employer's place of business 85% of his time. He travelled 5,500 business kilometres in 2010. Calculate Mark's BIK for 2010:

- (a) €9,000
- (b) €8,500
- (c) €7,200
- (d) €5,500

**[10]** Keith Cahill has the use of a company van since 2008, with an original market value of €30,000. The current value of the van in 2010 is €25,000. Keith contributes €100 a month to his employer for the use of the van. He travelled 41,500 business kilometres in 2010. You are required to calculate Keith's BIK for 2010:

- (a) €2,400
- (b) €300
- (c) €1,500
- (d) €50

**QUESTION 7**

- (a) Briefly explain how an individual could be considered resident in Ireland for income tax purposes. **3 Marks**
- (b) Briefly explain how an individual could be considered ordinarily resident in Ireland for income tax purposes. **2 Marks**
- (c) Jose is present in Ireland for the following number of days:-  
2009            170  
2010            120  
Explain whether Jose is resident in Ireland in 2010. **3 Marks**
- (d) Maria is present in Ireland for the following number of days:-  
2009            365  
2010            25  
Explain whether Maria is resident in Ireland in 2009 and 2010. **3 Marks**
- (e) Carine Bolibo, who is French, came to Ireland in May 2009; explain her liability to Irish income tax in 2010. **4 Marks**
- (f) Mark Jones, who is resident and domiciled in Ireland, sold his Villa in Spain. He lodged the sales proceeds in his Spanish bank account. Explain whether Mark is liable to Irish capital gains tax on the sale of the Spanish Villa. **2 Marks**
- (g) Barry, who is Irish, left Ireland in July 2005 and emigrated to Australia. He owns a house in Dublin which he sold in 2010. Explain whether Barry is liable to Irish capital gains tax on this disposal. **3 Marks**

**Total 3 Marks**  
**Total 20 Marks**



## 2<sup>nd</sup> Year Examination: August 2011

### Taxation II ROI

### Suggested Solutions

**Students please note:** These are suggested solutions only; alternative answers may also be deemed to be correct and will be marked on their own merits.

#### Suggested Solution 1

##### Gerard Donegan

(a) (i)	Tax Year	Basis of assessment	Amount €
	2008	1 <sup>st</sup> May 2008 to 31 <sup>st</sup> December 2008 €84,000 x 8/14	48,000
	2009	12 months to the accounts date 1/7/2008 to 30/6/2009 €84,000 x 12/14	72,000
	2010	c/y 30 <sup>th</sup> June 2010	63,000

#### Section 66 TCA 1997 – Taxpayers option

- Original assessment for year 2                      €72,000
- Actual assessment for year 2  
2009 1/1/2009 to 31/12/2009  
€84,000 x 6/14 = €36,000  
€63,000 x 6/12 = €31,500                      €67,500  
Excess    € 4,500

#### Final assessment for 2010

Original assessment	€63,000
Less: Excess	<u>€ 4,500</u>
	<u>€58,500</u>

Time limit for exercising the option is 31<sup>st</sup> October 2011.

#### Basis periods for capital allowances

2008	1/5/2008 to 31/12/2008
2009	1/7/2008 to 30/6/2009
2010	1/7/2009 to 30/6/2010

**Suggested Solution 1 (Cont'd)****Straight line - 12½%**

	€
2008 - Addition	10,000
Wear and tear (8/12)	<u>(833)</u>
TWDV - 31/12/2008	9,167
2009 Wear and Tear	<u>(1,250)</u>
TWDV - 31/12/2009	7,917
2010 Wear and tear	<u>(1,250)</u>
TWDV - 31/12/2010	<u>6,667</u>

**Summary of Case II Income**

Year	Final assessment	Capital allowances	D - II
2008	€48,000	€833	€47,167
2009	€72,000	€1,250	€70,750
2010	€58,500	€1,250	€57,250

**(a) (ii)**

**Gerard Donegan**  
**Income Tax Computation - 2010**

		€
<b>Single assessment</b>		
Schedule D - Case II		57,250
<i>Less: charge</i>		
Maintenance to spouse		<u>6,000</u>
Statutory income		51,250
<i>Less: permanent health insurance</i>		<u>400</u>
		<u>50,850</u>
€40,400 at 20%	=	€8,080
<u>€10,450</u> at 41%	=	<u>€4,285</u>
<u>€50,850</u>		12,365
<i>Less:</i>		
Single credit		(1,830)
Lone parent		(1,830)
Medical expenses €1,950 at 41%		( 800)
Dependent relative		<u>( 80)</u>
Tax liability		<u>7,825</u>

**Suggested Solution 1 (Cont'd)****(b)**

	€	€
Case II income	140,000	
Less: capital allowances	<u>23,500</u>	116,500
Schedule F €4,000/80 x 100		5,000
Case IV €1,500/75 x 100		<u>2,000</u>
		<u>123,500</u>

**PRSI**

€123,500 at 3% = €3,705

**Health contribution**

€75,036 at 4% = €3,001  
€48,464 at 5% = €2,423  
€123,500                      €5,424

**Income levy**

Case II            €140,000  
Schedule F       €5,000  
                         €145,000

€75,036 at 2% = €1,501  
€69,964 at 4% = €2,799  
€145,000                      €4,300

**Summary**

PRSI                            €3,705  
Health contribution       €5,424  
Income levy                   €4,300  
   €13,429

**Suggested Solution 2****Sunrise Ltd.**

(i)	<b>Corporation Tax Computation</b>		<b>€</b>
	<b>Notes</b>		<b>€</b>
	1		Nil
Case I			23,150
Case III			<u>23,150</u>
Corporation Tax: €23,150 at 25%	=		5,788
Less: Trade loss €123,250 at 12½%	=		<u>(15,406)</u>
			<u>Nil</u>
Loss remaining €15,406 –€5,788 =	=	€9,618	76,944
		.125	

This can be carried forward to reduce profits of the same trade in a future period.

(ii) The time limit for the Section 396(B) loss claim by Sunrise Ltd in its accounting period the 30<sup>th</sup> June 2010 is two years from the end of the accounting period in which the loss arose ie 30<sup>th</sup> June 2012.

(iii) The filing date of Sunrise Ltd corporation tax return is the 21<sup>st</sup> March 2011.

(iv) The dividend liable to dividend withholding tax is:-

Moon Ltd	€2,000	exempt as an Irish company
Star Ltd	€2,000	exempt as an EU company
Susan Roche	€2,000	exempt as an individual resident in the EU
Declan Byrne	€2,000	Liable as an Irish resident individual
Audrey Price	€2,000	Liable as an Irish resident individual

Total dividend liable is €4,000. Dividend withholding tax is €4,000 @ 20% =€800.

(v) The payment date for the dividend withholding tax is 14<sup>th</sup> June 2010.

**Notes****1. Case I**

<b>Case I computation</b>	<b>€</b>	<b>€</b>
Net loss per accounts		(134,500)
Addbacks:		
Depreciation	28,500	
Motor expenses (W1)	4,688	
Legal fees (W2)	<u>36,500</u>	<u>69,688</u>
		(64,812)
Deductions:		
Other income	50,000	
Capital allowances (W3)	<u>8,438</u>	<u>58,438</u>
		<u>(123,250)</u>

2. The dividend received from another Irish company is franked investment income and exempt from Corporation Tax.

**Suggested Solution 2 (Cont'd)****Workings**

		€
<b>1.</b>	Lease rental	
	09 XX165	
	Limit: Lower of	
	(i) €28,000 x 50%	= 14,000
	or	
	(ii) €24,000 x 50%	= 12,000
	€9,000 x $\frac{\text{€28,000} - \text{€12,000}}{\text{€28,000}}$	= 5,143

There is no adjustment required for the private use. The employee will have a B-I-K on this private use. The company gets a full tax deduction for the expense.

09 XX351

The limit for this car is €24,000. The company will be entitled to additional tax relief for the lease rental.

$$\text{€5,000} \times \frac{\text{€22,000} - \text{€24,000}}{\text{€22,000}} = \text{€455}$$

Total addback	€	
09 XX165	5,143	
09 XX351	<u>(455)</u>	
	<u>4,688</u>	

<b>2.</b>	Legal fees	
	Penalty for illegal dumping	€ 10,000
	Planning and design of new office	<u>26,500</u>
		<u>36,500</u>
<b>3.</b>	Capital allowances	
	Delivery trucks	€ 80,000
	Office furniture	<u>10,000</u>
		<u>90,000</u>
	Wear and Tear €90,000 at 12.5%	11,250

The wear and tear must be restricted to the length of the accounting period:

$$\text{€11,250} \times 9/12 = 8,438$$

**Suggested Solution 3**

**(a)** The five specified assets are:-

- (1) Land and buildings in the state
- (2) Minerals in the state
- (3) Rights in the Irish continental shelf
- (4) Unquoted shares deriving their value from the assets listed 1, 2 and 3.
- (5) Assets of a business carried on in the state.

The question only requires 3 out of the above 5.

		€						
<b>(b)</b>	<b>(1)</b>	Sales Proceeds				650,000		
		Less: Legal fees on disposal				(8,500)		
		Cost 92/93 €90,000 x 1.356	=			<u>(122,040)</u>		
		Gain				<u>519,460</u>		
		Gain liable – 20%				103,892		

Notes

- (i) The repairs are not allowed as they are a revenue expense.
- (ii) The period of time that they lived in London is deemed occupation.

The house qualifies in full for principal private residence relief except for 20% as this used for business use.

**(2)** August 2006

Cost remaining after the disposal of five acres in 2006.

		€					
		1999/2000					
		€12,500 x $\frac{€9,500}{€9,500 + €16,000}$	=			4,657	
		Cost remaining €12,500 - €4,657	=			7,843	

September 2010

		Sales proceeds				12,000	
		1999/2000					
		€7,843 x $\frac{€12,000}{€12,000 + €20,000}$	=			€2,941	
		€2,941 x 1.193	=			<u>3,509</u>	
						<u>8,491</u>	

Note

The land in Spain is fully liable to Irish capital gains tax as Magdalena is resident and domiciled in Ireland.

		€					
<b>(3)</b>		Deemed sales proceeds				2,540	
		Cost				<u>2,950</u>	
		Loss				<u>410</u>	

**Suggested Solution 3 (Cont'd)**

(4)	Date	Number	Cost €
	1/5/1995	3,000	3,750
	16/10/1998	2,000	3,900

Shares remaining after the disposal of 2,000 shares in August 2007.

Date	Number	Cost €
1/5/1995	1,000	1,250
16/10/1998	2,000	3,900

		€	
Sales proceeds	1,000 at €2	=	2,000
1995/1996			
€1,250	x 1.277	=	<u>1,596</u>
			<u>404</u>

Sales proceeds	1,000 at €2	=	2,000
1998/1999			
€3,900	x $\frac{1,000}{2,000}$	=	€1,950 x 1.212 = <u>2,363</u>
			<u>(363)</u>

**Actual position**

Sales proceeds	2,000
Cost	<u>1,950</u>
	<u>50</u>

Therefore no gain/no loss

**(i) Jonathan and Magdalena  
Capital Gains Tax 2010**

	€
Sale of House	103,892
Sale of five acres	8,491
Sale of painting	(410)
Sale of shares	<u>404</u>
	112,377
Less: Annual exemption	<u>2,540</u>
	<u>109,837</u>

Capital gains tax at 25% = 27,459

**(ii)** The filing date for Capital Gains Tax in 2010 is 31<sup>st</sup> October 2011.

**Suggested Solution 4**

**(a)** The main differences between exempt and zero rated are:-

- (i) A zero rated activity must register for VAT once there turnover exceeds the registration limit. An exempt activity cannot register for VAT.
- (ii) A zero rated activity is entitled to a VAT credit for input costs; an exempt activity has no such entitlement.

<b>(b)</b> (i)	Mobile phone	$\frac{72.60}{121} \times 21$	=	€12.60
(ii)	Meal at restaurant	$\frac{56.75}{113.5} \times 13.5$	=	€6.75
(iii)	ESB bill	$\frac{203.89}{113.5} \times 13.5$	=	€24.25
(iv)	Dentist			Exempt
(v)	Vet	$\frac{90.80}{113.5} \times 13.5$	=	€10.80
(vi)	Glass of wine	$\frac{6.05}{121} \times 21$	=	€1.05
(vii)	Accounting fee	$\frac{484}{121} \times 21$	=	€84
(viii)	Course fee			Exempt

**(c)** The factors to be taken into account in deciding whether to register for VAT are as follows:-

- There is an obligation to register for VAT, if a traders turnover from the sale of goods is, or is likely to exceed, in any continuous period of 12 months, €75,000 after deducting an amount equal to the VAT borne on purchase of stock for resale for the 12 month period). The relevant limit for a person carrying on a service is €37,500 per annum.
- Where there is no obligation on a person to register for VAT, the issues to be considered are as follows:-
  - (i) The percentage of the customers or potential customers who are registered or likely to be registered for VAT.
  - (ii) The quantum of the VAT element is the input costs.
  - (iii) The additional work involved when a person is registered for VAT namely, the preparation and submission of VAT returns and the payment of VAT by the relevant due dates.
  - (iv) The possibility of a VAT audit and the danger of penalty/interest exposure if the VAT returns are not correct and/or VAT due for a period is not paid on time.

**Suggested Solution 4** (*Cont'd*)

- (d)** A taxpayer is obliged to keep full records of all transactions, which effect or may affect his VAT liability.

In other words, he must keep records of all the taxable goods or services received or supplied including any self-supplies and exempt supplies.

Records are defined as any document or any other written or printed material in any form including any information stored, maintained and preserved by means of any mechanical or electrical device.

The records must be retained for a six year period from the date of the latest transaction to which they relate, unless the Revenue Commissioners give permission otherwise.

- (e)** When an owner takes goods out of his business for his own private use this is regarded as a self supply and must be recorded as a sale at cost price.

**Suggestion Solution 5**

(i) The latest date that a retirement annuity can be paid and tax relief is still available is 31st October 2011, the filing date of the 2010 tax return.

(ii) Relevant earnings – 2010

Schedule D – Case I

€35,000 - €4,500 = €30,500

Maximum relief is €30,500 at 20% = € 6,100

The relief is limited to the premium paid of €4,000.

(b) (i) To obtain full interest relief for acquiring a share in a partnership the following conditions must be satisfied:-

(a) The individual must work full-time as a partner in the partnership and

(b) Must not have recovered any capital from the partnership during the period the loan.

(ii) Peter: Interest relief €3,000.

As Peter works full-time in the partnership and has not received a repayment of capital.

John: Interest relief NIL

John is not entitled to interest relief as he does not work full-time in the business.

Paul: Interest relief €2,000.

Paul's interest relief will be restricted as he has received a repayment of capital during the period of the loan.

Interest allowed:

$3,000 \times \frac{20,000}{30,000} = €2,000$

(iii) This relief is given as a charge in the income tax computation.

**Suggestion Solution 5** (*Cont'd*)

- (c) (i)** A deed of covenant is a legal document binding a person, to make periodic payments to another person.
- (ii)**
- (1) A covenant in favour of a permanently incapacitated adult.
  - (2) A covenant in favour of an adult over 65 years. The relief is limited to 5% of the covenanter's income.
  - (3) A covenant in favour of a permanently incapacitated child as long as the covenanter is not the parent of the child.

The question only requires two examples.

- (iii)** The covenant is allowed for tax purposes because:
- Eoin is a permanently incapacitated child
  - Alex is not the parent
  - The covenant is capable of lasting more than six years.
- There are no limitations for this covenant.

**Suggested Solution 6**

<b>1.</b>	<b>c</b>			
<b>2.</b>	<b>b</b>	Peter's gain		€10,000
		Less: Aisling loss		€ 2,000
		Peter's annual exemption		€ 1,270
				<u>€ 6,730</u>
		Tax at 25%	=	€ 1,683
<b>3.</b>	<b>c</b>			
<b>4.</b>	<b>c</b>			
<b>5.</b>	<b>d</b>	Minimum band		€45,400
		Plus income of lower earner Lorraine	€20,000	
		Less: retirement annuity	<u>€ 2,000</u>	<u>€18,000</u>
				<u>€63,400</u>
<b>6.</b>	<b>d</b>			
<b>7.</b>	<b>a</b>	Sales proceeds		€280,000
		Less: Legal fees		(€5,000)
		99/00 cost	€58,500	
		Legal fees	<u>€ 3,000</u>	
		€61,500 x 1.193	=	<u>(€73,370)</u>
		Gain		<u>€201,630</u>
		As adjusted for the corporation tax computation		
		€201,630 x $\frac{25}{12.5}$	=	€403,260
<b>8.</b>	<b>d</b>			
<b>9.</b>	<b>a</b>	€30,000 x 30%	=	€ 9,000
<b>10.</b>	<b>b</b>	€30,000 x 5%	=	€ 1,500
		Less: contribution €100 x 12	=	<u>€ 1,200</u>
				<u>€ 300</u>

**Suggested Solution 7**

**1.** The tests for determining the residence of an individual are as follows:-

- a person who is present in the state for 183 days or more in a tax year is regarded as resident for that year.
- a person who is present in the state for an aggregate of 280 days over a period of two years is regarded as resident for the second year of assessment, even though they may be present in the state for less than 183 days in that year. This test does not apply where the time spent in the state in the second year is not more than 30 days. In addition any year during which not more than 30 days are spent in the state is ignored in arriving at the aggregate of 280 days.

An individual is regarded as resident in the state for a day if he is present in the state at any time during that day.

**2.** An individual is ordinarily resident in the state for any year of assessment if he has been resident in the state for each of the three preceding years. Accordingly, an individual who comes to reside in Ireland will become ordinary resident with effect from the beginning of his fourth full year of residence.

Once an individual has established ordinary residence status, that status will remain during their period in the state and if they subsequently leave they will continue to be ordinarily resident for the three years following the year of departure (i.e. the year they become non-resident).

**3.** Jose is resident in 2010 as the aggregate of the current and previous year exceeds 280 days and Jose has at least 30 days in Ireland in 2010.

**4.** Maria is resident in Ireland in 2009 as she has spent 183 days in the state. Maria is not resident in 2010 even though she has spent 280 days in the current and previous year. This is because she has been less than 30 days in Ireland in 2010.

**5.** Carine would be resident in Ireland in 2010 as she would be present for the full year. Carine is not ordinarily resident as she has not been in Ireland for 3 complete tax years. Carine is not domiciled in Ireland. Her liability to Irish income tax for 2010 is on her Irish income and her foreign income that she remits to the state.

**6.** Mark Jones is resident and domiciled in Ireland. He is liable to Irish capital gains tax on his worldwide disposals. It is not relevant that he did not remit the proceeds to the state.

**7.** Barry is not resident or ordinarily resident in Ireland in 2010 as he has been non resident for at least 3 tax years. He would be liable to Irish capital gains tax on the sale of the five specified assets. One of the five specified assets is land and buildings in the state. He would therefore be liable on the sale of his house in Dublin. A portion of the house might qualify for principal private residence relief.

## 2<sup>nd</sup> Year Examination: August 2011

### Taxation II ROI

### Examiner's Report

I was extremely disappointed with the standard. Most candidates were not adequately prepared for this exam. Candidates need to study the material in their manual and practice on the questions in the pilot papers and past paper questions since 2009. I feel that if they had done this they would have been well able to achieve a pass mark on this paper. After each exam question I will give a reference to similar exam questions that have previously been asked or are in the pilot papers so candidates appreciate that they need to practice questions as well as study from the manual to pass this subject.

#### **Question one**

This was a three part question. Part (a) was on commencement of a trade with capital allowances. Commencement is a topic on the taxation one paper so I was expecting a high standard here. This part was worth eight marks so candidates should have been more than capable here and nearly have a pass for this question after this part. However the answers were of a very poor standard with most candidates having little idea how to assess a trade in a commencement situation. Very few candidates knew the taxpayers option available under section 66.

Part (b) was on a separated person who had not elected to be treated as a married person. This section was also badly answered with a lot of candidates not dealing with the maintenance or the nursing home expenses correctly.

Part (c) was very badly answered even though it was very straight forward. The candidate was required to calculate PRSI, Health Contribution and the Income levy for a self employed taxpayer. I could not understand how a lot of candidates could not use the correct rates when they were given the rates in their tax reference material which they have had all year to practice on.

#### **Previous pilot paper and past paper questions asked on this topic:**

Pilot paper one: Question one part (ii), Question five part (a), Question 7 part (b)

Pilot paper two: Question one part (a)

Summer 2009: Question 5 part (a)

Autumn 2009: Question 2

Summer 2011: Question one part (b)

**Question 2**

Corporation tax is proving difficult for candidates and more time needs to be spent on this tax. Candidates yet again did not know payment and filing dates which is not satisfactory. I have pointed this out a few times in my exam report and candidates have yet to learn these dates. Payment and filing dates are of extreme importance in tax.

Lecturers please emphasize the importance of learning them.

Most candidates could deal with the addbacks and find the company's case I income but they could not deal with the case I loss and the company's corporation tax computation. This was largely ignored by most candidates. Again candidates could not deal with the DWT and this now needs to be addressed.

**Previous pilot paper and past paper questions asked on this topic:**

Pilot Paper one: Question two

Pilot Paper two: Question two

Pilot Paper Three: Question two

Summer 2009: Question two

Autumn 2009: Question one

**Question 3**

The capital gains question was extremely badly answered. Candidates could not deal with:

- The PPR which was completely exempt except for the business use. Candidates did the opposite and exempted the business use and taxed the residential use.
- Candidates could not deal with the part disposal and were using number of acres to find the cost price.
- Most candidates failed to notice that the durable chattel was sold at a loss.
- Candidates could not deal with a straightforward FIFO disposal of shares.
- Candidates could not list three specified assets. Only a handful of candidates got full marks here. This should have been a guaranteed three marks for all candidates.
- Also the filing date is still not known by candidates. I pointed this out in my exam report for the May 2011 exams as a problem. It is still a problem.

**Previous pilot paper and past paper questions asked on this topic:**

There is a capital gains question every year and nearly all the points asked on this paper have been asked before.

**Question 4**

I was very disappointed at the standard of the VAT question as this tax is covered in detail at the first tax paper. I was expecting most candidates to do well here. This was not the case.

Part (a) was on the differences between exempt and zero rated. I did not ask for the definition of exempt and the definition of zero rated. I wanted the differences between them. Candidates should ensure they read the question and answer the question they have been asked.

Part (b) was to take eight items and to give the VAT included. I had expected that most candidates would get full marks here as I picked every day items that most candidates would deal with like their mobile phone bill and a meal in a restaurant. Most candidates did not do well with this part of the question.

Part (c) was to state the factors a trader should take into account when deciding to register. Very few candidates answered the question asked. The majority of candidates just gave the registration limits.

Part (d) this part of the question was on the maintenance of records for VAT. This was very badly answered.

Part (e) this was asking the VAT treatment of a self supply. This part was answered satisfactorily.

**Previous pilot papers and past paper questions asked on this topic:**

Pilot paper one – question 3 (a)

**Question 5**

Very few candidates attempted this question. It was a very straight forward question on charges in Income tax.

- (a) This dealt with retirement annuities.
- (b) This dealt with interest on money borrowed to invest in a partnership.
- (c) Dealt with covenants.

**Previous pilot papers and past paper questions asked on this topic:**

Summer 2010: Question 7 (a) and (b)

Autumn 2010: Question 7

**Question 6**

This was the multi choice question. It was badly answered by the majority that attempted it. Candidates would have been better served doing another question.

**Question 7**

This was probable the hardest question on the paper and strangely the best answered question with most candidates giving very good answers. It was a theory question on residence and domicile and there effect on a taxpayers Irish Income tax and Capital gains tax liability.

**Previous pilot paper questions and past paper question asked on this topic:**

Pilot paper three: question 7

Autumn 2009: question 7

**Conclusion**

Candidates need to prepare correctly for the exam. They need to study the material from their manual and practice exam standard questions from the pilot papers and past papers. Also please study the comments made here and previous exam reports to see where past candidates are going wrong so future candidates do not keep making the same mistakes.

Also I ask once again that candidates fill out the front cover of their examination booklet with the questions they have completed and place all workings behind the solutions they relate to. Also please do not do three non compulsory questions as the last one in the exam booklet will not be corrected.