Question 1 (69121333)

Notes in preparation for an internal meeting

Part a – Our expertise

- We already have a number of existing clients with overseas operations. This includes ones with permanent establishments - this should provide comfort for the client that we understand the requirements for UK businesses when exploring overseas options.
- We already have a business that had a presence in Garia specifically. This will allow us to provide the client with the correct tax treatments for overseas investments in Garia because we already understand the tax system there.
- We therefore have an understanding of overseas operations for UK based clients and therefore can assist in this matter specifically. Our previous work in assisting with tax matters related to overseas operations means we can assist in future matters as well, if the occasion arises. This will be beneficial for the client because we would understand their business as a current tax client and therefore any future work undertaken would be more cost effective (less time required to understand the client business).
- We understand group structures in the UK tax system and the effects of overseas businesses, and can therefore recommend tax efficient solutions to these problems
- REP has no previous experience in terms of setting up joint ventures - we can assist with the process and the various requirements.

Part b – Investment in JAY Ltd

(i)

Double tax
There is no double tax treaty between the UK and Garia - therefore tax relief would be provided at the lower of UK or Garia tax. Garia tax is 13% - therefore this is the level of double tax relief which would apply.

Consortium
If the business were to go ahead with a 30% level of investment, it will be a consortium and therefore would be eligible for loss relief on any future losses made in Garia after 2022.

If the investment was only 20%, a consortium would not exist so REP Ltd would not be able to claim any loss relief from the joint venture company.

Permanent establishment overseas
This will allow the losses to be used in the UK and offset against UK tax liability. Such losses could also possibly be offset against the UK tax liability of REP

UK resident company
Can make a claim for loss relief in future years but can exempt if required. Making the claim would reduce the liability for Jay Ltd in the year it arises or in future years. This would help to reduce Jay Ltd's future tax liabilities.

(ii) Election to exempt profits

If Jay Ltd makes an election to exempt its profits UK profits from UK tax, it will also remove the ability to relieve losses - as future losses seem highly possible it would not be worth making this election.

(iii) CFC's

Controlled foreign companies have additional tax charges imposed upon them as an anti-avoidance measure.

Part c - Investment property

Opting to tax will meant that VAT will be able to be recovered on this and would be beneficial.

Advice from friend may be correct - depends on tenant/purchaser.

If the tenant is a large retailer, REP Ltd would charge VAT on the rent and the retailer would be able to claim it back.

If the tenant were not a large retailer then they might not be VAT registered (unlikely given the rent size) – this will make the rent being charged by REP Ltd more expensive for them .

An additional issue would arise when trying to sell the building.

Part d – Personal tax affairs (69042190)

(i) Income tax and class 4 NICs – 2023/24

Freya's liability to income tax and Class 4 NIC			
			£
Tax adjusted trading profit			94,000
Less overlap profits			-31,400
Profit			62,600
Less capital allowances (£8,700 x 6%)			-522
Add motor vehicle			11,100
Total taxable income			73,178
Income tax			
Total income			73,178
Less personal allowance			-12,570
Taxable income			60,608
Basic rate	37,700	20%	7,540
Higher rate	22,908	40%	9,163
Total income tax			**16,703**
NI			
Total income			73,178
Less NI nil rate			-12,570
			60,608
£37,700 at 10.25%			3,864
£22,908 at 3.25%			745
Total NI payable			**4,609**

(ii) Proposed gift of shares on 1.11.21 (69121333)

The gift to the trust will be a chargeable lifetime transfer and subject to 20% charge as the money is put into trust.

This will be paid by Freya rather than the trust.

The transfer value will not just be measured on the value of the shares at time of transfer but on the value lost to the estate.

Interest in Dexil Ltd will go from 80%, worth £24 per share to 60%, worth £17 per share.

Note 1 in the spreadsheet provides a breakdown of the value of the loss to the estate.

As previously mentioned, the shares are not relevant business property because it is an investment company - therefore no additional relief will be available.

There is £133,000 of the NRB remaining (see spreadsheet)

Although the original transfer to the trustees was over seven years ago, the subsequent gifts have been within seven years and were within seven years of this so the NRB was utilised for this.

Amount of tax due on CLT is £153,400 (see spreadsheet). This will be payable in 6 months time.

Spreadsheet extract below:

Part d(ii)								
Note 1 - Loss to estate								
Previous		£						
	80%	1,920,000		**NRB working**				
New								
	60%	1,020,000		NRB		325,000		
				Cash to sister		-45,000		
Loss to estate		900,000		Cash to trustees		-102,000	Taper relief 40%	
				Cash to brother		-21,000	Taper relief 40%	
CLT				Cash to trustees		-24,000	Taper relief 80%	
CLT		900,000		Total NRB		133,000		
NRB (working)		-133000						
		767,000						
20% tax charge		153,400						

Summary of marks:

Technical:	
Part a	1
Part b(i)	4.5
Part b(ii)	1
Part b(iii)	1
Part c	3
Part d(i)	4
Part d(ii)	4.5
Total technical marks	19
Professional:	
Communication	3
Analysis and Evaluation	2
Scepticism	1
Commercial Acumen	0
Total professional marks	5
Overall total	24/50

Question 2 (68542685)

Part a(i)

The reliefs available to Amelia assuming that she is not wanting to carry forward the loss is that she can claim relief for the loss against total taxable income – this means that she can allocate her loss against savings income and capital gains (current year loss relief)

Also she has the option to carry back the loss for one tax year which could result in a repayment of tax (carry back loss).

Part a(ii)

No income tax will be payable for the year of loss and £8,000 could be carried back one year resulting in a repayment of £1,600. CGT will still be payable on the capital gains – see spreadsheet

Spreadsheet extract

Part a(ii)				
Capital loss	-11,000	This loss can only be carried forward against future gains		
	2022/23			**2023/24**
Trading profits	30,000		Trading profits	-14,000
Investment income	6,000		Investment income	6,000
Property income	11,600		Property income	0
	47,600			
Personal allowance	-12,570			
	35,030			
			If the loss were carried back one year this would save £1,600	
£29,030 at 20%	5,820		i.e. £8,000 x 0.2 =	1,600
£1,000 at 0%	0			
£5,000 at 20%	1,000			
Tax payable	6,820			

Part b

The acquisition of warehouse 2 is a similar business asset that meets the requirements for rollover relief as it was acquired within 12 months before and 36 months after the sale of the original asset. Therefore, it will be possible to defer a portion of the capital gain on the sale of warehouse 1. Only 75% will be available for the claim as 25% was not used in the business - see spreadsheet. As the difference between the sales proceeds and the reinvestment is £35,000, no rollover can be claimed so capital gains tax will be payable based on £32,000 x 0.2= £6,400

Spreadsheet extract

Part b			
Capital gain on sale of warehouse			
Warehouse 1			
		£	
Proceeds		118,000	
Cost		-86,000	
Gain		32,000	75% rollover available
Possible rollover relief		24,000	
Proceeds		118,000	
Reinvested		83,000	
		35,000	

Part c

Amelia can voluntarily register not to pay VAT on 31st December 2023 as her taxable turnover for the last 12 months is below £83,000. She will be considered to be deregistered from the start of the second month after the limit was reached. The immediate consequences are that she would have to repay any input tax on assets still held unless this was below £1,000. Also, as she appears close to the registration limit, she would have to continually check to ensure that she does not go over the £85,000 registration limit month on month.

Summary of marks:	
Technical:	
Part a (i)	1
Part a (ii)	3
Part b	3
Part c	1.5
Total technical marks	8.5
Professional:	
Analysis and Evaluation	2
Commercial Acumen	0
Total professional marks	2
Overall total	**10.5**

Question 3 (67988947)

Part a

Taupe Ltd is considered a close company as its majority ownership is held by Dorian and five other directors of the business. For a company to be considered a close company its majority ownership will be held by the company's directors or related individuals.

Part b

Since Taupe Ltd is a close company, tax would have been payable at 33.75% of the loan issued to Dorian as this would have been treated as a distribution (£7,500 at 33.75% = £2,531.25). This is reclaimable by Taupe Ltd if the loan is repaid by Dorian within three years and so would be beneficial to Taupe Ltd if the repayment were to be made on 30 April 2025.

Part c

With an annual salary of £78,000 Dorian is a higher rate taxpayer.

Alternative 1 of the interest-free loan of £4,800 when written off would create an income tax charge of £1,920 (£4,800 at 40%) for Dorian.

Under alternative 2, the car parking space is not deemed a taxable benefit for Dorian and so would not generate an income tax charge. The mileage allowance would however be subject to income tax at 40% of £1,440.

Considering both options, alternative two would be more beneficial for Dorian.

Part d

The corporation tax return for the year ended 30 April 2022 is due 12 months after the year end, i.e. 30 April 2023.

Filing the return on 29 August 2023 means that the return is late; this would generate an automatic £100 penalty for Taupe Ltd.

Summary of marks:

Technical:	
Part a	2
Part b	2
Part c	2.5
Part d	1
Total technical marks	7.5
Professional:	
Analysis and Evaluation	1
Commercial Acumen	0
Total professional marks	1
Overall total	8.5