

# THE ASSOCIATION OF TAXATION TECHNICIANS

## ATT PAPER 5 INHERITANCE TAX, TRUSTS & ESTATES

**November 2022**

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TIME ALLOWED

3 HOURS 30 MINUTES

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- 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. Alfonso was born in the UK in 1942. His father had grown up in Italy but settled permanently in the UK long before Alfonso's birth.

After finishing school Alfonso spent many years working in Italy. He intended to stay there permanently and acquired a domicile of choice in Italy.

Alfonso returned to live in the UK on 2 May 2020 but did not intend to stay indefinitely. He died on 19 November 2021 having not left the UK since his return.

**Explain whether Alfonso will be treated as domiciled in the UK at the time of his death for Inheritance Tax purposes.** (3)

2. Alex died on 30 May 2022. Their estate consisted of the following assets:

	£
Main residence in UK	350,000
Cash in UK	400,000
Villa in Greece	<u>150,000</u>
Total	<u>900,000</u>

Alex was single, domiciled in the UK and left everything to their daughter having made no lifetime transfers. The Greek authorities charged a death tax on the villa of £30,000.

**Calculate the Inheritance Tax payable as a result of Alex's death.** (3)

3. Sally would like to reduce the value of her estate by gifting £300,000 to Tom, her nephew. Tom is 35 years old and has a history of getting into financial difficulties. Sally transfers the money to Tom's mother and instructs her to hold the money on Tom's behalf and to pay him any income arising from it. Sally makes it clear the funds are for the benefit of Tom only until his death when they will pass to his daughter Lucy absolutely.

Sally directs that Tom should no longer receive the income if he becomes bankrupt or attempts to sell his right to the future income. In this case his mother may decide when he (and his daughter Lucy and her remoter issue) can benefit from the funds again in the future.

**Explain how Sally's instructions have created a valid life interest trust, and name the specific type of trust that has been formed.** (4)

4. Christian died on 5 January 2016 on his son Lenny's 16<sup>th</sup> birthday having made no lifetime transfers. Will trusts were created for Lenny and his sister and the remainder of Christian's estate passed to his wife.

The terms of Lenny's trust gave him absolute entitlement to the trust property upon reaching the age of 25, or on his marriage if earlier. His sister's trust was fully discretionary. On 19 January 2022 Lenny got married.

The capital values of the trusts were as follows:

	<u>Initial value</u>	<u>Value on 19 January 2022</u>
	£	£
Lenny's trust	675,000	815,000
Sister's trust	650,000	785,000

**Calculate the Inheritance Tax payable on the transfer of trust assets to Lenny on the date of his marriage.** (4)

5. Amara owned 15,000 of the 100,000 shares in Sprinkle plc, a quoted trading company. Amara decided to give 5,000 shares to her sister.

At the date of gift, the shares were quoted at 340p to 360p, with marked bargains at 338p, 341p, 351p and 360p.

**Calculate, ignoring any reliefs or exemptions, the value of the gift for:**

- 1) **Inheritance Tax purposes.**
- 2) **Capital Gains Tax purposes.**

(3)

6. Lars died on 1 April 2022 having never been domiciled or resident in the UK. His estate consisted of the following assets:

	£
Main residence in Norway	1,000,000
Cash and chattels in Norway	540,000
30% shareholding in Oslo ASA	800,000
Cash held in dollars at a London bank	57,000
Shares in Bergen plc	370,000

Oslo ASA is a property investment company registered in Norway. The value of the total assets in Oslo ASA on 1 April 2022 was £2.5 million of which £900,000 related to UK residential property.

Bergen plc is an investment company resident in Norway and listed on the London Stock Exchange.

Lars had also lent his friend Robert £50,000 for investment into Oslo ASA. Robert is UK resident. Lars made no other lifetime transfers.

**Calculate, with explanations, the Inheritance Tax payable on Lars' estate.**

(4)

7. Richard had a life interest in The Timber Trust which was created in 1999. Richard died in November 2021 owning 9,000 shares in Invest Ltd. The trustees of The Timber Trust held 3,000 shares in Invest Ltd. Invest Ltd had 20,000 shares in issue.

The value of the Invest Ltd shares was as follows:

<u>Shareholding</u>	<u>Value per share (£)</u>
0% – 24%	10
25% – 49%	22
50% – 74%	56
75% – 100%	88

**Calculate the Inheritance Tax value of the Invest Ltd shares to be included in Richard's death estate.**

(2)

8. Eira and Ben are beneficiaries of the Sundown Discretionary Trust. The trust's only asset is a residential investment property which it purchased for £340,000.

The terms of the trust state that each beneficiary receives a 50% share in the trust capital at age 25. Eira turned 25 in 2018 when the investment property was valued at £890,000. Ben turned 25 on 14 May 2021 when the property was valued at £975,000.

**Calculate the Capital Gain arising to the trustees on 14 May 2021. You should explain any claims the trustees could make.**

(3)

9. Sanjay sold an investment property to Nova Ltd for £120,000 on 23 July 2013. Nova Ltd is 100% owned by Sanjay's son who is 35 years old. The market value of the property at the time of sale was £350,000.

On 20 September 2019, Sanjay created the Bead Discretionary Trust with cash of £440,000. Sanjay paid any Inheritance Tax arising.

Sanjay used up his annual exemption at the start of each tax year by making a gift of £3,000 to his son. Sanjay died on 31 March 2022.

**Calculate the Inheritance Tax payable on Sanjay's lifetime transfers as a result of his death.** (4)

10. On 8 August 2019, Selma gifted the following assets to her son, Tom:

	£
Painting	310,000
Cash	600,000

Tom purchased a house with the cash and sold the painting for £250,000 on 1 May 2020.

Selma died on 12 December 2021 when the market value of the house was £480,000. She had made no other lifetime transfers

**Calculate the Inheritance Tax payable by Tom as a result of Selma's death.** (3)

11. Nadine received a statue, which had been designated as heritage property, from her Great Uncle's estate in 2017. During 2018 a claim was made for conditional exemption from Inheritance Tax.

Nadine advertised and allowed the public to view the statue for two months a year, insured the statue and paid for its professional maintenance. The statue is always kept at her home in London. In 2020 Nadine became ill and restricted public access to the statue to one month per year. In 2021 she gifted the statue to her friend, Scarlett. Nadine died in March 2022.

**1) Explain whether Nadine fulfilled the relevant undertakings that must be given to HMRC for the exemption from Inheritance Tax to continue during her ownership.**

**2) Explain whether Scarlett could claim conditional exemption from Inheritance Tax if she gave new undertakings to HMRC.**

(4)

12. Amelie was non-UK domiciled. She took out a loan secured against her UK residence to buy a property in France in 2009.

Ben was UK domiciled. In 2016 he took out an unsecured loan to extend the factory used by his personal trading company.

Danny was UK domiciled. In 2011 he took out a loan to buy agricultural land. The loan was secured against his rental property.

Amelie, Ben, and Danny died during 2021/22.

**Explain how each loan is treated for Inheritance Tax purposes in the respective death estates.** (3)

## PART II

13. Joseph, who was UK domiciled, created a UK resident discretionary trust on 6 April 2021 by settling shares in a UK company, JS Ltd, valued at £500,000. The beneficiaries include his wife Mona and his adult child Tom. The shares were initially purchased by Joseph in 2001 for £350,000.

In 2021/22 the trust received a dividend of £45,000 from JS Ltd and bank interest of £100. Trust management expenses relating to the trust income were £800. Distributions were made to each beneficiary of £5,000.

In 2021/22 Joseph's only other income was from his employment with RV plc. His gross employment income was £35,000 and tax deducted at source totalled £4,486. He is entitled to a personal allowance of £12,570.

### Requirements:

- 1) **Calculate, with explanations, the Income Tax payable by the trust for 2021/22, and state the impact on the tax pool.** (5)
- 2) **Prepare R185s for each of the beneficiaries.** (5)
- 3) **Calculate Joseph's Income Tax liability for 2021/22 and explain how any Income Tax repayment should be treated.** (6)
- 4) **Calculate Joseph's Capital Gains Tax liability, stating the due date for payment and discussing any claims that could be made.** (4)

Total (20)

14. Verity, UK domiciled, died on 7 May 2008, leaving cash of £125,000 to her nephew and her remaining estate to her husband, John.

John, also UK domiciled, re-married to Rachael in August 2015 but died shortly afterwards. He left the family home and his chattels to Rachael, and the balance of his estate (probate value of £420,000) to his son, Jack.

Rachael, also UK domiciled, re-married Ralph in December 2018. She died in May 2021. Her estate was valued at £860,000 and included the following:

	<u>Value of Rachael's</u> <u>Share</u> £
Marital UK home owned as tenants in common with her spouse Ralph	275,000
UK rental property owned as joint tenants with her brother	545,000

Her Will dictates that her estate is to pass, in its entirety, to Ralph, after a donation to a local charity of £10,000.

Verity, John and Rachael had made no lifetime gifts.

Ralph approached your practice to assist with the administration of Rachael's estate, and to consider preparing his own Will.

**Requirements:**

- 1) **Calculate the nil rate bands available to be used against Verity, John and Rachael's estates. Do not include any reference to the residential nil rate bands.** (8)
- 2) **Explain how different forms of joint property ownership affect the distribution of an estate.** (2)
- 3) **Calculate the Inheritance Tax payable by the executors of Rachael's estate.** (2)
- 4) **Explain to Ralph the key components of a valid Will and three ways in which his Will could be revoked or changed, before or after death, if necessary.** (8)

Total (20)

15. Ahmed, UK domiciled, died on 4 April 2014, and his Will created a UK resident interest in possession trust for his sister, Nikita, also UK domiciled. On 9 September 2016, Nikita's daughter turned 18, and Nikita gave up her life tenancy in her daughter's favour as the remainderman. The life tenancy was valued at £420,000 on this date.

Nikita died on 9 August 2021, leaving her estate as follows:

	£
UK rental property to daughter	265,000
Investment in UK quoted share portfolio to nephew	120,000
Residue of estate to niece	162,000

Nikita had never lived in the rental property. She made gifts each year to her nephew to utilise her annual exemptions.

Nikita's niece has approached your firm to assist with Inheritance Tax reporting. She also would like to ask about putting in place insurance to cover any potential Inheritance Tax that may arise on her death. You have an ongoing professional relationship with an insurer who can provide this, and they would pay you a commission on referral.

**Requirements:**

- 1) **Calculate, with explanations, the Inheritance Tax due when Nikita gives up her life tenancy and on her subsequent death, explaining who pays any tax due and who bears the tax on her death estate.** (8)
- 2) **Explain any ethical considerations on the referral of Nikita's niece to your insurer.** (2)

Total (10)

16. Jason and Edward are the life tenants of the Green Family Settlement, a UK resident trust, with equal rights to the trust income.

Jason, Edward, and the trust have the following shareholdings in Red Ltd, a UK resident trading company:

Jason	6%
Edward	6%
Green Family Settlement	4%

Both Jason and Edward have owned their shares for many years, following a gift from their father, and Jason is a long-standing employee of Red Ltd.

The Green Family Settlement was created in July 2017. The Trustees subscribed for their shares in Red Ltd in April 2018 when the company issued new shares to raise further capital.

In May 2021, the trust disposed of its shares in Red Ltd making a gain of £155,000.

Jason and Edward's father, as Trustee of the Green Family Settlement, has approached your firm to advise on potential Capital Gains Tax relief for the trust.

**Requirements:**

- 1) Explain whether any reliefs are available on the disposal of the shares in Red Ltd. Calculations are not required. (8)**
- 2) Explain any potential conflict of interest in respect of any claims made. (2)**

Total (10)