



**THE LAW SOCIETY OF SCOTLAND
EXAMINATIONS**

TAXATION

Thursday 5 FEBRUARY 2009

**0900 – 1200
(Three Hours)**

**Candidates should attempt THREE questions in
each of Sections A and B**

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All questions are of equal value

SECTION A – ANSWER THREE QUESTIONS

1. Fiona is employed full time as a manager for a large retail group. She is provided with the use of a car by her employer, which also provides her with a computer to use at her home. She wins “Employee of the Year” award, the prize for which is a free holiday which, if she had bought it herself, would have cost £5,000. Her company, because of their commercial contacts, paid £4,000 for the prize.

She travels to work in the company car, incurring expenses on fuel. Occasionally she has to undertake employment related journeys in the course of her work and her employers reimburse her at a fixed rate of 30p per mile. She was allowed to park for free at the employer’s premises.

Fiona normally worked at the Edinburgh branch of the company but she was transferred to the Glasgow branch for three months and travelled there by train each day.

As a result of the economic downturn, Fiona was made redundant and she agreed to receive two months wages in lieu of notice. There was no term in her contract requiring her to accept wages in lieu of notice.

EXPLAIN the income tax consequences arising out of the above information.

- 2 **OUTLINE**, with examples, the main factors which are taken into account in determining whether someone is in business on their own account or is an employee. Identify three income tax consequences arising from the distinction between being employed and self-employed.

- 3 Write short notes on any TWO of the following:
- i) The disclosure rules for avoidance schemes.
 - ii) The impact of *Barclays Mercantile Business Finance Ltd v Mawson* (2004) on the *Ramsay* principle.
 - iii) The dates for submission of personal income tax returns, any penalties for late submission of returns and the due date for payment of any unpaid tax.
 - iv) The income tax treatment of a discretionary trust which receives UK bank interest as its only source of income.
- 4 George owns several flats in Edinburgh which he lets out to tenants. He spends a considerable amount of his time dealing with these properties: collecting rent, cleaning and decorating between tenancies and dealing with maintenance issues.

Annabel owns a cottage near Ballachulish which she lets out from April until October each year to holiday makers.

David owns and runs a bed and breakfast in Aberdeen.

Charlotte lets out a bedroom in her own flat to a student.

Oswald owns a house in France which he lets out for two months over the summer

EXPLAIN in each case how any profits from these arrangements will be taxed in the UK.

SECTION B – ANSWER THREE QUESTIONS

- 5 “VAT is a tax accounted for by business but borne by the consumer.”

EXPLAIN this statement and in particular the extent to which it is true in relation to a) zero rated supplies and b) exempt supplies. You should make particular reference to the effect of a zero rated or exempt supply in a chain of taxable supplies on the final price to the consumer.

- 6 EXPLAIN the inheritance tax consequences arising out of the following information:

James dies in January 2009, domiciled in the UK. His estate includes the following assets: a half-share in the matrimonial home, a holiday house in Spain, a farm which he had farmed for many years, shares in a family company (unlisted) the business of which was owning and letting out shops in Edinburgh, several holdings of shares listed on the London Stock Exchange. In terms of his will, his wife is to receive his share of the matrimonial home and some of the listed shares. The balance of his estate is to be split between his children.

James had made two lifetime transfers. Ten years ago he created a discretionary trust for his grandchildren into which he transferred £500,000. Six years ago he made a gift of £300,000 to his daughter.

7. Adam made the following disposals:

- i) He gave a half share in his house to his girlfriend. They had shared the house since Adam bought it in his own name ten years ago.
- ii) He sold the factory in which he carried out his business for many years for £500,000, realising a gain of £400,000. He purchased a new factory for £375,000.
- iii) He sold his car at a loss, after it had repeatedly broken down.
- iv) He sold four chairs out of a set of six which had cost £6,000 in 1998. He received £2,000 per chair, which was also the value of each of the two chairs he retained.

EXPLAIN the capital gains tax consequences of the above transactions.

8. OUTLINE the criteria which determine whether a company is “close” for the purpose of UK tax law, and EXPLAIN how a close company is taxed differently from a non-close company.

END