THE ASSOCIATION OF TAXATION TECHNICIANS

ATT PAPER 5 INHERITANCE TAX, TRUSTS & ESTATES

November 2023

TIME ALLOWED

3 HOURS 30 MINUTES

- All workings should be shown and made to the nearest month and pound unless the question specifies otherwise.
- A maximum of two marks will be awarded for the quality of presentation in Part II.
- 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. Mr Vaughn died on 31 May 2022 and through his Will created The Vaughn Trust. The sole beneficiary is his son, Jason, who by reason of a mental health disorder within the meaning of the Mental Health Act 1983, is incapable of administering his own property. On 8 July 2022, the trust sold its shareholding in Vaughn Ltd, a UK investment company.

   Explain the Capital Gains implications of the sale, including any claims or elections that the Trustees should make. (4)

2. Paul died on 10 February 2012 leaving his entire estate to his wife, Jessica. Paul's estate was valued at £850,000. Jessica died on 4 May 2022 leaving her entire estate to her two sons. Jessica's estate was valued at £2,240,000 and included her main residence valued at £1,000,000.

   Calculate, with explanations, the residence nil rate band available on Jessica's death. (2)

3. Mr and Mrs Green are the Trustees of the Green Family Settlement. Over the past few years both Trustees have suffered health problems and the administration of the trust fell behind. No tax returns have been submitted for 2017/18 onwards and HMRC issued determinations, dated 4 January 2022, as follows:

Tax Year	Determination
	£
2017/18	30,000
2018/19	24,000
2019/20	12,000

   As recently appointed Trust accountants, you have now calculated the actual Income Tax due for the above years and have discovered that the tax liability is much less than HMRC calculated.

   Explain what the Trustees can do to improve the Trust tax position for 2017/18 to 2019/20. (4)

4. The Borne Trust was created on 6 April 2012 on the death of Mr Borne's father. Mr Borne has a life interest in the assets until his death, after which the Trustees will hold the assets on discretionary trust for his son, James. Mr Borne is in good health, but the Trustees have made the decision to sell their shareholding in Borne Ltd to James. The shares are valued at £350,000 but they will be sold to James at a value of £300,000. The Borne Trust acquired the shares in 2012 for £250,000.

   The assets shown on the balance sheet of Borne Ltd are as follows:

	£
Warehouse and offices from which Borne Ltd trades	510,000
Stock	200,000
Investment property	150,000

   1) **Calculate, with explanations, the Capital Gain on the sale of the shares after any reliefs that can be claimed by the Trustees.** (2)

   2) **Explain any legal issues that should be considered by the Trustees in relation to these transactions.** (2)

   Total (4)

5. The Trustees of the Redcar Settlement made the following disposals in 2022/23:

Asset	Cost	Proceeds
	£	£
Painting	7,000	4,000
Diamond Necklace	5,000	7,000
Antique Car	5,000	15,000

Calculate, with explanations, the chargeable gains arising to the Trust for 2022/23. (4)

6. Mr Jones, who was domiciled in the UK, died on 3 March 2020. His estate was valued at £950,000, including a residential property with a probate value of £240,000, and shares in Red plc with a probate value of £16,000.

The executors exchanged and completed on the sale of the residential property on 30 November 2022 for £270,000 and sold the shares in Red plc on 31 December 2022 for £14,000.

The estate administration period was finalised on 30 March 2023.

Calculate, with explanations, the Capital Gains Tax liability to be paid on account. State the due date(s) for payment and for submission of the Capital Gains Tax on UK property return. Calculate the interest and penalties if these are still outstanding. (4)

7. On 7 May 2022, Mr James transferred a portfolio of shares into the Bear Charitable Trust. The Trust is a registered charity and meets all the conditions for charitable status. The shares were worth £450,000 on the date of transfer, and the base cost for the portfolio was £285,000.

The Trustees of the Bear Charitable Trust believe that cash would be more useful to their charitable purposes, so disposed of the portfolio on 21 July 2022, when the value was £495,000.

Explain the Capital Gains Tax implications of these transactions. Calculations are not required. (2)

8. Reggie is married to Valerie. Both are currently resident in the UK. Reggie is UK domiciled, but Valerie is not UK domiciled.

Reggie died on 5 December 2022, leaving UK situs assets valued at £2.4 million to Valerie. Valerie has no UK assets of her own, but owns property located in Spain valued at £1.2 million. On Valerie's death, her Will states that her estate will pass to her niece in its entirety.

Valerie is unsure whether to make an election under s.267ZA IHTA 1984 to be treated as UK domiciled for Inheritance Tax.

Calculate the total Inheritance Tax payable with and without the election, assuming Valerie were to die in five years' time and the value of the assets inherited from Reggie remained unchanged. (4)

9. In January 2019, Jessie, an unmarried individual, sold her flat for £115,000 and moved into a care home.

On 3 February 2023, Jessie died and her estate, valued at £800,000 passed to her daughter Rose in its entirety. The estate contained no residence.

Calculate the downsizing addition available for Jessie's estate. (2)

10. The Trustees of the Barley Trust have approached you as they are considering selling the assets in the Trust and are concerned about any Capital Gains Tax implications.

The assets in the Trust are as follows:

	Prices Quoted	Number Held
Shares in AZ plc	334p - 340p	40,000
Shares in BR Unit Trust	222p - 245p	20,000

Calculate the values of the assets for Capital Gains Tax purposes. (2)

11. Jamie died on 4 May 2022. The following events occurred during Jamie's lifetime:

1) She gave a house to her daughter in 2004. Jamie stayed in the house for three weeks each summer with her daughter, as a base to visit family still living in the area.

2) She gave a half-share of her main residence to her son. Immediately before her death Jamie lived in the property with her son and they shared all of the household bills equally.

3) On the death of her husband, Jamie made a deed of variation to direct her share of his estate into a discretionary trust. The beneficiaries of this trust are Jamie and her two children. A statement was made within the deed under s.142 IHTA 1984.

Explain whether the gift with reservation of benefit rules apply to each of these three events. (4)

12. Sanjay settled assets into the Lord Trust on 27 April 2018. At that date he was resident in the UK. Since settling the Trust, he has become tax resident in Canada.

The Trustees are Dahlia and Noreen. Dahlia is tax resident in the UK, and Noreen is tax resident in the USA.

Explain the Trust's residence status and the UK Income Tax implications thereon. Explain if and how this would change if Sanjay had been non-resident at the time of creating the settlement. (4)

PART II

Presentation skills – awarded for quality of presentation. (2 marks)

13. Corina died on 10 April 2022. Your firm acts for the Executors of her estate which she left entirely to her son, Luca. The gross estate was valued at £950,000 and the Inheritance Tax payable was £300,000.

The administration of the estate ended on 30 March 2023, and Executors of the estate received the following income during the administration period:

	Value £
Bank interest	4,000
ISA interest	2,000
Dividends	18,000
Treasury stock interest	12,000

The Executors incurred expenses of £750 in managing the estate.

The estate income above includes the following income which was accrued at Corina's death and subject to IHT, but was not received by the Executors until after Corina's death:

	Value £
Dividends	5,000
Treasury stock interest	2,000

The Executors have informed you that Luca is self-employed and earns £200,000 per annum. He fully utilises his dividend allowance each year. Luca is not a client of yours, but the Executors have provided you with his personal data. They have asked if you can provide them with a calculation of the additional tax he will need to pay as a result of receiving the estate income. They have asked whether you could also share this calculation with Luca.

Your firm is logging the details of estate beneficiaries for a future marketing project, and Luca's details have been included in this log.

Requirements:

1) **Calculate, with explanations, the Income Tax payable by the Executors of Corina's estate for the year ended 5 April 2023.** (3)

2) **Calculate the distributable estate and state the R185 entries for Luca**. (2)

3) **Calculate the additional Income Tax payable by Luca on the estate income he received in 2022/23. You should include any adjustments available for the Inheritance Tax paid and explain where to include the claim for the adjustments**. (9)

4) **Explain the ethical implications for your firm of sharing the calculation with Luca, and any actions the firm can take to mitigate the risk.** (4)

5) **Explain Luca's legal rights relating to the inclusion of his details in the marketing project.** (2)

Total (20)

14. Paddy died on 12 September 2022 having made the following lifetime gifts:

		£
10 June 2017	Barn to Simon (Paddy's son)	60,000
11 July 2018	40 acres farmland to The Mud Discretionary Trust	500,000
15 October 2018	Cash to son	174,000
30 December 2018	Cash to The Mud Discretionary Trust	425,000

Paddy paid any Inheritance Tax arising on each of the above transfers.

The barn had been used in Paddy's farming business for many years. The farmland had previously been used in Paddy's farming business but has been let to a neighbouring farm since 2010. The agricultural value of the farmland was £400,000 and the barn's agricultural value was equal to its market value.

The trustees of The Mud Discretionary Trust sold 20 acres of the Farmland for £300,000 in July 2019. The other 20 acres is still being used for farming. They used £240,000 of the proceeds to purchase a cowshed to be used in Paddy's farming business in December 2020. The rest of the proceeds were invested on the stock market.

Simon sold the barn for £70,000 in November 2020 and used the cash towards a house deposit.

Paddy lived in and directed his farming business from a farmhouse on the farmland until 2020 when he moved to a small cottage, that he owned in a nearby town, which was easier to maintain. The farmhouse remained empty at the time of his death.

Requirements:

1) **Calculate, with explanations, the amount chargeable to Inheritance Tax or potentially exempt for each of Paddy's lifetime transfers and calculate any lifetime Inheritance Tax payable.** (6)

2) **Calculate, with explanations, any additional Inheritance Tax payable on Paddy's lifetime transfers as a result of his death.** (8)

3) **Explain the impact on Paddy's death estate of him moving out of the farmhouse**. (1)

Total (15)

15. Mary gifted her foreign share portfolio to Craig on 8 August 2017 when it was worth £200,000. In June 2017, Mary had settled £400,000 onto a life interest trust for her daughter. Mary died in December 2017 having made no other lifetime transfers.

Craig died in May 2019 having made no lifetime transfers. His Will specified that his assets should be left as follows:

	£
Foreign share portfolio to nephew, Henry	300,000
UK painting to friend, Phil	150,000
Residue to niece, Bella	400,000
Total	850,000

Phil died in January 2023. His only lifetime transfer was to gift the painting he had received from Craig to a discretionary trust in February 2022 when it was worth £280,000. Phil left his estate worth £670,000 to his neighbour, Bob.

Requirements:

1) **Explain whether the legatees of Craig's death estate will suffer the Inheritance Tax on the assets they inherit.** (2)

2) **Calculate, with explanations, the Inheritance Tax payable as a result of both Craig and Phil's deaths. Ignore annual exemptions**. (8)

3) **Explain the legal and equitable ownership of Craig's death estate from the point of his death, and the rights of the legatees in relation to the death estate**. (3)

Total (13)

16. You have received the following email:

To: Tax Assistant
From: Tax Partner
Date: 25 October 2023
Subject: The Honey Trust

Hi Tax Assistant

Please could you assist with some advice for the trustees of the Honey Trust.

Background

The Honey Trust was created by Miss Honey shortly prior to her death in July 2018. Miss Honey was not married but had a partner, Heinrich, who is entitled to the income of the trust. His entitlement to the income will end should he decide to marry, at which point the trust assets will pass to Miss Honey's daughter, Elsa.

Queries

The trustees are considering making an advancement of one of the trust assets, a rental property, to Elsa so that she can own it as her main residence and would like us to advise them of the tax and legal implications of this advancement.

They would also like to know the implications for the other trust assets, of either Elsa or Heinrich dying while Heinrich remains unmarried.

Regards

Tax Partner

Requirements:

Write a reply to the email in which you:

1) **Explain Capital Gains Tax implications of advancing the rental property from the Honey Trust to Elsa.** (2)

2) **Explain the legal consequences of advancing the rental property to Elsa.** (2)

3) **In relation to the other trust assets, explain the Inheritance Tax, Capital Gains Tax and legal consequences of:**

   a) **Elsa dying whilst Heinrich remains unmarried; and**
   b) **Heinrich dying while he is unmarried.**

(6)

Total (10)