

TAXATION

FORMATION 2 EXAMINATION - APRIL 2017

NOTES:

Section A - You are required to answer Questions 1, 2 and 3.

Section B - You are required to answer any **two** out of Questions 4, 5 and 6.

Should you provide answers to all of Questions 4 to 6, you must draw a clearly distinguishable line through the answer not to be marked. Otherwise, only the first two answers to hand for these three questions will be marked.

TAXATION TABLES ARE PROVIDED

TIME ALLOWED:

3 hours, plus 10 minutes to read the paper.

INSTRUCTIONS:

During the reading time you may write notes on the examination paper but you may not commence writing in your answer book. **Please read each Question carefully.**

Marks for each question are shown. The pass mark required is 50% in total over the whole paper.

Start your answer to each question on a new page.

You are reminded to pay particular attention to your communication skills and care must be taken regarding the format and literacy of your solutions. The marking system will take into account the content of your answers and the extent to which answers are supported with relevant legislation, case law or examples where appropriate.

List on the cover of each answer booklet, in the space provided, the number of each question attempted.

NB: PLEASE ENSURE TO ENCLOSE YOUR ANSWER SHEET TO QUESTION 3 IN THE ENVELOPE PROVIDED.

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Time Allowed: 3 hours, plus 10 minutes to read the paper.

SECTION A

Answer Question 1, 2 and 3 in this Section.

(**ALL** are Compulsory)

- 1.** Thomas O Shea has been carrying on a business of home renovations for many years. His business has been very profitable and his Case I profits over the years have consistently exceeded €120,000. His profits for the year ended 31 August 2016 were €155,000.

He had invested in a number of Irish rental properties and the income and expenses from those properties for 2016 were as follows:

	Rental Income	Annual Interest Paid	Other Expenses	Notes
	€	€	€	
Apartment in Killarney	11,000	10,750	2,800	1
Apartment in Tralee	13,000	6,400	355	2
Commercial property in Ballybunion	23,000	6,300		3
Section 23 Apartment	12,000	8,000		4

Notes:

- This apartment had been let in 2015 but was vacant for the first two months of 2016. Other expenses include local property tax of €620, €900 on general repairs and €1,280 on a new washing machine and tumble dryer. The new tenancy has not yet been registered with the Private Residential Tenancies Board (PRTB).
- The tenant of this apartment had difficulty paying his rent in 2016. €3,000 of the €13,000 due for 2016 was not paid until March 2017. Thomas paid local property tax of €355 for this property. This tenancy was registered with the PRTB in 2010.
- This property has been vacant since 30 June 2016 and is for sale.
- Thomas purchased this property in 1998 and he has unused relief of €15,000. In addition to his income above, in 2016 Thomas received dividends from quoted Irish companies of €8,000 net. Thomas is single.

REQUIREMENT:

- (a)** Calculate Thomas's Income tax (ignore PRSI & USC) for 2016, after taking into account any restriction on the total amount of reliefs he is entitled to claim. In your answer you should give reasons why the total amount of reliefs he is entitled to claim is or is not restricted.

(12 marks)

- (b)** The Finance Act 2013 introduced a relief from income tax for long term unemployed who start a new business. Outline the provisions of this relief specifying the amount, term and qualifying conditions and give an example of how it would work in practice.

(8 marks)

[Total: 20 marks]

2.**(a)** NWAB Ltd had the following results:

	Year ended 30/11/2014	6 months ended 31/05/2015	9 months ended 28/02/2016
	€	€	€
Case I – profit/(loss)	750,000	320,000	(1,025,000)
Case IV – profit/(loss)	11,000	(15,500)	19,000
Case V profit	215,000	55,000	70,000
Case V Capital Allowances	(50,000)	(80,000)	(40,000)
Trade charges	(150,000)	(70,000)	(145,000)
Non-trade charges paid	(60,000)	(55,000)	(10,000)

REQUIREMENT:

Compute the corporation tax liability of NWAB Ltd for each period on the basis that maximum loss relief is claimed in respect of all available losses at the earliest possible opportunity and identify any losses available to carry forward.

(15 marks)

(b) LYOT Ltd, an Irish tax resident company, has the following sources of income:

- (i) Dividends from a USA trading company in which it holds 3.5% of the share capital.
- (ii) Dividends from a French trading company in which it holds 25% of the share capital.
- (iii) Dividends from an Irish trading company in which it holds 80% of the share capital.
- (iv) Trading Profits in Ireland.
- (v) Profit from the sale of shares in an Irish listed company in which it held 2% of the share capital.

REQUIREMENT:

State the rate of Corporation tax that applies to each of the above.

(5 marks)

[Total: 20 marks]

3. The following multiple-choice question contains ten sections, each of which is followed by a choice of answers. Only one answer is correct in each case. Each question carries equal marks. On the answer sheet provided indicate for each question, which of the options you think is the correct answer. Marks will not be awarded where you select more than one answer for any question.

1. In 2016, John sold land in County Donegal to Paddy for €450,000 making a gain of €125,000. What is the amount of capital gains tax arising from this transaction?

- (a) €67,500
- (b) €0
- (c) €41,250
- (d) €40,831

(2 marks)

2. What is the annual turnover threshold in excess of which a person supplying only services is required to register for VAT?

- (a) €35,000
- (b) €37,500
- (c) €41,000
- (d) Nil

(2 marks)

3. Michele is 55 and has the following sources of income for 2016:

Schedule D Case I	€115,000
Schedule D Case IV (bank deposit interest)	€ 11,000
Schedule D Case V	€ 7,000

What is the USC payable by Michele for 2016?

- (a) €7,962
- (b) €7,302
- (c) €3,420
- (d) €5,320

(2 marks)

4. To which of the following will local property tax apply for 2016?

- (i) A holiday home abroad.
- (ii) An apartment over a shop.
- (iii) A nursing home.
- (iv) A private dwelling house.

- (a) (i) and (iv)
- (b) (i) and (iii)
- (c) (iii) and (iv)
- (d) (ii) and (iv)

(2 marks)

5. An Irish VAT registered civil engineer provides engineering services to a Spanish company in respect of a road which is being constructed in Portugal. The place of supply of the engineering services is?

- (a) Spain
- (b) Ireland
- (c) Portugal
- (d) Spain and Portugal

(2 marks)

6. On 5 June 2016, Amy sold an antique necklace for €2,500. She inherited it from her grandmother in February 2010 when the market value was €3,000. Her grandmother bought the necklace at a market in August 2004 for €2,200. What is the amount of gain or loss for capital gains tax at June 2016 before using Amy's annual personal exemption?
- (a) €460 loss
(b) €500 loss
(c) €800 gain
(d) Nil (2 marks)
7. R Ltd, an Irish resident company, received a dividend of €10,000 from a UK limited company. R Ltd holds 4.5% of the share capital of the UK company. What is the rate of Irish tax payable by R Ltd on the UK dividend?
- (a) 33%
(b) 0%
(c) 25%
(d) 12.5% (2 marks)
8. Joe commenced trading on 1 April 2014. He prepares annual accounts to 31 March and has the following tax adjusted trading profits:
- | | |
|--------------------------|---------|
| Year ended 31 March 2015 | €22,000 |
| Year ended 31 March 2016 | €17,000 |
| Year ended 31 March 2017 | €33,000 |
- What is the amount of Case I income on which Joe will be assessed for the tax year 2016?
- (a) €17,000
(b) €18,250
(c) €13,250
(d) €33,000 (2 marks)
9. OK Limited has a financial year ended 31 March. By which date must the CT1 be filed?
- (a) 19th April
(b) 23rd December
(c) 31st October
(d) 31st December (2 marks)
10. Emer had a gross income of €75,000 for the tax year 2016. In 2016 she agreed to pay a deed of covenant to her widowed mother for €5,000 for the next 10 years. Her mother is 68. What is the amount of the covenant on which Emer can claim tax relief for 2016?
- (a) €5,000
(b) €7,500
(c) Nil
(d) €3,750 (2 marks)

[Total: 20 marks]

SECTION B

Answer **ANY TWO** of the three questions in this Section.

4. On 1 August 2016, Alfred incorporated his successful publishing business. He originally established the business from a small premises in 1985. He expanded the business in 1993 when he purchased a second premises.

Extracts from the statement of financial position of the business as at the 31 July 2016 reveal the following:

		Cost €
Fixed assets:	Premises No 1	85,000 Purchased May 1985
	Premises No 2	100,000 Purchased February 1993
	Equipment	175,000 Purchased January 2005 for €200,000
Current assets:	Inventory	215,000
	Receivables	50,000
	Bank & Cash	85,000
Current liabilities:	Trade Creditors	106,000
Total Net Assets:		604,000

The following were the agreed transfer values of the assets taken over as at 31 July 2016:

€

Premises No.1	650,000
Premises No. 2	685,000
Equipment	175,000
Goodwill	200,000
Inventory	100,000
Receivables	45,000

The consideration received by Alfred was:

- (i) 1,200,000 €1 ordinary shares in the new company.
- (ii) €665,000 in cash.
- (iii) The company paid off the trade creditors on behalf of Alfred.

REQUIREMENT:

On the basis of the information provided above:

- (a) Calculate the Capital Gains Tax liability payable by Alfred. (15 marks)
- (b) State when the tax is due for payment. (1 marks)
- (c) In the event of a future disposal of the shares by Alfred, indicate the base cost of the shares in the new company. (4 marks)

[Total: 20 marks]

5. Sell Anything Ltd is an Irish VAT registered company which accounts for VAT on a cash receipts basis. The company had the following cash receipts (VAT inclusive where appropriate) for November/December 2016:

Cash Receipt	€
(1) Export of radios to China	40,000
(2) Supply of stereos to a VAT registered company in France	7,500
(3) Consultancy Fees for work for Irish unregistered business (including 23% VAT)	14,500
(4) Consultancy Fees for design of a building in Italy	6,250
(5) Funeral undertaking fees (exempt)	7,520
(6) Sale of school books (0%)	850
(7) Sale of Newspapers (including 9% VAT)	2,650
(8) Transport of passengers and their baggage (exempt)	9,000

During the same period, the company incurred the following expenses (VAT inclusive where appropriate):

Expense/Purchase	€
(1) Diesel for directors cars	1,250
(2) Hotel accommodation for employees (including 9% VAT)	2,400
(3) Cabaret tickets	500
(4) Computer consultancy services from an Irish supplier (23%)	4,480
(5) Business phone bill (including 23% VAT)	1,255
(6) Purchase of agricultural produce from a 'flat-rate' farmer (including 5.2% VAT)	2,720

Sell Anything Ltd bought a new computer from a UK VAT registered trader for €16,250 and quoted its Irish VAT number to the UK supplier. Sell Anything Ltd also paid €5,870 VAT at the point of entry on the importation of computer accessories.

REQUIREMENT:

- (a) Calculate the deductible VAT amount on the purchases, and VAT on sales for the company for November/December 2016. (13 marks)
- (b) List four examples of goods or services which are regarded as non-deductible for VAT purposes. (4 marks)
- (c) Briefly explain the meaning of the following:
- (i) Wasting Chattel.
 - (ii) Point of Entry VAT.
 - (iii) Net Relevant Earnings. (3 marks)

[Total: 20 marks]

6.

- (a) Outline the factors which must be taken into account in determining whether a sale of land is treated as a trading or a capital transaction. You should refer to the badges of trade in your answer. (7 marks)
- (b) Explain the differences for a company between VAT Exempt Activities and Zero Rated Activities. (4 marks)
- (c) On 3 May 2016, Mark sold 10,125 ordinary shares in Enormous Plc for €121,500. Previous dealings in these shares are as follows:
- (i) 1 February 1993, Mark purchased 1,000 shares for €4,000.
 - (ii) 10 January 1996, Enormous Plc made a 3 for 1 bonus issue.
 - (iii) 1 April 1999, Mark sold 1,500 shares for €7,500.
 - (iv) 8 November 2002, Mark purchased 9,000 shares for €54,000.
 - (v) Mark took up his rights when, on 6 October 2005 Enormous plc made a 1 for 4 rights issue at €8 per share.
 - (vi) Mark has development losses forward of (€15,000).

REQUIREMENT:

Calculate Mark's Capital Gains Tax Liability for 2016 .

(9 marks)

[Total: 20 marks]

END OF PAPER

SUGGESTED SOLUTIONS

THE INSTITUTE OF CERTIFIED PUBLIC ACCOUNTANTS IN IRELAND

TAXATION

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SOLUTION 1

(a) Case V Income

Property	Rental Income	Allowable Interest	Other Expenses	Taxable	Notes	
€	€	€	€			
Killarney	11,000		900	10,100	a	2 marks
Tralee	13,000	4,800		8,200	b, c	2 marks
Ballybunion	23,000	3,150		19,850	d	2 marks
S23 Apt	12,000	6,000		<u>6,000</u>		1 mark
Case V				44,150		
Capital allowances:						
Killarney property €1,280 @ 12.5%				(160)		1 mark
Section 23 relief				<u>(15,000)</u>		1 mark
Case V Income				<u>28,990</u>		

- (a) Interest not allowable as not registered with PRTB. Capital allowances are claimable in respect of expenditure on new equipment
- (b) Rent is not taxable on a receipts basis so rent for 2016 not received until 2017 is taxable in 2016.
- (c) Only 75% of interest on borrowings for residential properties is allowable. Interest has been allowed on the assumption that the property is still validly registered with the PRTB.
- (d) Interest for period after final letting ceased is not allowable i.e. allowable €6,300 * 6/12
- (e) LPT paid is not regarded as an expense of managing the property and so is not deductible.

Thomas O Shea
Amount of income liable to income tax

	€	€	
Case I		155,000	½ mark
Case V		28,990	
Schedule F		<u>10,000</u>	½ mark
Taxable income		<u>193,990</u>	
33,800 @20%	6,760		
160,190 @ 40%	<u>64,076</u>		
	70,836		½ mark
Tax Credits			
Personal Allowance	(1,650)		1½ mark
Earned Income	(550)		½ mark
Sch F Dividend	<u>(2,000)</u>		½ mark
	<u>66,636</u>		

(b) Relief for Long-term Unemployed Starting a Business

The new section provides that where on making a claim, an individual proves that he/she is a qualifying individual, he/she shall be entitled in any year of assessment falling wholly or partly within the qualifying period to deduct from or set off against profits or gains of the new unincorporated business on which that individual is assessed under Case I or Case II of Schedule D, an amount of up to €40,000 per annum.

The qualifying period is 2 years from the date of commencement of the new business by the qualifying individual.

A qualifying individual means an individual who commences a new business and who has been

- continuously unemployed for a period of 12 months immediately preceding the commencement of the business and in respect of that period of unemployment was entitled to crediting contributions within the meaning of Section 33 of The Social Welfare Consolidation Act 2005; or
- in respect of a continuous period of unemployment of not less than 312 days immediately preceding the commencement of the business, has been in receipt of jobseeker's benefit, jobseeker's allowance or a one-parent family credit, and who was not previously a qualifying individual for the purposes of this relief.

A new business will mean a business commenced by the qualifying individual during the period beginning on 25 October 2013 and ending on 31 December 2016, but will exclude any trade:

- which was previously carried on by another person and to which the qualifying individual has succeeded; or
- the activities of which were previously carried on as part of another person's trade or profession.

The individual can only be a qualifying individual once.

The relief falls to be claimed in respect of years of assessment falling wholly or partly within the qualifying period (this is a period of 24 months beginning on the date the qualifying individual commenced the new business). The relief is therefore not a relief for the first two years of assessment only.

The formula indicates that the relief available in a particular year of assessment is equal to the amount of profits or gains of the new business chargeable to tax in the year of assessment or €40,000, if less, multiplied by the number of months or fractions of months within the year of assessment falling within the qualifying period, as numerator, and the number of months or fractions of months in the basis period for the year of assessment as denominator. In relation to the relief, the following additional points should be noted:

1. The relief under the Section is to apply in priority to any relief for trading losses coming forward from prior years or any capital allowances under Part 9 TCA 1997.
2. In the case of a qualifying individual who commences two or more businesses, the aggregate deduction available in a year shall not exceed €40,000.

Example:

In many cases, the full relief may not be available, even where the profits in the qualifying period are €80,000 or more, as the precise relief will depend on the manner in which the profits arise over the qualifying period.

The table below set out certain facts to consider the manner in which the relief will be granted, based on an interpretation of the section.

The table assumes the following facts:

- Profits for the first 12 months are €30,000;
- Profits for the second 12 months are €50,000;
- Profits for the third 12 months are €70,000;
- That the individual is a qualifying individual for the purposes of the relief;
- That the date of commencement is varied as outlined in the table.

The result arises due to the impact of the commencement rules.

Date of commencement of Trade	Profits - assessable in 2014 (after - relief)	Profits - assessable in 2015 (after relief)	Profits - assessable in 2016 (after relief)	Relief claimed in years 2014 to 2016
1/1/14	Nil (relief of 30K)	10K (relief of 40K)	70K	70K
1/4/14	Nil (relief of 22.5K)	Nil (relief of 30K)	60K (relief of 10K)	62.5K
1/7/14	Nil (relief of 15K)	Nil (relief of 30K)	50K (relief of 20K)	65K

8 marks

Marks will be awarded for all relevant points

SOLUTION 2

	Year ended 30/11/2014 €	6 mths ended 31/05/2015 €	9 mths ended 28/02/2016 €	
Case I	750,000	320,000		1 mark
S.396 (A)	(187,500)	(320,000)		2 marks
243(A)	(150,000)			1 mark
Case IV	11,000		19,000	1 mark
S. 399 (1)			(15,500)	1 mark
Case V	215,000	55,000	70,000	1 mark
Case V CA	(50,000)	(55,000)	(40,000)	1 mark
243(A)	(60,000)		(10,000)	2 marks
S308(4)	(25,000)			1 mark
	<u>503,500</u>	NIL	<u>23,500</u>	
Tax @ 12.5%	51,563			
Tax @ 25%	22,750		5,875	
S396 (B)	(5,688)		(5,875)	2 marks
	<u>68,625</u>		<u>Nil</u>	

Loss Memo	€	
9 months ended 28/02/2016	1,025,000	
S396 (A) against 31/05/2016	(320,000)	
S396 (A) against 30/11/2014 (3 mths)	(187,500)	
S 396 (B) against other income 28/02/16	(47,000)	
S396(B) against other income 30/11/2014	(45,504)	
Available to c/f against Case I only	424,996	
The trade charges from 31/05/2015 (€70,000) and 28/02/2016	<u>(145,000)</u>	
can be carried forward under S396 (7)		1 mark
The non trade charges of €55,000 from 31/05/2015 were not used and are therefore lost.		1 mark
The Excess Case V capital allowances from 31/05/2015 can be carried back against 6/12 of the rental income in 30/11/2014 so they will be fully utilised.		

- (b)
- (i) These dividends are taxable at 12.5%. 1 mark
 - (ii) These dividends are taxable at 12.5%(could be 25%). 1 mark
 - (iii) These dividends are regarded as franked investment income.
They are not subject to corporation tax. 1 mark
 - (iv) Trading profits are taxable at 12.5%. 1 mark
 - (v) The profit arising from the sale of these shares will be liable to corporation tax at 12.5% on the adjusted gain. 1 mark

SOLUTION 3

1	D	2 marks
2	B	2 marks
3	A	2 marks
4	D	2 marks
5	C	2 marks
6	A	2 marks
7	D	2 marks
8	C	2 marks
9	D	2 marks
10	C	2 marks

SOLUTION 4

(a) STEP 1: Identify the Value of the Assets taken over:

	€
Premises No. 1	650,000
Premises No. 2	685,000
Equipment	175,000
Stock	100,000
Debtors	45,000
Goodwill	200,000
	<u>1,855,000</u>

3 marks

STEP 2: Identify the consideration:

	€
Cash	665,000
Trade creditors paid-off	106,000
	<u>771,000</u>

Plus 1,200,000 €1 shares Value ?

$$1,855,000 - 771,00 = €1,084,000$$

3 marks

STEP 3: Identify the Gains:

	€
Premises No 1	
Market Value	650,000
Cost 85,000 * 1.713	<u>(145,605)</u>
Gain	<u>504,395</u>

1 mark

Premises No 2	
Market Value	685,000
Cost 100,000 * 1.356	<u>(135,600)</u>
	<u>549,400</u>

1 mark

Equipment Loss restricted by allowances	
Goodwill	200,000
Total Gains:	<u>€1,253,795</u>

1 mark

STEP 4: Identify the amount of the gain to be deferred:

	€	
$1,253,795 \times \frac{1,084,000}{1,855,000}$	=	732,676

2 marks

The gain now due to be taxed is the amount of the gain that is NOT deferred:

	€
Total gain	1,253,795
Gain deferred	<u>(732,676)</u>
Gain	521,119
Annual Exemption	<u>(1,270)</u>
Taxable Gain 519,849 @ 20% =	<u>€103,970</u>

1 mark

1 mark

1 mark

1 mark

(b) The tax is due on the 15th December 2016.

1 mark

(c) The base cost of the shares in the event of a future disposal is:

€
1,084,000
<u>(732,676)</u>
<u>351,324</u>

4 marks

SOLUTION 5

- (i) VAT Amount on Sales
- | | | | | |
|-----|----------------------------|---|-------|---------|
| (1) | €40,000 (0%) | = | 0 | |
| (2) | €7,500 (0%) | = | 0 | |
| (3) | €14,500 × 23/123 | = | 2,711 | |
| (4) | Outside Scope of Irish VAT | = | 0 | |
| (5) | €7,520 – Exempt | = | 0 | |
| (6) | €850 (0%) | = | 0 | |
| (7) | €2,650 × 9/109 | = | 219 | |
| (8) | €9,000 – Exempt | = | 0 | |
| (9) | €16,250 @ 23% | = | 3,738 | |
| | Total VAT on Sales | = | 6,668 | 5 marks |
-
- VAT Amount on Purchases
- | | | | | |
|-----|------------------------|---|--------|---------|
| (1) | €1,250 × 23/123 | = | 234 | |
| (2) | Irrecoverable | = | 0 | |
| (3) | Irrecoverable | = | 0 | |
| (4) | €4,480 × 23/123 | = | 838 | |
| (5) | €1,255 × 23/123 | = | 235 | |
| (6) | €2,720 × 5.2/105.2 | = | 134 | |
| (7) | €16,250 @ 23% | = | 3,738 | |
| (8) | Import VAT | = | 5,870 | |
| | Total VAT on Purchases | = | 11,049 | 5 marks |
-
- | | | |
|---------------------------|-------|---------|
| VAT on Sales | 6,668 | |
| VAT on purchases | | |
| €11,049 * (71,750/88,270) | = | (8,981) |
| Refund | | (2,313) |
- 2 marks
1 mark
- (ii) VAT incurred by a business in relation to any of the following is irrecoverable:-
- Entertainment expenses.
 - Provision of food or drink or accommodation or other personal services for the taxable person, his business or employers.
 - Expenditure incurred by a taxable person on food or drink or accommodation or other entertainment services, where such expenditure forms all or part of the cost of providing an advertising service.
 - Purchase, hiring, intra-Community acquisition or importation of motor vehicles otherwise than as stock in trade for the purpose of a business which consists in whole or in part of the hiring of motor vehicles or for use, in a driving school business for giving driving instruction.
 - The purchase, intra-Community acquisition or importation of petrol otherwise than as stock in trade.
 - The procurement of a supply of contract work where such supply consists of the handing over of goods when such goods are themselves not deductible.
- 1 mark each max 4 marks
- (iii) (a) Wasting chattel is an item of tangible moveable property with a useful life of less than 50 years. 1 mark
- (b) POE is VAT charged on importation of goods from outside the EU. 1 mark
- (c) NRE is amount of income which qualifies for relief on pension contributions. 1 mark

SOLUTION 6

- (a) There is no definition of trading in tax legislation. The same factors must be applied in determining whether or not a sale of land is regarded as a trading or capital transaction as are taken into account in determining whether any transaction is a trading or capital transaction. Whether or not a particular transaction is regarded as trading is decided by on the facts in the particular case. Rules known as the “Badges of Trade” provide some guidance in determining whether a transaction is trading or not. The Badges of Trade are as follows:

- (1) The subject matter of the realisation
Almost any type of property may be bought for resale. However property which does not give its owner personal enjoyment by its ownership or does not yield an income to him is more likely to have been acquired for dealing purposes. In the case of land, land which does not provide an income for its owner is less likely to have been acquired as an investment. On the other hand the fact that land produces an income does not automatically mean that the land was acquired as an investment where other factors indicate the land was acquired to develop and sell it.
- (2) The length of the period of ownership
Generally property which has been acquired for resale is sold within a short period of time. A short period of ownership may therefore indicate trading. Property acquired as an investment or for personal enjoyment is generally not held for a short period of time. There are however exceptions to this rule. A property which it was intended should be held for the long term may have to be sold for reasons unanticipated at the time of acquisition; land acquired to be resold may be held for a long period of time due to an unexpected downturn in the market.
- (3) The frequency of transactions
If there are a number of sales of the same type of property in succession over a period of time or there a number of sales of the same type of property at or about the same time it is more likely that trading is taking place. Where an individual has a history of buying and selling properties any transaction they enter into is more likely to be assumed to be trading. However this does not mean that a property developer can never acquire a property for investment purposes.
- (4) Supplementary work done on or in connection with the property realized.
The carrying on of substantial work on an asset in order to make it more marketable may suggest trading. On the other hand work may be carried out on a property so that it can be held as an investment and let.
- (5) Circumstances responsible for the realization
The sale of property may be triggered because of unexpected events in the vendor's personal circumstances. Accordingly if there is such a reason behind the sale of property this may support a contention that trading was not taking place.
- (6) Motive
The taxpayer's motive in carrying out a particular transaction is also relevant in determining whether or not a particular transaction is regarded as trading i.e. did the taxpayer acquire the land to develop to produce an income or to develop and sell. However the vendor's stated motive may not be relevant where it is contradicted by other facts and evidence in the case.

In the case of land which is acquired as trading stock, the land will always remain as trading stock until the trade has ceased ((S.641(2)(b)). Thus if a taxpayer acquires a site and builds a property on it intending to sell it but is unable to sell the property and ends up holding it for the long term, as long as the taxpayer continues to carry on a trade of dealing in land a sale of the property will be regarded as trading stock.

7 marks

- (b) A company engaged in Exempt activities is not the same as a company engaged in Zero rated activities.

When a company is engaged in Exempt activities the company cannot register for VAT when supplying goods. Because the company is not registered, it cannot claim VAT back on inputs and so must pass this VAT on to customers.

A company must register for VAT when supplying goods that are considered to be zero- rated. Once registered, the company must keep VAT records, charge VAT at 0% and make bi-monthly returns. The company is entitled to claim a refund of the VAT tax suffered on all inputs and purchases.

4 marks

(c) Shares in Enormous plc:

To get the share numbers correct, it will help to list what happened in date order:—

	€	€	€	
92/93	1,000	4,000	4.00	
95/96	3,000	-		
	4,000	4,000	1.00	
Sold	1,500	1,500		
92/93	2,500	2,500	1.00	1 ½ mark
2005	625	5,000	8.00	½ mark
2002	9,000	54,000	6.00	½ mark
2005	2,250	18,000	8.00	½ mark

There are therefore 2 shareholdings, 3125 from 92/93 and 11,250 from 2002.

	€	
Sale Proceeds 3,125 * €12	37,500	½ mark
2,500 * 1.356	3,390	
5,000 * 1.049	5,245	1 mark
28,865		

Sale Proceeds	7,000 * €12	84,000	½ mark
7,000/11,250 * 54,000 = 33,600 * 1.049		35,246	1 mark
7,000/11,250 * 18,000 = 11,200 * 1.049		11,749	1 mark
		37,005	

Total Gain on shares 28,865 + 37,005 = 65,870

Loss	(15,000)	1 mark
Exemption	(1,270)	½ mark
	49,600 * 33% = 16,368	½ mark