Tolley® Exam Training

ATT PAPER 5

IHT, TRUSTS AND ESTATES

PRE REVISION QUESTION BANK

FA 2019

May and November 2020 Sittings

PQ765
ATT

Tolley® Tax intelligence from LexisNexis®

INTRODUCTION

This Pre Revision Question Bank for ATT Paper 5 contains 4 SFQ tests and 10 exam standard long questions (all with answers updated to FA 2019).

Format of the exam

All the ATT exams are **3¼ hours and** will have a mixture of computational and written questions with no question choice. The paper is split into 2 parts:

Part I consists of "short form" questions ("SFQs") worth between 2 and 4 marks each, which account for 40% of the paper. There will be between 10 and 20 such questions in a paper.

Part I is printed as a **question and answer booklet** with each short form question (SFQ) at the top on the left hand side of the page – the rest of that page and the whole of the next page will be lined paper for you to write your answer to that SFQ. This booklet will be **green.**

In Part II the remaining 60% of the paper will be between 3 and 5 **longer questions** carrying from 10 to 20 marks each, usually split into shorter subsections with marks allocated to each subsection.

The Part II questions will be printed separately and there will be a Part II answer booklet which will be **orange** with lined paper for you to write your answers in.

Pre exam reading time

The initial 15 minutes of the exam are pre examination reading time (PERT). During this time you are permitted to **read and annotate the questions for Part II only** and read the legislation**,** but you **may not write in the orange answer booklet for Part II** and you **may not read/annotate the green question and answer booklet for Part I.**

Calculators may be used during this 15 minute period. There will be an announcement at the end of the 15 minutes reading time after which you may start writing in the answer booklets.

During the 3 hour writing period we recommend you initially **allocate 1.7 minutes per mark** to allow time for a final review stage at the end of each question.

Using this question bank

You should attempt each question as if you were in the real exam. Try to **avoid just reading the answers** to questions - it is all too easy to nod as you read our answer saying "yes I know that point, yes I understand that advice given" - the test is would you have actually put those points in your answer? You won't find this out unless you **write the answers out** yourself.

Writing "proper" answers also gives you a good idea of how long an exam standard answer will take you to write.

Reviewing your answers

It is essential to read through your answer when you have finished writing it. We thought it might be useful at this stage to pass on some tips about how to review your answers effectively – before you look at our model answer.

Remember the first thing the marker will do is read your answer through as a whole – what overall impression are you giving of your ability? Have you put the marker in a good mood as soon as they see your script or are they going to be dreading marking what you have handed in? You want those red ticks to be flowing freely onto your page!

Key **presentation considerations** include using proformas, spacing your answer out, cross referencing your workings and using subheadings and short paragraphs in written answers.

You may be able to make some small corrections at this review stage – you may find you have missed out a vital word such as “not” or you may at this stage think of another point or two to add while reading your answer. This approach could increase your marks much more effectively than carrying on with the point you were making before you stopped to do this final review.

Reviewing the model answer

Review critically both your answer and the model answer. Are there points in the model answer which you could have included in your answer to get extra marks? Are there points you have included which, with the benefit of hindsight, you should have left out? You may have included valid points which are not included in the model answer.

LAW AND ETHICS

The ATT Paper 5 syllabus includes Law and Ethics and these topics can be tested either as part of a long question or as a short form question.

The required depth of knowledge is “Principles”, i.e. you will be expected to have an awareness that a principle exists and its main thrust.

To get you familiar with the type of questions that may be examined, elements of law and ethics may appear in some of the questions in this Pre Revision Question Bank and may also be tested in the Pre Revision and Revision mock exams. We have also included some short questions for Law and Ethics at the back of your Revision Question Bank. Attempting these questions is good preparation for your examinations.

Law:

The chapters from the ATT/CIOT Law text book “Essential Law for Tax Practitioners” (5th edition) that are included in the Paper 5 syllabus are:

Chapter 7	Criminal Law and Tort
Chapter 8	The Law of Property
Chapter 15	The Law of Gifts and Succession Law
Chapter 16	Trust Law
Chapter 17	Establishing and Managing a Trust

Ethics:

The chapters from the ATT/CIOT Ethics text book “Professional Responsibilities and Ethics for Tax Practitioners” (5th edition) that are included in the Paper 1-6 syllabuses are:

PRPG (2018)

Chapter 4	New clients and engagement letters
Chapter 5	Client service
Chapter 6	Objectivity (including conflicts of interest)
Chapter 7	Other client handling issues
Chapter 8	Charging for services
Chapter 9	Complaints
Chapter 10	Ceasing to act

PCRT (2019)

Chapter 19	The fundamental principles
Chapter 20	The standards for tax planning
Chapter 21	Help sheet A: Submission of tax information and 'tax filings'
Chapter 22	Help sheet B: Tax advice
Chapter 23	Help sheet C: Dealing with errors
Chapter 24	Help sheet D: Request for data by HMRC
Chapter 25	Help sheet E: Members’ personal tax affairs

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LONG QUESTIONS

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INCOME TAX

	2019/20
Rates (Note 1)	%
Starting rate for savings income only	0
Basic rate for non-savings and savings income only	20
Higher rate for non-savings and savings income only	40
Additional and trust rate for non-savings and savings income only	45
Dividend ordinary rate	7.5
Dividend upper rate	32.5
Dividend additional rate and trust rate for dividends	38.1

Thresholds	£
Savings income starting rate band	1 – 5,000
Basic rate band	1 – 37,500
Higher rate band	37,501 – 150,000
Dividend Allowance	2,000
Personal Savings Allowance	
- Taxpayer with basic rate income	1,000
- Taxpayer with higher rate income	500
- Taxpayer with additional rate income	Nil
Standard rate band for trusts	1,000

Scottish Tax Rates and Thresholds (Note 2)

£	%
1 – 2,049	19
2,050 – 12,444	20
12,445 – 30,930	21
30,931 – 150,000	41
150,000 +	46

Reliefs	£
Personal allowance (Note 3)	12,500
Married couple's allowance (Note 4)	8,915
– Maximum income before abatement of relief - £1 for £2	29,600
– Minimum allowance	3,450
Transferable tax allowance for married couples and civil partners (Note 5)	1,250
Blind person's allowance	2,450
Enterprise investment scheme relief limit (Relief at 30%) (Note 6)	1,000,000
Venture capital trust relief limit (Relief at 30%)	200,000
Seed enterprise investment scheme relief limit (Relief at 50%)	100,000
Social investment relief limit (Relief at 30%)	1,000,000

Notes
(1) Welsh taxpayers pay Welsh income tax on non-savings income from 6 April 2019. For 2019/20, Welsh taxpayers pay income tax using the same rates and thresholds as other UK (but not-Scottish) taxpayers.
(2) Scottish taxpayers pay Scottish income tax on non-savings income.
(3) The personal allowance of an individual with adjusted net income above £100,000 is reduced by £1 for every £2 of adjusted net income above the £100,000 limit.
(4) Only available where at least one partner was born before 6 April 1935. Relief restricted to 10%.
(5) The recipient must not be liable to tax above the basic rate. The recipient is eligible for a tax reduction of 20% of the transferred amount.
(6) The limit is £2 million, where over £1 million is invested in knowledge-intensive companies.

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ISA limits	**Maximum subscription**
	£
'Adult' ISAs	20,000
Junior ISAs	4,368

Pension contributions

Basic amount qualifying for tax relief £3,600

	Annual allowance (Note)	**Lifetime allowance**	**Minimum pension age**
	£	£	
2019/20	40,000	1,055,000	55

Note The annual allowance is tapered by £1 for every £2 of adjusted income above £150,000 for individuals with threshold income above £110,000. It cannot be reduced below £10,000.

ITEPA mileage rates

Vehicles		
Car or van (Note)	First 10,000 business miles	45p
	Additional business miles	25p
Motorcycles		24p
Bicycles		20p
Passenger payments		5p

Note For NIC purposes, a rate of 45p applies irrespective of mileage.

Company cars and fuel – 2019/20

Emissions	**Car benefit %** (Note)	
0 – 50g/km	16%	
51 – 75g/km	19%	
76 – 94g/km	22%	
95g/km or more	23%	+ 1% for every additional whole 5g/km above 95g/km
165g/km or more	37%	

Fuel benefit base figure £24,100

Note 4% supplement for diesel cars, excluding those that meet the Real Driving Emissions Step 2 (RDE2) standard.

Taxable benefits for vans – 2019/20	**£**
Van benefit – No CO_2 emissions	2,058
Van benefit – CO_2 emissions > 0g/km	3,430
Fuel benefit	655

Childcare

Employer supported childcare – basic rate taxpayer (Note) £55 per week

Note For schemes joined on or after 6 April 2011 the exempt childcare amounts for higher and additional rate taxpayers (based on the employer's earning assessment only) are £28 and £25 respectively.

2019/20 Official rate of interest 2.5%

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STUDENT AND POSTGRADUATE LOAN RECOVERY

Student Loans
Plan 1 (loan taken out pre 1.9.12 or at any time if taken out in Scotland)

Employee earnings threshold at which repayment begins is £1,577 per month.

Plan 2 (loan taken out in England and Wales on/after 1.9.12)

Employee earnings threshold at which repayment begins is £2,143 per month.

Rate of deductions is 9% of earnings above the threshold rounded down to the nearest whole pound.

Postgraduate Loans
Employee earnings threshold at which repayment begins is £1,750 per month.

Rate of deductions is 6% of earnings above the threshold rounded down to the nearest whole pound.

STATUTORY SICK PAY

		Weekly rate
Year to 5 April 2020		**£**
Average weekly gross earnings	£118.00 or more	94.25

STATUTORY MATERNITY PAY

Period	**First 6 weeks**	**Remaining weeks**
From 6 April 2019	90% average weekly earnings	Lower of 90% of weekly earnings & £148.68

QUALIFYING CARE RELIEF

	Flat rate	**Placement < 11**	**Placement ≥ 11**
Year to 5 April 2020	£10,000 per year	£200 per week	£250 per week

CHILD BENEFIT

Year to 5 April 2020

Rates	**Weekly rate**
First child	£20.70
Each subsequent child	£13.70

Child benefit charge	**Withdrawal rate**
Adjusted net income >£50,000	1% of benefit per £100 of income between £50,000 and £60,000
Adjusted net income >£60,000	Full child benefit amount assessable in that tax year

HARMONISED INTEREST REGIME – HMRC INTEREST RATES

Late payment	3.25%
Underpaid corporation tax instalments	1.75%
Repayment	0.5%

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NATIONAL INSURANCE CONTRIBUTIONS

Class 1 limits		**2019/20**	
	Annual	**Monthly**	**Weekly**
Lower earnings limit (LEL)	£6,136	£512	£118
Primary threshold (PT)	£8,632	£719	£166
Secondary threshold (ST)	£8,632	£719	£166
Upper earnings limit (UEL)	£50,000	£4,167	£962
Upper secondary threshold for U21 (UST) (Note 1)	£50,000	£4,167	£962
Apprentice upper secondary threshold for U25 (AUST) (Note 2)	£50,000	£4,167	£962

	2019/20
Employment allowance	
Per year, per employer	£3,000
Class 1 primary contribution rates	
Earnings between PT and UEL (Note 3)	12%
Earnings above UEL	2%
Class 1 secondary contribution rates	
Earnings above ST (Notes 1 & 2)	13.8%
Other contribution limits and rates	
Class 1A contributions	13.8%
Class 1B contributions	13.8%
Class 2 contributions	
Normal rate	£3.00 pw
Small profits threshold	£6,365 pa
Class 3 contributions	£15.00 pw
Class 4 contributions	
Annual lower profits limit (LPL)	£8,632
Annual upper profits limit (UPL)	£50,000
Percentage rate between LPL and UPL	9%
Percentage rate above UPL	2%

Notes (1) The rate of secondary NICs for employees under the age of 21 on earnings between the ST and UST is 0%.
(2) The rate of secondary NICs for apprentices under the age of 25 on earnings between the ST and AUST is 0%.
(3) The married women's reduced rate payable with a valid reduced rate election is 5.85%

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SIMPLIFICATION MEASURES

'Rent-a-room' limit	£7,500
Property allowance/Trading allowance	£1,000

FLAT RATE EXPENSES FOR UNINCORPORATED BUSINESSES

Motoring expenses	First 10,000 business miles		45p per mile
	Additional business mile		25p per mile
Business use of home	25 – 50 hours use		£10 per month
	51 – 100 hours use		£18 per month
	101+ hours use		£26 per month
Private use of business premises	No of persons living there:	1	£350 per month
		2	£500 per month
		3+	£650 per month

CASH BASIS

Turnover threshold to join scheme	£150,000
Turnover threshold to leave scheme	£300,000

CAPITAL ALLOWANCES

Annual investment allowance for plant and machinery (AIA) (Note 1)	100%
WDA on plant and machinery in main pool (Note 2)	18%
WDA on plant and machinery in special rate pool (Notes 3 & 4)	6%
WDA on structures and buildings allowance (SBA) (Note 5)	2%

Notes (1) 100% on the first £1,000,000 of investment in plant and machinery (except cars) from 1 January 2019 to 31 December 2020 (£200,000 prior to 31 December 2018 and from 1 January 2021).

(2) The main pool rate applies to cars with CO_2 emissions of not more than 110 g/km.

(3) The special pool rate applies to cars with CO_2 emissions greater than 110 g/km.

(4) The special pool rate was 8% prior to 6 April 2019 (1 April 2019 for companies).

(5) The SBA rate of 2% applies to expenditure from 29 October 2018 on new qualifying non-residential structures and buildings on a straight-line basis.

First year allowances available to all businesses

1) New energy-saving plant and machinery and water efficient plant and machinery (until April 2020).
2) Capital expenditure incurred by a person on research and development.
3) New zero-emission goods vehicles (until April 2021).
4) New cars registered before 31 March 2021 if the car either emits not more than 50 g/km of CO_2 or it is electrically propelled.
5) Electric vehicle charging points expenditure incurred from 23 November 2016 until April 2023.

CORPORATION TAX

Financial year	**2019**	**2018**
Patent box	10%	10%
Main rate	19%	19%

Research and development expenditure

SMEs (Note)	230%
Large companies - RDEC	12%

Note Small and medium sized enterprises (SMEs) must have < 500 employees and *either* turnover ≤ €100m or assets ≤ €86m.

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VALUE ADDED TAX

Standard rate	20%
VAT fraction	1/6

Limits	**From 1.4.19**
Annual registration limit	£85,000
De-registration limit	£83,000

Thresholds	**Cash accounting**	**Annual accounting**
Turnover threshold to join scheme	£1,350,000	£1,350,000
Turnover threshold to leave scheme	£1,600,000	£1,600,000

INHERITANCE TAX

Death rate	40% (Note)	**Lifetime rate**	20%

Note A lower rate of IHT of 36% applies where 10% of more of the deceased person's net chargeable estate is left to charity.

Nil rate bands

6 April 1996 – 5 April 1997	£200,000	6 April 2003 – 5 April 2004	£255,000
6 April 1997 – 5 April 1998	£215,000	6 April 2004 – 5 April 2005	£263,000
6 April 1998 – 5 April 1999	£223,000	6 April 2005 – 5 April 2006	£275,000
6 April 1999 – 5 April 2000	£231,000	6 April 2006 – 5 April 2007	£285,000
6 April 2000 – 5 April 2001	£234,000	6 April 2007 – 5 April 2008	£300,000
6 April 2001 – 5 April 2002	£242,000	6 April 2008 – 5 April 2009	£312,000
6 April 2002 – 5 April 2003	£250,000	6 April 2009 – 5 April 2021	£325,000

Residence nil rate bands (Note)

6 April 2017 – 5 April 2018	£100,000	6 April 2019 – 5 April 2020	£150,000
6 April 2018 – 5 April 2019	£125,000	6 April 2020 – 5 April 2021	£175,000

Note An additional nil rate band is available where a main residence is passed on death to a direct descendant. Tapered withdrawal for estates > £2 million.

Taper relief	
Death within 3 years of gift	Nil%
Between 3 and 4 years	20%
Between 4 and 5 years	40%
Between 5 and 6 years	60%
Between 6 and 7 years	80%

Quick succession relief	
Period between transfers less than one year	100%
Between 1 and 2 years	80%
Between 2 and 3 years	60%
Between 3 and 4 years	40%
Between 4 and 5 years	20%

Lifetime exemptions		
Annual exemption		£3,000
Small gifts		£250
Wedding gifts	– Child	£5,000
	– Grandchild or remoter issue or other party to marriage	£2,500
	– Other	£1,000

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CAPITAL GAINS TAX

	2019/20
Annual exempt amount	£12,000

CGT rates for individuals (Notes 1 & 2)

Gains qualifying for entrepreneurs' relief	10%
Gains falling within remaining basic rate band (Notes 3 & 4)	10%
Gains exceeding basic rate band (Note 5)	20%

CGT rates for trusts & individuals paying the remittance basis charge

Gains qualifying for entrepreneurs' relief/investors' relief	10%
Other gains (Note 5)	20%

CGT Rate for PRs

All gains (Note 5)	20%

Entrepreneurs' relief

Relevant gains (lifetime maximum)	£10 million

Notes
(1) For individuals, gains are taxed as if they are the top slice of income.
(2) Capital losses and the annual exempt amount may be offset in the most beneficial manner, ie against gains not qualifying for entrepreneurs' relief/investors' relief first.
(3) The remaining basic rate band is calculated as £37,500 (2019/20) less taxable income less any gains on which entrepreneurs' relief has been claimed. The remaining basic rate band can be allocated in the most beneficial manner.
(4) The rate is 18% if the gain is in respect of a residential property
(5) The rate is 28% if the gain is in respect of a residential property

Lease percentage table

Years	Percentage	Years	Percentage	Years	Percentage
50 or more	100.000	33	90.280	16	64.116
49	99.657	32	89.354	15	61.617
48	99.289	31	88.371	14	58.971
47	98.902	30	87.330	13	56.167
46	98.490	29	86.226	12	53.191
45	98.059	28	85.053	11	50.038
44	97.595	27	83.816	10	46.695
43	97.107	26	82.496	9	43.154
42	96.593	25	81.100	8	39.399
41	96.041	24	79.622	7	35.414
40	95.457	23	78.055	6	31.195
39	94.842	22	76.399	5	26.722
38	94.189	21	74.635	4	21.983
37	93.497	20	72.770	3	16.959
36	92.761	19	70.791	2	11.629
35	91.981	18	68.697	1	5.983
34	91.156	17	66.470	0	0.000

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Retail Prices Index

	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec
1982	–	–	79.44	81.04	81.62	81.85	81.88	81.90	81.85	82.26	82.66	82.51
1983	82.61	82.97	83.12	84.28	84.64	84.84	85.30	85.68	86.06	86.36	86.67	86.89
1984	86.84	87.20	87.48	88.64	88.97	89.20	89.10	89.94	90.11	90.67	90.95	90.87
1985	91.20	91.94	92.80	94.78	95.21	95.41	95.23	95.49	95.44	95.59	95.92	96.05
1986	96.25	96.60	96.73	97.67	97.85	97.79	97.52	97.82	98.30	98.45	99.29	99.62
1987	100.0	100.4	100.6	101.8	101.9	101.9	101.8	102.1	102.4	102.9	103.4	103.3
1988	103.3	103.7	104.1	105.8	106.2	106.6	106.7	107.9	108.4	109.5	110.0	110.3
1989	111.0	111.8	112.3	114.3	115.0	115.4	115.5	115.8	116.6	117.5	118.5	118.8
1990	119.5	120.2	121.4	125.1	126.2	126.7	126.8	128.1	129.3	130.3	130.0	129.9
1991	130.2	130.9	131.4	133.1	133.5	134.1	133.8	134.1	134.6	135.1	135.6	135.7
1992	135.6	136.3	136.7	138.8	139.3	139.3	138.8	138.9	139.4	139.9	139.7	139.2
1993	137.9	138.8	139.3	140.6	141.1	141.0	140.7	141.3	141.9	141.8	141.6	141.9
1994	141.3	142.1	142.5	144.2	144.7	144.7	144.0	144.7	145.0	145.2	145.3	146.0
1995	146.0	146.9	147.5	149.0	149.6	149.8	149.1	149.9	150.6	149.8	149.8	150.7
1996	150.2	150.9	151.5	152.6	152.9	153.0	152.4	153.1	153.8	153.8	153.9	154.4
1997	154.4	155.0	155.4	156.3	156.9	157.5	157.5	158.5	159.3	159.5	159.6	160.0
1998	159.5	160.3	160.8	162.6	163.5	163.4	163.0	163.7	164.4	164.5	164.4	164.4
1999	163.4	163.7	164.1	165.2	165.6	165.6	165.1	165.5	166.2	166.5	166.7	167.3
2000	166.6	167.5	168.4	170.1	170.7	171.1	170.5	170.5	171.7	171.6	172.1	172.2
2001	171.1	172.0	172.2	173.1	174.2	174.4	173.3	174.0	174.6	174.3	173.6	173.4
2002	173.3	173.8	174.5	175.7	176.2	176.2	175.9	176.4	177.6	177.9	178.2	178.5
2003	178.4	179.3	179.9	181.2	181.5	181.3	181.3	181.6	182.5	182.6	182.7	183.5
2004	183.1	183.8	184.6	185.7	186.5	186.8	186.8	187.4	188.1	188.6	189.0	189.9
2005	188.9	189.6	190.5	191.6	192.0	192.2	192.2	192.6	193.1	193.3	193.6	194.1
2006	193.4	194.2	195.0	196.5	197.7	198.5	198.5	199.2	200.1	200.4	201.1	202.7
2007	201.6	203.1	204.4	205.4	206.2	207.3	206.1	207.3	208.0	208.9	209.7	210.9
2008	209.8	211.4	212.1	214.0	215.1	216.8	216.5	217.2	218.4	217.7	216.0	212.9
2009	210.1	211.4	211.3	211.5	212.8	213.4	213.4	214.4	215.3	216.0	216.6	218.0
2010	217.9	219.2	220.7	222.8	223.6	224.1	223.6	224.5	225.3	225.8	226.8	228.4
2011	229.0	231.3	232.5	234.4	235.2	235.2	234.7	236.1	237.9	238.0	238.5	239.4
2012	238.0	239.9	240.8	242.5	242.4	241.8	242.1	243.0	244.2	245.6	245.6	246.8
2013	245.8	247.6	248.7	249.5	250.0	249.7	249.7	251.0	251.9	251.9	252.1	253.4
2014	252.6	254.2	254.8	255.7	255.9	256.3	256.0	257.0	257.6	257.7	257.1	257.5
2015	255.4	256.7	257.1	258.0	258.5	258.9	258.6	259.8	259.6	259.5	259.8	260.6
2016	258.8	260.0	261.1	261.4	262.1	263.1	263.4	264.4	264.9	264.8	265.5	267.1
2017	265.5	268.4	269.3	270.6	271.7	272.3	272.9	274.7	275.1	275.3	275.8	278.1

PAPER 5
SHORT FORM QUESTIONS
TEST “1” – NOVEMBER 2010
(40 MARKS)

1. **Explain the small gifts exemption.** (3)

2. Jim made a gift of his farmhouse and associated agricultural land to a family discretionary trust on 30 September 2019. He claimed agricultural property relief on the transfer of value.

   1) State the rules regarding the minimum period of occupation or ownership required for Jim to claim agricultural property relief. (2)

   2) Give two examples where the agricultural property relief will be withdrawn. (2)

   Total (4)

3. Susannah made a gift of £500,000 to her son, Ralph, in May 2018. On 6 June 2019 Ralph decided to use the money to buy a house and Susannah moved into the property straight away. She paid rent of £12,000 per annum to Ralph under a legal obligation. An independent valuation of the annual rental value was £22,500.

   Calculate the Income Tax payable by Susannah for 2019/20, assuming she is a higher rate taxpayer. (3)

4. Charles owned a set of three paintings with a total value of £750,000. In July 2019, he gave one of the paintings, valued at £200,000, to his wife, Camilla. Charles then gave the two remaining paintings to his son, William, in February 2020. The value of the two paintings in February 2020 was £450,000, with the combined value of all three paintings remaining at £750,000.

   1) Calculate the transfer of value made by Charles in respect of his gift to William. (2)

   2) State two parties, apart from a spouse/civil partner, whose assets are taken into account under the related property rules. (1)

   Total (3)

5. Special rules apply to trusts for vulnerable beneficiaries. Disabled persons are one type of beneficiary eligible for these special rules.

   1) Define the other qualifying type of vulnerable beneficiary. (1)

   2) Explain the Income Tax and Capital Gains Tax treatment of the income and gains of a trust for a vulnerable beneficiary. (2)

   Total (3)

6. A gift with reservation occurs where an individual disposes of any property by way of gift and that property is not enjoyed to the entire exclusion, or virtually to the entire exclusion, of the donor.

   HM Revenue & Customs has indicated what it considers to be acceptable limited access to property (virtual exclusion) which would not result in a gift with reservation.

   State four instances of virtual exclusion that HM Revenue & Customs consider may apply to the use of a house. (4)

7. Brian, a higher rate taxpayer, is the director and sole shareholder of his personal company, Carpets ‘N’ Things Ltd. On 31 May 2019, he transferred all 50 shares in Carpets ‘N’ Things Ltd into a discretionary trust for the benefit of his two adult sons. At the time of the transfer, the market value of the shares was £1,000,000. Brian originally paid £200 per share when he bought the company on 1 April 2005. The trustees paid Brian £400,000 for the shares.

   1) Calculate the Capital Gains Tax payable by Brian, assuming that he claims gift relief jointly with the trustees. (Ignore the annual exempt amount). (3)

   2) State the base cost of the shares for the trustees. (1)

   Total (4)

8. Alphabet Ltd is a close company with three participators, who own the following percentages of the company’s share capital:

Andrew	90%
Barney	6%
Charles	4%

   In August 2019, Alphabet Ltd made a transfer of value of £500,000 to a third party.

   1) Calculate the Inheritance Tax payable by Alphabet Ltd in respect of this transfer. (Ignore annual exemptions and the nil rate band). (1)

   2) Calculate the Inheritance Tax due by each of the participators should the company fail to pay this liability. (3)

   Total (4)

9. Most trusts set up after 22 March 2006 fall within the ‘relevant property regime’. One notable exception is a trust created after 22 March 2006 for the benefit of a disabled beneficiary.

   1) Explain how the transfer of assets into a disabled person’s trust is treated for Inheritance Tax purposes. (1)

   2) Explain the Inheritance Tax consequences of holding assets in a disabled person’s trust. (2)

   Total (3)

10. Quick succession relief is available to a deceased person's estate in certain circumstances.

    State two conditions that must be met in order to claim quick succession relief. (2)

11. You assist Mr Kean, a tax partner in your firm, with respect to the tax affairs of Mr and Mrs George and their adult son, Henry.

    Mr George died in March 2020 and Mrs George has just brought in documents relating to the tax year 2019/20, so that you can prepare the final Income Tax return for Mr George, as well as the Income Tax returns for her and Henry.

    On checking through the information provided, you discover that shares worth approximately £100,000 were transferred from Mr George to his son, Henry, in April 2019.

    Outline the Inheritance Tax reporting and payment obligations that arise as a result of the gift and Mr George's death. (3)

12. Mr Jones made the following lifetime gifts:

		MV
1.1.17	10,000 shares in Jones Ltd to a discretionary trust	£500,000
1.1.18	Painting to his son	£400,000

Jones Ltd is an unlisted trading company with no excepted assets. Mr Jones had owned these shares for many years.

The trustees sold the shares on 1 January 2019. Mr Jones died on 2 January 2020, survived by his wife.

Calculate the IHT payable as a result of Mr Jones's death. (4)

TEST "1" – NOVEMBER 2010
ANSWERS

1. The gift(s) by an individual to another individual must total £250 or less in a tax year.

   The "small gift(s)" can be made to as many different individuals as the transferor wishes.

   The small gift exemption cannot be used to exempt part of a larger transfer, therefore if the gift exceeds £250, the exemption is lost in respect of that gift.

2.
   1)

   The transferor (ie Jim) must have either:

   - Occupied the property for the purposes of agriculture throughout the two years before the transfer; or
   - Owned the property throughout the last seven years during which time it was occupied by either the transferor or someone else (eg a tenant) for the purposes of agriculture; or
   - If the current land replaced other agricultural land, the combined period of ownership must exceed two out of the last five years (or seven out of the last ten if the property is tenanted).

   2)

   Relief will be withdrawn if:

   - The trustees sell the property and do not replace it with other agricultural property within three years of the sale.
   - The trustees distribute the property to a beneficiary.
   - The trustees cease to use the property for agricultural purposes.

   [Only two examples are required]

3.

	£
Annual rental value (£22,500 x 10/12)	18,750
Less: Annual rental paid (£12,000 x 10/12)	(10,000)
Pre-owned asset charge	8,750
Income tax @ 40%	3,500

4\.

1)

Transfer of value calculation:

	£
Value of paintings owned by Charles before transfer	
= 2/3 x 750,000	500,000
Less: Value of paintings owned by Charles after transfer	<u>(Nil)</u>
Transfer of value by Charles	<u>500,000</u>

<u>Tutorial Note:</u>

Alternatively, the transfer could be valued by apportioning the combined value according to the separate holding values (and assuming a single painting was still valued at £200,000), ie:

	£
Value before transfer	
= 450,000/(450,000 + 200,000) x 750,000	519,231
Value after transfer	<u>(Nil)</u>
	<u>519,231</u>

2)

Any *two* from:

- Charities (including a trust for charitable purposes)
- Political parties
- Housing associations
- A body for National purposes.

5\.

1) The definition of a vulnerable beneficiary also includes a relevant minor, ie a child under the age of 18, at least one of whose parents is dead.

2) The trustees' Income Tax and Capital Gains Tax liability may be reduced to the amount of Income Tax and Capital Gains Tax which would have been paid by the vulnerable beneficiary if he or she had the income and gains taxed upon them personally. This allows the vulnerable beneficiary's personal allowance and annual exemption to be used (if available). A claim must be made by the trustees for this treatment to apply.

6. Examples of virtual exclusion include (any *four* of the following):

- A house which becomes the donee's residence but where the donor subsequently:
  - Stays, in the absence of the donee, for not more than two weeks each year, or
  - Stays with the donee for less than one month each year.
- Makes social visits, excluding overnight stays made by the donor as a guest of the donee, provided these are no more frequent than the visits the donor might expect to make to the donee's house in the absence of any gift by the donor.
- A temporary stay in a house that the donor had given away, for example:
  - If his own house was being redecorated
  - Whilst the donor convalesces after medical treatment
  - Whilst the donor looks after the donee after medical treatment.
- Visits to a house for domestic reasons, eg baby-sitting by the donor for the donee's children.
- A house together with library books which the donor visits fewer than five times in any year to consult or borrow a book.

7.

1) <u>CGT payable</u>

	£
Disposal proceeds (market value)	1,000,000
Less: Original cost of shares	(10,000)
Gain	990,000
Less: Gift relief claimed (balance)	(600,000)
Chargeable (W)	390,000

<u>Working</u>

Amount received from trustees	400,000
Less: Original cost of shares	(10,000)
Chargeable gain (ie actual profit)	390,000
Capital Gains Tax payable at 20% (ignoring the AEA)	78,000

2) <u>Base cost</u>

Market value at date of gift	1,000,000
Less: Gift relief claimed by Brian	(600,000)
Base cost for trustees	400,000

8.

1) Alphabet Ltd

		£
Net transfer		500,000
Grossed up transfer	500,000 x 100/80	625,000
IHT payable	625,000 @ 20%	125,000
(or 500,000 x 20/80 = 125,000)		

2) IHT from participators

		£
Andrew	90% x 625,000 x 20% (or 90% x 125,000)	112,500
Barney	6% x 625,000 x 20% (or 6% x 125,000)	7,500
Charles	No liability for shareholder of 5% or less	

9.

1) The transfer of assets into a disabled person's trust is specifically treated as a potentially exempt transfer (PET), which means that the transfer is exempt from Inheritance Tax provided that the transferor survives for seven years after making the transfer.

2) When the disabled beneficiary dies, the assets held in the trust are treated as part of their estate as they are deemed to have a qualifying interest in possession in the trust and may be liable for Inheritance Tax.

As the fund is not relevant property, there are no ten yearly charges or exit charges when assets are transferred out of the trust to the disabled beneficiary.

10. There must be:

- An earlier chargeable transfer on which tax was payable that increased the value of the deceased's estate;
- Within five years of the death.

(The earlier chargeable transfer can be on death, a lifetime transfer chargeable when made, a failed PET or of settled property whether held on IIP or DT).

11. The responsibility for tax arising on a PET that becomes chargeable as a result of death rests with the recipient of the gift, although the personal representatives will become liable if the tax remains unpaid for more than twelve months from the date of death.

    A return (form IHT 100) should be submitted by Henry, as the recipient of a PET that has become chargeable. Details of the gift should also be included in the form IHT 400 submitted by the personal representatives, as it is relevant to the calculation of the tax liability arising on the death estate.

    Both returns must be submitted within 12 months of Mr George’s death, but interest will be charged on the tax outstanding if it is not paid within six months of the death.

    Tutorial Note:

    All relevant comments would be given credit. For example, candidates may have commented that if the IHT 400 contained full details of the chargeable PET, there would be no obligation for Henry to make the IHT 100 return.

    Candidates may also have commented there was no IHT due on the PET if it was assumed it could have been covered by the nil rate band.

12.

i) Lifetime tax on CLT 1.1.17:

	£
Gift	500,000
Less: BPR @ 100%	(500,000)
Chargeable	Nil

No lifetime tax.

ii) Death tax on CLT:

	£
Original CLT	Nil
Add: BPR withdrawn as shares sold by donee	500,000
	500,000
Less: 2 x AEs (2016/17 and 2015/16)	(6,000)
	494,000
Less: Nil rate band 2019/20	(325,000)
Taxable	169,000
IHT @ 40%	67,600
Less: Taper relief (3 – 4 = 20%)	(13,520)
Tax due	54,080

iii) Death tax on PET:

	£	£
Gift 1.1.18		400,000
Less: AE (2017/18 only)		(3,000)
		397,000
Less: Nil rate band 2019/20	325,000	
Less: Transfers in previous 7 years (N)	(Nil)	
		(325,000)
Taxable		72,000
IHT @ 40%		28,800

Note: Original CLT (ie £Nil) remains on "clock" for cumulation purposes.

PAPER 5
SHORT FORM QUESTIONS
TEST "2" – MAY 2011
(40 MARKS)

1. **Define a transfer of value.** (2)

2. Gary made a gift of £444,000 to his son, Todd, on 31 March 2015.

   Gary died on 2 January 2020.

   Calculate the Inheritance Tax payable by Todd in respect of the gift made by his father. (Ignore the annual exemption). (2)

3. Certain transactions are treated differently for tax purposes by the 'connected persons' rule. A person is connected with an individual if they are a spouse, civil partner or relative of that individual.

   1) Give two other examples of a person who is treated as a connected person for Capital Gains Tax purposes. (2)

   2) Explain the Capital Gains Tax consequences of transfers between connected persons. (2)

   Total (4)

4. **Explain the Inheritance Tax, Capital Gains Tax and Income Tax implications of a bare trust for the beneficiary.** (3)

5. Claude, who was UK resident but non-UK domiciled for Inheritance Tax purposes, died on 30 September 2019 leaving his entire estate to his daughter, Jean, valued as follows:

	£
UK main residence	430,000
Portfolio of UK authorised unit trusts	120,000
UK bank account	45,000

   Claude had also made a chargeable transfer of £110,000 to Jean on 2 August 2016, which was his only previous lifetime gift.

   Calculate the Inheritance Tax due on Claude's death estate. (Ignore the annual exemption). (3)

6. **Following on from Question 5, state the form(s) required by HM Revenue & Customs from Claude's personal representatives, the due date for the Inheritance Tax to be paid and the consequences if the Inheritance Tax is paid late.** (3)

7. Barry owns 51% of the shares in a quoted trading company, Geronimo plc. The shares are currently valued at £9.8 million and he has decided to gift them to a discretionary trust for his children. The total value of the company is £20 million which includes a residential property worth £1.8 million which is let for a non-business purpose.

   Barry's previous lifetime gifts have utilised his full nil rate band and annual exemptions.

   Calculate the Inheritance Tax payable by Barry in respect of this transfer. (3)

8. Harold died on 3 December 2019 owning 800 shares in Widget plc. The Stock Exchange's Daily List of prices at the date of Harold's death showed the following:

   1) Spread of prices quoted: 112p–130p

   2) List of bargains: 114p, 116p, 120p, 121p, 125p, 127p, 129p

   Calculate the value of Harold's holding in Widget plc at his date of death. (3)

9. Fred made a gift of his property to his son Ralph on 22 April 2019 when it was worth £570,000, however Fred continued to live in the property rent free. Fred has made no previous lifetime transfers, other than to use his annual exemption each year.

   Explain the Inheritance Tax implications of the gift made by Fred. (3)

10. **Following on from Question 9, explain how the situation would differ if Fred made a gift of money to Ralph, which Ralph uses five years later to purchase a property for Fred to live in rent free.** (2)

11. Doris made a gift of £35,000 to her son, Jimmy, on 30 May 2019 on the occasion of his marriage. Doris then made a further gift of £50,000 to her husband, Boris, on 4 July 2019. The only other gifts made by Doris during 2019/20 were birthday and Christmas presents of £100 each to her grandchildren. Both Doris and Boris are UK domiciled individuals.

    State the exemptions available to Doris in respect of these lifetime gifts. (3)

12. Land and buildings of historic or architectural interest may be eligible for conditional exemption.

    Explain the Inheritance Tax treatment of conditionally exempt assets. (2)

Use the following information to answer Questions 13 and 14.

Steve Davis died on 30 September 2019. His personal representatives received the following income during 2019/20:

	£
Interest from an ISA	500
Treasury stock interest	5,500
UK rental income	4,000
Dividends	2,700

The personal representatives also incurred administrative expenses of £450 in relation to the income of the estate.

The entire estate was left to Steve’s daughter, Laura.

13. **Show the Income Tax position of the personal representatives.** (3)

14. **Calculate the net taxable income due to Laura and show the entries needed on the tax deduction certificate given to her by the personal representatives.** (4)

TEST "2" – MAY 2011
ANSWERS

1. A transfer of value is a disposition made by a person, the transferor, as a result of which the value of his estate immediately after the disposition is less than it would be but for the disposition; and the amount by which it is less is the value transferred by the transfer, otherwise known as the loss to the donor.

2.

	£
Gift	444,000
Less: Nil band	(325,000)
Taxable	119,000
IHT @ 40%	47,600
Less: Taper relief (4 – 5 years = 40%)	(19,040)
Tax due	28,560

3.

1) Any two of:

   i) The trustee of a settlement is connected with the settlor (if an individual) and with any person connected with the settlor.

   ii) A person is connected with any person with whom he is in partnership, and with any person connected with the partner.

   iii) Companies under the same control are connected with each other and with the persons controlling them.

   iv) The spouse of a relative of the individual is connected with the individual.

   v) A relative of the spouse of the individual is connected with the individual.

2)

   i) Where there is a transaction between connected persons, the disposal proceeds are deemed to be the market value.

   ii) Losses on disposals to a connected person can only be set against gains on disposals to the same connected person.

4. The beneficiary of a bare trust is absolutely entitled to the trust assets and any income arising from them. Therefore:

   1) The value of the trust assets will be included in the beneficiary's free estate for inheritance tax purposes,

   2) Lifetime transfers of trust assets by the bare trustees will be treated as transfers by the beneficiary for inheritance tax purposes,

   3) The income arising from the trust assets will be taxable upon the beneficiary at their rates of tax,

   4) The capital gains arising from disposals of trust assets will be taxable upon the beneficiary, after accounting for any unused annual exempt amount, and at a rate of either 10% or 20% depending on their level of income (18% or 28% if the asset is residential property).

5.

	£	£
UK main residence		430,000
Portfolio of UK unit trusts (Note)		Nil
UK bank account		45,000
Death estate		475,000
Less: Residence nil rate band		(150,000)
Nil band	325,000	
Less: Chargeable transfers in previous 7 years	(110,000)	
		(215,000)
Taxable		110,000
IHT @ 40%		44,000

Note:

Qualifies as excluded property for non-UK domiciled individual under s.6(1A) IHTA.

6. Claude’s personal representatives will need to complete and submit a form IHT 400 providing full details of the death estate, together with the supplementary pages (form IHT 403) confirming the details of the gift made by Claude in the seven years prior to his date of death.

Inheritance tax arising on the death estate is due to be paid by 31 March 2020, ie six months after the end of the month of death. However, inheritance tax due in respect of the value of Claude’s main residence may be paid by ten equal annual instalments, the first instalment being due on 31 March 2020.

Interest will arise on any outstanding inheritance tax due at 31 March 2020, even where it is being paid under the instalments option.

7.

	£	£
Gift of Geronimo Ltd shares		9,800,000
BPR @ 50%	4,900,000	
Less: Excepted assets restriction		
£4,900,000 x (1,800,000/20,000,000)	(441,000)	
		(4,459,000)
		5,341,000
IHT @ 20/80		1,335,250

8. The valuation of the shares for inheritance tax purposes is the lower of:

The quarter up rule

(130 – 112)/4 + 112 = 4.5 + 112 = 116.5p per share
116.5p x 800 = £932

The mid bargain method

(129 + 114)/2 = 121.5p per share
121.5 x 800 = £972

In this case, the value of Harold’s shares will be the lower value, ie £932.

9. The gift of the property to Ralph is a potentially exempt transfer and he will become liable to inheritance tax on the value transferred, less any available inheritance tax nil rate band, if Fred dies within seven years of making the gift.

   However, the gift is treated as a gift with reservation of benefit so Fred is also treated as continuing to own the property, the value of which will be included in his death estate at the value at the date of his death.

   This could result in a ‘double charge’ to inheritance tax, of which HMRC will only tax the gift which will produce the highest inheritance tax liability.

10. Where Fred makes a gift of money which is separate to any subsequent purchase of a property in which he will live, he will not fall foul of the gift with reservation of benefit rules.

    Instead he will come within the pre-owned asset tax regime. Fred will therefore be liable to income tax on the annual value of the property.

11.

	£
Gift to Jimmy (30 May 2019)	35,000
Less: Marriage exemption	(5,000)
Less: AEs x 2	(6,000)
PET	24,000
Gift to Boris (4 July 2019)	50,000
Less: Spouse exemption	(50,000)
	Nil

The gifts to the grandchildren are covered by the small gifts exemption as they are below £250 each.

12.

1) A chargeable transfer of qualifying national Heritage Property is conditionally exempt from inheritance tax if undertakings given to the Treasury are observed.

2) The undertakings may include preserving the property and allowing reasonable public access to it.

3) A sale of the property, or a transfer of it without the undertaking being renewed will normally lead to a loss of the exemption so inheritance tax will become payable.

13. Personal representatives tax position – 2019/20

	Non-savings	Interest	Dividends
	£	£	£
Interest from ISA (Note)		Nil	
Treasury Stock interest		5,500	
UK rental income	4,000		
Dividends			2,700
	4,000	5,500	2,700
Tax @ 20% / 7.5%	800	1,100	202
Tax due	£2,102		

No relief for the expenses of administration (£450).

Note. The tax-free status of the ISA continues at death, so interest is tax-free (for a maximum of three years).

14. Net taxable income due to Laura

	Non-savings	Interest	Dividends
	£	£	£
Gross income	4,000	5,500	2,700
Less: tax	(800)	(1,100)	(202)
Net income	3,200	4,400	2,498
Less: expenses			(450)
Net distributable income	3,200	4,400	2,048

R185 tax deduction certificate:	Net	Tax
	£	£
Non-savings income	3,200	800
Interest	4,400	1,100
Dividends	2,048	166

PAPER 5
SHORT FORM QUESTIONS
TEST “3” – NOVEMBER 2011
(40 MARKS)

1. On 1 March 2020, Beverley created an interest in possession trust for the benefit of her godson, Angus, by transferring £500,000 to the trustees. Beverley made a previous chargeable lifetime transfer of £45,000 in 2017.

   1) Calculate the IHT payable by Beverley (ignoring annual exemptions). (2)

   2) Briefly state Angus’ Inheritance Tax position when he dies. (1)

   Total (3)

2. The Elizabeth Trust is a discretionary trust which holds shares in XYZ Ltd. The share price recently went up to £7.50 and so the trustees sold 300 of their shares in XYZ Ltd at that price on 31 January 2020. The trustees acquired their XYZ Ltd shares on the following dates:

Date	No. of shares	Price per share
		£
1 September 2018	150	4.50
1 September 2019	250	5.20

   You are required to calculate the trustees’ Capital Gains Tax liability (ignoring the annual exempt amount). (3)

You should use the following information to answer both questions 3 and 4.

Adrian died on 28 December 2019. His estate was valued at £500,000. Adrian’s Will stated that a legacy of £50,000 should be paid to each of his 3 adult children and that the residue of his estate should pass to his widow, who is UK domiciled.

The family have instructed Adrian’s solicitor to prepare a deed of variation to alter Adrian’s Will as follows:

Original legacy: The residue of my estate to my wife

Revised legacy: The residue of my estate to a discretionary trust for the benefit of my wife, children and future grandchildren.

Adrian’s eldest son, Colin, is extremely wealthy in his own right and wishes to disclaim his entitlement under his father’s Will.

3. **Explain the Inheritance Tax consequences of making the proposed deed of variation, and state the time limit for the deed of variation to be executed.** (3)

4. **Explain the Inheritance Tax consequences of Colin making a deed of disclaimer, and state the time limit in which the disclaimer must be made.** (3)

5. The estate of Pauline Smith, who died on 15 December 2019, contained an antique portrait that was valued for probate at £2,000. The personal representatives sold the portrait on 20 January 2020 for £9,000, although they incurred selling costs of £500.

   Calculate the Capital Gains Tax payable by the personal representatives, ignoring the annual exempt amount. (3)

6. The Ferguson Discretionary Trust was created on 2 September 2015 by John Ferguson, who had made chargeable transfers in the previous seven years totalling £350,000. The value of the trust at creation was £275,000. The trustees made a capital distribution of £50,000 on 14 November 2019.

   Calculate, showing all your workings, the Inheritance Tax payable by the trustees of the Ferguson Discretionary Trust as a result of the capital distribution. (4)

7. **Explain Capital Gains Tax hold over relief in relation to non business assets both added to and distributed from trusts, including settlor-interested trusts.** **(**4)

8. The trustees of the Leodis Discretionary Trust wish to distribute their holding of 4,000 Plummet Ltd shares to a beneficiary. The trustees acquired the shares in May 2014 for £25 per share and the market value at the date of transfer is £12 per share.

   1) Calculate the capital loss arising on the transfer. (1)

   2) Briefly explain how this loss is treated. (3)

   Total (4)

9. The trustees of a settlement hold 7% Treasury stock on which interest is payable half yearly on 1 June and 1 December. They sold £21,000 of this stock on 1 November 2019. The stock went ex dividend on 25 November 2019.

   1) Calculate the accrued income chargeable on the trustees. (3)

   2) State when the accrued income scheme does not apply. (1)

   Total (4)

10. **Briefly explain the difference between residence and domicile. (You are not required to explain the different types of domicile).** (2)

11. Emma died in March 2020, leaving an estate valued at £625,000. She was UK domiciled. Her estate included the family home in the UK, worth £425,000, and a house in Turkey worth £120,000. Turkish death duties of £30,000 were payable.

    Emma made a gift to her son of £100,000 in 2016. She left her estate to her son, as her husband was independently wealthy.

    Show the IHT due on Emma's estate, after all reliefs. (3)

12. Earl Grey died in February 2020 leaving his estate to his son Charles. The estate included a John Constable painting valued at £10m. Earl Grey’s Executors made a claim under s.31 IHTA 1984 for the painting to be designated as Heritage Property, and the IHT on the painting was duly deferred.

    Briefly explain the situations in which a ‘recapture charge’ on the painting could arise. (4)

TEST "3" – NOVEMBER 2011
ANSWERS

1.

1) As this is an interest in possession trust created after 22 March 2006, it falls within the relevant property regime for Inheritance Tax purposes and therefore the transfer by Beverley is a chargeable lifetime transfer.

	£	£
Amount transferred		500,000
Nil band	325,000	
Less: Transfers in previous 7 years	(45,000)	
		(280,000)
		220,000
IHT @ 20/80		55,000

2) The trust is a relevant property trust for Inheritance Tax purposes, so the assets are not included in Angus' estate on his death.

2.

	No	Cost £	£
Sale proceeds 300 x £7.50			2,250
S.104 holding:			
1.9.18	150	675	
1.9.19	250	1,300	
	400	1,975	
Sale 31.1.20	(300)	(1,481)	
C/fwd	100	494	
			(1,481)
Chargeable gain			769
CGT @ 20%			154

3. The effect of the deed of variation is that the changes are 'read back' into the Will, ie the changes are effective from the date of death and are treated as being made by Adrian, providing the deed contains a statement that the provisions of s.142 IHTA 1984 are to apply, and it is made within two years of the date of death, ie on or before 28 December 2021.

If the residue of Adrian's estate no longer passes to his widow, then the spouse exemption will be lost and therefore inheritance tax will become payable.

4. A deed of disclaimer is used to decline a legacy under a Will (or intestacy), with the original recipient 'stepping aside' so the legacy then passes to the next recipient under the Will (or intestacy). A disclaimer made by Colin would have a retrospective effect and would be 'read back' to the Will providing it contains a statement that the provisions of s.142 IHTA 1984 are to apply, it is made within two years of the date of death, ie on or before 28 December 2021 and Colin has not benefitted from the property subject to the disclaimer.

In this case, Colin is not treated as making a transfer of value. Colin's legacy would pass with the residue of the estate.

5.

	£
Sale proceeds	9,000
Less: Costs of sale	(500)
Less: Base cost (probate value)	(2,000)
Gain	6,500
Restrict to: 5/3 x (9,000 – 6,000)	5,000
Tax lower gain	5,000
CGT @ 20%	1,000

6.

	£	£
Value of the trust at creation		275,000
Nil rate band	325,000	
Less: Settlor’s previous CLTs	(350,000)	
		Nil
		275,000
IHT at 20%		55,000
Rate: 55,000/275,000 x 30% x 16/40		2.4%
Trustees pay tax so gross up rate: 2.4/(100 – 2.4) x 100		2.459%
Exit charge: 50,000 x 2.459%		1,230

7. S.260 TCGA gives hold over relief for gifts on which inheritance tax is chargeable, ie additions to and distributions from relevant property trusts.

To qualify, the transferee must be resident in the UK.

Hold over relief must be jointly claimed by the transferor and transferee on a distribution from a trust but, on an addition, only the transferor must sign. Relief is not due if the gift is a potentially exempt transfer for IHT purposes.

Hold over relief defers the chargeable gain on the disposal until such time as the asset is disposed of by the transferee. This is achieved by the donee taking on the asset at the donor’s base cost.

For hold over relief purposes, a settlement is ‘settlor interested’ if the settlor, their spouse, or their minor children can benefit from the settlement. Hold over relief is not available on additions to a settlor interested settlement. However, hold over relief is available on distributions *from* a settlor interested settlement.

8.

1)

	£
4,000 x £12	48,000
4,000 x £25	(100,000)
	(52,000)

2) When a beneficiary becomes absolutely entitled to settled property as against the trustees, any 'allowable loss' is transferred to the beneficiary. An allowable loss is the loss after deducting any trustees' current year gains up to and including the date of disposal. The allowable loss can only be set against gains arising on the subsequent disposal of the same asset by the beneficiary.

9. Annual interest: 21,000 x 7% = £1,470 x ½ = £735.

Months accruing from 1 June 2019 – 1 November 2019 = 5 months.

Accrued income charge: 735 x 5/6 = £612.

The accrued income scheme does not apply where the nominal value of the securities held by an individual is less than £5,000.

(Alternative answer – The accrued income scheme does not apply when securities are transferred to the personal representatives at the date of death).

10. Residence is where a person actually lives.

Domicile is the country with which someone has the most lasting connection and affiliation, whether they currently live there or not.

11.

	£	£
Emma's estate:		625,000
Residence nil rate band		(150,000)
Less: Lifetime transfer	325,000	
(100,000 – 2 x AEs)	(94,000)	
Nil band remaining		(231,000)
Taxable		244,000
IHT @ 40%		97,600
Estate rate:		
97,600/625,000 x 100 = 15.616%		
Less: DTR – Lower of		
(i) UK IHT on house at estate rate 15.616% x £120,000	18,739	
(ii) Overseas tax	30,000	
		(18,739)
IHT payable		78,861

12. A charge to IHT (a ‘recapture charge’) will arise on any of the following events:

    1) A failure by Charles to observe an undertaking to allow public access to the painting; or

    2) The death of Charles without new undertakings being given by the person to whom the property is transferred; or

    3) A gift of the property without new undertakings being given by the person to whom the property is transferred; or

    4) A sale of the property (except a sale to a museum or similar body).

PAPER 5
SHORT FORM QUESTIONS
TEST "4" – MAY 2013
(40 MARKS)

1. **Explain the Inheritance Tax consequences for the donor in the following circumstances:**

   1) Making a Potentially Exempt Transfer. (1)

   2) Dying within seven years of making a Potentially Exempt Transfer. (2)

   Total (3)

2. Robbie died on 19 April 2019. He made his only chargeable lifetime transfer on 25 March 2013 when he gifted £620,000 into a trust and paid the Inheritance Tax due at that time of £72,250.

   Calculate any additional Inheritance Tax due on this transfer as a result of Robbie's death. (3)

3.
   1) Explain the difference between the concepts of residence and domicile. (2)

   2) What effect does an individual's domicile status have on their liability to UK Inheritance Tax? (1)

   Total (3)

4. **Explain when a body of trustees will be treated as UK resident for Income Tax purposes.** (2)

5. The Barlow Family Accumulation & Maintenance Trust was established on 10 December 1999 with cash of £200,000. The settlor's only previous chargeable transfer had been £95,000 to a discretionary trust in June 1997. The trust became a relevant property trust on 6 April 2008.

   On 1 June 2017, the Trustees distributed £25,000 to a beneficiary. This gave rise to an IHT exit charge. The beneficiary paid the tax on the exit.

   On 10 December 2019 the trust assets consisted of cash of £130,000 and a quoted share portfolio worth £320,000.

   Calculate the Inheritance Tax payable by the trustees in respect of the 10 year charge in December 2019. (4)

6.
   1) Explain when and why the related property rules apply. (2)

   2) Briefly explain how they affect the valuation of gifts for Inheritance Tax Purposes. (1)

   Total (3)

7. Elliott gifted £400,000 cash to a discretionary settlement on 25 November 2019.

   1) State the deadline for submission of the necessary Inheritance Tax return to HM Revenue & Customs.

   2) State the due date for the Inheritance Tax payable. (2)

8. Anthony owned 70,000 shares in Spirit Ltd. On 21 October 2019 Anthony gifted 30,000 of his shares to his daughter Lola.

   Prior to the gift the share ownership was:

Anthony	70,000
Anthony's son	30,000
Total shares in issue	100,000

   Values of shares are as follows:

   100% holding £3.50 per share
   70% holding £3.25 per share
   40% holding £2.50 per share
   30% holding £2.00 per share

   Calculate the value of the gift made by Anthony for Inheritance Tax purposes. (2)

9. **State the penalties which could be payable in respect of an Inheritance Tax return if it is found to contain a deliberate error.** (4)

10. On 10 March 2020 Patrick transferred 2,000 shares in Piggybank plc to a new discretionary trust. The market value of the shares at that time was £180,000. He had bought 1,250 Piggybank plc shares on 5 April 2001 for £70,000 and a further 1,750 shares on 20 October 2017 for £170,000.

    1) Calculate the capital gain arising on the transfer of the shares into the trust. (2)

    2) Explain the treatment of any capital loss arising on a subsequent transfer of the shares to a beneficiary. (2)

    Total (4)

11. **Explain when Inheritance Tax exit charges do and do not apply to distributions from a discretionary trust.** (4)

12. Rachel gifted some unquoted shares to her son. The shares qualified for Business Property Relief at that time. Rachel died within seven years of making the gift.

    Explain why Business Property Relief may not be available in full when calculating the Inheritance Tax payable upon Rachel's death. (3)

13. A trust is only valid if it has been created with three certainties.

    State and explain these three certainties. (3)

TEST "4" – MAY 2013
ANSWERS

Tutorial Note:

When this test was set the ATT published marking guides with their model answers and so the marks have been included here. Please note that the other SFQ tests and the first 7 long questions in this bank were set before the ATT agreed to publish their marking guides.

1. At the time of the gift, it is treated as exempt so there is no Inheritance Tax to pay *[½]*. However, annual exemptions are still allocated, as appropriate, at the time of the gift *[½]*.

   The gift only becomes chargeable to Inheritance Tax if the donor dies within seven years of making the gift *[½]*. The donor's nil rate band is allocated in chronological order to all the chargeable gifts made in the seven years prior to death *[½]*. The value of the gift at the time it was made is used in the calculations *[½]*. Inheritance Tax at 40% *[½]* is only payable if the value of the failed PET exceeds the available nil rate band, having considered earlier lifetime transfers chargeable at the donor's death *[½]*. Taper relief reduces the tax payable based on the length of time between gift and death.

   The failed potentially exempt transfer (along with any other chargeable lifetime transfers) will therefore affect how much of the nil rate band (if any) is available to set against the value of the death estate. *[½]*

[Credit given for any other valid points]

Max 3

2.

	£	£	
Chargeable lifetime transfer (620,000 – 6,000)		614,000	
Inheritance tax paid		72,250	*[½]*
Total loss to the donor's estate		686,250	
Less: Nil rate band	325,000		
Less: Previous CLTs	(0)		*[½]*
Nil rate band remaining		(325,000)	
		361,250	
Inheritance tax at 40%		144,500	*[½]*
Taper relief (6–7 years) 80%		(115,600)	*[½]*
		28,900	
Lifetime tax paid (restricted)		(28,900)	*[½]*
		Nil	

No further IHT is payable as a result of Robbie's death. The balance of the lifetime tax cannot be reclaimed *[½]*.

Total 3

3.

1) Residence is where a person actually lives and can relate to more than one country at the same time. *[1]*

Domicile is the one country with which someone has the most lasting connection and affiliation whether they currently live there or not. *[1]*

2) An individual who is UK domiciled or deemed domiciled is liable to UK inheritance tax on their worldwide assets. *[½]*

An individual who is not UK domiciled is only liable to UK inheritance tax on assets situated in the UK. *[½]*

Total 3

4. A body of trustees will be treated as UK resident when:

- All trustees are UK resident; *[1]*
- At least one trustee is resident in the UK and the settlor was resident or domiciled in the UK when he made the settlement. *[1]*

Total 2

5.

	£	£	
Value of trust fund			
Cash	130,000		
Shares	320,000		
		450,000	*[½]*
Less: Nil rate band at exit	325,000		*[½]*
Less: CTs in 7 years before trust created	(95,000)		*[½]*
Less: Trust distributions in last 10 years	(25,000)		*[½]*
		(205,000)	
		245,000	
Inheritance tax @ 20%		49,000	*[½]*
Effective tax rate (49,000/450,000)		10.889%	*[½]*
Actual rate:			
10.889% x 30%		3.267%	*[½]*
Tax payable 3.267% x 450,000		14,702	*[½]*

Total 4

6.

1) Property is related to property in a person's estate when:

- It is in the estate of that person's spouse or civil partner. *[½]*

- Within the previous five years, the property has been owned by a charity (or other similar body to which exempt transfers can be made) having been donated by either the donor or their spouse/civil partner *[1]*

The related property rules prevent the reduction in the value of property for inheritance tax purposes by the fragmentation of ownership. *[½]*

2) To value the asset when the related property rules apply, take the appropriate portion of the total value of all the related property. *[½]*

Only use this method of valuation if it results in a higher valuation than using the normal valuation method. *[½]*

Total 3

7. The deadline for submission of the return is within twelve months of the end of the month of transfer, ie 30 November 2020. *[1]*

The due date of payment is six months after the end of the month of the transfer, ie 31 May 2020. *[1]*

Total 2

8.

		£	
Value before transfer:	70,000 x £3.25	227,500	*[1]*
Value after transfer:	40,000 x £2.50	(100,000)	*[1]*
Transfer of value		127,500	

Total 2

9. Error in return due to deliberate conduct, but not concealed 70% penalty of potential lost revenue. *[1]*

The penalty can be reduced to 20% for unprompted disclosure or 35% for prompted disclosure. *[1]*

Deliberate understatement with concealment 100% penalty of lost revenue. *[1]*

The penalty can be reduced to 30% for unprompted disclosure or 50% for prompted disclosure. *[1]*

Total 4

10. 1) Gain

	£		
Market value	180,000		*[½]*
Cost (see working)	(160,000)		*[½]*
Gain	20,000		

Working:

		£	
April 2001	1,250	70,000	
October 2017	1,750	170,000	
	3,000	240,000	*[1]*
Disposal	(2,000)	(160,000)	
Balance c/f	1,000	80,000	

2) Treatment of capital loss

Firstly the loss is set against any trustees' current year gains on disposals made before the appointment (known as pre-entitlement gains). *[½]*

The loss is offset in priority to other losses available to the trustees. *[½]*

Thereafter, any excess loss may be passed out to the beneficiary. *[½]*

The beneficiary can only set the loss against any future gain arising when disposing of those shares. *[½]*

Total 4

11. An exit charge usually arises when capital leaves the trust *[½],* eg absolute distribution of capital to a beneficiary. *[½]*

An exit charge does not arise when trustees make income distributions *[½]* or use capital to pay capital costs. *[½]*

An exit charge does not arise when capital leaves the trust within a quarter (ie three months) of the trust being set up *[½]* or a ten year anniversary. *[½]*

An exit charge does not arise when capital is distributed from a Will trust to a beneficiary within two years following the death on which the trust was created. (This is sometimes referred to as a s.144 appointment). *[1]*

[Credit will be given for other correct answers]

Total 4

12. Her son may no longer own the shares and has not replaced them with other qualifying property. *[1]* Only proportionate relief would be available where some of the shares had been sold and some retained. *[1]*

The shares may no longer qualify for BPR. For example, the shares might have become quoted on a recognised stock exchange. *[1]*

There may be a binding contract for the sale of the shares at the date of death. *[1]*

Max 3

13. Certainty of intention – The words used by the settlor must clearly indicate that the property be held on trust and show that a trust was intended. *[1]*

    Certainty of subject matter – The subject matter (ie the property that is to become the trust property) must be identified precisely. *[1]*

    Certainty of objects – The beneficiaries must be clearly identified or the settlor must provide the means of identifying the persons whom the trustees are to regard as the beneficiaries. *[1]*

Total 3

PAPER 5
LONG QUESTIONS

1. Elliot died on 8 December 2019.

During his lifetime, he had made a gift of £90,000 in cash to his daughter on 10 July 2016.

Elliot's death estate was valued as follows:

	£
House	700,000
Quoted shares:	
10,000 A plc, quoted at 310 – 318, bargains at 308, 312, 314	
15,000 B plc, quoted at 280 – 284, bargains at 282, 284	
Unquoted shares:	
10,000 C Ltd, acquired 2002	250,000
Personal chattels	40,000
Cash at bank	25,000

C Ltd is a manufacturing company. At the date of Elliot's death it had net assets of £1.25m of which £150,000 was in respect of land held as an investment.

Elliot's funeral expenses (including the cost of a tombstone) were £5,000. He had unpaid credit card bills of £1,500 and outstanding income tax of £2,000.

Elliot left his entire estate to his son, Walter, who was also the sole executor of Elliot's Will.

Elliot's wife had died on 12 May 2003. She left £50,000 to each of her son and daughter. The residue of her estate was left to Elliot.

You are required to:

1) Calculate the IHT payable as a result of Elliot's death; and (12)

2) Explain what Walter must do to account for the IHT payable. Ignore the availability of the instalment option if relevant. (3)

Total (15)

2. Jim Young died on 9 June 2010 leaving his entire estate on discretionary trust for his children. He had made no lifetime gifts.

His death estate was as follows:

	£
Private residence	300,000
Cash and quoted shares	300,000
Personal chattels	53,000

You have received a telephone call from one of the trustees asking for advice.

As the beneficiaries are all mature adults, the trustees are considering winding up the trust and distributing the assets. The assets currently consist of cash and quoted shares worth £1,225,000, which includes £25,000 of undistributed income from 2019. No capital distributions have ever been made.

The trustees want advice on the IHT consequences of breaking the trust and whether the capital should be distributed now or after 9 June. It is now 1 May 2020.

You are required to write a letter to the trustees in response to their query. (15)

3. John James is a director of a computer software company. He is an additional rate taxpayer.

On 1 April 2005 he set up a trust for his children by transferring into the trust some cash and a residential investment property. He had inherited the property from his late father's estate on 21 December 2004 when it was valued at £42,000. The property was worth £60,000 when it was transferred into the trust. This was John's only lifetime transfer.

The beneficiaries of the trust are Laura (born 29.9.95) and Richard (born 24.11.02). Laura is a school-teacher. Richard is at college. The terms of the trust are that the beneficiaries receive a right to trust income at the age of 18, and to trust capital at 25.

The income and expenses of the trust for 2019/20 were as follows:

	£
Rental income (net of expenses)	8,000
Interest received (net)	1,500
Dividends	1,500
Trust administration expenses	(450)

The trustees paid £6,600 in college fees for Richard during the year.

The balance brought forward on the tax pool at 6 April 2019 is £200.

The investment property was sold on 4 April 2020 for £150,000.

You are required to:

1) **Calculate the tax payable by the trustees for 2019/20;** (12)

2) **Explain the Income Tax consequences for Richard of the distribution from the trust;** (2)

3) **Explain the inheritance tax treatment of a capital distribution to Laura on attaining 25 and how any charges will be calculated.** (6)

Total (20)

4. Assume that today's date is 27 June 2020.

Paul Darko is a non-UK domiciled individual. He is single and has lived in the UK since May 2006.

He has become wealthy over the years as a result of running successful businesses, and investing wisely in assets that have increased in value.

He has approached you to act on his behalf as he feels that an Inheritance Tax review is now required.

His assets consist of the following:

A holiday home near his family in Torinoland, (in sterling)	£80,000
An offshore bank account in Torinoland (in sterling)	£64,050
A reversionary interest in a UK trust. This trust was set up by Paul's grandfather. The life interest was given to Paul's father. The capital will pass to Paul on his father's death.	The capital assets are currently worth £200,000. The reversionary interest has been valued at £50,000 at today's date.
305 quoted shares in Zebra-3 Plc, a UK trading company.	The shares are quoted between £10.08 and £10.56.
1,500 unquoted shares in Huggy Ltd, his personal company, trading in the UK.	£725,000
A property currently let in the UK	£235,000
His home in the UK	£460,000
A UK bank account – an ISA	£1,480

Paul has previously made the following lifetime gifts:

	Date of gift	£
300 shares in Huggy Ltd, an unquoted trading company, to his brother, Nick, who has since sold these shares.	27 August 2014	93,000
£4,000 in cash to each of his three god-children	16 May 2015	12,000
A transfer of 500 shares in Huggy Ltd into a discretionary trust. (No Inheritance Tax was previously paid in relation to this transfer).	9 November 2017	230,000
£1,500 to his friend David, when he got married	9 May 2019	1,500

Paul is currently thinking about returning to Torinoland to look after his frail mother. Alternatively, he may decide to stay in the UK and make regular trips to Torinoland. He would like to know if this will affect his Inheritance Tax position in any way.

You are required to:

1) **Calculate Paul's Inheritance Tax liability assuming he dies on 27 June 2020.** (11)

2) **Explain the effects that:**

   a) **Staying in the UK; and**

   b) **Leaving the UK will have on Paul's Inheritance Tax position.** (4)

Total (15)

5. You have received the following letter, on 1 May 2020, from Mr Ross, a long standing client.

"I have recently been diagnosed with a serious illness. I am responding well to treatment, but the prognosis is not good. I could be dead within six months or I could live for another ten years. I own the following assets:

1) Home – £1,000,000. I have lived here since I bought the house in 1990.
2) Contents – worth £70,000 (insured value £120,000).
3) A 3% shareholding in an unquoted trading company, worth £300,000. I bought a 2% holding in March 2018 for £120,000 and a further 1% holding in September 2019 for £80,000.
4) Premium Bonds – £30,000.
5) Bank accounts – £105,491.
6) ISA accounts – £15,000.
7) Painting – £1.25 million.

I have a pension of around £60,000 gross per annum and I do not spend all of that.

The painting is by a noted artist and shows the Duke of Wellington's victory at Waterloo. This is a family heirloom and is, I'm told, an item of great national interest. I could never give this away.

My wife died several years ago leaving her estate to me. With the exception of a legacy of £200,000 to charity, my estate will go to my nephew who is entering into a civil partnership in a few weeks.

So far I have not undertaken any IHT planning, nor made any gifts, so I need you to advise me of the tax issues."

You are required to write a letter to Mr Ross dealing with the following points:

1) Calculate the Inheritance Tax payable if Mr Ross dies tomorrow. (6)

2) Explain the Inheritance Tax consequences of Mr Ross giving away his assets (excluding the painting). Your answer should include any Inheritance Tax exemptions that Mr Ross could utilise. (7)

3) Explain the Capital Gains Tax consequences of Mr Ross giving away his assets (excluding the painting). (4)

4) Explain whether the painting qualifies for any specific Inheritance Tax exemption and, if so, outline the conditions that need to be satisfied. (3)

Your answers should use the rates and allowances for 2019/20.

Total (20)

6. You have been asked to complete the trust tax return for the 'Smithy Family 2011 Discretionary Trust'. The trustees have provided you with the following information:

	£
Rental income	10,000
Building society interest	575
Bank interest from the investment bankers	352
Dividends from trust portfolio held at Blacksmith Investment Bankers	23,392

The trust also made the following disposal during 2019/20:

Proceeds from sale of 1,000 shares from trust portfolio in May 2019	£15,000
Cost at 21 April 2011	£3.01 per share

The trust paid accountancy fees of £600 for the completion of the trust tax return.

You are required to:

1) Calculate the Income Tax payable by the trustees for 2019/20. (6)

2) Calculate the Capital Gains Tax payable by the trustees for 2019/20. (2)

Two of the beneficiaries received payments of income from the trust during 2019/20 as follows:

Lauren, aged 2	£2,000
Emily, aged 8	£3,000

3) Show the amounts that would be shown on the forms R185 that need to be given to the beneficiaries. (2)

4) State the filing date for the 2019/20 trust tax return to be submitted to HM Revenue & Customs, and the possible penalties that would arise if the return is filed 9 months late. (3)

Now that the trustees have sold some shares and have cash funds, they are considering making some further payments to the beneficiaries out of trust capital.

5) Prepare an email to be sent to the trustees, briefly advising the tax implications of making a payment out of capital and compare this with payments out of income. Include in your email some factors that might be considered when deciding on the best method of payment. (7)

Total (20)

7. Executors have been administering the estate of Mrs Walker, who died on 29 July 2019. Mrs Walker left her estate to her two children, Luke and Leia. The estate comprised the following assets:

	Probate value £
A house, 'Hill-side', which Mrs Walker occupied until her death	540,750
1,800 quoted shares in Trilogy plc	50,300
500 quoted shares in DV plc which were held within an ISA	6,000
Cash ISA	2,490
£23,000 2% Treasury stock	15,110
A commercial let property 'The Star'	215,895

Since Mrs Walker's death there has been some uncertainty about the validity of her Will and therefore the executors have not yet been able to distribute any of the assets of the estate.

The executors received the following income during the year ended 5 April 2020:

	£
Dividends from the Trilogy plc shares	4,425
Dividends from the DV plc shares, held within the ISA	2,228
Interest from £23,000 2% Treasury stock	
- Paid 30 September 2019	230
- Paid 31 March 2020	230
Rental income from 'The Star'	
- £4,500 gross per month	
- Allowable expenses totalling £5,550	
Interest received from the cash ISA	160

You are required to:

1) Calculate the Income Tax payable by the estate for 2019/20. (5)

2) State four conditions for a Will to be valid. (4)

3) State the primary duties of an executor. (4)

The validity of the Will was confirmed on 15 February 2021 and the executors sold the following assets to enable them to distribute the estate between the beneficiaries:

1) The Treasury stock was sold on 31 March 2021 for £15,500.

2) 'The Star' was sold on 10 March 2021 for £199,000 with costs of sale of £3,800.

3) The shares in Trilogy plc were sold on 27 February 2021 for £42,000.

4) The DV plc shares held within the ISA were sold on 1 March 2021 for £10,688.

'Hill-side' was transferred to the children, Luke and Leia, in equal shares on 31 March 2021. The value of the property at the time of the transfer was £607,840.

The executors completed their administration of the estate on 31 March 2021, but have not yet paid out any of the income accumulated during the period of administration.

4)	**Explain whether any reliefs are available for Inheritance Tax purposes, in view of the reduction in the value of some of the assets since the date of Mrs Walker's death. If applicable, you should calculate the amount of relief available.**	(5)
5)	**State the value for Capital Gains Tax purposes at which Luke and Leia acquired the remaining property 'Hill-side' when this was transferred to them on 31 March 2021.**	(1)
6)	**Explain when the beneficiaries will be taxed on the income accumulated during the period of administration.**	(1)
	Total	(20)

8. Mr Rich Mann was a wealthy client of your firm, who died on 27 February 2020, leaving his entire estate equally to his two children as his wife is independently wealthy.

You have been asked by the senior partner to deal with Mr Mann's estate and she has passed you a note showing that the estate's assets and liabilities are as follows:

	£
House	1,000,000
Mortgage	250,000
Cars	50,000
Portfolio of quoted shares	500,000
Shares in Mann Size Ltd	2,500,000
Bank account	300,000

The senior partner informs you that Mann Size Ltd is a trading company. Mr Mann has owned the shares for six years.

Mr Mann inherited £100,000 (gross) following the death of his mother in April 2016, out of which he paid Inheritance Tax of £20,000. The bank account shown above includes this inheritance.

On looking through Mr Mann's files, you discover that he made the following gifts during his lifetime:

1) A gift of £100,000 to his daughter on the occasion of her marriage on 21 June 2015.

2) A gift to his son of an oil painting worth £20,000 at the time of the gift in 2002. It is now worth £65,000 and still hangs in Mr Mann's living room.

You are required to:

1) Calculate the Inheritance Tax payable as a result of Mr Mann's death. (9)

2) State the due date and explain who is liable to pay the Inheritance Tax. (3)

3) State three of the primary duties of Mr Mann's personal representatives. (3)

Total (15)

9. Mary Lamb died in December 2019. Her executors are currently administering her estate, which received the following income in 2019/20:

	£
Rental income from The Schoolhouse	15,000
Interest received on Mary's ISA	10,000
Dividend income	6,000

The Schoolhouse is a residential rental property owned by Mary. The executors paid expenses in connection with that property as follows:

	£
Replacement guttering	500
Legal costs in relation to the sale	5,000

The Schoolhouse was sold on 31 March 2020 for £405,000 after an upturn in the local property market. Its probate value was only £350,000.

Mary's adult son, Larry, is the sole beneficiary of the estate and the executors paid all of the estate income to him on 5 April 2020. Larry is a higher rate taxpayer.

You are required to:

1) **Explain the treatment of the interest arising on Mary's ISA.** (2)

2) **Calculate the Income Tax payable by Mary's executors for 2019/20.** (3)

3) **Calculate the Income Tax payable by Larry on the estate income received by him in 2019/20.** (3)

4) **Calculate the Capital Gains Tax payable by Mary's executors as a result of the sale of The Schoolhouse.** (2)

5) **State the due dates for the submission of the estate tax return for 2019/20 and for the payment of any Income Tax and Capital Gains Tax due.** (2)

6) **Outline the consequences of submitting the estate tax return and paying the tax four months late.** (4)

7) **State two of the responsibilities of a member of the Association of Taxation Technicians in connection with the preparation of tax returns/tax filings for a client.** (2)

Total (18)

10. The Button Discretionary Trust was created by Mr Button eight years ago with 1,000 shares in Hilltops Ltd, an unlisted company which manufactures and sells widgets. The company now owns the premises that it trades from along with several investment properties. The Trust also owns a separate piece of land.

The trustees are considering making a distribution of 500 shares in Hilltops Ltd to one of the beneficiaries and distributing the land to another beneficiary. The trustees had purchased this land for £200,000 a number of years ago. Its current market value is £130,000.

Mr Button would like to create another trust with a life interest for his adult daughter to provide her with a regular income. He is, however, concerned that his daughter is very irresponsible and may attempt to dispose of the life interest in exchange for cash.

You are required to:

1) **Explain the conditions which must be met in order for the trustees to qualify for business property relief on the distribution of shares in Hilltops Ltd.** (2)

2) **Explain what effect the properties owned by Hilltops Ltd could have on the extent of business property relief available to the trustees.** (3)

3) **State the conditions required for trustees to qualify for entrepreneurs' relief on a disposal of shares and then explain whether the trustees of the Button Discretionary Trust would qualify for entrepreneurs' relief on the disposal of their shares in Hilltops Ltd.** (3)

4) **Explain the Capital Gains Tax implications if the trustees transfer the piece of land to a beneficiary.** (3)

5) **Explain how a protective trust could be used by Mr Button to provide for his daughter.** (3)

Total (14)

PAPER 5
ANSWERS TO LONG QUESTIONS

1. ELLIOT

1) IHT on death

Lifetime gift:

	£
Gift (10 July 2016)	90,000
Less: AEs (x 2)	(6,000)
PET now chargeable on death (within nil rate band)	84,000

Death estate – 8 December 2019:

	£	£
House		700,000
A plc shares (W1)		31,100
B plc shares (W2)		42,150
C Ltd shares	250,000	
Less: BPR		
£250,000 x 100% x 1.25 – 0.15/1.25 (excluded assets)	(220,000)	30,000
Personal chattels		40,000
Cash at bank		25,000
		868,250
Less: Liabilities		
Funeral expenses	5,000	
Credit card bills	1,500	
Income tax	2,000	
		(8,500)
Chargeable estate		859,750
Residence nil rate band (W3)		(300,000)
Nil rate band at death (W4)	522,535	
Less: Transfers in previous 7 years	(84,000)	
Nil rate band available		(438,535)
Taxable estate		121,215
IHT @ 40%		48,486

Workings

W1) A plc shares:

(i) (318 – 310)/4 = 2 + 310 = 312p
or

(ii) (314 + 308)/2 = 311p

Take lower
IHT value = 10,000 x 311p = £31,100

W2) B plc shares:

(i) (284 – 280)/4= 1 + 280 = 281p
or

(ii) (284 + 282)/2 = 283p

Take lower
IHT value = 15,000 x 281p = £42,150

W3)

Residence nil rate band (RNRB) 2019/20	£
Own RNRB	150,000
Add: wife's b/f allowance (death pre-6.4.17)	150,000
	300,000

W4)

Nil rate band	£
Wife's chargeable estate	100,000
Less: Nil rate band (12 May 2003)	(255,000)
Unused	155,000
% unused = 155,000/255,000	60.78%
Elliot's nil rate band:	
£325,000 x 160.78%	522,535

2)

Walter must submit an IHT account of the death estate and pay the IHT due before he can obtain the grant of probate. He will therefore wish to do this as soon as possible.

The latest date for submission of the IHT account is 31 December 2020.

He should pay the IHT due by 30 June 2020 to avoid a charge to interest.

2. JIM YOUNG TRUST

Firm's headed notepaper

Your address

Date

Dear Trustees

JIM YOUNG DISCRETIONARY TRUST

Thank you for your query.

If you make a capital appointment to one or more of the beneficiaries an IHT 'exit charge' will arise.

If the capital is appointed in May 2020 and the trust is wound up, the IHT payable will be £26,472 (as per Appendix 1 attached).

There will therefore be no 'ten year charge' on the anniversary on 9 June as the trust no longer exists.

If you delay the capital appointments until after 9 June 2020, the trustees will have an IHT 'ten year charge'. The tax liability will be £52,500 (as per Appendix 2).

If capital is appointed before 9 September 2020 (ie within three months of the ten year charge), there will be no tax liability on the appointment.

As you will see, the IHT liability on the exit charge is significantly lower than that which will arise on the trust's ten year anniversary. Therefore, assuming there are no other obstructions to an early capital appointment, I would advise you to make the appointments before 9 June 2020.

Yours sincerely

A. Adviser

APPENDIX 1

Tax on death estate:	£
Estate	653,000
Nil rate band 2010/11	(325,000)
Taxable estate	328,000
IHT @ 40% (paid by trustees)	131,200

Exit charge May 2020:	£
Initial value of trust (653,000 – 131,200)	521,800
Nil rate band 2020/21	(325,000)
	196,800
Notional tax @ 20%	39,360
Effective rate: 39,360 /521,800 x 100	7.543%
Actual rate: 7.543% x 30% x 39/40	2.206%
Exit charge: 1.2m x 2.206%	26,472

APPENDIX 2

Principal charge 9 June 2020:	£
Value at 9.6.20 (Note)	1,200,000
Nil rate band 2020/21	(325,000)
	875,000
Notional tax @ 20%	175,000
Effective rate: 175,000/1,200.000 x 100	14.583%
Actual rate: 14.583% x 30%	4.375%
Principal charge: 1.2m x 4.375%	52,500

Note: Undistributed income is only included in the current value of the trust property if it arose more than five years before the ten year charge date.

3. JOHN JAMES

1) Calculation of tax payable by trustees

The trust is a 'mixed' trust as Laura has an IIP, having already reached age 18, and Richard does not. This means that 50% of the trust income is taxed under the IIP rules and 50% under the discretionary rules.

	NS	Interest	Divs
	£	£	£
Rental income	8,000		
Interest		1,500	
Dividends			1,500
	8,000	1,500	1,500
Less: Income subject to IIP	(4,000)	(750)	(750)
	4,000	750	750
Less: Expenses (450 x 100/92.5 x ½)			(243)
	4,000	750	507
Tax			
1,000 @ 20%			200
3,000 @ 45%			1,350
750 @ 45%			337
507 @ 38.1%			193
243 @ 7.5%			18
			2,098
Add: liability on tax pool (W1)			3,120
			5,218
Add tax on income subject to IIP (W2)			1,006
Income tax due 2019/20			6,224
Add: CGT payable (W3)			23,520
Total tax payable			29,744

Workings

W1) Tax pool

		£
B/f		200
Tax paid by trustees:	1,000 @ 20%	200
	(3,000 + 750) @ 45%	1,687
	507 @ 38.1%	193
		2,280
Less: Tax credits given on distributions: 45/55 x 6,600		(5,400)
Additional tax due		(3,120)

W2) Tax on IIP income

		£
Tax on NS and interest:	4,750 @ 20%	950
Tax on dividends:	750 @ 7.5%	56
		1,006

W3) Capital gain on sale of the investment property

The trust was originally an A&M trust so the transfer into the trust was a PET (no gift relief available under s.260). The property is not a business asset under s.165, therefore John would have had a gain on the creation of the trust and the trustees would have acquired the property on 1.4.05 at its MV (£60,000).

	£
Proceeds (4.4.20)	150,000
Trustees' base cost (1.4.05)	(60,000)
Gain	90,000
Less: Trust AEA	(6,000)
Taxable	84,000
CGT @ 28% (residential property)	23,520

2) Income tax consequences for Richard

The trust income applied for the benefit of Richard is deemed to carry a 45% tax credit. The trustees will therefore prepare form R185 as follows:

	Net	Tax
	£	£
Trust income	6,600	5,400

Richard is under 18, so is a minor unmarried child of the settlor. Therefore any income paid to or applied for Richard in excess of £100 gross per year will be taxed on John as settlor under s.629 ITTOIA 2005. John will not have any extra tax to pay on the income.

3) Inheritance tax treatment

As the beneficiaries are entitled to capital at age 25, the trust would have become an 'Age 18 to 25' trust from 6 April 2008.

When Laura turns 25 in September 2020 she will become entitled to receive her share of the capital and the transfer of assets to her will give rise to an IHT exit charge.

The rate of tax to apply to calculate the exit charge is found by taking the initial value of the trust property and deducting the nil rate band at the date of the exit. The balance is taxed at 20%. This liability is divided by the initial value to arrive at the 'effective rate' of tax.

The actual rate of tax is calculated by multiplying the effective rate of tax by 30%, then adjusting the resulting percentage for the number of complete quarters since 29 September 2013 (being Laura's 18th birthday).

The actual rate is then applied to the value of the transfer.

Note that there are no ten year charges on 'Age 18 to 25' trusts.

4. PAUL DARKO

1) Paul's 2020/21 inheritance tax position:

		£
Additional tax on lifetime gifts:		
Shares (27 August 2014)		93,000
(BPR no longer due as shares sold)		
Less AEs	2014/15	(3,000)
	2013/14	(3,000)
		87,000
Less: Nil rate band		(87,000)
		Nil
Cash (16 May 2015):		
PETs to god-children now chargeable		12,000
Less AE for 2015/16 (2014/15 used)		(3,000)
		9,000
Less: Nil rate band		(9,000)
		Nil
Shares (9 November 2017)		
CLT of shares into a discretionary trust		230,000
Less: BPR @ 100%		(230,000)
		Nil
Cash (9 May 2019)		1,500
Less: Marriage exemption		(1,000)
Now chargeable		500
Covered by annual exemption 2019/20		(500)
		Nil
The nil rate band remaining on death is:		
(325,000 – 87,000 – 9,000)		229,000

Death estate:

		£
Holiday home in Torinoland	Excluded property	Nil
Bank account in Torinoland	Excluded property	Nil
Reversionary interest in a trust	Excluded property	Nil
Quoted shares in Zebra-3 Plc	305 x £10.20 (1/4 up)	3,111
1,500 shares in Huggy Ltd	Covered by 100% BPR	Nil
UK property		235,000
UK home		460,000
UK bank account		1,480
Total		699,591
Less: Remaining nil rate band		(229,000)
		470,591
Tax due at 40%		188,236

2)

Once Paul is resident in the UK for 15 out of the previous 20 tax years, he will be deemed to be UK domiciled for IHT purposes and all his worldwide assets will become chargeable to UK inheritance tax.

2020/21 will be his 15th consecutive year of UK residence so he will become deemed UK domiciled from 6 April 2021.

If he dies after this date his IHT liability will increase by (80,000 + 64,050) x 40% = £57,620.

However, if he returns to Torinoland before this date, and does not become domiciled in the UK under the "15/20 rule", IHT will continue to be charged on UK property only.

5. MR ROSS

Address

Address

Date

Dear Mr Ross

<u>YOUR IHT POSITION</u>

Thank you for your recent letter.

<u>IHT – Death computation</u>

I have attached this as an Appendix. The tax payable is £619,377.

<u>IHT – Lifetime giving</u>

If gifts were made to individuals during your lifetime, these would be potentially exempt transfers and no tax would be payable in the lifetime. However, you would need to survive seven years for the gifts to fall out of account altogether. You would need to survive three years from the date of gift in order for any IHT payable to be reduced by taper relief.

As you have never made any gifts before there are a number of exemptions that could be used, as follows:

- Annual exemptions of £3,000 for both the current and the previous year.
- You have a large pension income therefore you may be able to make gifts out of income which would be exempt. These must be regular, out of income and not capital, and must not reduce your standard of living from year to year.
- You can give £250 per person, to any number of recipients, in a year, using the small gifts exemption.
- Your nephew is entering a civil partnership shortly; a gift of up to £1,000 may be made to him under the “marriage” exemption.

You should be aware that if you were to gift your house but were to continue to live in the house afterwards, the gift would be ineffective because of the reservation of benefit rules.

<u>Lifetime giving – CGT</u>

When chargeable assets are gifted, the gain will be calculated using the market value at the date of gift for proceeds received.

The gift of the home could be considered, and will be exempt for CGT purposes as your principal private residence.

Unless specifically within the charge to CGT, most of the assets within the home will benefit from the chattels exemption.

A gift of the shares would result in a gain of £100,000. As the shares are business assets, this transfer would be eligible for gift relief. This means that the gain would not be chargeable on you but your nephew would inherit the base cost of your shares (being £200,000). Both donor and donee must sign the gift relief claim within four years from the end of the tax year in which the gift was made.

The Premium bonds, ISA and bank accounts can all be gifted without any CGT arising, though any capital in the ISA will lose its CGT exemption if gifted.

Possible exemption for Work of Art

The painting should, on a claim, qualify for exemption from IHT as “Heritage Property” because of its artistic and historical significance. Conditions must be in place for the exemption to apply:

- The painting must be kept permanently in the UK; and

- Reasonable access must be given to the public, either at the home, or in a museum, gallery or other public place.

If you have any further questions on this matter, please do not hesitate to contact me.

Yours sincerely

A Tax Adviser

APPENDIX

IHT payable on Mr Ross’s death

	£	£
House		1,000,000
Contents		70,000
Shares	300,000	
Less: BPR on 2% holding only		
300,000 x 100% x 2/3	(200,000)	
		100,000
Bank account		105,491
Premium Bonds		30,000
ISA		15,000
Work of art		1,250,000
		2,570,491
Less: Legacy to charity (exempt)		(200,000)
Chargeable estate		2,370,491
Nil rate band (325,000 x 2)		(650,000)
		1,720,491
@ 36%		619,377

Notes:

The nil rate band can be doubled to £650,000 as your wife’s nil rate band was unused on her death.

As more than 10% of the “baseline amount” has been left to charity, the IHT rate is reduced to the lower rate of 36%. In this case the baseline amount is £1,920,491 (ie £1,720,491 + £200,000 legacy to charity), so the donated amount of £200,000 exceeds 10% of this threshold.

The residence nil rate band is not available as your main residence is being left to your nephew and not to a direct descendant. In any case, the net estate (ie before reliefs and exemptions) exceeds £2 million, so any available RNRB would be tapered to £Nil.

6. SMITHY FAMILY DISCRETIONARY TRUST

1) Tax payable by the trustees 2019/20:

	Non savings	Interest	Dividends
	£	£	£
Rental income	10,000		
Building society interest		575	
Bank interest		352	
Dividends			23,392
Gross trust income	10,000	927	23,392
Less expenses:			
(£600 x 100/92.5)			(649)
Income after expenses	10,000	927	22,743

Tax:	£
£1,000 @ 20%	200
£9,000 @ 45%	4,050
£927 @ 45%	417
£22,743 @ 38.1%	8,665
£649 @ 7.5%	49
Tax payable	13,381

2) CGT payable by the trustees 2019/20:

	£
Proceeds	15,000
Less: Cost of shares (1,000 x £3.01)	(3,010)
Gain	11,990
Less: AEA	(6,000)
Taxable gain	5,990
CGT @ 20%	1,198

3) R185s

	Net	Tax
	£	£
Lauren	2,000	1,636
Emily	3,000	2,455

4) Filing dates & penalties

The 2019/20 trust tax return should be submitted no later than 31 October 2020 if it is a paper return and no later than 31 January 2021 if it is an electronic return.

An initial penalty of £100 will be charged when the return is late. When the return is more than three months late, daily penalties of £10 per day can be imposed, for up to 90 days.

In addition, as the return is filed more than six months late, a penalty of 5% of the liability tax will be charged (or £300 if greater).

5) E-mail to trustees

To: Trustees
From Tax Adviser
Date: [ ]
Re: Income & capital payments to beneficiaries

I enclose details relating to the payment of trust funds to the three beneficiaries of the trust which I hope you will find useful when considering how these are paid.

Payments out of capital

When the trust makes capital payments from a discretionary trust, there may be an ‘exit charge’ for IHT purposes.

As the trust has been in existence for less than ten years, the exit charge will be based on the initial value of the property going into the trust.

The charge is at a maximum of 6% of the value of the assets distributed (less if the settlor made no lifetime transfers in the seven years before the trust was created). The actual rate is adjusted for the length of time since the trust was created.

There are no income tax consequences of a capital distribution.

Capital gains tax may be due if an asset is sold to fund any cash payments.

If a non-cash asset is distributed to a UK beneficiary, any gains on the trustees’ disposal can be deferred.

Payments out of income

This is an income tax matter – there is no IHT or CGT in respect of an income distribution.

Income payments will be deemed to be made net of 45% tax.

Tax deemed to have been deducted out of income payments will need to be covered by the income tax paid on the income coming into the trust.

The trustees must maintain an annual ‘tax pool’ to ensure that the trustees have paid enough tax to cover the credits available to the beneficiaries.

If the tax credit is not covered by the amount in the pool, an additional tax charge will be due.

Factors to consider

Things to consider when deciding the best method:

- Beneficiaries' tax position
- Whether personal allowances can create a repayment or save tax
- Compare the amount of IHT due vs income tax due on these payments

7. MRS WALKER

1) Tax computation for the estate of Mrs Walker for 2019/20

	Non Savings	Interest	Dividends
	£	£	£
Rental income (W1)	30,450		
Treasury stock interest		460	
ISA interest (W2)		Nil	
Dividends			4,425
ISA dividends (W2)			Nil
Total gross income	30,450	460	4,425
	@ 20%	@ 20%	@ 7.5%
Tax liability	6,090	92	332
Total tax due		6,514	

Workings

W1) Rental profit

	£
Rents: 4,500 x 8	36,000
Less: Allowable expenses	(5,550)
Profit	30,450

W2) ISA

The tax-free status of the ISA continues at death, so interest and dividends are tax-free (for a maximum of three years).

2)

Conditions for a valid Will are (any four of the following):

1. It must be in writing.

2. It must be signed by the testator.

3. It must be signed in the presence of two witnesses (who cannot benefit from the Will, unless there are two other independent witnesses) who are present together when the Will is signed by the testator.

4. The testator must be "sui juris", ie they must have the capacity to make the Will. This means they must be over 18 years old and have mental capacity (ie they must not be of unsound mind).

5. The testator must intend the Will to be operative as a testamentary disposition.

3)

The primary duties of an executor are as follows:

1. Obtain probate (or letters of administration if intestate).

2. Ascertain the assets and liabilities of the estate.

3. Collect in the assets of the estate that have been lent or hired out, recover debts owed to the deceased and preserve the deceased's assets.

4. Pay the expenses, debts and liabilities of the deceased and their own expenses in administering the estate.

5. Distribute the estate in accordance with the terms of the Will or the intestacy rules.

4) <u>Reliefs for reduction in value of assets</u>

Post mortem relief for quoted shares and unit trusts (s.179) applies where the executors sell quoted shares or securities within 12 months of death.

As the shares were sold more than 12 months after death, no relief is available.

Post mortem relief for land and buildings (s.191) applies where the executors sell/dispose of land or buildings within three years of death and the sale price differs from probate value by £1,000 or more (or 5% of the probate value, if lower).

The post mortem relief available for the loss in value of 'The Star' is the probate value of the property less the gross sale proceeds

ie £(215,895 – 199,000) = £16,895.

5) <u>CGT value of 'Hill-side'</u>

The value at which the children acquired the property 'Hill-side' is the probate value, £540,750.

They will each own half of the property with a cost of £540,750 x ½ = £270,375.

6) <u>Taxation of accumulated income</u>

The accumulated income will be treated as paid to the beneficiaries in the tax year in which the administration period ends (ITTOIA 2005 s.652 & s.654).

8. MR RICH MANN

Tutorial Note:

When this question was set the ATT published marking guides with their model answers and so the marks have been included here. Please note that the first 7 long questions in this bank were set before the ATT agreed to publish their marking guides.

1) IHT payable

Failed PET:

		£	£	
21 Jun 2015	Gift		100,000	
	Marriage exemption		(5,000)	*[½]*
	AE 2015/16		(3,000)	*[½] for*
	AE 2014/15		(3,000)	*both*
	PET		89,000	
Less: NRB			(89,000)	*[½]*
IHT due on death			Nil	

Death estate 27 Feb 2020

House	1,000,000		
Mortgage	(250,000)		*[½]*
		750,000	
Cars		50,000	*[½] for*
Quoted shares		500,000	*both*
Mann Size Ltd	2,500,000		
BPR @ 100%	(2,500,000)		*[1]*
		-	
Bank accounts		300,000	*[½]*
Gift with reservation (painting)		65,000	*[1]*
Total estate		1,665,000	
Nil rate band	325,000		*[½]*
Less used	(89,000)		*[½]*
		(236,000)	
Residence nil rate band (Note)		(Nil)	*[½]*
Chargeable to IHT		1,429,000	
IHT at 40%		571,600	*[½]*
Less: Quick succession relief (W)		(6,400)	*[½]*
Total		565,200	

(W) QSR:

Mother's death more than 3 but less than 4 years earlier = 40% relief		*[½]*
((100,000 – 20,000)/100,000) x 20,000 x 40%	6,400	*[1]*

Note: The residence nil rate band is not available as the net estate, ie less liabilities but before all reliefs (eg BPR) and exemptions, exceeds £2.3 million.

Total 9

2) Payment

The due date is 31 August 2020, ie six months from the end of the month of death. *[1]*

The IHT due in respect of the gift with reservation is:

£565,200 x £65,000/£1,665,000 = £22,065. *[½]*
It is payable by Mr Mann's son. *[½]*

The IHT due in respect of the free estate is:

£565,200 x £1,600,000/£1,665,000 = £543,135. *[½]*
It is payable by the personal representatives. *[½]*

Total 3

3) PRs' duties

Any *three* from:

Obtain probate or letters of administration. *[1]*

Ascertain the assets and liabilities of the estate. *[1]*

Collect in the assets of the estate that have been lent or hired out, recover debts owed to the deceased and preserve the deceased's assets. *[1]*

Pay the expenses, debts and liabilities of the deceased and their own expenses in administering the estate. *[1]*

Distribute the estate in accordance with the Will or the intestacy rules. *[1]*

Max 3

Total for question 15

9. MARY LAMB

1) ISA interest

Interest earned on an ISA during an individual's lifetime is exempt from income tax. *[½]* The tax-free status of the ISA continues at death, *[½]* so income (and gains) are tax-free. *[½]* This "continuing ISA" status lasts for up to three years from the date of death. *[½]*

Total 2

2) Income tax payable – executors'

	Rent	Dividend	
	£	£	
Rental income	15,000		*[½]*
Less: Allowable repair	(500)		*[½]*
Legal costs disallowed as capital			*[½]*
Dividend income		6,000	*[½]*
	14,500	6,000	
Income tax at 20%, 7.5%	2,900	450	*[1]*

Total 3

3) Income tax payable – Larry

	Rent	Dividend	
	£	£	
Gross income (as above)	14,500	6,000	*[½]*
Less: Dividend allowance		(2,000)	*[½]*
	14,500	4,000	
Income tax at 40%, 32.5%	5,800	1,300	*[1]*
Less: Tax credit	(2,900)	(450)	*[1]*
Tax payable	2,900	850	
Total tax payable	3,750		

Total 3

4) CGT – executors

	£	
Sale proceeds	405,000	
Less: Legal costs	(5,000)	*[½]*
Net sale proceeds	400,000	
Less probate value	(350,000)	*[½]*
Gain	50,000	
Annual exempt amount	(12,000)	*[½]*
Chargeable gain	38,000	
CGT at 28% (Residential property)	10,640	*[½]*

Total 2

5) Return and payment deadlines

The estate tax return should be submitted online by 31 January 2021. *[½]*

A paper return should be submitted by 31 October 2020. *[½]*

The above dates are replaced by three months after the date of issue, if later. *[½]*

The income tax and capital gains tax due should be paid by 31 January 2021. *[½]*

Total 2

6) Late return and payment

Filing the return late:

A fixed £100 penalty applies to a late return *[½]*

Once the return is three months late, there may be a penalty of £10 for each additional day the return is outstanding. *[1]*

A return that was four months late could therefore incur an additional penalty of £300. *[½]*

Paying the tax late:

Interest is charged on any tax paid late. *[½]*

A penalty of 5% of the unpaid tax applies after 30 days. *[1]*

No penalty is applied if the taxpayer has a reasonable excuse for the delay. *[½]*

Total 4

7) Preparing tax returns/tax filings

Any *two* from:

The member is responsible to the client for the accuracy of the return/filing based on the information provided. *[1]*

The member has a duty of confidentiality to the client. *[1]*

The member has a duty to act in the best interests of their client. *[1]*

The member must act in good faith in dealings with HMRC. *[1]*

The member must take reasonable care and exercise appropriate professional scepticism when making statements or asserting facts on behalf of their client. *[1]*

When acting as an agent, the member is not required to audit the figures given by their client but should take care not to be associated with facts they know or believe to be incorrect/misleading. *[1]*

The member should consider whether they need to make it clear to HMRC that they are relying on information that has been supplied by the client or a third party. *[1]*

Max 2

Tutorial Note:

This is covered in Chapter 21 of the Ethics 5th edition text book. This is also reproduced in part 2b of the Tolley Yellow Handbook, page 2,089, points 10-14, of the 2019/20 version.

Total for question 18

10. BUTTON DISCRETIONARY TRUST

1) <u>BPR conditions</u>

To qualify for business property relief (BPR), Hilltops Ltd must be a company that is wholly or mainly a trading company *[½]* as shares in unlisted companies which are wholly or mainly investment companies do not qualify for BPR. *[½]*

There is no minimum holding; any number of shares in an unlisted trading company can qualify for BPR. *[½]*

There is a minimum ownership requirement of two years. *[½]* As the trustees have owned the shares for more than two years they would meet this condition. *[½]*

The final condition is that there must not be a binding contract for sale in existence at the time of the transfer. *[½]*

[Credit will be given for any other valid points]

Max 2

2) <u>Effect of properties on BPR availability</u>

BPR will be restricted on a transfer of qualifying shares if the company holds 'excepted assets'. *[½]*

An 'excepted asset' is an asset that has not been used for business purposes throughout the two years immediately preceding the transfer *[½]*, and it is not required for future use in the business. *[½]*

The investment properties owned by Hilltops Ltd are likely to be excepted assets *[½]* which would restrict the BPR available on the distribution. *[½]*

In comparison, the property that Hilltops trades from is used in the business so is not an excepted asset *[½]* and will not affect the availability of business property relief. *[½]*

[Credit will be given for any other valid points]

Max 3

3) <u>Entrepreneurs' relief for trusts</u>

In order for entrepreneurs' relief to be available on a disposal of shares by trustees the following conditions must be met:

- The shares must be in a qualifying trading company *[½]*
- There must be a beneficiary with an interest in possession in the trust *[½]*
- For a period of at least two years before the disposal *[½]* the beneficiary must be an officer or employee of the company *[½]* and must have held at least 5% of the ordinary share capital and by that holding be able to exercise at least 5% of the voting rights. *[½]* In addition, the beneficiary must either be entitled to at least 5% of the distributable profits and 5% of the assets available on a winding up, and/or be entitled to at least 5% of the proceeds of a disposal of the whole of the ordinary share capital of the company.
- As the claim would use some of the beneficiary's lifetime entrepreneurs' relief limit, the beneficiary must have a sufficient amount of their lifetime limit remaining to cover the capital gain. *[½]*

- The trustees and the beneficiary must make the claim for relief jointly. *[½]*

The trustees would not qualify *[½]* for entrepreneurs' relief on the disposal of their shares in Hilltops Ltd as the trust is a discretionary trust. *[½]*

[Credit will be given for any other valid points]

Max 3

4) <u>CGT on transfer of land</u>

The distribution of the piece of land to a beneficiary will be a disposal by the trustees for Capital Gains Tax (CGT) purposes *[½]* and a capital loss will arise as the base cost of the land exceeds its current market value. *[½]*

There are specific rules regarding how that loss can be used. The loss must first be set against any capital gains which have arisen in the period from the beginning of the tax year to the date of the distribution *[½]*, such as a gain on the Hilltops Ltd shares if they are distributed first. *[½]* Any remaining losses will then be transferred to the beneficiary. *[½]* The beneficiary may only use these losses against gains arising on the future disposal of the same piece of land. *[½]*

[Credit will be given for any other valid points]

Max 3

5) <u>Protective trust</u>

A protective trust is a flexible life interest trust *[½]* in which the beneficiary is given a life interest *[½]*, which automatically ends *[½]* on the beneficiary's bankruptcy *[½]*, or if they attempt to dispose of their life interest. *[½]*

Upon those occasions, a discretionary trust arises *[½]* in favour of the former life tenant. *[½]*

[Credit will be given for any other valid points]

Max 3

Total for question 14