

# THE ASSOCIATION OF TAXATION TECHNICIANS

## ATT PAPER 5 INHERITANCE TAX, TRUSTS & ESTATES

**November 2024**

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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.
- 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 Flemming Life Interest Trust was created in 2018 for the benefit of Sacha. In May 2023 the trustees realised a Capital Gain of £500,000 when they disposed of their 4% shareholding in Aromas Ltd, an unlisted company which manufactures candles.

Sacha has been a director of Aromas Ltd since 2020 and owns 20% of the shares personally.

**Explain whether the trustees are eligible to claim Business Asset Disposal Relief on the disposal of their shares in Aromas Ltd.** (3)

2. Mary died on 12 January 2023. Her death estate consisted of her main home, contents, cash of £550,000 and a collection of fine wines worth £40,000.

Under the terms of Mary's Will, the main home, contents, and cash passed to her daughter, Felicity. The wine collection passed to her nephew, Samuel.

Samuel has always admired one of the paintings in Mary's house. The painting was valued at £18,000 at the time of Mary's death but is currently worth £23,000. Felicity would like Samuel to have the painting. She has considered the following three options:

- 1) Give Samuel the painting in exchange for £18,000 cash.
- 2) Exchange the painting for half the wines from the collection he received from Mary – currently valued at £20,000.
- 3) Give Samuel the painting for nothing in return.

Felicity will have made no other Capital Gains in the current tax year and would prefer not to make transfers of value for Inheritance Tax purposes if possible.

**Explain whether a deed of variation could be executed in each of the three scenarios, and if so whether both Inheritance Tax and Capital Gains Tax elections would be beneficial.** (4)

3. Marlo died on 5 September 2023. Income received by the Executors in the tax year of death was as follows:

		£
31 December 2023	Annual bank interest payment	3,000
31 March 2024	Dividend	4,000
5 April 2024	Annual interest from ISA	2,500

Marlo also owned a rental property which produced rental income of £1,500 per month.

On 1 November 2023 the Executors took out a loan of £30,000 at a fixed rate of 8% to pay the Inheritance Tax due. The estate administration period ended on 5 September 2024.

**Calculate the Income Tax payable by the Executors for the 2023/24 tax year.** (3)

4. The Nottage Discretionary Trust is a new client of your firm. The 2022/23 tax return for the Nottage Discretionary Trust was submitted by the trustees on 31 January 2024, having been prepared by the previous advisers.

When preparing the 2023/24 tax return, you found an error in the 2022/23 tax return which has resulted in £2,000 of underpaid tax. There is no authority to disclose errors to HMRC within the engagement letter between your firm and the trustees of the Nottage Discretionary Trust.

**Explain the next steps and the ethical implications for your firm.** (3)

5. Sonny owned 60 acres of land which is let to a local farmer under a 25-year Farm Business Tenancy (FBT) which started in August 2010. In March 2024 Sonny transferred 50 acres of the land to a discretionary trust for the benefit of his grandchildren. At the time of transfer the land had a market value of £15,000 per acre and an agricultural value of £7,000 per acre.

Sonny makes a £3,000 gift every April to use his annual exemption. His only previous chargeable lifetime transfer was a gift of £50,000 to a life interest trust for his daughter in 2020. The trustees paid any Inheritance Tax due on both transfers.

**Calculate the Inheritance Tax payable as a result of Sonny's transfer to the Discretionary Trust.** (3)

6. Camille gifted £350,000 to her husband to purchase a cottage to use as a country escape. Camille liked the cottage so much she regularly stayed there with her husband.

Rita would like to buy a valuable piece of art for her daughter, Maggie. Maggie travels regularly for her job and doesn't have a home in the UK. Rita has suggested that she gives Maggie the cash to buy the artwork, but that it is kept on display in Rita's house. They are considering either a sculpture with a value of £270,000 or a painting with a value of £180,000.

Antony received £500,000 from his father just over six years ago. He will use most of this cash to purchase a luxury motorboat for them both to enjoy at some point after he retires within the next year.

**Explain whether the Pre-Owned Assets Tax rules may apply in each of these three scenarios, and whether any action could be taken to mitigate any charges.** (4)

7. Geoff, who was UK domiciled, died in August 2023 with an estate valued at £120,000 which he left to his grandchildren. His only lifetime gift had been to transfer his home, then worth £100,000, into his children's names two years earlier. He continued to live there until his death.

Diego died in February 2024 having never been domiciled or deemed domiciled in the UK. His only UK asset was a flat in Cardiff worth £95,000, which he used for annual holidays. He had made no lifetime gifts exceeding the annual exemption in the seven years prior to his death.

**Explain whether a full death estate return form IHT 400 needs to be submitted for each of the above estates.** (3)

8. Mitchell created the Dunphy Discretionary Trust on 31 July 2023 settling a 3% shareholding in a quoted investment company. The shares settled were valued at £485,000. Mitchell had made no previous lifetime transfers and paid any IHT arising.

**1) Calculate the Inheritance Tax payable by Mitchell on the creation of the Dunphy Discretionary Trust.**

**2) State the value of the gross chargeable lifetime transfer, and the initial value of the trust's relevant property.** (3)

9. On 1 December 2020 the trustees of the Cowboy Discretionary Trust distributed an investment portfolio to a UK resident beneficiary, Alys. At the time of the transfer, the chargeable gain on the investment portfolio was £130,000. The trustees and Alys made a joint gift relief claim under s.260 TCGA 1992.

In May 2023 Alys emigrated to Portugal.

**Explain the Capital Gains Tax implications of Alys' emigration in respect of the distribution, and who is liable to pay any Capital Gains Tax arising.** (3)

10. Ronald died on 19 April 2023 having made his Will in 2012. Ronald's Will specified that his gold signet ring should be left to his son, Alan.

Ronald ensured that he had sufficient cash to pay for his liabilities on death, including any expenses of his personal representatives.

**Explain four ways in which this legacy may fail from a legal perspective.** (2)

11. Jill who had never married or been in a civil partnership died on 19 March 2024, having made no lifetime transfers. Her death estate was left entirely to her niece and was valued at £740,000 and included an apartment in Utopia with a value of £190,000. Utopian authorities charged death taxes of £66,500 in respect of the apartment.

Jill had always been domiciled in the UK.

**Calculate the Inheritance Tax payable as a result of Jill's death.** (2)

12. The trustees of the Bellows Trust sold two properties in the 2023/24 tax year as follows:

		<u>Proceeds</u>
		£
1 July 2023	York apartment	350,000
1 January 2024	Manchester house	495,000

The York apartment had been gifted to the trust by the settlor on creation of the trust in 2013. The value of the apartment when settled was £210,000, and the settlor claimed gift relief against the capital gain of £40,000. Erol, a life tenant of the Bellows Trust, had used the apartment as their main residence for the entire period it was owned by the trustees.

The Manchester house was purchased by the trustees on 1 January 2015 for £375,000. Selma, a life tenant, moved into the property immediately after purchase for one and a half years. The house was empty from 1 July 2016 for two years while Selma lived in Portsmouth, but she returned to the house on 1 July 2018 and stayed for one and a half years. On 1 January 2020 Selma went to work overseas and the house was empty for two and a half years. Another life tenant, Ada, lived in the house from 1 July 2022 until it was sold one and a half years later.

**Calculate the chargeable gains arising to the trustees in respect of the two property disposals.** (4)

13. Maurice is entitled to a 'free of tax' annuity of £6,000 from the Alcott Trust. His only other income for 2023/24 was £8,900 net trading profits from his hat making business. The personal allowance is £12,570.

**Calculate, with explanations, the Income Tax payable by/repayable to Maurice for the 2023/24 tax year.** (3)

**PART II**

**Presentation skills** – awarded for quality of presentation.

(2 marks)

14. The trustees of the Rod Bailey Trust 2019 recently approached your firm to get the tax affairs of the trust up to date.

Rod Bailey has a fixed interest in possession in the Rod Bailey Trust 2019 which was settled on his late wife's death. The trust deed states that the fixed interest is revocable on the remarriage of the life tenant at which point it converts to a discretionary trust in favour of the settlor's children.

The trust received taxable income from 19 May 2019. The trustees have already submitted trust self-assessment tax returns for the 2019/20 to 2021/22. They made payments on account of £3,560 towards the liability for 2022/23 but had never registered the trust on the Trust Registration Service nor completed TRS annual returns. You have informed the trustees that the trust should have been registered by 5 October 2020.

The income of the Trust for 2022/23 and 2023/24 was as follows:

	<u>2022/23</u>	<u>2023/24</u>
	£	£
Dividend Income	15,000	40,000
Interest from fixed rate bonds	12,000	10,000

Trust management expenses for 2022/23 and 2023/24 were £1,500 each year.

In 2023/24, the trustees disposed of shares in their investment portfolio. Proceeds of the sales were £32,000 and the shares had a base cost of £24,000.

Rod Bailey remarried on 1 January 2023.

The trust was registered on 1 September 2024, and you are completing the trust self-assessment tax returns ready for the trustees' signature.

**Requirements:**

- 1) **Explain to the trustees the Income Tax effect of Rod's remarriage and calculate the Income Tax and Capital Gains Tax payable for the trust for 2022/23 and 2023/24.** (10)
- 2) **Explain any penalties that may be due in relation to the trust, how these may be mitigated and who is liable for payment.** (5)

Total (15)

15. Rex Austin died on 4 May 2023. Within his Estate was a 75% shareholding in Austin Ltd, an unlisted trading company. His entire Estate passed to his son Jack. The history of Rex's shareholding in Austin Ltd is as follows:

April 2018 – Rex and his wife subscribed for a 50% shareholding each.

May 2020 – Rex gifted a 25% shareholding to his son, Jack, who still held these on Rex's death.

April 2022 – Rex inherited the 50% shareholding from his wife on her death.

Jack transferred his entire 100% shareholding in Austin Ltd to a discretionary trust in September 2024.

*Continued*

**Requirements:****Explain whether Business Property Relief applies:**

- 1) **To the shares in Rex's Estate at his death.** (4)
- 2) **To the shares transferred to Jack in May 2020 at the time of the transfer and on Rex's death.** (3)
- 3) **To the shares transferred by Jack to the discretionary trust in September 2024.** (3)

Total (10)

16. Lacy Hughes died on 9 September 2023. Your firm acted for Lacy whilst she was alive, and the executors of the Estate wish for the firm to continue to act for her estate.

Lacy used her annual exemption at the start of each tax year and made only one other gift in her lifetime; on 10 September 2018 she settled £150,000 into a discretionary trust to contribute to her grandchildren's school fees.

Her estate on death consisted of the following:

	<u>Probate Value</u>
	£
Main Residence (owned by Lacy only)	920,000
Listed Share Portfolio (all holdings <1%)	475,000
Rental Property Portfolio	660,250
Cash	82,000
Chattels and Personal Affects	15,000

The cost of her funeral was £2,250.

Lacy's Will instructed that a gift of £160,000 would be given to the local cat rescue, a UK registered charity, a gift of £70,000 would be gifted to an elephant sanctuary in Thailand, the share portfolio would pass to her husband and the residue of her Estate was to be passed equally to her five grandchildren.

Her Will named her three children as her executors, Annie, Bob, and Charlie. Bob has decided that he does not want to act as an executor due to a family feud.

**Requirements:**

- 1) **Explain any processes that need to be completed before you begin work for the executors of Lacy's Estate.** (2)
- 2) **Calculate, with explanations, the Inheritance Tax Due on Lacy's Estate.** (11)
- 3) **Explain to Bob the primary roles of an executor and advise on how he could successfully forego his position as executor.** (3)

Total (16)

17. Rachel Berry settled £1 million onto the Rachel Berry Grandchildren's Trust on 9 January 2006 for the benefit of her grandchildren living at that time. Rachel made no other chargeable transfers in her lifetime. The trust was valued at £1.1million on 9 January 2016.

The trust deed states that the grandchildren are entitled to the income of the trust from aged 18, and their share of capital absolutely at the age of 25.

Mrs Berry's grandchildren attained the age of 18 at the following dates:

Jake	25 November 2014
Darcey	5 August 2018
Harry	8 November 2023
Isabella	8 January 2024

The following capital payments were made to the children:

- 1) 1 May 2023 – £7,000 to Isabella for her school fees when the trust was valued at £1.25 million.
- 2) 1 January 2024 – £3,500 to Harry for a school holiday camp when the trust was valued at £1.28 million.
- 3) 1 August 2024 – £8,000 to Darcey for university fees when the trust was valued at £1.3 million.

The trust held a 60-acre piece of land, which the trustees' distributed in each individual share on the beneficiary attaining the age of 25. Jake's share of the land was vested in November 2021 when he turned 25.

The trustees want to know if there are any ways of minimising tax by amending the terms of the trust deed to change the timings of the distribution of land to the remaining beneficiaries of the trust.

#### Requirements:

- 1) **Explain, with supporting calculations, the exit charges that are due by the trust on the capital payments 1) to 3).** (9)
- 2) **Explain any Capital Gains Tax implications for the distributions of the land to the beneficiaries on them attaining the age of 25.** (4)
- 3) **Explain any amendment that the trustees could make to the timing of the distribution of land to the remaining beneficiaries to minimise tax.** (4)

Total (17)