



J02

THE CHARTERED INSURANCE INSTITUTE

TUESDAY 20 OCTOBER 2009

**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.**

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. Describe briefly the main purpose of a trust set up by an individual and the roles associated with it. (6)

2. Without considering the taxation treatment, describe the principal features of:
 - (a) a life interest trust; (3)
 - (b) a pre-2006 accumulation and maintenance trust, which has not been amended since inception; (4)
 - (c) a statutory trust. (2)

3.
 - (a) State the main provisions of the Perpetuities and Accumulations Act 1964. (4)
 - (b) List **two** types of trust arrangement exempt from the above legislation. (2)

4. Alan, Brian and Charles are partners in ABC & Co. They want the surviving partners to be able to purchase the deceased's share of the business without prejudicing Inheritance Tax (IHT) business property relief.
 - (a) Explain how a partnership protection arrangement using term life policies and trusts could be structured to achieve their objective. (4)
 - (b) State the IHT consequences of the arrangement in (a) above. (5)

5. Describe briefly the principal features of an excluded property trust. (5)

6. Geraint and Henry are trustees of a life interest trust created in 2002. The sole trust asset is a single premium life investment bond invested in the managed fund. The trust instrument does not contain any provisions specifying the investment powers of the trustees. Explain briefly:
 - (a) Geraint and Henry's investment powers and responsibilities under the Trustee Act 2000 in relation to the trust and its current asset; (10)
 - (b) an advantage and a disadvantage of holding the investment bond in the trust. (2)

7. Brian set up an Enduring Power of Attorney (EPOA) in 2004. He has recently had a stroke and is currently unable to make decisions for himself. The EPOA has now been registered with the Court of Protection. Medical advice is quite positive and Brian's family have been told that he may recover his decision making capability after a period of treatment and recovery. Explain briefly:
- (a) the steps Brian would have to take, following his recovery, in order to manage his own affairs again; (4)
 - (b) how Brian's loss of capacity would have been dealt with if there had been no EPOA in place at the time he was declared mentally incapable. (7)
8. Dewi died on 30 April 2009. He was married to Ellen with one son, aged 15. At the time of his death Dewi and Ellen owned a house as joint tenants valued at £300,000. Dewi's remaining estate included £1,250,000 in different bank and building society accounts and personal effects worth £25,000. Dewi had not made a will.
- (a) State what Ellen would receive from the estate. (4)
 - (b) Explain briefly the tax position for the administrators of Dewi's estate on the bank and building society account interest received by the estate, after Dewi's death. (3)
9. Charles and Alice Wilson made mirror wills leaving everything to each other on death. Charles died in July 2009, leaving Alice and their two children, aged 19 and 23. Alice now has an estate in excess of £1,000,000, half of which is held in liquid assets. Alice has sufficient income for her everyday needs and wants to set up a trust for the benefit of the children.
- (a) Explain the possible Inheritance Tax (IHT) advantages of a deed of variation in this case. (3)
 - (b) List the conditions that Alice must follow for a deed of variation to be effective for IHT purposes. (6)
10. Tony Johnson is considering filing for bankruptcy. He is broadly aware of the process but wonders if it can be avoided if he comes to an agreement with his creditors.
- (a) State the **three** basic functions of a trustee in bankruptcy. (3)
 - (b) Explain briefly to Tony how an Individual Voluntary Arrangement (IVA) works. (6)
 - (c) Explain briefly why an IVA might be advantageous to Tony. (3)

11. Jason Brown set up a flexible interest in possession (IIP) trust in 2005 for £100,000 with three beneficiaries holding the IIP jointly. There were no changes to the IIP until May 2009 when the share of one beneficiary was removed and divided between that beneficiary's minor children. The assets of the trust include both income and non-income producing investments. State:
- (a) the Inheritance Tax (IHT) treatment of the trust prior to the change to the IIP; (3)
 - (b) the IHT treatment of the trust after the change to the IIP; (4)
 - (c) how the income received from the trust would be taxed in the hands of the beneficiary. (4)
12. Norman, aged 66, set up an onshore life investment bond in trust in order to make payments to his minor grandchildren.
- Describe briefly the Income Tax treatment if the trustees of the trust were to fully encash the bond if the trust was:
- (a) a bare trust; (5)
 - (b) a discretionary trust. (7)
13. Bill is considering transferring his entire portfolio of shares and unit trusts to a discretionary trust he has already set up for his close family. The beneficiaries include his wife and adult children.
- Explain briefly the tax considerations that Bill should bear in mind. (8)
14. Joyce Bishop has recently died whilst holding a life interest in a trust, which she had held for 20 years. The trust assets comprise various unit trusts, gilts and cash.
- Identify **eight** specific factors of this trust arrangement that the trustees now need to review. (8)
15. Describe briefly the main features of a Charitable Trust compared to an individual's non-statutory trust in respect of taxation. (5)

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+

