

J02

Diploma in Financial Planning

Unit J02 – Trusts

July 2011 examination

SPECIAL NOTICES

All questions in this paper are based on English law and practice applicable in the tax year 2010/2011, unless stated otherwise in the question, and should be answered accordingly.

Assume all individuals are domiciled, resident and ordinarily resident in the UK unless stated otherwise.

Candidates should answer based on the legislative position immediately BEFORE the 2011 budget.

Instructions

- Two hours are allowed for this paper.
- **Do not begin writing until the invigilator instructs you to.**
- **Read the instructions on page 3 carefully before answering any questions.**
- Provide the information requested on the answer book and form B.
- You are allowed to write on the inside pages of this question paper, but you must **NOT** write your name, candidate number, PIN or any other identification anywhere on this question paper.
- The answer book and this question paper must **both be handing in personally by you** to the invigilator before you leave the examination room. **Failure to comply with this regulation will result in your paper not being marked and you may be prevented from entering this examination in the future.**

Unit J02 – Trusts

Instructions to candidates

Read the instructions below before answering any questions

- **Two hours** are allowed for this paper which consists of 15 short answer questions and carries a total of 130 marks.
- You are strongly advised to attempt **all** questions to gain maximum possible marks. The number of marks allocated to each question is given next to the question and you should spend your time in accordance with that allocation.
- Read carefully all questions and information provided before starting to answer. Your answer will be marked strictly in accordance with the question set.
- You may find it helpful in some places to make rough notes in the answer booklet. If you do this, you should cross through these notes before you hand in the booklet.
- It is important to show all steps in a calculation, even if you have used a calculator.
- If you bring a calculator into the examination room, it must be a silent battery or solar-powered non-programmable calculator. The use of electronic equipment capable of being programmed to hold alphabetic or numerical data and/or formulae is prohibited. You may use a financial or scientific calculator, provided it meets these requirements.
- Tax tables are provided at the back of this question paper.
- Answer each question on a new page and leave six lines blank after each question part.

Subject to providing sufficient detail you are advised to be as brief and concise as possible, using note format and short sentences on separate lines wherever possible.

Attempt ALL questions**Time: 2 hours**

1. Caroline is considering setting up a financial arrangement for the benefit of her three grandchildren who are all under 10 years old. She wants to know the legal position of such an arrangement.
- Compare **five** key differences of a non-statutory trust and an enforceable contract. **(10)**
2. Explain the circumstances under which dispositions made under a Will may be challenged and how this may occur. *Assume it is established that on creation it was a valid Will.* **(5)**
3. Explain briefly the changes that the Perpetuities and Accumulations Act 2009 has had on:
- (a) new trusts; **(3)**
- (b) existing trusts. **(4)**
4. Kyle and Holly are seeking to establish a charitable trust with the aim of funding a specialist unit in their local hospital.
- Explain briefly the advantages of using a charitable trust compared to a non-statutory trust in respect of:
- (a) taxation; **(5)**
- (b) trust legislation. **(4)**
5. John has recently died and his two children have come to you seeking advice on a Married Women's Property Act (1882) life policy trust, where the sole beneficiary was stated to be 'in trust for my wife'.
- John's Will was drawn up in 2001 as a simple mirror Will with both spouses acting as executor for the other's Will. John was divorced from his wife in 2008 and he never remarried. John did not amend his Will following the divorce.
- Explain briefly the consequences of John's divorce and subsequent death on:
- (a) John's life policy; **(5)**
- (b) John's Will. **(4)**
6. Mark has put in a claim to the trustee in bankruptcy for money that is owed to him following a bankruptcy petition filed by one of his customers.
- State the various categories of creditors and in which order they would each be paid. **(8)**

7. Hans has Swiss domicile and came to the UK two years ago to work for a London based Swiss bank on a five year full-time contract. He now wishes to set up an excluded property trust to hold his Swiss investments.
- (a) State the conditions that must be fulfilled in setting up and operating the trust under the excluded property rules. (4)
- (b) State the initial and ongoing Inheritance Tax treatment of the trust. (2)
8. Joshua, a UK resident, set up a trust for his minor grandchildren. Explain briefly how the Income Tax liability would be dealt with on the full surrender of an onshore with-profit bond, in July 2011, if the bond was in:
- (a) a discretionary trust; (8)
- (b) a bare trust. (5)
- Assume Joshua is still alive in July 2011.*
9. Craig and Jill have been asked to be trustees of their parent's interest in possession trust.
- List the statutory powers of investment and related requirements placed upon Craig and Jill as trustees by the Trustee Act 2000. (10)
10. Peter has a retirement annuity contract which is not in trust. In the event of death before retirement, he has been advised to transfer this pension fund into a bare trust arrangement for the benefit of his grandchildren.
- Explain briefly to Peter what the Inheritance Tax consequences would be on the initial and ongoing transfer. (6)
11. Bob, aged 80, is a widower and is considering setting up a financial affairs Lasting Power of Attorney (LPA), appointing his adult son as attorney.
- (a) Explain the requirements for a valid LPA to be set up. (6)
- (b) Explain in what circumstances this LPA will be revoked. (4)

Questions continue over the page

- 12.** Tom established a discretionary trust in 2008 for the benefit of his grandchildren. He now wishes to place a large unit trust portfolio into this trust.

Explain briefly the initial and ongoing tax considerations within the trust in respect of:

(a) Capital Gains Tax; **(4)**

(b) Inheritance Tax. **(8)**

Ignore any tax rates charged.

- 13.** Explain the conditions that need to be met for a deed of variation to be effective. **(8)**

- 14. (a)** Explain what access a trustee in bankruptcy will have to an own life policy taken out three years earlier under a non-statutory trust for the benefit of a policy owner's minor children. **(5)**

(b) Explain briefly any difference to the access, had the trust instead been written under the Married Women's Property Act (1882). **(3)**

- 15.** Karen has decided to place a portfolio of unit trusts, gilts and shares into a discretionary trust with her siblings and any of their issue as potential beneficiaries. She has asked Jim to be a trustee of the trust.

List the issues that Jim would need to give consideration to during a review of the trust. **(9)**

The tax tables can be found on pages 8 – 12

INCOME TAX

RATES OF TAX	2009/2010	2010/2011
Starting rate for savings*	10%	10%
Basic rate	20%	20%
Higher rate	40%	40%
Additional rate	N/A	50%
Starting-rate limit	£2,440*	£2,440*
Threshold of taxable income above which higher rate applies	£37,400	£37,400
Threshold of taxable income above which additional rate applies	N/A	£150,000

*restricted to savings income only and not available if taxable non-savings income exceeds starting rate band.

MAIN PERSONAL RELIEFS

Income limit for Personal Allowance §	N/A	£100,000
Personal Allowance (basic) §	£6,475	£6,475
Personal Allowance (age 65-74) §	£9,490	£9,490
Personal Allowance (aged 75 and over) §	£9,640	£9,640
Married/civil partners (minimum) at 10% †	£2,670	£2,670
Married/civil partners (age 75 and over) at 10%	£6,965	£6,965
Income limit for age-related allowances	£22,900	£22,900
Blind person's allowance	£1,890	£1,890
Enterprise Investment Scheme relief limit at 20%	£500,000	£500,000
Venture Capital Trust relief limit at 30%	£200,000	£200,000

§ the Personal Allowance reduces by £1 for every £2 of income above the income limit irrespective of age from 2010/2011.

† where at least one spouse/civil partner was born before 6 April 1935.

Child Tax Credit (CTC)		
- family element	£545	£545
- family element baby addition	£545	£545
CTC usually reduced by 6.67% of joint income over	£50,000	£50,000

NATIONAL INSURANCE CONTRIBUTIONS

Class 1 Employee	Weekly	Monthly	Yearly
Lower Earnings Limit (LEL)	£97	£421	£5,044
Primary threshold	£110	£477	£5,715
Upper Earnings Limit (UEL)	£844	£3,656	£43,875
Upper Accruals Point	£770	£3,337	£40,040

Total earnings £ per week	CLASS 1 EMPLOYEE CONTRIBUTIONS	
	Contracted-in rate	Contracted-out rate
Up to 110.00*	Nil	Nil
110.01 – 770.00	11%	9.4%
770.01 – 844.00	11%	11%
Above 844.00	1%	1%

Total earnings £ per week	CLASS 1 EMPLOYER CONTRIBUTIONS		
	Contracted-in rate	Contracted-out rate	
		Final salary	Money purchase
Below 110.00**	Nil	Nil	Nil
110.01 – 770.00	12.8%	9.1%	11.4%
770.01 – 844.00	12.8%	12.8%	12.8%
Excess over 844.00	12.8%	12.8%	12.8%

* This is the primary threshold below which no NI contributions are payable. However, the lower earnings limit is £97 per week. This £97 to £110 band is a zero rate band introduced in order to protect lower earners' rights to contributory State benefits e.g. Basic State Pension.

** Secondary earnings threshold.

Class 2 (self-employed)	Flat rate per week £2.40 where earnings exceed £5,075 per annum.
Class 3 (voluntary)	Flat rate per week £12.05
Class 4 (self-employed)	8% on profits between £5,715 - £43,875 plus 1% on profits above £43,875

PENSIONS

TAX YEAR	LIFETIME ALLOWANCE	ANNUAL ALLOWANCE
2006/2007	£1,500,000	£215,000
2007/2008	£1,600,000	£225,000
2008/2009	£1,650,000	£235,000
2009/2010	£1,750,000	£245,000
2010/2011	£1,800,000	£255,000

NOTIONAL EARNINGS CAP

£123,600 – (For schemes that require post-1989 benefits to be still subject to a cap).

ANNUAL ALLOWANCE CHARGE

40% member's tax charge on the amount of total pension input in excess of the annual allowance.

LIFETIME ALLOWANCE CHARGE

55% of excess over lifetime allowance if taken as a lump sum.

25% of excess over lifetime allowance if taken in the form of income, which is subsequently taxed under PAYE.

INHERITANCE TAX

RATES OF TAX ON DEATH 2009/2010 2010/2011

Transfers made after 5 April 2010		
- Up to £325,000	Nil	Nil
- Excess over £325,000	40%	40%
- Lifetime transfers to and from certain trusts	20%	20%

MAIN EXEMPTIONS

Transfers to		
- UK-domiciled spouse/civil partner	No limit	No limit
- non-UK-domiciled spouse/civil partner (from UK domiciled spouse)	£55,000	£55,000
- UK-registered charities	No limit	No limit
Lifetime transfers		
- annual exemption per donor	£3,000	£3,000
- small gifts to same person	£250	£250
Wedding/civil partnership gifts by		
- parent	£5,000	£5,000
- grandparent/party to marriage/civil partnership	£2,500	£2,500
- other person	£1,000	£1,000

100% relief: businesses, unlisted/AIM companies, certain farmland/building

50% relief: certain other business assets

Reduced tax charge on gifts within 7 years of death:

- Years before death	0-3	3-4	4-5	5-6	6-7
- Inheritance Tax payable	100%	80%	60%	40%	20%

CAR BENEFIT FOR EMPLOYEES

The charge for company car benefits is based on the carbon dioxide (CO₂) emissions. There is no reduction for high business mileage users.

For 2010/2011:

The percentage charge is 15% of the car's list price for CO₂ emissions at or below the qualifying level of 130g/km.

The base percentage charge of 15% increases in 1% steps for every additional full 5g/km over the 130g/km threshold, up to a maximum of 35% of the car's list price.

A lower percentage charge of 10% of the car's list price applies for emissions at or below 120g/km and 5% for emissions at or below 75g/km.

If price of car exceeds £80,000 then its price for tax purposes will be fixed at £80,000.

There is an additional 3% supplement for diesel cars not meeting Euro IV emission standards or registered after 31 December 2005. However, the maximum charge remains 35% of the car's list price.

Car fuel The benefit is calculated as the CO₂ emissions % relevant to the car and that % applied to a set figure (£18,000 for 2010/2011) e.g. car emission 160g/km = 21% on car benefit scale.
21% of £18,000 = £3,780.

1. **Accessories** are, in most cases, included in the list price on which the benefit is calculated.
2. **List price** is reduced for capital contributions made by the employee up to £5,000.
3. **Car benefit** is reduced by the amount of employee's contributions towards running costs.
4. **Fuel scale** is reduced only if the employee makes good **all** the fuel used for private journeys.
5. **All car and fuel benefits** are subject to employers National Insurance Contributions (Class 1A) of 12.8%.

PRIVATE VEHICLES USED FOR WORK

2010/2011 Rates

Cars	
On the first 10,000 business miles in tax year	40p per mile
Each business mile above 10,000 business miles	25p per mile
Motor Cycles	24p per mile
Bicycles	20p per mile

MAIN CAPITAL AND OTHER ALLOWANCES

2010/2011

Plant & machinery 100% annual investment allowance (first year)	£100,000
Plant & machinery (reducing balance) per annum	20%
Patent rights & know-how (reducing balance) per annum	25%
Certain long-life assets, integral features of buildings (reducing balance) per annum	10%
Industrial & agricultural buildings (straight line)	1%
Energy & water-efficient equipment	100%
Zero emission goods vehicles (new)	100%
Qualifying flat conversions, business premises & renovations	100%

Motor cars: Expenditure on or after 01/04/09 (Corporation Tax) or 06/04/09 (Income Tax)

CO ₂ emissions of g/km:	110 or less *	111-160	161 or more
Capital allowance:	100%	20%	10%
	first year	reducing balance	reducing balance

* If new

Research & Development:	Capital expenditure	100%
Revenue expenditure:	Small/medium companies:	175%
	Large companies:	130%

MAIN SOCIAL SECURITY BENEFITS

2009/2010 2010/2011

		£	£
Child Benefit	first child	20.00	20.30
	subsequent children	13.20	13.40
Incapacity Benefit	short-term lower rate*	67.75	68.95
	short-term higher rate*	80.15	81.60
	long-term rate	89.80	91.40
Attendance Allowance	lower rate	47.10	47.80
	higher rate	70.35	71.40
Retirement Pension	single	95.25	97.65
	married	152.30	156.15
Pension Credit	single person standard minimum guarantee	130.00	132.60
	married couple standard minimum guarantee	198.45	202.40
	maximum savings ignored in calculating income	6,000.00	10,000.00
Bereavement Benefit (lump sum)		2,000.00	2,000.00
Widowed Parent's allowance		95.25	97.65
Jobseekers Allowance		64.30	65.45

* under State Pension Age

CAPITAL GAINS TAX

RATES OF TAX

Chargeable gains, less allowable losses, are charged to tax as follows from 23 June 2010:

- for individuals who are non-taxpayers or basic-rate taxpayers, the rate chargeable is 18%.
- for individuals who are higher-rate taxpayers or additional-rate taxpayers, the rate chargeable is 28%.
- for trustees of trusts and personal representatives the rate chargeable is 28%.
- Entrepreneurs' Relief reduces the rate to 10% on qualifying assets subject to a lifetime limit of £5,000,000.

ANNUAL EXEMPTION

- The annual exemption is £10,100.
- Most trusts have an annual exemption of £5,050.

CHATELS EXEMPTION

- Gains on chattels are exempt if proceeds do not exceed £6,000 per item.

CORPORATION TAX

	2009/2010	2010/2011
Full rate	28%	28%
Small companies rate	21%	21%
Small companies limit	£300,000	£300,000
Effective marginal rate	29.75%	29.75%
Upper marginal limit	£1,500,000	£1,500,000

VALUE ADDED TAX

Standard rate to 03/01/11	17.5%
Standard rate from 04/01/11	20%
Annual Registration limit	£70,000

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