

THE ASSOCIATION OF TAXATION TECHNICIANS

ATT PAPER 5 INHERITANCE TAX, TRUSTS & ESTATES

May 2024

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. The Yin Family Settlement was settled by Mr Yin in 2020 whilst he was resident and domiciled in the UK. The trustees of the settlement are Mr Yin's wife, who is also resident in the UK and Mr Yin's Uncle, who is resident in France.

Mr Yin's Uncle is also a trustee of the Yin Family Settlement No. 2, also settled by Mr Yin, alongside a trust company resident in Gibraltar.

With reference to the residence status of each settlement, explain the extent to which UK and overseas income and gains are subject to UK Income Tax and Capital Gains Tax on the trustees. (3)

2. Tom and Joseph have held an equal life interest in The Reilly Trust since it was settled in 2018. On 5 February 2024, the trustees disposed of its 50% holding in Reilly Ltd, a trading company, which they had originally subscribed for on 1 January 2020. Tom has been a full-time employee of Reilly Ltd since its incorporation, but Joseph has never been employed by the company.

Explain whether Investors' Relief is available to the trustees on their disposal of the shares. (4)

3. The Wright Discretionary Trust was created for the benefit of Mr Wright's descendants. The trustees have discretion over the distribution of any funds after an annuity of £10,000 (gross) paid to Mr Wright's nephew.

The trust income for 2023/24 is as follows:

	£
Rental Income	9,000
Interest	2,000
Dividends	15,000

The trust has management expenses for the year of £1,000.

Calculate the Income Tax payable by the trustees for 2023/24. (4)

4. Mr James died on 25 April 2024. His estate included two buy to let properties; Belmont House was owned as tenants in common with his wife and was valued at his date of death at £550,000. Fenwick House was owned as joint tenants with his son and was valued at his date of death at £440,000.

Explain the different forms of legal ownership and how they affect the Inheritance Tax treatment. Explain the valuation of Mr James' share of each property for Inheritance Tax purposes. (4)

5. Mr Patel settled the Patel Family Trust on 5 July 2023. He transferred his 50% shareholding in Patel Ltd, an unquoted property investment company, into the trust. The beneficiaries of the Patel Family Trust are Mr Patel's two minor children.

On 5 July 2023 Mr Patel's shares were valued at £600,000, and he had subscribed for the shares in 2002 for £500. Mr Patel had no other gains in the tax year and is a higher rate taxpayer.

Calculate the Capital Gains Tax due on the transfer and explain why Mr Patel can pay in instalments. (3)

6. Mrs Jones died on 20 April 2023.

She had previously transferred her interest in a buy-to-let property to her daughter on 16 April 2021. The value of the property at the date of gift was £450,000. Her daughter still owns the property.

Mrs Jones made no other lifetime gifts in the seven years before her death. There is no transferable nil rate band available.

Mrs Jones' daughter still owns the property and has made a claim to pay the tax due on the lifetime gift in instalments but cannot make her first payment until 31 October 2024.

Calculate the Inheritance Tax due on the gift to Mrs Jones' daughter, and calculate the total payment required on 31 October 2024 including interest. (4)

Note: Assume the interest rate on Inheritance Tax instalments is 6.5% p.a.

7. Sandra died in July 2023, whilst living in the UK. She was UK resident but domiciled in New Zealand.

Her estate included the following:

- 1) A residential property located in New Zealand.
- 2) A £50,000 holding in open-ended investment companies (OEICs).
- 3) \$20,000 held in a foreign currency bank account of a UK bank.
- 4) €1,000 held in cash, remaining from Sandra's last holiday.

Explain which of these assets are subject to UK Inheritance Tax due to Sandra's death. (3)

8. Rebecca died on 7 August 2023. She was domiciled in the UK. Her Will directs that her assets, all of which are situated in the UK and valued at £1,255,000 are to be passed to her husband. She made no lifetime gifts.

Rebecca's husband, Pierre is UK resident but is domiciled in France. Prior to Rebecca's death, Pierre had no assets in the UK but has an estate in France valued at £1,300,000.

Pierre is interested in knowing the total Inheritance Tax payable on both deaths if he were to die soon.

Explain, with supporting calculations, whether it would be beneficial for Pierre to elect to be treated as domiciled in the UK for Inheritance Tax purposes. (4)

9. Below are extracts from Mr Vardy's Will.

"I hereby give £10,000 to my niece, Charlotte.

My gold watch will be given to my nephew, John.

I hereby give £15,000 to my daughter Amber, on the condition that she is married on my death.

My remaining estate is to be given to my wife, Irene."

Explain what type of legacy is received by each of Charlotte, John, Amber and Irene. (2)

10. Josie is self-employed and ATT qualified, providing Inheritance Tax compliance and advisory services. Josie is so busy that she is sometimes late submitting her own self-assessment return and she is also in dispute with HMRC in relation to her 2019/20 return.

Explain how Josie should deal with her own personal tax affairs in line with PCRT. (2)

11. Mavis settled two trusts as follows:

- 1) The MJ Discretionary Settlement was settled on 20 May 2019 with £120,000 cash.
- 2) The Mavis Joan Discretionary Trust was settled on 29 May 2019. The trust comprised of two properties, Apartment A (valued at the date of settlement at £450,000) and Apartment B (valued at the date of settlement at £300,000).

The Trustees of the Mavis Joan Discretionary Trust distributed Apartment A to the principal beneficiary on 4 June 2023. The value of Apartment A at the date of distribution was £600,000.

Calculate the exit charge on the June 2023 distribution on the basis that the beneficiaries will pay any tax due. (3)

12. Below is an extract from The Raven Discretionary Trust's tax computation for 2023/24.

	<u>Non-Savings</u>	<u>Dividends</u>
	£	£
Rental income	10,000	
Bank interest		
Dividends		30,000
Gross trust income	10,000	30,000
Less: Expenses 1,000 x 100/91.25		(1,096)
Income after expenses	10,000	28,904

On 6 April 2023, the tax pool brought forward was £17,000.

During 2023/24 discretionary distributions of £20,000 were made.

Calculate the tax pool to carry forward on 5 April 2024. (2)

13. Stephen, who has always lived in England, died on 10 August 2023 without a valid Will in place. He is survived by his wife, Laura and his four adult children. His estate was valued at £600,000 including £200,000 as his share of the marital home, owned as joint tenants with Laura, and £5,000 of personal chattels.

Explain, under the intestacy rules, how Stephen's estate will be distributed. (2)

PART II

Presentation skills – awarded for quality of presentation.

(2 marks)

14. Jakub died on 5 September 2023 and the estate administration ended on 30 April 2024. He left his entire estate to his daughter. Before considering any tax liabilities, Jakub’s estate was valued at £800,000. His estate included a savings account on which £3,000 interest was paid every six months in arrears, of which £2,500 had accrued as at 5 September 2023; and a residential investment property with income as shown below.

Prior to his death Jakob received taxable pension income equal to his personal allowance, so no income tax was paid on it. During 2023/24 the following additional income was received:

	£	<u>Date of receipt</u>
Dividend income	12,000	1 September 2023
Savings account interest – for previous six months	3,000	5 October 2023
Savings account interest – for previous six months	3,000	5 April 2024

Property income was received monthly on the last day of the month until the property was sold on 28 February 2024. The amounts received were £2,000 per month in 2023 and £2,300 per month in 2024. The Executors submitted a Capital Gains Tax UK property disposals return in March 2024.

A number of capital disposals were made by Jakub and the Executors as follows:

	<u>Date of disposal</u>	<u>Proceeds</u>	<u>Purchase Cost</u>	<u>Probate value</u>
		£	£	£
Painting	10 June 2023	10,000	25,000	N/A
Shares in Invest plc	12 November 2023	30,000	20,000	35,000
Investment property	1 March 2024	240,000	160,000	220,000

In each of the four tax years leading up to Jakub’s death, his total Capital Gains Tax liability had been £2,000, and consisted of capital gains taxed at 20%.

Costs of obtaining probate were £250. There were no income or gains in the period from 6 April 2024 to completion of administration on 30 April 2024.

The Executors have heard that there may be an alternative to making self-assessment returns and payments for Income Tax and Capital Gains Tax for the period of the administration. They would like to know more about these informal payments and calculations.

Requirements:

- 1) **Calculate Jakub’s Income Tax payable and Capital Gains Tax payable for 2023/24. Explain, with supporting calculations, any repayments in relation to earlier tax years.** (5)
- 2) **Calculate the Executors’ Income Tax payable and Capital Gains Tax payable for 2023/24.** (5)
- 3) **Calculate, with explanations, the chargeable value of Jakub’s death estate.** (2)
- 4) **Explain whether the Executors are able to make informal payments and how the amounts payable are reported.** (3)

Total (15)

15. You are a member of ATT and work for Revelle LLP. The partnership provides services relating to Inheritance Tax and trusts. You have received the following email from your tax partner:

Email

From: Tax Partner
To: Tax Adviser
Date: 7 May 2024
Subject: The Style Discretionary Trust

You may recall that last week I met with potential new clients, the Trustees of the Style Discretionary Trust. I gathered the following information from them:

The Style Discretionary Trust was created on 13 December 2013 by Dorothea for the benefit of her children, James and Betty. The original assets settled on the trust were cash of £350,000 and farmland let to a local farmer for growing crops on a 30-year lease signed on 10 January 1995. The farmland had a market value of £100,000 and an agricultural value of £75,000 when it was settled.

Dorothea's other lifetime transfers were as follows:

<u>Date</u>		<u>Value</u> £
25 October 2009	Cash to the Mirrorball Discretionary Trust	35,000
13 December 2013	Creation of the Cornelia Life Interest Trust	150,000
9 January 2022	Shares in Dress Ltd to the Style Discretionary Trust	80,000
Annually on 6 April	Various gifts to use annual exemptions	3,000

Dress Ltd is an unquoted trading company.

Dorothea always paid the Inheritance Tax due as she made her lifetime transfers into trust.

The trustees made a capital distribution of £50,000 to each of James and Betty in August 2019. James and Betty each paid the tax on their respective gift. The net trust income of £20,000 per annum has never been distributed or accumulated.

On 13 December 2023 the capital assets of the trust were valued as follows:

	<u>Market value</u> £
Investment portfolio (small shareholdings of quoted companies)	500,000
Agricultural land	160,000
Shares in Dress Ltd	120,000
Cash	30,000

The agricultural land remains subject to the same lease and had an agricultural value of £110,000. The value of the Cornelia Life Interest Trust was £225,000 on 13 December 2023.

The trustees are not yet a client. They would like us to prepare the Inheritance Tax calculation for the 10-year charge which arose on 13 December 2023. Please could you prepare draft computations so that we can provide these as soon as possible once they become clients.

They do not require any further services at present but may do in the future. Please could you complete the steps to accept the trustees as a new client.

Finally, they mentioned that they are not happy with the investment returns they are generating on the trust's investment portfolio. They have asked whether we can offer any investment advice on how to increase these returns. I assume we are ok to do this, but please could you check.

Requirements:

Write a reply to the tax partner's email in which you:

- 1) Calculate, with explanations, the Inheritance Tax charge on the Style Discretionary Trust's 10-year anniversary. (8)**
- 2) Explain the steps that Revelle LLP should take before accepting the Trustees of the Style Discretionary trust as a new client. (4)**
- 3) Explain the legal implications for Revelle LLP of providing the investment advice. (3)**

Total (15)

16. Thelma died on 19 July 2023 having made the following lifetime gifts:

<u>Date</u>		<u>Value</u> £
14 February 2011	Cash to Portico Discretionary Trust	306,000
23 April 2017	Cash to Chimney Life Interest Trust	100,000
5 January 2018	Vintage car to nephew, Ian	60,000
1 December 2020	Gift of main home to children	165,000

Any Inheritance Tax payable when making the lifetime gifts was paid by Thelma.

After Thelma gave her vintage car to Ian, she continued to use it regularly until she stopped driving on 1 August 2020 when it was worth £75,000.

Until her death Thelma lived in the main home which she had gifted to her children. The value of the main home at the time of Thelma's death was £175,000.

On her death, Thelma owned only her bank account which held £40,000 after deduction of her funeral expenses. Thelma left her entire estate to her children.

Requirements:

- 1) Calculate, with explanations, the Inheritance Tax payable during Thelma's lifetime on each of the four gifts. Show your treatment of each gift.** (6)
- 2) Calculate, with explanations, the Inheritance Tax payable as a result of Thelma's death.** (9)

Total (15)

17. Basil created the Westerly A&M Trust in October 2005 for the benefit of his three grandchildren. On creation, Basil settled an investment portfolio valued at £600,000 which was standing at a Capital Gain.

The terms of the trust were such that each grandchild becomes entitled to a one third share of the trust capital when they turn 25. The beneficiaries have an interest in possession from the age of 18.

One of the beneficiaries, Leoni, is aged 23 and now that she is working full time, would like to move into her own home. The trustees would like to make a capital distribution to her to assist with the purchase of the home but would like advice on what would happen to the funds were Leoni to then die before reaching the age of 25.

Requirements:

- 1) Explain the Inheritance Tax and Capital Gain Tax implications for Basil on creation of the Westerly A&M Trust.** (3)
- 2) Explain how the Westerly A&M Trust has been subject to Income Tax and Inheritance Tax since its creation. You are not required to mention tax allowances or expenses.** (7)
- 3) Explain whether the Trustees of the Westerly A&M Trust can make a capital distribution to Leoni, and the legal consequences if she were to die before turning 25.** (3)

Total (13)