ATX-UK Specimen Exam
(New format from June 2023)

Prepared under FA2022

Section A – This question is compulsory and MUST be attempted

QUESTION 1

You should assume that today's date is 1 September 2023.

You are an ACCA student working for a firm of accountants. Your manager, Sheila Hughes, has asked for your assistance in drafting notes in preparation for an internal meeting to discuss issues raised by Lamar, who is the majority shareholder and managing director of REP Ltd, and his wife, Freya. Both Lamar and Freya are clients of your firm.

In addition to some ethical considerations which have been raised by your manager, advice is required in respect of:

- the corporation tax issues in relation to a proposed purchase of shares by REP Ltd in an overseas company
- the value added tax (VAT) implications of the purchase of an investment property
- the income tax consequences of ceasing to trade, and
- the inheritance tax consequences of a gift of shares to a trust.

The following exhibits, available on the left hand side of the screen, provide information relevant to the question;

1. REP Ltd – note of a conversation between Lamar and your manager
2. Personal tax affairs – extract from an email received from Freya
3. Manager's email – outlining what you are required to do

This information should be used to answer the question **requirements** within your chosen **response option(s).**

1. REP Ltd

Note of a telephone conversation between Lamar and Sheila Hughes (tax manager) on 1 September 2023

1. Potential investment in JAY Ltd

The directors of REP Ltd are in discussion with the management of CRO Ltd (an unconnected company) regarding the establishment of a new company, JAY Ltd. Both REP Ltd and CRO Ltd are UK resident companies which prepare accounts to 31 March each year.

JAY Ltd would commence trading on 1 April 2024 and carry on its business activities in the country of Garia, where it would manufacture computer components.

Business profits generated in Garia are subject to 13% business tax in that country. There is no double tax treaty between the UK and Garia.

Size of investment

CRO Ltd is proposing that REP Ltd would own 30% of the ordinary share capital of JAY Ltd, with CRO Ltd owning the remaining 70%. However, Lamar and his fellow directors regard this potential investment as somewhat risky, such that if they decide to proceed, they may prefer to own just 20% of JAY Ltd rather than 30%.

JAY Ltd will have no source of taxable income, other than its trading profits, and will not make any chargeable gains during the year ending 31 March 2025.

JAY Ltd's tax adjusted trading profit for the year ending 31 March 2025 is budgeted to be £135,000, all of which will relate to its activities in Garia. However, there is the possibility that it will be loss making in either that year, or in future years.

Additional information

REP Ltd has not been involved in a joint venture of this nature before and has no experience of carrying on business outside the UK. Lamar told me that he had been provided with the following additional relevant information:

(i) It has not yet been determined whether JAY Ltd will be resident in the UK or in Garia.

(ii) If JAY Ltd is resident in the UK, it will be carrying on its business through a permanent establishment in Garia and will consider making an election to exempt its overseas trading profits from UK tax.

(iii) Confirmation has been received that if JAY Ltd is resident in Garia, this will not result in a charge under the controlled foreign company (CFC) rules.'

2. Purchase of investment property

The directors are considering the purchase by REP Ltd of a new, unused commercial building, situated in the UK, for £200,000 plus 20% value added tax (VAT). REP Ltd would then grant a 20-year lease of this building to one of a number of different businesses they are currently in discussions with.

The directors are keen to recover the VAT charged by the vendor on the sale of this building. Lamar told me that one of his friends had suggested that they could do this by opting to tax the building before granting the lease, and that this would have no effect on their tenant or any potential future purchaser.

2. Personal tax affairs

Email extract from Freya dated 1 September 2023

Cessation of my business

I am intending to cease my unincorporated consultancy business on 31 October 2023. I began trading in 2015 and have always prepared accounts to 31 May each year. My business is my only source of income.

— I will prepare a single set of accounts for the 17-month period ending 31 October 2023. The budgeted tax adjusted profit for this period, before deduction of capital allowances, is £94,000.

— The only capital asset within my business is a car which has always been used 65% for business purposes. I will withdraw this car from the business on 31 October 2023 when it will have a market value of £11,100, which is less than its original cost. The tax written down value of this car as at 31 May 2022 was £8,700.

— There are unrelieved overlap profits from the commencement of the business of £31,400.

Proposed gift of shares to trust

— I established a discretionary trust for the benefit of my nieces and nephews on 1 August 2013.

— I own shares in Dexil Ltd and on 1 November 2023, I am planning to give 20,000 of these shares to the trust. After I have made the gift, I will still own 60,000 shares (60% of the company).

You have already advised me that these shares are not relevant business property for the purposes of business property relief, due to the investment activities of Dexil Ltd. Accordingly, I am aware that the gift on 1 November 2023 may result in an inheritance tax (IHT) liability. If I decide to make the gift, I will pay any IHT due and I need to know by when such amount would fall due.

— I have made the following gifts in the past:

		£
1 August 2013	Cash to trustees on the creation of the trust	120,000
1 February 2019	Cash to brother	35,000
1 May 2019	Additional cash to trustees	170,000
1 July 2023	Cash to sister	45,000

— None of these gifts has resulted in an IHT liability.

Additional information provided by your manager:

These are the Dexil Ltd share valuations you should use:

Shareholding	Up to 25%	26% to 50%	51% to 74%	75% or more
Value per share	£8	£11	£17	£24

Freya currently owns 80% of the ordinary share capital of Dexil Ltd. The remaining shares in the company are owned by individuals who have no connection with Freya.

3. Manager's email

To: Tax Assistant

From: Sheila Hughes, Tax Manager

Subject: Lamar

Date: 1 September 2023

Hi

I need you to prepare some notes in preparation for an internal meeting with the rest of the engagement team. The notes should be set out in a manner which will make it easy for you to refer to them during the meeting and should address the following issues;

(a) Knowledge obtained from advising other clients

We have many existing clients which trade from permanent establishments situated overseas, and a few years ago we had a client with a presence in the country of Garia.

— Identify the points which should be made in order to explain the extent to which REP Ltd can benefit from the knowledge our firm has gained from advising other clients.

(5 marks)

(b) Investment in JAY Ltd by REP Ltd (Exhibit 1).

(i) Residency of JAY Ltd.

— Explanations of the relevance of the country of residency of JAY Ltd in relation to:

— the amount of corporation tax payable in the UK and Garia in respect of its profits; and

— the relief available to REP Ltd if JAY Ltd's business in Garia were to make a trading loss.

Before you start, take some time to identify the different possibilities which need to be addressed, recognising that it is not yet known what percentage of JAY Ltd will be owned by REP Ltd.

(9 marks)

(ii) Election to exempt the profits of JAY Ltd's overseas permanent establishment from UK tax.

— List the implications of JAY Ltd making this election.

(3 marks)

(iii) Controlled foreign company (CFC) rules.

I can confirm that a CFC charge will not arise if JAY Ltd is resident in Garia. However, I want to provide Lamar with:

— an explanation of the purpose of the CFC rules and the charge which can be levied under them.

(3 marks)

(c) Purchase of investment property by REP Ltd (Exhibit 1).

— Explain how opting to tax the building would enable REP Ltd to recover the value added tax (VAT) charged by the vendor; and

— Explain whether or not the advice from Lamar's friend is correct.

There is no need for you to consider partial exemption or the capital goods scheme.

(5 marks)

(d) Personal tax affairs (Exhibit 2).

(i) Cessation of Freya's business on 31 October 2023.

— A calculation of Freya's estimated liability to income tax and Class 4 national insurance contributions in respect of her final tax year of trading.

(7 marks)

(ii) Proposed gift of shares to trust on 1 November 2023.

— A calculation of the inheritance tax which would be payable by Freya if she were to give 20,000 shares in Dexil Ltd to the trust on 1 November 2023, as planned. Your calculation should indicate the availability or otherwise of all relevant annual exemptions.

— The payment date, together with a brief explanation of how it has been determined.

(8 marks)

I look forward to seeing your notes.

Sheila

Requirements

You should assume that today's date is 1 September 2023.

Respond to the instructions in the email from your manager.

Note: The split of the mark allocation is shown in Exhibit 3 – Manager's email.

(40 marks)

Professional marks will be awarded for the demonstration of skill in communication, analysis & evaluation, scepticism and commercial acumen in your answer.

(10 marks)

(50 marks)

Section B – BOTH questions are compulsory and MUST be attempted

QUESTION 2

You should assume that today's date is 1 September 2023.

Amelia is a sole trader. She is seeking advice in respect of;

- the tax reliefs available for a loss incurred by her business,
- the income tax and capital gains tax implications of replacing a warehouse, and
- deregistration for value added tax (VAT) purposes.

The following exhibit, available on the left hand side of the screen, provides information relevant to the question;

1. Amelia

This information should be used to answer the question **requirements** within your chosen **response option(s).**

Amelia

Amelia:

– Has owned her unincorporated business, AS Trading, for many years.
– Has savings income of £6,000 each year.
– Had rental income of £11,600 from a UK residential property in the tax year 2022/23.
– Has no rental income in the tax year 2023/24 as the letting ceased on 31 March 2023.
– Sold this property on 30 April 2023.

AS Trading – tax adjusted trading profit/(loss):

	£
Year ended 31 December 2022	30,000
Year ending 31 December 2023 (forecast)	(14,000)

Amelia – recent capital disposals:

– Amelia's capital disposals are as follows:

Asset	Date of disposal	(loss)/gain
		£
Painting	1 June 2022	(10,700)
UK rental property	30 April 2023	45,000
Shares in Swartz Ltd	16 August 2023	28,000

– All of these disposals were made to unconnected persons.
– Amelia had never lived in the UK rental property.
– Swartz Ltd is an unquoted trading company.
– Amelia sold the whole of her 3% shareholding in Swartz Ltd. She had acquired the shares in 2021.

Proposed sale of Warehouse 1:

– Amelia acquired Warehouse 1 on 1 May 2017 for £86,000.
– Amelia will sell Warehouse 1 on 1 May 2024 for its expected market value at that date of £118,000.
– AS Trading occupies three out of the four floors of Warehouse 1.
– The remaining floor has been rented to tenants throughout Amelia's ownership of the building.

Proposed purchase of Warehouse 2:

– Amelia will purchase this warehouse on 1 March 2024. Structures and buildings allowance is not available in respect of this warehouse.
– She will also acquire a forklift truck for use in the warehouse, on 1 March 2024.
– Amelia will pay £83,000 for Warehouse 2, and will pay £23,000 for the forklift truck.
– Amelia will start to use the whole of Warehouse 2 in her business from 1 May 2024.

AS Trading – taxable turnover for value added tax (VAT) purposes:

	£
Year ended 31 December 2022	92,000
Year ending 31 December 2023 (forecast)	65,000
Year ending 31 December 2024 (forecast)	79,000

– Amelia expects that the taxable turnover of the business will continue to increase gradually in the next few years.
– AS Trading makes wholly standard-rated supplies.
– Amelia wishes to apply for voluntary deregistration for VAT purposes on 31 December 2023.

Requirements

You should assume that today's date is 1 September 2023.

(a)(i) State the reliefs available to Amelia in respect of her trading loss of the year ending 31 December 2023, on the assumption that Amelia does not wish to carry forward any of the loss.

(3 marks)

(a)(ii) Explain, with supporting calculations, how much tax would be saved for each of the reliefs identified in requirement (a)(i).

(8 marks)

(b) Explain, with supporting calculations, the capital gains tax and income tax implications for Amelia of the proposed sale of Warehouse 1, and the acquisition of Warehouse 2 and the forklift truck.

(6 marks)

(c) Explain why Amelia can apply to voluntarily deregister for value added tax (VAT) purposes on 31 December 2023, from what date her VAT registration would be cancelled, and the immediate consequences for her of deregistering.

(3 marks)

Professional marks will be awarded for the demonstration of skill in analysis and evaluation, and commercial acumen in your answer.

(5 marks)

(25 marks)

QUESTION 3

You should assume that today's date is 1 January 2024.

You have been asked to provide advice to Dorian, the managing director of Taupe Ltd, in relation to;

- Taupe Ltd's status as a close company
- the provision by the company of employment benefits to Dorian, and
- the late filing of the company's corporation tax return.

The following exhibit, available on the left hand side of the screen, provides information relevant to the question;

1. Dorian and Taupe Ltd

This information should be used to answer the question **requirements** within your chosen **response option(s).**

Dorian and Taupe Ltd

Taupe Ltd:

– Is a UK resident trading company, and is also a close company.
– Has six directors, Dorian and five other, unrelated, individuals.
– Has an accounting reference date of 30 April each year.
– Always pays all amounts due to HM Revenue and Customs (HMRC) by the due date.
– Is not a large company for the purpose of being required to pay its corporation tax liability in instalments.

Taupe Ltd –shareholders:

– The shares in Taupe Ltd are held as follows:

	Percentage of issued ordinary shares
Dorian	5%
The other five directors (each holding 5%)	25%
Basil (Dorian's father)	23%
Other, unrelated, shareholders (each holding less than 2%)	47%
	100%

Dorian:

- Has an annual salary of £78,000 from Taupe Ltd.
- Was provided with an interest-free loan of £7,500 from Taupe Ltd on 6 April 2022. Notional tax was payable on this loan by Taupe Ltd.
- Is due to repay this loan on 30 June 2025, but may repay it earlier, on 30 April 2025.
- Has no other income.
- Works full time at Taupe Ltd's office in London.

Taupe Ltd – assistance with Dorian's home to work travel costs:

- Taupe Ltd is considering two alternatives to assist Dorian with the costs of his daily travel from home to work for the tax year 2024/25.

  Alternative 1:

  - On 6 April 2024, Taupe Ltd will make an interest-free loan to Dorian of £4,800, equal to the cost of his annual travel season ticket.
  - Taupe Ltd will write off this loan on 5 April 2025.
  - Dorian will incur no additional travel costs under this alternative.

  Alternative 2:

  - Taupe Ltd will pay Dorian a mileage allowance for driving his own car to work, amounting to £3,600 for the year ending 5 April 2025.
  - Taupe Ltd will pay an unconnected company an annual fee of £1,200 for a car parking space for Dorian near the company's London office.
  - Dorian has estimated that his current annual cost of driving from home to work is £5,220, including £1,320 for parking.

Taupe Ltd – late filing of corporation tax returns:

- Taupe Ltd filed its corporation tax return for the year ended 30 April 2022 on 29 August 2023.
- HMRC issued a notice requiring the filing of this return on 8 June 2022.
- Taupe Ltd had filed its corporation tax return for the year ended 30 April 2021 on 6 July 2022.
- All previous corporation tax returns had been filed on time.

Requirements

You should assume that today's date is 1 January 2024.

(a) Explain why Taupe Ltd is classed as a close company.

(4 marks)

(b) Explain, with supporting calculations, the tax implications for both Dorian and Taupe Ltd, if Dorian repays the £7,500 loan on 30 April 2025 rather than on 30 June 2025.

(5 marks)

(c) Explain, with supporting calculations, which of the two alternatives for providing assistance with travel costs, will produce the lower overall cost for Dorian.

(8 marks)

(d) State, with reasons, the due date for filing Taupe Ltd's corporation tax return for the year ended 30 April 2022, and the implications for Taupe Ltd in respect of filing it late.

(3 marks)

Professional marks will be awarded for the demonstration of skill in analysis and evaluation, and commercial acumen in your answer.

(5 marks)

(25 marks)

Suggested solutions

Q1 Suggested Solution

REP Ltd

Notes for meeting

Client	**REP Ltd and Freya**
Purpose	**Discussion of corporate and personal matters**
Prepared by	**Tax senior**
Date	**1 September 2023**

(a) Knowledge obtained from advising other clients

— We have experience of advising clients trading from permanent establishments situated overseas.

We have also advised on trading in the country of Garia.

— We will be able to use this general experience and expertise for the benefit of REP Ltd.

— However, we must not use any confidential information obtained as a result of our professional and business relationships for the benefit of REP Ltd (or any other client).

Confidentiality is one of the fundamental principles of ethics within ACCA's Code of Ethics and Conduct.

— This principle of confidentiality applies to confidential information obtained in respect of both ex-clients and continuing clients.

Tutorial note: *candidates who mentioned the fundamental principle of professional competence and due care were also awarded credit.*

(b) Investment in JAY Ltd

(i) Residency of JAY Ltd

Taxation of profits

The profits of the business will be generated in Garia regardless of where JAY Ltd is resident.

Accordingly, the profits will always be subject to business tax at 13% in Garia.

If JAY Ltd is resident in the UK

The profits would be subject to UK corporation tax because the permanent establishment (PE) in Garia is not a separate legal entity and UK resident companies are subject to corporation tax on their worldwide profits.

However, double tax relief would be available in the UK: the amount payable in the UK would be 6% (19% – 13%) of the profits, as set out below:

	£
UK corporation tax (£135,000 x 19%)	25,650
Less: Unilateral double tax relief (£135,000 x 13%)	(17,550)
UK corporation tax payable	8,100

If JAY Ltd is resident in Garia

The profits will only be subject to tax in Garia at the rate of 13%, as noted above.

JAY Ltd would not have a UK corporation tax liability in respect of these profits.

Any dividends received by REP Ltd and CRO Ltd from JAY Ltd would be exempt from corporation tax.

Relief available in respect of trading loss

If JAY Ltd is resident in the UK

If REP Ltd owns 30% of JAY Ltd:

— JAY Ltd would be a consortium company because at least 75% of JAY Ltd would be owned by companies, each of which own at least 5%, and less than 75%, of the company.

— In these circumstances, REP Ltd would be able to offset up to 30% of JAY Ltd's trading loss against its taxable total profits.

If REP Ltd owns 20% of JAY Ltd:

— No relief would be available to REP Ltd in respect of any trading loss of JAY Ltd because CRO Ltd would own more than 75% of JAY Ltd.

If JAY Ltd is resident in Garia

No relief would be available in the UK for REP Ltd in respect of any trading losses realised by JAY Ltd in Garia.

(ii) Election to exempt the profits of JAY Ltd's overseas PE from UK tax

This election is available to UK resident companies which generate profits from PEs situated overseas. If JAY Ltd were to make this election:

— its profits in Garia would no longer be subject to corporation tax in the UK. If no election is made, UK corporation tax would be payable on the profits in Garia at the rate of 6% (19% – 13%) after double tax relief;

— no relief would be available in the UK in respect of any losses generated by the activities in Garia;

— it would be irrevocable;

— it would apply to all future overseas PEs of JAY Ltd.

(iii) Controlled foreign company (CFC) rules

The UK tax system charges corporation tax on the worldwide profits of UK resident companies. However, it does not charge corporation tax on the profits earned overseas by a non-UK resident company.

A UK resident company could seek to exploit the latter rule by establishing a non-UK resident subsidiary in which to generate its overseas profits. The CFC legislation is designed to prevent overseas subsidiaries being used to avoid tax in this way.

Where the rules apply (and no exemption is available), UK resident companies owning at least 25% of a CFC are charged UK corporation tax on their proportionate share of the CFC's chargeable profits.

(c) Purchase of investment property

Recovery of input value added tax (VAT) on the purchase

When REP Ltd grants a lease of the building to a tenant, it will be making an exempt supply.

Therefore, REP Ltd will not be able to recover any VAT in relation to the purchase of the building unless it makes an election opting to tax it.

Suggestion from Lamar's friend

This statement is not necessarily correct for the following reasons:

No impact on tenant

If REP Ltd opts to tax the building, it would be required to charge VAT on the monthly rental payments due from the tenant. The effect on the tenant will depend on the type of supplies being made for VAT purposes. If the potential tenant is not making fully taxable supplies, then it will not be able to recover all of the VAT charged. This will represent an additional cost which may impact on the tenant's decision to rent the building and, if so, at what price.

No impact on a future sale of the building

Whilst the option to tax remains in place, REP Ltd would be required to charge VAT on a sale of the building. This could impact on any eventual sales price achieved if a future purchaser were not able to recover some, or all, of the VAT charged.

(d)(i) Cessation of Freya's business on 31 October 2023

Income tax and class 4 national insurance contributions (NIC): tax year 2023/24

	£
Trading profit for the final 17-month period	94,000
Add: balancing charge on sale of car (W)	1,560
Less: overlap profits	(31,400)
Taxable trading profit	64,160
Less: personal allowance	(12,570)
Taxable income	51,590
£37,700 x 20%	7,540
£13,890 (£51,590 – £37,700) x 40%	5,556
Income tax liability	13,096
£37,700 (£50,270 – £12,570) x 10.25%	3,864
£13,890 (£64,160 - £50,270) x 3.25%	451
Class 4 NIC liability	4,315

Working

Capital allowances

	Private use car £
Tax written down value (TWDV) brought forward	8,700
Disposal:	
Market value	(11,100)
	(2,400) x 65%
Balancing charge	1,560

(d)(ii) Proposed gift of shares to trust on 1 November 2023

Inheritance tax (IHT) payable

	£	£
Transfer of value (W)		900,000
Annual exemptions for 2023/24 and 2022/23 (used by PET on 1 July 2023)		—
Chargeable amount		900,000
Nil rate band		325,000
Less: chargeable transfer in the previous seven years		
1 May 2019	170,000	
Annual exemptions:		
2019/20	(3,000)	
2018/19 (used by PET on 1 February 2019)	—	
		(167,000)
		158,000
Taxable amount (£900,000 – £158,000)		742,000
IHT payable (£742,000 x 25%)		185,500

Since the transfer occurs in the second half of the tax year, the IHT will fall due six months after the end of the month of the transfer, i.e. by 31 May 2024.

Working

Transfer of value

	£
Value of shares held prior to the gift: (80,000 x £24 (80%))	1,920,000
Value of shares held after the gift: (60,000 x £17 (60%))	(1,020,000)
Transfer of value	900,000

Question 1 - Detailed Marking Guide

			Available	Maximum
1 (a)		One mark for each relevant point	5	
			5	**5**
(b)	**(i)**	Taxation of profits		
		Subject to tax in Garia	1	
		JAY Ltd is UK resident	3	
		JAY Ltd is resident in Garia	2	
		Relief for losses		
		JAY Ltd is UK resident	4	
		JAY Ltd is resident in Garia	1	
			11	**9**
	(ii)	One mark for each relevant point	4	
			4	**3**
	(iii)	One mark for each relevant point	4	
			4	**3**
(c)		Recovery of input VAT on purchase	2	
		Implications for the tenant	2	
		Implications for the future sale	2	
			6	**5**
(d)(i)		Capital allowances	2.5	
		Other aspects of taxable income	2.5	
		Income tax and class 4 NIC liability	2	
			7	**7**
(d)(ii)		Taxable amount of transfer to trust	2.5	
		Nil rate band	2.5	
		Inheritance tax liability	1	
		Payment date	2	
			8	**8**
		Professional skills marks (see below)	10	
			10	**10**
TOTAL				**50**

Question 1 - professional skills marks

Communication

- General format and structure of meeting notes (e.g. use of headings/sub-headings to make meeting notes easy to refer to)
- Style, language and clarity (tone of meeting notes, presentation of calculations, appropriate use of the tools, easy to follow and more than a negligible amount of content)
- Effectiveness of communication (answer is relevant, specific rather than general and focused to the requirement)
- Adherence to specific instructions made in the scenario (e.g. limiting explanation of controlled foreign company rules to what was required, attempt to consider differing levels of investment in JAY Ltd).

Analysis and evaluation

- Use of information to determine impact of JAY Ltd's residence status
- Demonstration of reasoned judgement when considering impact of level of investment by REP Ltd
- Appropriate use of the data to determine suitable calculations of inheritance tax payable on Lamar's proposed gift of shares into trust and income tax and class 4 national insurance contributions payable by Freya.

Scepticism

- Effective challenge of validity of advice provided to opt to tax the investment property
- Demonstration of the ability to probe into the reasons for issues and problems with the advice to opt to tax the investment property, including the identification of uncertainty in respect of future tenant and purchaser.

Commercial acumen

- Recognition of external constraints and opportunities regarding the use of knowledge obtained from advising other clients
- Recognition of possible consequences of potential future decision to elect to exempt the profits of a permanent establishment from UK tax
- Demonstrating an awareness of purpose behind the controlled foreign companies' legislation

Q2 Suggested Solution:

Amelia

(a)(i) Reliefs available in respect of Amelia's trading loss of the year ending 31 December 2023

The loss of the year ending 31 December 2023 is a loss of the tax year 2023/24. Accordingly, Amelia can offset the loss against her total income of 2023/24 and/or 2022/23. If she chooses to offset the loss against her total income of 2023/24, she can then offset any remaining loss against her chargeable gains of that year.

(ii) Relief against income and chargeable gains in the tax year 2023/24

In the tax year 2023/24, Amelia's only income will be savings income of £6,000. This will be covered by her personal allowance, such that she will have no liability to income tax for this year. Accordingly, if she chooses to take relief for the loss against this income, there will be no income tax saving. However, the remaining loss of £8,000 (£14,000 - £6,000) could then be offset against her chargeable gains for the year.

Amelia's chargeable gains comprise total gains less the capital loss brought forward i.e. £62,300 (£45,000 + £28,000 - £10,700). Accordingly, the full £8,000 of trading loss could be offset.

Ignoring offset of the trading loss, Amelia would have taxable gains of £50,000 after deducting the annual exempt amount of £12,300. As Amelia will have no taxable income in 2023/24, £37,700 of her taxable gains will fall within her basic rate band, and the remaining £12,300 will be taxed at the higher rate.

The trading loss should therefore be offset against the gain on the UK rental property, as this will be taxed at the higher, residential property rates of 18%/28% (working). The capital gains tax (CGT) saving will be £2,240 (£8,000 x 28%).

Working: Offset of remaining trading loss against chargeable gains

	Residential property gain	Other gains	Total
	£	£	£
Gain on UK rental property	45,000		45,000
Gain on Swartz Ltd shares		28,000	28,000
Less: Trading loss converted to capital loss	(8,000)		(8,000)
Less: annual exempt amount	(12,300)		(12,300)
Less: capital loss brought forward	(10,700)		(10,700)
Taxable gains after loss relief	14,000	28,000	42,000

Tutorial notes:

1. After taking relief for the trading loss, only £4,300 (£42,000 - £37,700) of Amelia's taxable gains will be taxed at the higher rate, instead of £12,300.

2. The trading loss would be treated as a current year capital loss in the CGT computation, (i.e. it would be deducted from Amelia's chargeable gains before deducting the annual exempt amount and the capital loss brought forward), as shown above. However, candidates were awarded full credit regardless of the order in which they deducted the trading loss.

Relief against income in the tax year 2022/23

In the tax year 2022/23 Amelia's total income is £47,600 (£30,000 + £11,600 + £6,000), so the full amount of the loss of £14,000 can be offset. Amelia's taxable income was £35,030 (£47,600 - £12,570), such that she was a basic rate taxpayer. The loss offset (which is against her non-savings income of this year) would generate a tax saving of £2,800 (£14,000 x 20%).

Relief against income in the tax years 2023/24 then 2022/23

Amelia could offset the loss against her income of £6,000 in 2023/24, with the remaining £8,000 offset against her income in 2022/23. This would save no tax in 2023/24, and only £1,600 (£8,000 x 20%) in 2022/23.

(b) Capital gains tax and income tax implications of the sale of Warehouse 1 and the acquisition of Warehouse 2 and the forklift truck

The sale of Warehouse 1 will give rise to a chargeable gain of £32,000 (£118,000 - £86,000).

Rollover relief will be available to defer part of this gain because Amelia acquired a qualifying replacement asset, Warehouse 2, during the year prior to the sale.

The acquisition of the forklift truck does not qualify for rollover relief as it is a moveable asset.

The gain which is eligible for rollover relief is restricted to £24,000 (£32,000 x ¾) because Amelia only occupied three of the four floors of Warehouse 1 for business purposes.

The rollover relief available will be further restricted because not all of the proceeds relating to the business use of Warehouse 1 have been used to acquire Warehouse 2:

	£
Proceeds of business element (£118,000 x ¾)	88,500
Cost of replacement	(83,000)
Gain remaining chargeable	5,500

The balance of the eligible gain of £18,500 (£24,000 - £5,500) will be available for rollover relief. Amelia's chargeable gain in respect of the sale of Warehouse 1 will therefore be £13,500 (£32,000 - £18,500).

The gain of £18,500 will be rolled over and deducted from the base cost of Warehouse 2. The base cost of Warehouse 2 will be £64,500 (£83,000 - £18,500).

The cost of the forklift truck of £23,000 will be eligible for the annual investment allowance in AS Trading's year ending 31 December 2023.

(c) Deregistration for value added tax (VAT)

Amelia is able to apply to voluntarily deregister for VAT on 31 December 2023 as the value of her taxable supplies in the following year are not expected to exceed the deregistration limit of £83,000. Her registration will be cancelled from 31 December 2023, or from a later date agreed with HM Revenue and Customs (HMRC).

On deregistration, output VAT will be payable on all non-current assets and inventory held by Amelia, on which input VAT was previously reclaimed. If the total VAT payable does not exceed £1,000, no payment is needed.

As a result of deregistration, Amelia will not be able to reclaim input VAT on the acquisition of Warehouse 2 and the forklift truck.

Question 2 - Detailed Marking Guide

		Available	Maximum
2 (a)(i)	Reliefs available	3.5	**3**
(ii)	Relief in 2023/24 – against income	1.5	
	- against gains	5	
	Relief in 2022/23	2.5	
	Relief in 2023/24 and 2022/23	1	
		10	**8**
(b)	Availability of rollover relief	2.5	
	Calculation of rollover relief	3.5	
	AIA on fork-lift truck	1	
		7	**6**
(c)	Deregistration for VAT	4	
		4	**3**
	Professional skills marks (see below)		**5**
	Total		**25**

Question 2 - Professional skills marks

Analysis and evaluation

- Use of information to support impact of loss relief options by reference to Amelia's tax status
- Appropriate use of the data to determine suitable calculations of tax savings associated with available trading loss relief options and the tax implications of the proposed sale of Warehouse 1 and acquisition of Warehouse 2 and the forklift truck.
- Appropriate use of the data to support discussion and draw appropriate conclusions about the availability of rollover relief on the proposed sale of Warehouse 1.
- Demonstration of ability to consider all relevant taxes specified in the requirements.

Commercial acumen

- Recognition of constraints and opportunities related to choice of trading loss relief, for example, trading loss offset may not be desirable, but allows offset against gains.
- Recognition of possible consequences of potential future decision to voluntarily deregister for value added tax

Q3 Suggested Solution:

Dorian

(a) Reason for close company status

A company is a close company if it is controlled by:

- Any number of shareholders who are also directors, or
- The five largest shareholders in the company.

Control is exercised by shareholders who own more than half of the company's issued share capital.

For the purpose of determining control, a shareholder is regarded as owning any shares owned by their associates, in addition to the shares which they own personally. Associates include direct relatives, so Dorian is associated with his father.
Dorian is regarded as owning 28% of the shares (his own 5% plus his father's 23%). The remaining five directors own a total of 25%, so that overall the six directors own 53% of the issued share capital, and control the company.

Tutorial note:
There are additional complexities when determining whether or not a company is a close company, but the above points were sufficient to score full marks.

(b) Tax implications for Dorian and Taupe Ltd of early repayment of Dorian's £7,500 loan

There will be no tax implications for Dorian. This will be the only loan outstanding in 2025/26, so there will be no loan interest benefit arising as it does not exceed £10,000.

As Taupe Ltd is a close company, it will have paid notional tax of £2,531 (£7,500 x 33.75%) to HM Revenue and Customs (HMRC) in respect of the loan to Dorian, who is a participator in the company.

HMRC will repay the £2,531 to Taupe Ltd nine months and one day after the end of the accounting period in which the loan is repaid.

Accordingly, if Dorian repays the loan on 30 April 2025, Taupe Ltd will receive the repayment by 1 February 2026, one year earlier than it would if the loan were repaid on 30 June 2025.

Tutorial note: *Notional tax will have been payable in respect of the £7,500 loan made to Dorian as Dorian (including his associate (Basil)) has a material interest (>5%) in Taupe Ltd.*

(c) The cost to Dorian of the two alternative travel assistance proposals

Alternative 1: Provision of an interest-free loan to purchase a season ticket

Dorian already has an existing interest-free loan from Taupe Ltd of £7,500. If he receives a further loan from Taupe Ltd of £4,800, the total amount outstanding will exceed £10,000, such that a taxable benefit will arise in respect of the whole of these loans.

Both of the loans are interest-free, so there will be a taxable benefit, calculated by reference to the official rate of interest, of £246 ((£7,500 + £4,800) x 2.0%). This will be subject to income tax at 40%, as Dorian will be a higher rate taxpayer in 2024/25, but the loans will not result in a liability to Class 1 national insurance contributions (NIC) for Dorian. The income tax payable would be £98 (£246 x 40%).

When the loan is written off on 5 April 2025, the amount written off will be treated as a distribution, and therefore liable to income tax at the rate of 33.75%. As Dorian has no other dividend income, the dividend nil rate band would be available, such that Dorian would incur an income tax liability of £945 ((£4,800 - £2,000) x 33.75%)).

The cost to Dorian of this alternative will be £1,043 (£98 + £945).

Alternative 2: Payment of a mileage allowance and provision of a free car-parking space

The mileage allowance will be subject to income tax at 40% and Class 1 NIC at 3.25%. This will give rise to a total tax cost of £1,557 (£3,600 x 43.25%).

Dorian will have additional travel costs, not covered by the mileage allowance of £300 ((£5,220 - £1,320) - £3,600).

Provision of a car parking space at, or near, an employee's normal place of work is an exempt benefit for income tax and NIC.

The total cost to Dorian of this alternative is therefore £1,857 (£1,557 + £300).

Provision of the interest-free loan to purchase a season ticket results in the lower overall cost for Dorian.

Tutorial notes.

1. Although Dorian is an employee of Taupe Ltd, the loan written off is still treated as a distribution, rather than employment income. However, the amount written off will be liable to Class 1 NIC and candidates who were aware of this were awarded credit.

2.The approved mileage rates are not relevant in this case as the driving costs are not related to journeys made in the course of Dorian carrying out his duties of employment.

(d) Implications for Taupe Ltd of the late filing of its corporation tax return

Taupe Ltd's corporation tax return for the year ended 30 April 2022 should have been filed by 30 April 2023 (12 months after the end of the period of account), as the notice requiring the filing of this return was issued before 1 February 2023.

As the return was filed more than three months late, a fixed late filing penalty of £200 will arise. Although the return for the year ended 30 April 2021 was also filed late, the penalty will not be increased to £1,000 as the return for the year ended 30 April 2020 was filed on time.

Tutorial note: Candidates were awarded equal marks for consideration of other valid implications of late filing, such as, the impact on the deadline by which HMRC can commence a compliance check, reputational damage, subsequent late returns etc.

Question 3 - Detailed Marking Guide

			Available	Maximum
3	**(a)**	General definition	2	
		Associates	1	
		Application to scenario	1.5	
			4.5	**4**
	(b)	Tax implications for Dorian	1	
		Tax implications for Taupe Ltd	4	
			5	**5**
	(c)	Interest benefit	3.5	
		Loan written off	2	
		Mileage allowance alternative	4	
			9.5	**8**
	(d)	Filing date	1.5	
		Penalty	2	
			3.5	**3**
		Professional skills marks (see below)		**5**
		Total		**25**

Question 3 - Professional skills marks

Analysis and evaluation

- Appropriate use of the data to arrive at conclusion regarding Taupe Ltd's close company status.
- Appropriate use of the data to determine suitable calculations of the overall cost to Dorian of Alternatives 1 and 2 and draw appropriate conclusions.
- Use of information to determine impact for Dorian and Taupe Ltd of early repayment of the loan.
- Demonstration of reasoned judgement regarding implications of late filing.

Commercial acumen

- Recognition of other possible consequences of late filing of corporation tax return
- Other practical considerations related to the calculation of cost to Dorian of Alternative 2 (e.g. additional non-tax travel costs)