

THE ASSOCIATION OF TAXATION TECHNICIANS

ATT PAPER 5 INHERITANCE TAX, TRUSTS & ESTATES

May 2022

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. Matilda (UK resident and domiciled) died on 5 September 2020 leaving two properties and £10,000 in cash savings in her estate. The administration of the estate was completed on 30 April 2022 and the assets were all distributed to her daughter. The executors are currently completing their administrative duties.

The first property was Matilda's main residence and was valued for probate purposes at £375,000. The second property was previously used by Matilda and her family as a holiday home and was valued for probate purposes at £150,000.

During the administration period the only income generated in the estate was £100 in interest from the savings account. During the estate administration period the executors sold the holiday home for £160,000 to release cash to pay Inheritance Tax and fees. HMRC has not issued the executors with trust and estate self-assessment tax returns.

Explain whether the estate meets the requirements for informal payment. (4)

2. Jason died on 20 May 2021. He had been UK-resident for tax purposes since 2015/16 but was not UK-domiciled.

Included within his estate were the following assets:

- 1) Five paintings valued at €500,000 which have been stored in Paris since he moved to the UK;
- 2) €100,000 held in a foreign currency account with a UK bank; and
- 3) Shares in two UK resident companies, one a quoted company listed on the London Stock Exchange and one an OEIC (Open-ended Investment Company) which were purchased before he moved to the UK.

Explain the general rule for determining which assets are subject to UK Inheritance Tax and how this applies to each of the assets in Jason's estate. (3)

3. In 2005, Tom Jones transferred part of his shareholding of Jenson Ltd into bare trust for his grandson.

In 2021/22, the trust generated £40,000 in dividends and part of the shareholding was sold resulting in a chargeable gain of £15,000.

In 2021/22 Tom was a higher rate taxpayer and Tom's grandson had no other income or gains.

- 1) **Identify who has the legal ownership and who has the beneficial ownership of the Trust assets, explaining the effect of each of these types of ownership. (2)**
- 2) **Calculate the Income Tax and Capital Gains Tax payable in relation to the assets held in trust for 2021/22. (2)**

Total (4)

4. Your client, Cindy Lee, created a discretionary trust on 12 December 2020 for the benefit of her children. In 2020/21 the trust has an Income Tax liability of £2,500. The trustees registered the trust on 2 May 2022.

1) **State the deadline for the trustees to register the trust with HMRC and any penalties that may apply in respect of their late registration.** (2)

2) **Explain any duties that you have, as Cindy's agent, in respect of the trust registration.** (1)

Total (3)

5. The Johnson Family Discretionary Settlement was created on 6 April 2012 when Ms Johnson settled a property then valued at £300,000. Ms Johnson has made no other settlements. The property has an annual rental income of £12,000 and has been continuously occupied since 6 April 2013. The property was valued at £450,000 as of 6 April 2022.

The trustees have no policy to formally accumulate income. The trust rate of Income Tax has been 45% since 6 April 2013. Net income distributions have been made to the beneficiaries as follows:

	£
April 2014	5,000
September 2019	10,000
January 2020	5,000

Calculate the value of the trust property at the date of the 10-year charge. (3)

6. The Green Dragon Settlement was created on 20 June 2005.

The terms of the trusts are that Mr Jones will be entitled to income for life with a successive life interest to his wife. On his wife's death the trust assets pass to Jeff Jones, the couples' son, as remainderman.

Explain the Inheritance Tax implications on the death of Mr Jones and subsequently of Mrs Jones, and who is responsible for paying any Inheritance Tax due. (3)

7. The Wong Family Discretionary Settlement was created in 2018 by Mr and Mrs Wong. The income from the trust is paid out to their grandchildren at the discretion of the trustees, after a free of tax annuity of £12,000 is paid to John Wu, Mr Wong's nephew.

The income arising in the trust in 2021/22 is:

	£
Rental income	25,000
Interest	1,000

John Wu has no other income for 2021/22.

1) **Calculate the Income Tax payable by the trustees for 2021/22.** (2)

2) **State the R185 entries for John Wu.** (1)

3) **Explain the implication of John Wu receiving an Income Tax repayment relating to the annuity.** (1)

Total (4)

8. Benjamin Breen made a variety of gifts in 2021/22 as follows:

- 1) A 4% holding in Earthquake Ltd, an unquoted trading company, to a UK discretionary trust.
- 2) A warehouse, used by Volcanic Ltd, an unquoted trading company, to carry out their warehouse operations, to a UK discretionary trust. The beneficiaries listed in the trust deed include Benjamin and his two sons.
- 3) £400,000 in unit trust holdings to a discretionary trust resident in Jersey.

In addition, Benjamin's eldest son reached age 25 and became absolutely entitled to his presumptive half share of the Jack Breen A&M trust, settled by Benjamin's father in 2000 on the birth of Benjamin's youngest son. The trust comprised farm buildings and 100 acres of agricultural land which has been let to a tenant farmer since the trust commenced.

For each gift/distribution explain whether holdover relief can be claimed. (4)

9. Kumar purchased his only home in September 1998 for £275,000. He lived in the property with his wife, Anika. Kumar died on 23 April 2018, leaving the house to Anika under the terms of his Will. The property was valued at £490,000 for probate purposes.

Anika continued to live in the property until 23 February 2020 when she moved in with her daughter. The executors of Kumar's estate sold the property for £530,000 on 23 September 2021.

Calculate the Capital Gains Tax due on the sale of the property and state the executors reporting and payment responsibilities. (4)

10. Rachel Wright created the Wright Discretionary Settlement in May 2019. The terms of the trust list the beneficiaries as Rachel, her two daughters and any grandchildren. The assets settled were cash deposits of £500,000. Rachel uses up her annual exemption in April of each year but apart from that has made no other transfers in her lifetime.

Rachel died on 21 September 2021.

Calculate the Inheritance Tax due during Rachel's lifetime on the transfer into the trust, assuming that the trustees made payment of the tax. (1)

Explain whether any Inheritance Tax is due on the trust assets on Rachel's death and whether any relief is available to the executors of Rachel's estate. (2)

Total (3)

11. Ahmad owned four out of a set of 10 valuable chairs. His wife owned the remaining six chairs. On 15 January 2021 Ahmad gifted two chairs to his son.

The value of the chairs at the date of the gift was as follows:

	£
One chair	3,000
Two chairs	10,000
Four chairs	25,000
Six chairs	40,000
Eight chairs	55,000
10 chairs	80,000

Calculate Ahmad's transfer of value for Inheritance Tax purposes. (3)

12. Joseph Morgan died in 2019/20 and made several gifts in his lifetime. The executors are considering making "fall in value" claims for the following gifts:

- 1) In 2018, Joseph gifted £300,000 cash to his daughter with which she purchased a property. At the date of Joseph's death, the property is only worth £250,000.
- 2) In 2014, Joseph gifted a car to his son which was valued at the date of gift at £30,000. The valuation of the car on Joseph's death was £23,000.
- 3) Joseph gifted a painting to his niece, valued at £22,000. After his death, she sold the painting to a friend for £12,000 which was notably less than the value which she could have sold it for on the open market.

Explain whether the above "fall in value" claims are valid. (2)

PART II

13. Enid (UK domiciled) died on 1 January 2022. During her lifetime she made a number of lifetime gifts as detailed below:

On 1 April 2012, Enid created the Blythe Discretionary Trust. She settled £300,000 cash and the trustees paid any Inheritance Tax arising on the transfer.

Enid gifted £3,000 to her great-grandchild Julia on her wedding day on 26 March 2018. Julia was marrying Enid's neighbour Ravi, and Enid also gave him £2,500.

When Enid's daughter Beth got engaged in May 2018, Enid gifted her £40,000 towards the wedding. However, the engagement was cancelled, and the marriage did not take place.

On 8 January 2019, Enid created the GC Discretionary Trust for the benefit of her grandchildren. She settled cash of £400,000 and the trustees paid the Inheritance Tax arising. Enid then wrote a letter to the trustees saying she intended to add her annual state pension of around £12,000 to the trust fund each year on 5 April, as her private pension already covered her living costs.

On 12 December 2020 Enid sold a painting to a gallery she had no connection with for £5,000. After the sale she found out the painting's value had actually been £50,000.

Each year, Enid gave cash from her savings to each of her 10 grandchildren on their birthdays (May to December) and at Christmas. Until the end of 2020 she gave £100 each per birthday and £100 each for Christmas. From 6 April 2021, she increased the value of each birthday and Christmas gift to £200.

Requirements:

- 1) **State, with explanations, the amount chargeable to Inheritance Tax or potentially exempt for each of Enid's lifetime transfers and calculate any lifetime tax payable thereon.** (7)
- 2) **Calculate any additional Inheritance Tax payable on Enid's lifetime transfers as a result of her death.** (3)

Total (10)

14. The Grape Discretionary Trust and The Pip Life Interest Trust were created by Imran (UK domiciled) for the benefit of his three adult children.

Imran gifts £1,000 to each of his three children on 6 April annually. A complete list of his other lifetime gifts is as follows:

		£
10 October 2005	Creation of The Polly Discretionary Trust	85,000
1 March 2006	Creation of The Mallow Life Interest Trust	90,000
8 May 2009	Sale of machinery to Build Ltd (see below)	25,000
30 June 2009	Gift to daughter	17,000
17 February 2012	Creation of The Grape Discretionary Trust	530,000
17 February 2012	Creation of the Pip Life Interest Trust	370,000

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

Build Ltd is an unlisted trading company. The machinery sold to Build Ltd for £25,000 had a market value of £100,000 on 8 May 2009.

On 9 July 2015, the trustees of The Grape Discretionary trust distributed £110,000 to one of the beneficiaries. The trustees paid Inheritance Tax of £1,751 on this transfer.

Imran added a share investment portfolio valued at £300,000 to the trust on 20 November 2018 and he paid any Inheritance Tax arising. This was the only addition made to the trust after the initial settlement.

On 17 February 2022, the market value of The Grape Discretionary Trust's assets were as follows:

Asset	Date acquired	Value £
Cash (note all income is distributed annually)	17 February 2012	30,000
Preference shares in Build Ltd	1 August 2012	60,000
75 acres agricultural land	31 January 2013	390,000
Share investment portfolio	20 November 2018	410,000
Ordinary shares in Build Ltd	23 May 2020	<u>100,000</u>
		<u>990,000</u>

The agricultural land is let to a farmer for growing crops via a lease signed on 31 January 2013. The agricultural value of the land is £4,000 per acre. The value of The Pip Life Interest Trust on 17 February 2022 was £500,000.

Imran is helping his children complete paperwork in which they have to state any assets they own. He is unclear whether they directly own the trust property in The Grape Discretionary Trust and the Pip Life Interest Trust.

Requirements:

- 1) **Calculate, showing all your workings, the Inheritance Tax payable on The Grape Discretionary Trust's 10-year anniversary on 17 February 2022.** (13)
- 2) **Explain how the equitable (or beneficial) ownership of trust property differs between the Grape Discretionary Trust and the Pip Life Interest Trust.** (2)

Total (15)

15. You have received the following email:

To: Tax.Assistant@taxfirm.co.uk
From: Tax.Partner@taxfirm.co.uk
Date: 1 May 2022
Subject: Estate of Julian Jones

Hi Tax Assistant

Please could you help me with the following:

Julian (UK domiciled) died on 2 August 2021 having made no lifetime transfers. We are acting for the executor who is Julian's son Mario. Julian was never married. His partner, Mario's mother, predeceased him. Julian's death estate included the following:

	<u>Probate Value</u>
	£
18,000 Strategy plc shares	90,000
10,000 Bank plc shares	25,000
12,000 Invest Ltd shares	18,000
6,000 Units in Strike Authorised Unit Trust	36,000
Other assets	<u>380,000</u>
Total chargeable estate	<u>549,000</u>

Both the Strategy plc and Bank plc shares are quoted, while the Invest Ltd shares are unquoted shares in an investment company.

Mario emailed to say that the following disposals have taken place in the estate:

		<u>Gross Proceeds</u>
		£
5 September 2021	12,000 Strategy plc shares	12,000
19 April 2022	8,000 Bank plc shares	24,000
27 May 2022	12,000 Invest Ltd shares	16,000
30 August 2022	3,000 Units in Strike Authorised Unit Trust	20,000

There were costs of sale of £1,000 in respect of the Strategy plc disposal.

On 12 October 2021, the Executors purchased 1,000 shares in Ace plc for £3,000. On 31 July 2022, the Executors purchased 500 shares in Money plc for £5,000.

There is a problem with the estate bank account. Mario has asked for any tax repayment to be sent to our firm and held by us for around five weeks until the problem is resolved. Although I haven't calculated the amount of the repayment I am expecting it to be between £12,000 and £24,000. Can this be credited to our firm's general current account?

In Mario's email were messages from his friends containing their contact and other personal information. I do not think he realised he had included this. Shall we collect the data in those emails and use it to contact Mario's friends on a regular basis to see if we can persuade them to become clients? Could we also pass the details on to some of our professional contacts?

Regards

Tax Partner

Continued

Continuation

Requirements:

Write an email in which you:

- 1) Calculate, showing all your workings, the Inheritance Tax payable on Julian's estate before and after any available reliefs. (7)
- 2) Explain how the Estate's tax repayment should be held by the firm and how this should later be repaid to the estate bank account. (3)
- 3) Explain the legal issues around the collection, use and retention of data relating to Mario's friends. (5)

Total (15)

16. Ania (UK-domiciled) died on 5 June 2020. The income of her estate was as follows:

	<u>Notes</u>	<u>Income in 2020/21</u>
Interest received from cash at bank	1)	£3,420
Dividends from 3,500 shares in Choc Ltd	1)	£28.50 per share
Gross salary (received 30 June 2020)	2)	£4,200
Rental income from office block	3)	£3,400 per month
Rental income from Lilac Cottage	4)	£2,750 per month

Notes

- 1) All dividends and interest are paid on 30 July annually. The interest paid was the same in 2021/22 but the dividend rate halved. Ex-dividend date is 1 July.
- 2) The salary was received net of £840 PAYE.
- 3) Ania's Will directed that the office block, which had a probate value of £680,000, should be left to her sister Gloria. The executors distributed the property to Gloria on 5 October 2020 when it had a market value of £705,000.
- 4) Lilac Cottage is a residential rental property. In November 2020, the executors paid £1,500 for repairs to the roof and £5,000 for an upgraded bathroom. The cottage, which had a probate value of £550,000, was sold on 5 January 2021 for £645,000. Costs of sale were £4,000.
- 5) Ania's Will directed that her children Josh and Bex were entitled to the remainder of her estate in equal shares. The total probate value of the estate was £1,690,000.
- 6) On 5 August 2020, the executors took out a loan of £160,000 to pay the Inheritance Tax due on the estate. The loan had a fixed interest rate of 6% per annum.
- 7) The administration of the estate was completed on 5 January 2022 when the loan taken out to pay the Inheritance Tax was repaid.
- 8) The expenses for managing the estate were £2,600 and the executors paid £1,500 for obtaining probate.

Requirements:

- 1) **Calculate, with explanations, the Income Tax payable in respect of the estate for 2020/21 and 2021/22.** (8)
- 2) **Calculate, with explanations, the gross income chargeable on each of the three beneficiaries.** (7)
- 3) **Calculate, with explanations, the Capital Gains Tax payable in respect of distributions and disposals of estate assets by the executors for 2020/21 and 2021/22.** (5)

Total (20)