THE ASSOCIATION OF TAXATION TECHNICIANS

ATT PAPER 5 INHERITANCE TAX, TRUSTS & ESTATES

November 2020

TIME ALLOWED

3 HOURS 30 MINUTES

- All workings should be shown and made to the nearest month and pound unless the question specifies otherwise.

- Candidates who answer any law elements in this paper in accordance with Scots law or Northern Ireland law should indicate this where relevant.

- You must type your answer in the space on the screen as indicated by the Exam4 guidance.

PART I

1. Jonathan died on Sunday 16 June 2019. On his death he owned 2,000 units in a unit trust. Jonathan was due interest of £200 from the unit trust but this had not been paid before he died.

   Explain how the probate value of Jonathan's units should be calculated. (3)

2. Charlotte owned 80% of the shares in Millions plc, an unlisted investment company. On 5 May 2017 Charlotte gave 350 of her 800 shares to her daughter Joan. The market value of the shares at the date of gift was as follows:

Shareholding	Market value
	£
100%	250,000
80%	180,000
45%	50,000
35%	35,000

   Charlotte died on 1 September 2019 at which time Joan's shares were valued at £20,000. Charlotte made no other lifetime transfers.

   Calculate the value of the PET chargeable on Charlotte's death and her remaining nil rate band. You should ignore annual exemptions in your answer. (3)

3. Michael always gives £40 in cash to each of his eight grandchildren whenever they come to visit him. They visit at least once a month. Michael's annual exemption is not available for these gifts.

   Explain the conditions that must be fulfilled to allow all of Michael's gifts to his grandchildren to be treated as exempt for Inheritance Tax purposes. (4)

4. Maria owns farmland in Scotland which is let to a farmer who uses it for the grazing of livestock. Maria has owned the farmland for 20 years. On 1 December 2019 the farmer signed a new tenancy agreement for use of the land throughout 2020.

   Explain whether Maria's land meets the conditions for agricultural property relief, and if so whether it will be available at a rate of 50% or 100%. (4)

5. Finn died on 2 December 2019 leaving his estate to his daughter.

Finn's first wife Floss died in May 2007. Floss had made a chargeable lifetime gift of £100,000 in 2006 and left £50,000 to her son on her death. The residue of her estate was left to Finn.

Finn's second wife Bonnie died in November 2015. Bonnie only used half of her nil rate band at her death and she had made no lifetime gifts.

Explain how the transferable nil rate band available on Finn's death is calculated. (4)

6. Helena created the Grindstone Discretionary Trust on 18 January 2010 and settled £100,000 cash. The trustees immediately used the cash to purchase shares in Maker Ltd, which is an unquoted trading company.

On 10 January 2012 Helena also settled an investment portfolio valued at £225,000.

Helena made no other lifetime transfers.

On 18 January 2020 the Maker Ltd shares were valued at £258,000 and the investment portfolio was valued at £520,000.

Calculate the Inheritance Tax 10-year charge arising on 18 January 2020. (4)

7. Fergus assigned a life insurance policy written on the lives of himself and his grandson (also known as an investment bond) into a discretionary trust in 2014. On 10 August 2019 the policy was fully surrendered. The policy had increased in value whilst it was owned by the trustees.

1) State which tax applies to the surrender proceeds received by the trustees. (1)

2) State who would be subject to this tax if Fergus died on 10 August 2018 or alternatively 10 August 2019. (1)

8. On 24 May 2019 James created a discretionary trust for the benefit of his minor children. He settled the following assets:

	Value at transfer
	£
Cash	80,000
Antique clock	30,000
Painting	5,000

James had purchased the clock for £8,000 and the painting for £4,000, and he is a higher rate taxpayer.

Calculate the Capital Gains Tax payable by James on the transfer of each of the assets to the trust. (3)

9. The Pumpkin Life Interest Trust sold 15,000 shares in Seeds Ltd on 7 November 2019 for £48,750. Seeds Ltd is an unquoted trading company. The trustees had purchased the shares for £10,000 from the settlor on 6 December 2015 at which time the market value of the shares was £20,000. No holdover relief claims had been made, and the settlor created one other trust during his lifetime. The life tenants of the trust are the grandchildren of the settlor. Mark, one of the grandchildren, is also a director of Seeds Ltd and also has a 7% shareholding in the company.

1) Explain whether entrepreneurs' relief is available to the trustees on disposal of the Seeds Ltd shares on November 2019, assuming all time limits have been met. (2)

2) Calculate the Capital Gains Tax payable by the trustees on the disposal of the Seeds Ltd shares. (2)

10. Hattie received the following income from the Polar Life Interest Trust for 2019/20:

	Gross	Tax	Net
	£	£	£
Bank interest	18,500	3,700	14,800
Dividends	7,000	525	6,475

This was Hattie's only income for the year. The trustees are not prepared to mandate the income directly to Hattie.

1) Calculate Hattie's Income Tax payable for 2019/20. (3)

2) Explain under what circumstances the trustees of the Polar Life Interest Trust would not be liable to notify HMRC of the trustees' liability to tax. (1)

11. Nigel is a widower with a young son, Gordon. Neither Nigel nor his late wife Lucy have any siblings and their parents and grandparents died long ago, but Nigel's Aunty Molly and Lucy's cousin Teddy are still alive.

Nigel has never created any trusts, but he does run a property rental partnership with his friend Bob and the partnership employs Bob's children and their spouses.

State who would be connected to Nigel for Capital Gains Tax purposes. (2)

12. When assets are held on trust it is important to consider whether the assets are relevant property in the hands of the trustees.

Explain when income in a discretionary trust may be treated as "relevant property" and give two further examples of "relevant property". (3)

PART II

13. Your long standing client, James Hanselman, is the executor for his brother, Dennis.

Dennis died on 30 January 2020 and James is completing the 2020 tax returns for Dennis up to the date of his death and for the Estate. He has appointed you to calculate any Inheritance Tax liability.

Dennis made the following gifts of cash during 2019/20:

Date	Recipient	£
14 May 2019	John (nephew)	250
30 July 2019	David (nephew)	350
5 October 2019	Charity donation	15,000
21 October 2019	James Hanselman	5,650
30 December 2019	Discretionary Trust for nephews	550,000

Dennis agreed to pay the Inheritance Tax on the creation of the Discretionary Trust.

On 1 January 2013, Dennis settled cash into a Discretionary Trust for James. The gross chargeable transfer was £400,000.

On 1 May 2016, Dennis gave James an antique goblet and after deducting the annual exemptions, the PET totalled £497,000.

James asked a friend to hold some shares for him several years ago. There is no formal agreement in writing, so James does not think that this can be a trust. The shares were transferred into the friend's name, on the condition they are transferred back to James on his request. His friend exercises shareholder votes on the instruction of James.

The company has now paid its first dividend on the shares. James has asked his friend to keep the income for him too as James thinks this will stop the dividend being taxable on him. He also believes that the shares will not form part of his own estate, as they are in the name of his friend.

Following his brother's death, James has decided to move away from the area. He was really pleased with your service, but has decided that he wants to use a local accountant. James has asked you to deal with the formalities to end your services and hand over to his new accountant.

Continued

Continuation

Requirements:

1) **For each of the gifts made by Dennis during 2019/20 identify any available exemptions and calculate any lifetime Inheritance Tax payable.** (5)

2) **Calculate the additional Inheritance Tax payable on Dennis's lifetime gifts as a result of his death.** (4)

3) **Explain whether James is correct in relation to the dividends and shares.** (3)

4) **Give three examples of the information you should include in your disengagement letter.** (3)

Total (15)

14. Ryan Potts died on 30 April 2017. His executors have not been organised with their duties. They have only recently brought the administration and calculation of the taxes due up to date.

Ryan's executors have provided the following information for the 2019/20 tax year:

	£
Rental income – cottage	44,000
Rental property repairs	3,250
Insurance (payable monthly on the last day of the month)	
– year to 30 April 2019	1,140
– year to 30 April 2020	1,200
Garden maintenance	6,000
Agent letting fees - 9% of rental income	
Dividend income – quoted share portfolio	47,500
Dividend income – ISA portfolio	53,000

During 2019/20 the executors sold the following assets:

		Proceeds £	Probate value/cost £
Rental cottage	30 March 2020	975,000	400,000
Completion of extension in 2018/19 (see below)			350,000
Portfolio of quoted shares	25 August 2019	750,000	675,000
Selling commission on share portfolio	6% of proceeds		

Not long before Ryan died he had started an extension to the rental cottage. The project was seen to completion by the executors.

During the tax year the executors incurred costs in managing the estate and wondered whether these could be deducted when calculating the Estate Tax liability.

The executors need to pay the Inheritance Tax due. They have looked at taking out a loan, but are not sure whether they can get any tax relief if they do.

They are concerned they might have missed tax deadlines and are worried HMRC could open an enquiry at any time.

Continued

Continuation

Requirements:

1) **Calculate, with explanations, the Income Tax payable by the executors based on the information they provided for 2019/20.** (4)

2) **Calculate the Capital Gains Tax payable by the executors for 2019/20.** (3)

3) **Explain whether the executors can get tax relief on the management expenses and on the loan to pay the Inheritance Tax.** (2)

4) **Explain to the executors:**

   (a) **When the 2019/20 tax return will need to be submitted if they file it electronically.**

   (b) **How much will be due for payment by 31 January 2021.**

   (c) **The normal time allowed for HMRC to open an enquiry into a tax return.**

   (3)

5) **Explain when the duties of Ryan's executors start and end, and state two of their duties.** (3)

Total (15)

15. Brenda died on 5 May 2019 and in her will she created an Interest in Possession trust for her stepson, Sammy.

Income received and expenses incurred by Sammy's trust in 2019/20 were:

	£
Dividends	5,560
Management expenses	600

Sammy is currently at University. He earns £12,500 per annum from a part time employment. He has no other income.

The trustees are worried that Sammy isn't responsible with money. They would like to hold onto the trust income each year and pay it to him when he is ready to buy a house. They have asked you if this would be possible.

The trustees are also likely to pay out capital sums to beneficiaries in future years and they assume that this will incur tax costs.

On 30 September 2001 Brenda settled cash of £650,000 into a trust for her daughter, Jane, who became entitled to income for her lifetime at age 25. Brenda had not made any previous chargeable lifetime transfers, but did use her annual exemptions each year on gifts to friends.

As this was an old style Accumulation and Maintenance Trust, the trustees amended the terms of the trust before 6 April 2008. The amendment gave Jane the trust capital at age 25.

Jane bought her first home in December 2019. The trustees advanced her capital of £75,000 from the trust on 30 September 2019, to mark her 21st birthday and to help with the purchase.

Due to a technical error at the tax adviser firm, the 2019 tax return for Jane's trust tax return was submitted six months late. The trustees are concerned about the penalties from HMRC and have made a complaint about the additional costs this has caused them.

Continued

Continuation

Requirements:

1) **Explain the Inheritance Tax treatment of the Interest in Possession trust during the period from creation of the trust, during the lifetime of the trust and on Sammy's death.** (2)

2) **Calculate, showing all your workings:**

   (a) The 2019/20 Income Tax payable by the trustees.

   (b) The income distribution to Sammy.

   (c) The 2019/20 Income Tax payable/repayable by Sammy.

   (4)

3) **Explain whether the trustees have the power to accumulate the income of Sammy's trust.** (2)

4) **Explain the post 6 April 2008 Inheritance Tax treatment of the trust created for Jane.** (2)

5) **Calculate the Inheritance Tax payable on the capital distribution to Jane on her 21st birthday.** (2)

6) **Explain the penalties for the late filing of Jane's trust tax return.** (1)

7) **Explain the actions the member firm should take if a complaint is found to be justified.** (2)

Total (15)

16. The trustees of the Emily McDonald Discretionary Settlement are looking to bring the trust to an end now that the youngest beneficiary, Ben, is turning 30.

The trust was created by Emily McDonald on 31 March 2007 for her grandchildren, who were born at that time. She claimed gift relief on the assets settled, to save paying any Capital Gains Tax. Emily had also created a Discretionary Trust in June 2000 and the chargeable lifetime transfer totalled £100,000.

The trustees of the Emily McDonald Discretionary Settlement made a distribution of capital on 25 March 2015 of £200,000, with the trustees paying the Inheritance Tax of £6,600.

The assets of the trust as at 31 March 2017 were valued as follows:

		£
Cash		85,000
Quoted shares		350,000
Flat	Held since 31 March 2007	250,000
		£685,000

On 15 July 2019 the trustees transferred the flat to Ben. Ben had been living in the flat for over 10 years. The market value of the flat had not changed since 31 March 2017. The trustees base cost of the flat when settled was £50,000.

During 2019/20, the trustees made a loss of £7,500 on the sale of some shares.

The trustees have a large tax pool and are concerned this might be lost when the trust ends.

One of the trustees has asked you to complete her personal tax return. She would like to know about the accountancy fee arrangement options.

Requirements:

1) **Calculate the Inheritance Tax payable by the trustees on the transfer of the flat to Ben.** (5)

2) **Calculate the Capital Gains Tax payable by the trustees on the transfer of the flat to Ben, with explanations.** (3)

3) **Explain what will happen to the tax pool when the trust ends.** (2)

4) **Explain:**

   (a) Whether a non-charitable trust can continue indefinitely.

   (b) What actions must be taken when a trust ends.

   (3)

5) **Explain two possible fee arrangements that could be offered to the trustee.** (2)

Total (15)