



J02

THE CHARTERED INSURANCE INSTITUTE

TUESDAY 20 APRIL 2010

**DIPLOMA IN FINANCIAL PLANNING
J02 – TRUSTS**

SPECIAL NOTICES

- **All questions in this paper are based on English law and practice applicable in the tax year 2009/2010, unless stated otherwise 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 2010 Budget.**

INSTRUCTIONS

- **Two hours are allowed for this paper.**
- **Read the instructions overleaf carefully before answering any questions.**
- **Fill in the information requested on the answer book and form B.**
- **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 and you must enter the serial number, model and make on the 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 handed 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.****

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J02 – Trusts

CANDIDATE INSTRUCTIONS

READ THE INSTRUCTIONS BELOW BEFORE ANSWERING ANY QUESTIONS

Two hours are allowed for this paper.

The paper consists of 15 short answer questions and carries a total of 130 marks.

Read carefully the questions and information provided. You are strongly advised to attempt **all** questions to gain maximum possible marks. The number of marks allocated to each question part is given next to the question and you should spend your time in accordance with that allocation.

Any rough notes made in your answer book must be crossed through before you hand it in.

Tax tables are provided at the back of the paper.

Answer each question on a new page and leave six lines blank after each question part.

It is important to show all steps in a calculation, even if you have used a calculator.

Please ensure that you understand the Special Notices printed in the box on the front page.

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. Alex is considering setting up a financial arrangement for the benefit of his grandchildren who are all under 18 years old. He wants to know the legal position of such an arrangement.

Compare an enforceable contract with a non-statutory trust. (9)
2. State under what circumstances a trustee can be removed under the Trustee Act 1925. (7)
3. Dorothy and James Gardiner made wills in 2006. James has recently died and left all of his highly valued personal property and assets to his wife. He made no previous transfers for Inheritance Tax (IHT) purposes. Dorothy and James have two children who are ultimately intended to benefit from the estates of their parents.

Explain briefly the main IHT planning considerations which apply to this situation and the effects they may have on the amount of IHT payable overall. (8)
4. Describe briefly the main differences between a trust set up by an individual and one which has been granted charitable status. (9)
5. Explain briefly the extent of a Trustee's responsibilities to manage investments within a trust. (9)
6. A copyright which expires in nine years is the only asset of a life interest trust.

Explain briefly how conversion and apportionment should be applied by the trustees of the trust in these circumstances. (7)

7. Brian Docherty, aged 73, has a significant number of investments and a large estate for Inheritance Tax (IHT) purposes. He wants to give his adult son James, power to look after his financial affairs should he become mentally incapacitated.
- (a) Explain briefly the process involved in setting up a Lasting Power of Attorney (LPA) that could support Brian's requirements. (6)
 - (b) (i) State the events which cause a LPA to cease to be valid following its registration by the Court of Protection. (3)
 - (ii) State the limitations placed on a LPA in making gifts of the donor's property. (2)
8. It is possible under trust law for income to be accumulated within a trust without being paid out to a beneficiary.
- State the permitted Accumulation periods defined by legislation for a trust that commenced in February 2004. (5)
9. Brian Evans died in August 2009 and has left in his will £100,000 to each of his two children and the remainder to his wife, Edna. Both of his children are aged over 50 and financially independent. They each have two children in their early twenties. Edna, aged 86, is financially secure.
- (a) Explain to the beneficiaries of Brian's will the situation regarding the transfer of Brian's NIL rate band when Edna dies. *Assume Brian had made no previous gifts, no calculation is required.* (5)
 - (b) Explain why a deed of variation might be beneficial to this case and any time constraints that would apply. (3)
10. Owen Clark is a self-employed builder whose business is facing severe financial difficulties.
- (a) State what criteria might result in Owen facing formal bankruptcy proceedings. (3)
 - (b) Outline the procedure to be followed, if the court decides Owen should be made bankrupt. (9)

- 11.** John Morgan has used trusts for financial planning for a number of years and is currently reviewing two existing trusts.
- (a) State the Income Tax treatment from the trustees' perspective of assets held within a flexible power of appointment trust set up in 2004. (7)
- (b) Explain the Inheritance Tax (IHT) consequences of a change to a default beneficiary of a flexible power of appointment trust in September 2009 where the trust was executed in 2005. (5)
- 12.** Explain under which circumstances Pre-Owned Assets Tax (POAT) is levied and how the charge is calculated. *No calculation is required.* (7)
- 13.** Donald is a UK resident and a basic-rate tax payer. In 2005 he created a discretionary trust, but decided not to be a trustee of it. All of the trustees of the trust are resident in the Isle of Man. The trust fund consists of an offshore life assurance bond, which was effected in the same year. The trustees are considering surrendering the bond.
- Explain to Donald any potential assessment to tax he may have if the trustees fully surrender the bond. (8)
- 14.** Desmond died in 2002. His will created a life interest trust, with the life tenant of the trust being his wife Julie. Julie died recently and the remaining beneficiaries of the trust are their sons, Alan, aged 40 and Michael, aged 43, and their children who vary in age between 20 and 12. The trustees of the trust were Julie and Alan. The trust contains a variety of income producing assets. Alan now wishes to review the trust.
- State what Alan should consider in reviewing this trust in his role as a trustee and any action he should take. (10)
- 15.** In January 2010, Stella transferred £1,200,000 into a discretionary trust. Stella had made no previous lifetime gifts.
- (a) Explain the steps necessary to calculate any Inheritance Tax (IHT) liability on the creation of the trust, assuming that Stella pays any tax due. *No calculation is required.* (5)
- (b) Assuming no capital is paid out of the trust before January 2020, explain briefly to Stella the basis on which the trust fund would be assessed for IHT on the 10th anniversary of the trust. *No calculation is required.* (3)

TAX TABLES

INCOME TAX RATES

2009/2010		2008/2009	
Rate	Band	Rate	Band
%	£	%	£
10	1 - 2,440*	10	1 - 2,320*
20	1 - 37,400	20	1 - 34,800
40	Over 37,400	40	Over 34,800

* A new 10% starting rate is applied for savings income only from 06.04.2008. Only applicable where non-savings income after allowances is under £2,440 for 2009/2010.

NATIONAL INSURANCE CONTRIBUTIONS

2009/2010 Rates

Class 1 Employee	Weekly	Monthly	Yearly
	£	£	£
Lower Earnings Limit (LEL)	95	412	4,940
Upper Earnings Limit (UEL)	844	3,656	43,875
Upper Accruals Point	770	3,337	40,040

Class 1 Employee contributions 2009/2010

Total earnings £ per week	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

Class 1 Employer contributions 2009/2010

Total earnings £ per week	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 £95 per week. This £95 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

INCOME TAX RELIEFS

	2009/2010	2008/2009
	£	£
Personal (basic)	6,475	6,035
Personal (age 65-74)	9,490	9,030
Personal (aged 75 and over)	9,640	9,180
Married/civil partners (minimum) at 10% †	2,670	2,540
Married/civil partners (age under 75) at 10% †	N/A	6,535
Married/civil partners (age 75 and over) at 10%	6,965	6,625
Age-related relief reduced by 50% of income over	22,900	21,800
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
Blind person's allowance	1,890	1,800
Enterprise Investment Scheme relief limit @ 20%	500,000	500,000
Venture Capital Trust relief limit @ 30%	200,000	200,000

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

PENSIONS

Lifetime Allowance		Annual Allowance	
2006/2007	£1.5 million	2006/2007	£215,000
2007/2008	£1.6 million	2007/2008	£225,000
2008/2009	£1.65 million	2008/2009	£235,000
2009/2010	£1.75 million	2009/2010	£245,000
2010/2011	£1.8 million	2010/2011	£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.

CAR AND FUEL BENEFITS

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

For 2009/2010:

The percentage charge is 15% of the car's list price for CO₂ emissions at or below the qualifying level of 135g/km.

The base percentage charge of 15% increases in 1% steps for every additional full 5g/km over the 135g/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.

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 (£16,900 for 2009/2010) e.g. car emission 160g/km = 20% on car benefit scale. 20% of £16,900 = £3,380.

Notes:

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

2009/2010 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

INHERITANCE TAX

	2009/2010	2008/2009
Nil-rate band*	£325,000	£312,000
Rate of tax on excess	40%	40%
Lifetime transfers to and from certain trusts	20%	20%
Overseas domiciled spouse/civil partner exemption	£55,000	£55,000

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

	0-3	3-4	4-5	5-6	6-7
% of death charge	100	80	60	40	20
Annual exempt gifts	£3,000 per donor			£250 per donee	

* From 8 October 2007 up to 100% of the unused proportion of a deceased spouse's/civil partner's nil-rate band can be claimed on the surviving spouse's/civil partner's death.

MAIN SOCIAL SECURITY BENEFITS

		From 06.04.09	From 06.04.08
		£	£
Child Benefit	first child	20.00	20.00*
	subsequent children	13.20	13.20*
Incapacity Benefit	short-term lower rate**	67.75	63.75
	short-term higher rate**	80.15	75.40
	long-term rate	89.80	84.50
Attendance Allowance	lower rate	47.10	44.85
	higher rate	70.35	67.00
Retirement Pension	single	95.25	90.70
	married	152.30	145.05
Pension Credit	single person standard minimum guarantee	130.00	124.05
	married couple standard minimum guarantee	198.45	189.35
	maximum savings ignored in calculating income	6,000	
	increased from November 2009	10,000	
Bereavement Benefit (lump sum)		2,000.00	2,000.00
Widowed Parent's allowance		95.25	90.70
Jobseekers Allowance		64.30	60.50

* From 5 January 2009

** Under State Pension Age

VALUE ADDED TAX

Standard rate	15%*/17.5%**
Annual registration limit - from 1 May 2009	£68,000

* Effective from 1 December 2008

** Effective from 1 January 2010

CORPORATION TAX

Financial Year	2009 to 31/3/10	2008 to 31/3/09
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

CAPITAL ALLOWANCES

Plant & machinery 100% annual investment allowance (first year)	£50,000
Plant & machinery in excess of annual investment allowance (first year)	40%
Plant & machinery, patent rights, know-how (reducing balance) per annum	20%
Certain long-life assets, integral features of buildings (reducing balance) per annum	10%
Industrial & agricultural buildings (straight line)	2%
Energy & water-efficient investments	100%
Qualifying flat conversions & business premises renovations	100%
Motor cars: with emissions in excess of 160g/km	10%
generally	20%*
with CO2 emissions of 110g/km or less	100%
Research & Capital expenditure	100%
Development: Revenue expenditure - small/medium-size firms	175%
- large firms	130%

* Maximum £3,000

CAPITAL GAINS TAX

Exemptions	2009/2010	2008/2009
Individuals, estates etc	£10,100	£9,600
Trusts generally	£5,050	£4,800
Chattels proceeds (5/3 excess gain is taxable)	£6,000	£6,000
Rates		
Individuals	18%	18%
Trusts and estates	18%	18%

ENTREPRENEURS' RELIEF

Entrepreneurs' Relief 2009/2010

4/9^{ths} of gain tax free. Lifetime limit eligible for relief: £1,000,000

For trading businesses and companies (minimum 5% employee shareholding) held for 1yr+

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