



November 2021 Examination

PAPER 5

Inheritance Tax, Trusts & Estates

Part I Suggested Answers

1. The trustees should have paid the balancing payment plus first payment on account on 31 January 2021 (1/2). The total amount payable was £22,000 (1/2). The second payment on account of £6,000 (1/2) was due to be paid on 31 July 2021 (1/2).

Interest due:

$$£22,000 \times 109/365 \times 2.6\% = £171 \text{ (1)}$$

Late payment penalty due:

$$£16,000 \times 5\% = £800 \text{ (1)}$$

Total (4)

2. Giovanni had been resident in the UK for at least 15 out of the previous 20 tax years (1/2), and although he was not UK resident in 2020/21, he was UK resident for one of the previous three tax years. (1/2) Therefore he was UK deemed domiciled (1/2) at death and his entire worldwide assets are subject to Inheritance Tax. (1/2)

Craig was born in the UK (1/2) with a UK domicile of origin (1/2) and was UK resident in

2020/21 (1/2) but he was not UK resident for at least one of the previous two tax years (1/2).

Therefore he was not UK deemed domiciled (1/2) at death and only his UK asset are subject to UK Inheritance Tax. (1/2)

Total (max 4)

- 3.

	£	
Total gifts made by Meg:		
10,000 + 2,000	12,000	1/2
Marriage exemption	(2,500)	1/2
Annual exemption 2020/21	(3,000)	1/2
Annual exemption 2019/20	(3,000)	1/2
PET	<u>£3,500</u>	

An exemption for gifts in consideration of marriage is available in the amount of £2,500. This is because Meg is an ancestor of Bonnie, remoter than Bonnie's parents (1/2). Only one marriage exemption per donor is available on the occasion of a marriage (1/2).

Total (3)

4. Investors' Relief is available on the first £10million (1/2) of the gain on disposal of the shares in Granville Ltd, if a joint claim is made between the trustees and Manny by 31 January 2023 (1/2), as the following conditions are met:

- Granville Ltd is an unquoted trading company (1/2)
- The trustees subscribed for the shares (1/2) and have held them for at least three years (1/2)
- Manny held his life interest for at least three years prior to the disposal (1/2)

- Manny was not an employee (1/2) of Granville Ltd at any time during the three years immediately prior to the disposal (1/2) (and it is assumed that his connected persons are not employees of Granville Ltd).

Total

(4)

5.

	£	£	
Interest received 30 June 2020: 50,000 x 5% / 2		1,250	1
Accrued income on disposal: 1,250 x 4/6 *		<u>833</u>	1/2
		<u>2,083</u>	
Income tax at 20%		<u>417</u>	1/2
* Months between last interest date and sale date: 1 July 2020 – 30 October 2020 = 4			1/2
Months in the interest period: 1 July 2020 – 31 December 2020 = 6			1/2
Total			(3)

6. Alpha Trust is UK resident (1/2) as the following conditions are met:

- At least one trustee is UK resident (1/2) and
- The settlor was UK resident (1/2) at the time the settlement was created. (1/2)

Therefore the trustees will be taxed on worldwide income and capital gains (1/2).

Beta Trust is not UK resident (1/2) as although there is at least one UK resident trustee the settlor was neither UK resident nor UK domiciled at the time the settlement was created. (1/2)

As the trust is non-UK resident, the trustees are taxed on UK source income only (1/2). Capital gains will not be taxed on the disposal of UK or overseas shareholdings (1/2).

Total

(max

4)

7.

	£	
Initial value of trust property	500,000	½
NRB 2020/21	<u>(325,000)</u>	½
	<u>175,000</u>	
Notional tax:		
175,000 x 20%	35,000	½
Effective rate:		
35,000/500,000	7.00%	½
Actual rate:		
7.00% x 30% x 16/40	0.84%	1
IHT payable:		
740,000 x 0.84%	<u>6,216</u>	½
*complete quarters from 1 May 2016 (when Cath turned 18) – 1 May 2020	16	½
Total		(4)

8. 1) Executors' expenses are deducted from the aggregate net income of the estate (excluding that relating to specific legacies) and are therefore borne solely by the residual legatees. (1)

2) R185 for Ivy:

Rental income received from property: £1,500 x 9 = £13,500			½
Tax: £13,500 x 20% = £2,700			½
R185 (Estate income) 2020/21:	Net	Tax	
	£	£	
Estate income	10,800	2,700	½

R185 for Willow's wife:

Total distribution made: £1,000 + £6,000 = £7,000			½
Tax: £7,000 x 7.5% = £525			½
R185 (Estate income) 2020/21:	Net	Tax	
	£	£	
Estate income	6,475	525	½

Total (4)

9. Interest owed to Ravi:

$$£85,000 \times 0.1\% \times 9/12^* = £64 \text{ (1)}$$

The interest will be taxed in the year it is paid (1/2). Therefore, the interest paid to Ravi on 10 June 2021 will be taxed in the 2021/22 tax year (1/2).

***Interest accrued at the statutory rate after the executors' year only.**

Total (2)

10.

Specific legacy of £410,000 in Will so single grossing applies		
	£	
Value of specific legacy:	410,000	½
Nil rate band on death	<u>(325,000)</u>	½
Net taxable amount	<u>85,000</u>	
Grossed up IHT on taxable amount:		
85,000 x 40/60	<u>56,667</u>	½
Amount due to husband:		
Total estate	950,000	½
Less specific legacy to son	(410,000)	½
Less tax on specific legacy	<u>(56,667)</u>	½
Residue due to husband	<u>483,333</u>	
Total		(3)

11. As Jim died without having created a Will, his estate will be distributed in accordance with the laws of Intestacy (1/2).

England and Wales:

As he was unmarried without issue or living parents (1/2), his estate would pass* to Niamh and Osian in equal shares (1/2) per stirpes as the living issue of his late full blood sister (1/2).

*Northern Ireland/Scotland:

per stirpes 50% to Paul as his living brother (half-blood ranks equally) (1/2) and 50% to Niamh and Osian (shared equally) as the issue of his late sister (1/2).

Total (2)

12. The IHT valuation rules must be considered in order to calculate the IHT value of Lyssa's share of the property.

1) When held as tenants in common (or as common property (Scotland)) with Caleb:

$$£630,000 \times 50\% \times 90\%* = £283,500 \text{ (1)}$$

*5-15% discount for share (1/2)

2) When held as tenants in common (or as common property (Scotland)) with Mark:

Related property rules will apply as held between spouses.

$$\frac{\pounds 283,500^*}{\pounds 567,000^{**}} \times \pounds 630,000^{***} = \pounds 315,000 \text{ (1)}$$

* Standalone value of the property transferred }
** Standalone value of all property that is related (£283,500 x 2) } (1/2)
*** Combined value of the property valued as a whole }

Total (3)



November 2021 Examination

PAPER 5

Inheritance Tax, Trusts & Estates

Part II Suggested Answers

13.

1)

IHT payable on chargeable lifetime transfer:

	£	£	
Gift 12th July 2015		500,000	
Annual Exemption 2015/16	(3,000)		½ for both AEs
Annual Exemption 2014/15	(3,000)		
	<hr/>	494,000	
Nil Rate Band	<u>(325,000)</u>		½
Chargeable Lifetime Transfer		169,000	
IHT Payable at 20%		£33,800	½

Additional IHT payable on death:

	£	
Gift 12th July 2015	494,000	
Nil Rate Band plus (325,000+325,000) transferable nil rate band	<u>(650,000)</u>	1
	NIL	
	<hr/>	
No additional IHT to pay.		½

IHT payable on death estate:

	£	£	
Settled Property			
QIIP	350,000		1 mark for all 4 elements
Free estate			
Residence	1,500,000		
Cash	100,000		
Shares	800,000		
	<hr/>	2,750,000	
Nil rate band remaining*	(325,000+325,000 – 494,000)	(156,000)	1
		<hr/>	
		£2,594,000	

IHT payable at 40% £1,037,600 ½

*Residence nil rate band/transferable residence nil rate band ½

not available as estate exceeds £2.7million therefore fully abated

Subtotal (6)

2)

	Settled Property Component	General Component	
	£	£	
Main Residence		1,500,000	1 mark for all 4 elements
QIIP	350,000		
Cash		100,000	
Shares		800,000	
Less: Charitable Legacy		(230,000)	½
Chargeable Estate	350,000	2,170,000	
Less: Nil Rate Band	(21,667)	(134,333)	½
Charitable Legacy		230,000	
Baseline amount	£328,333	£2,265,667	½
@ 10%	£32,833	£226,567	½

The charity legacy exceeds 10% of the baseline amount of the general component, and therefore this component of the estate will be subject to an IHT rate of 36%, rather than 40% (1). However, the legacy does not exceed 10% of the baseline amount of both the settled property and general component, when aggregated, and therefore the reduced IHT rate cannot be applied to the settled property component (1).

Subtotal (5)

3)

Minors are unable to provide a valid receipt. If the will allows receipt of the grandchildren's legacies by their parents (as bare trustees), then the payments should be made directly to their parents on their behalf (1/2), otherwise the executors (acting as bare trustees) should act for the grandchildren until they each reach the age of majority i.e. 18 years (or marriage after age 16 years)* (1).

SCOTS LAW: 16 years

If the executors do act as bare trustees, Section 31 Trustee Act 1925* provides for payments of income towards the maintenance, education or benefit of a beneficiary during their infancy** (1/2) taking into account the age and requirements of the beneficiary (1/2) and any other fund available for that purpose and persons bound by law to provide for their maintenance and education (1/2).

*Under SCOTS LAW this needs to be expressed in the trust instrument.

**majority at age 16

Section 32 Trustee Act 1925* provides for advancements of capital (for an established purpose not just day to day needs to a beneficiary) of any age who is entitled to a share in the trust capital (1)

Or

*SCOTS LAW: The trusts may advance capital if express power is given under the trust instrument

Subtotal

(4)

Total (15)

14.

1)

	Non-Savings £	Savings £	Dividends £	
Property Income	15,000			1/2
Bank Interest		2,000		1/2
Dividends			15,000	1/2
Less expenses (1,500 x 100/92.5)			(1,622)	1
Income after expenses	£15,000	£2,000	£13,378	
Income at standard rate			£	
1,000 x 20%			200	1/2
TME £1,621 x 7.5%			122	1/2
Income at rate applicable to trusts				
13,378 x 38.1%			5,097	1/2
14,000 x 45%			6,300	1/2
2,000 x 45%			<u>900</u>	1/2
Total Income Tax Liability			12,619	
Add s496 liability			<u>3,028</u>	1/2
Total tax due			<u>£15,647</u>	

Tax Pool	£	
B/fwd.	2,475	½
1,000 x 20%	200	½
14,000 x 45%	6,300	½
2,000 x 45%	900	½
13,378 x 38.1%	<u>5,097</u>	½
	14,972	
Less: tax credits claimed on distributions		
£22,000 x 45/55	<u>(18,000)</u>	½
S496 liability	3,028	
C/fwd.	£0	½

Subtotal (9)

2)

	£	
Proceeds	149,000	½
Cost	<u>(75,000)</u>	½
	74,000	
Total length of ownership (1 st August 2014 to 31 st March 2021)	80 months	
PRR (1 st August 2014 to 31 st July 2018 + last 9 months)	57 months	
PRR Exempt Gain (74,000 x 57/80)	<u>(52,725)</u>	2
Chargeable Capital Gain	21,275	
Less: annual exempt amount	<u>(6,150)</u>	½
	15,125	
Capital Gains Tax at 28%	<u>£4,235</u>	½

Subtotal (4)

3)

	£	
R185 – Jane		
Net income distribution	7,000	½
Tax Credit	5,727	½

15.

Email

To: T Partner

From: A Consultant

Date: November 2021

Subject: Tax Affairs of a Discretionary Trust

Additional mark for correct formatting (1)

- 1) The £1 million transfer into the discretionary trust would be a chargeable lifetime transfer and accordingly an immediate lifetime IHT charge would arise (1/2). The £1 million would be reduced by the annual exemption for the year (and any unused from the previous year), and any remaining nil rate band (1/2). Additional tax may become payable if either Mr. or Mrs. Wainwright died within seven years (1/2), subject to taper relief if they survived at least three years (1/2).

The trustees will be liable for a principal charge every 10 years on the value of the assets within the trust at a maximum of 6% (1/2) and exit charges will arise on any capital distributions to the beneficiaries between the commencement of the trust and the first 10 year anniversary and between 10 year anniversaries, again at a maximum of 6% (1).

The assets are held outside of the estates of the discretionary beneficiaries, as they have no right to the trust assets, and they will not therefore be liable to IHT on their respective deaths (1/2).

Subtotal (5)

- 2) The trustees will be required to submit form IHT100 to HMRC on each 10-year anniversary and on any intermediate capital distributions to beneficiaries (1/2).

Both the form and payment are due six months from the end of the month in which the chargeable event occurs (1/2).

Penalties may be charged on the late submission of a form IHT100 (1/2). A penalty of £100 will be charged if the form is late (1/2). If the form is more than six months late, an additional penalty of up to £100 will be due (1/2). However, these penalties are restricted to the total amount of IHT payable (1/2). If the form is more than 12 months late a further penalty of up to £3,000 may be charged based on the amount of IHT payable and the degree of lateness (1/2). This further penalty is not restricted to the amount of IHT payable (1/2).

Interest will be charged at the standard HMRC rate from the due date until the date of payment of the IHT due (1/2).

HMRC may reduce any penalties due if the trustees have a "reasonable excuse" for not delivering the forms on time (1/2).

Subtotal (5)

- 3) The firm has a duty to provide the trust with accurate and up to date advice in accordance with the terms of engagement (1). The trustees maintain responsible for meeting the legal requirements of the trust but may rely upon the advice of the practice (1). The terms of engagement should specifically set out the scope of the services for which the firm is responsible to minimise conflict surrounding the firm's responsibility if there were errors (1).

Subtotal (3)

- 4) Trustees' duties include:

Any four of the following: (1/2 each)

- To act within the scope of their powers
- To protect the trust property
- To invest the trust property
- To act impartially as between beneficiaries
- To keep true and accurate accounts
- To distribute income and capital to beneficiaries as they become due
- Not to profit personally from the trust
- Not to purchase property from the trust

Subtotal (2)

Total (15)

16.

PET October 2016

	£
Value of property transferred	1,150,000
Less: loan to acquire property (Note 1)	(300,000)
	<hr/> 850,000
Less: APR @ 100% (Note 2)	(600,000)
	<hr/> 250,000
Less: BPR @ 100% (Note 3)	(250,000)
PET	<hr/> NIL <hr/>

Note 1: The loan was taken out after April 2013 and used to acquire agricultural property. This property was then gifted after July 2013 (1/2) and therefore the loan is deducted from the value of the property transferred (1/2).

Note 2: As the gift was made less than 7 years before the date of Tom's death, it will be chargeable to IHT on Tom's death (1/2). However, the agricultural value of the land will qualify for 100% APR, as Tom's son still owns the land at the date of Tom's death (1/2). and the land is actively farmed by a partnership of which Tom's son is a partner (1/2).

Note 3: BPR is available at 100% as the land was still held by Jack on Tom's death (1/2), and is actively farmed within a business (1/2).

Estate		£
Farmland	1,100,000	1/2
Less: APR 100% - new tenancy (no BPR as not farmed by Tom)	(600,000)	1
	<hr/> 500,000	
Farmhouse (no APR as no longer occupied for the purposes of agriculture – Tom retired)	500,000	1
Cash	50,000	1/2
Personal Chattels	15,000	1/2
Quoted Shares	10,000	1/2
	<hr/> 1,075,000 <hr/>	

Nil rate band remaining (no transferable NRB available)	(325,000)	1
	<hr/>	
	750,000	
Residence nil rate band/transferable residence nil rate band (175,000 + 175,000)	(350,000)	1
	<hr/>	
	£400,000	
Tax payable at 40%	£160,000	½
		Total (10)