Chartered Insurance Institute

J02

Diploma in Financial Planning

Unit J02 – Trusts

February 2021 Examination Guide

SPECIAL NOTICES

Candidates entered for the April 2021 examination should study this examination guide carefully in order to prepare themselves for the examination.

Practice in answering the questions is highly desirable and should be considered a critical part of a properly planned programme of examination preparation.

J02 – Trusts

Contents

Published April 2021

Telephone: 020 8989 8464
Email: customer.serv@cii.co.uk

IMPORTANT GUIDANCE FOR CANDIDATES

Introduction

The purpose of this Examination Guide is to help you understand how examiners seek to assess the knowledge and skill of candidates. You can then use this understanding to help you in your preparation for this examination.

Before the examination

Study the syllabus carefully
This is available online at www.cii.co.uk. All the questions in the examination are based directly on the syllabus. *You will be tested on the syllabus alone,* so it is vital that you are familiar with it.

There are books specifically produced to support your studies that provide coverage of all the syllabus areas. However, you should be prepared to read around the subject. This is important particularly if you feel that further information is required to fully understand a topic, or an alternative viewpoint is sought. The reading list which can be found with the syllabus provides valuable suggestions.

Note the assumed knowledge
For the Diploma in Financial Planning, candidates are assumed to have studied the relevant units of the Certificate in Financial Planning or the equivalent. This knowledge is set out on the relevant syllabus.

Read widely
If you do not have experience in advising clients whose financial needs are relatively sophisticated, *it is quite unrealistic to expect that the study of a single textbook will be sufficient to meet all your requirements.* While books specifically produced to support your studies will provide coverage of all the syllabus areas, you should be prepared to read around the subject. This is important, particularly if you feel that further information is required to fully understand a topic, or an alternative viewpoint is sought. It is vital that your knowledge is widened beyond the scope of one book. The reading list which can be found with the syllabus provides valuable suggestions.

Make full use of the Examination Guide

This Examination Guide contains a full examination paper and model answers. The model answers show the types of responses the examiners are looking for and which would achieve maximum marks. *However, you should note that there are alternative answers to some question parts which would also gain high marks.* For the sake of clarity and brevity not all of these alternative answers are shown.

This guide and previous Examination Guides can be treated as 'mock' examination papers. Attempting them under examination conditions as far as possible, and then comparing your answers to the model ones, should be seen as an essential part of your exam preparation. The examiner's comments on candidates' actual performance in each question provide further valuable guidance. You can obtain copies of the two most recent examination guides free of charge at www.cii.co.uk.

Know the layout of the tax tables

Familiarise yourself with the information contained within the tax tables printed at the back of each Examination Guide. These tax tables will be provided to candidates as part of the exam. The tax tables enable you to concentrate on answering the questions without having to worry about remembering all the information. *Please note that you are not allowed to take your own tax tables into the examination.*

Know the structure of the examination

- Assessment is by means of a two-hour online exam.
- All questions are compulsory.
- The online exam is made up of 15 short questions.
- Each question part will clearly show the maximum marks which can be earned.
- The exam will carry a total of 130 marks.

Appreciate the standard of the examination

Candidates must demonstrate that they are capable of advising clients *whose overall levels of income and capital require a more sophisticated scheme of investment* than is normally prepared by a level 4 qualified adviser. These clients require a critical appraisal of the various financial planning options available to them.

Read the Assessment information and Exam policies for candidates

The details of administrative arrangements and the regulations which form the basis of your examination entry are available online at www.cii.co.uk/qualifications/assessment-information/introduction/. This is *essential reading* for all candidates.

In the examination

The following will help:

Spend your time in accordance with the allocation of marks:

- The marks allocated to each question part are shown on the paper.
- If a question has just two marks allocated, there are likely to be only one or two points for which the examiner is looking for, so a long answer is wasting valuable time.
- Conversely, if a question has 12 marks allocated, a couple of lines will not be an adequate answer. Always remember that if the exam is not completed, your chances of passing will be reduced considerably.
- Do not spend excessive time on any one question; if the time allocation for that question has been used up, go on to the next question and return to the incomplete question after you have completed the rest of the paper, if you have time.

Take great care to answer the question that has been set.

- Many candidates finish the exam confident that they have typed a 'good' paper, only to be surprised when they receive a disappointing result. Often, the explanation for this lies in a failure to think carefully about what the examiner requires before typing.
- Highlighting key words and phrases is a technique many candidates find useful.
- The model answers provided in this Examination Guide would gain full marks. Alternative answers that cover the same points and therefore answer the question that has been asked would also gain full marks.

Tackling questions

Tackle the questions in whatever order feels most comfortable. Generally, it is better to leave any questions which you find challenging until you have attempted the questions you are confident about. Candidates should avoid mixing question parts, (for example, 1(a)(i) and (ii) followed by 2(b)(ii) followed by 1(e)(i)) as this often leads to candidates unintentionally failing to fully complete the examination paper. This can make the difference between achieving a pass or a narrow fail.

It is vital to label all parts of your answer correctly as many questions have multiple parts to them (for example, question 1(a) may have parts (i), (ii) and (iii)). Failure to fully distinguish between the separate question parts may mean that full credit cannot be awarded. It is also important to note that a full answer must be given to each question part and candidates should not include notes such as 'refer to answer given in 1(b)(i)'.

Answer format

Unless the question requires you to produce an answer in a particular format, such as a letter or a report, *you should use 'bullet points' or short paragraphs,* since this allows you to communicate your thoughts in the most effective way in the least time. The model answers indicate what is acceptable for the different types of question.

Where you are asked to perform a calculation, it is important to show **all** the steps in your answer. The majority of the marks will be allocated for demonstrating the correct method of calculation.

Candidates will **not** lose marks due to poor spelling or grammar.

Calculators

The calculator is in a pop-up box on the right-hand side of the interface. It is important to show all steps in a calculation, even if you have used a calculator.

EXAMINERS' COMMENTS

Candidates' overall performance:

It was slightly disappointing that candidates did not perform as well in this sitting of the J02 examination, with fewer candidates managing to attain high marks and more scoring low marks.

Candidate performance was generally less consistent, apart from a few questions that covered main syllabus areas and even here some questions were either not attempted or poorly answered. Fewer candidates scored well, and it appeared that less candidates had undertaken serious study in preparation for this exam.

Candidates performed well on question 1 testing trust definition, question 5 on trustee's adherence to the investment content of the Trustee Act 2000 and question 8 on Wills. These areas helped many candidates to achieve a good number of marks.

Surprisingly candidates found more difficulty in answering question 2 which required an explanation of the rule set by the decision in *Knight v Knight* (1840), a cornerstone of trusts, question 3 on non-tax features of an 18 to 25 trust, question 7 on deputy appointment & mental capacity issues and question 11 on advantages and disadvantages of non-statutory trusts. These questions where candidates performed poorly are all in the syllabus and in the current study text, so well-prepared candidates should have been able to gain decent marks.

Candidates that study for the J02 Trusts examination should not take it lightly and assume that their "working knowledge" will be sufficient to enable them to pass this examination. It is strongly recommended that candidates study past Examination Guides and read the Examiner's Comments in preparation for sitting this examination. It is important to identify areas of the syllabus which require further study. In addition, a thorough reading of the J02 study text for this examination is also strongly recommended. If candidates undertake the above recommendations, they should have a good chance of gaining a pass in this examination.

Question 1

For part (a) candidates performed well in outlining the legal definition of a trust. Many candidates correctly identified that the settlor transferred property to the trustees to look after for the benefit of the beneficiaries.

In part (b) candidates answered this question on how trustees may be appointed when a trust is created well. Candidates commonly correctly stated by deed, will or intestacy.

Part (c) required candidates to explain what action a trustee in bankruptcy can take on a regular premium life assurance policy, held under a Married Women's Property Act 1882 trust if a settlor becomes bankrupt and it was reasonably well answered. Candidates mainly identified that the trustee in bankruptcy could not claim the policy but could make a claim on the premiums.

Question 2

This question tasked candidates with explaining the rule set by the decision in *Knight v Knight*, most candidates performed very poorly. Most either did not attempt the question or gave incorrect explanations of wrong cases. Pleasingly some candidates gained full marks, as this question is in the syllabus and is also in the current study text.

Question 3

This question asked candidates to describe the non-tax features of an 18 to 25 trust, with very few candidates gaining many marks. This was a more challenging question than others in this examination, but it is within the syllabus and the J02 study text and this indicates that insufficient study was undertaken in this area. Of the correct responses given the most frequent was that beneficiaries must become entitled to income and capital by age 25.

Question 4

In part (a) candidates were asked to describe the legal consequences of death of one of the owners, if property is held as joint tenant and it was slightly disappointingly answered. Candidates frequently correctly offered that when one joint tenant died, the property passes automatically to the surviving joint tenant and is not a transfer of value for Inheritance Tax purposes but little else.

Part (b) asked the same question as in 4 (a) but this time for tenants in common. Similarly, this was not particularly well answered. Most common correct answers were that on the death of one joint tenant their share passes as part of their estate and the deceased person's share of the property will be distributed by Will or Intestacy.

Question 5

Candidates were asked to explain which provisions of the Trustee Act 2000 would be relevant to the trustees when considering an AIM investment and this was very well answered. All of the available answers were given by at least one candidate. The most frequently given correct answers were duty of care, need for diversification, whether the AIM investment was suitable, acting in best interest of the beneficiaries, upmost diligence to avoid loss and they must obtain and consider proper advice from a suitably qualified professional if they do not have the relevant experience and expertise.

Question 6

Part (a) required candidates to explain briefly the key assessment factors used to decide if Peter (donor of an enduring power of attorney) has regained mental capacity and this was not very well answered. Some candidates knew parts of the answers, but few knew the full answers.

Part (b) asked candidates to outline the steps that Peter (donor of an enduring power of attorney) would need to take to formally manage his own affairs again following his recovery and this was quite well answered. Most candidates correctly stated that an application would have to be made to the Court of Protection and some others also added that this needed to be accompanied by medical evidence proving he has now regained mental capacity.

Question 7

Part (a) of this question asked candidates to describe the Court of Protection considerations in appointing a deputy and this question was generally poorly answered. The correct answer that was most commonly given was that the deputy will usually be a close friend or family member of the person who needs help making decisions. Less frequently that the deputy must be aged 18 or over but few other correct responses were given.

Again, in part (b) candidates performed poorly in identifying four pieces of guidance from the Mental Capacity Act 2005 Code of Practice that a deputy should adhere to in performing their duties. Consistently the only correct response offered by candidates was to only make decisions in the person's best interests.

Question 8

In part (a) candidates had to identify three main requirements that Lance and Bryony (who were partners living together) must fulfil before executing a valid Will and this was answered extremely well by most candidates. The majority of candidates gained all three marks.

Part (b) required candidates to state circumstances that will automatically revoke Lance and Bryony's Will and it was also very well answered with many candidates achieving full marks.

Question 9

In part (a) this question required candidates to describe the process Isla must follow in order to make a successful disclaimer and it was generally well answered with most of the correct answers frequently given.

For part (b) requiring a description of the effect of the disclaimer if executed in these circumstances was answered quite well. Often candidates gained two of the three available marks with some achieving the full three.

Question 10

Part (a) asked candidates to describe the executors' duties regarding the payment of the Inheritance Tax liability to HM Revenue & Customs and it was reasonably well answered by candidates. Many candidates obtained the majority of the marks, but few stated that gifts with reservation needed to be taken into account.

In part (b) candidates were required to explain how the executors would assess the available nil rate band on Joe's death with no calculations were required and this question was fairly well answered. A number of candidates obtained all four marks by identifying the nil rate band and residence nil rate band for both Joe and his deceased wife. Those that did not identify the residence nil rate band for either Joe or his deceased wife often gained two marks for identifying both of their nil rate bands.

Question 11

This question required candidates to state advantages and disadvantages of a non-statutory trust compared to a statutory trust and it was very disappointingly answered by the majority of candidates. Whether they were confused by the terminology of non-statutory and statutory, which are recognised terms which are in the study text, but essentially this required them to undertake a comparison, for example, between discretionary and bare trusts. Candidates performed slightly better on disadvantages than advantages.

Question 12

Part (a) asked candidates to calculate the Income Tax liability on the dividend income received within the discretionary trust and most candidates performed this well. However, a number of candidates lost a mark as they did not show all their workings which was asked for in the question.

In part (b) this question required candidates to explain the Capital Gains Tax treatment of the investments held within the trust, should the trustees dispose of them, with no calculations being required and was slightly disappointingly answered. Whilst many candidates correctly answered the trustees have an annual exempt amount of half the individual annual exempt amount of £6150 and they pay Capital Gains Tax at the rate of 20%. Few candidates identified that there would have been no Capital Gains Tax due on the gilt holding and therefore it would only have been levied on the equity unit trusts should they have realised a chargeable gain.

Question 13

This question asked candidates to describe how the potential Inheritance Tax is calculated on creation of a relevant property trust with no calculations being required and it was quite well answered. Many candidates correctly gave the majority of marks.

Question 14

For this question candidates were asked to state advantages and disadvantages of using a discounted gift discretionary trust compared to a flexible reversionary discretionary trust and it was disappointingly answered. This was considered a mainstream question for the J02 trusts examination, but candidates did not perform well. Candidates did seem to perform better on the disadvantages of discounted gift schemes than advantages.

Question 15

This question asked candidates to identify factors to consider following changes to the taxation of investments held within the trust and it was slightly disappointingly answered. Many candidates correctly stated that one of the factors to consider after the changes to taxation were whether the trust investments were suitable and if not, they should be sold/switched. A number of candidates also rightly suggested that the trustees should seek professional financial advice if they did not possess the expertise themselves.

Unit J02 – TRUSTS

Instructions to candidates

Read the instructions below before answering any questions

All questions in this examination are based on English law and practice applicable in the tax year 2020/2021, unless stated otherwise in the question, and should be answered accordingly. It should be assumed that all individuals are domiciled and resident in the UK unless otherwise stated.

- **Please write down the following number +44 (0)80 8273 9244 this is the number to use if your system freezes or you get forced out of your exam. It is fine to phone it if you have these issues.**
- **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 part 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.
- The calculator is in a pop-up box on the right-hand side of the interface. It is important to show all steps in a calculation, even if you have used a calculator.
- The tax tables are provided on the right-hand side of the interface.
- For each answer, please type in the full question number you are answering e.g. **1a**
- **Please note each answer must be typed in the correct corresponding answer box.**
- **If you are wearing headset, earphones, smart watch please take them off.**
- Ensure you answer each question in the relevant answer box.
- If required, have you shown your ID during the ID check? If not, show it to the camera now please.
- If required, did you show the edge of your screen with a mirror during the room scan? If not, use a mirror to show it now please.
- If you have blank paper for notes, if required did you show both sides to the camera? If not, show both sides to the camera now please.
- Please familiarise yourself with **all** questions before starting the exam.

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

*To gain maximum marks in a calculation, you **must** show **all** your workings and express your answers to **two** decimal places.*

1. **(a)** Outline the legal definition of a trust. **(5)**

(b) State **three** ways trustees may be appointed when a trust is created. **(3)**

(c) Explain what action a trustee in bankruptcy can take on a regular premium life assurance policy, held under a Married Women's Property Act 1882 trust if a settlor becomes bankrupt. **(4)**

2. Explain the rule set by the decision in Knight v Knight (1840). **(7)**

3. Describe the non-tax features of an 18 to 25 trust. **(6)**

4. Describe briefly the legal consequences of death of one of the owners, if property is held as:

(a) joint tenants; **(5)**

(b) tenants in common. **(4)**

5. The trustees of an interest in possession trust are considering investing in an AIM listed company.

Explain which provisions of the Trustee Act 2000 would be relevant to the trustees when considering this investment. **(8)**

6. Peter effected an Enduring Power of Attorney on 2 January 2006 and appointed his son Trent as his attorney. Trent registered his father, Peter's, Enduring Power of Attorney on 1 May 2018 when he lost mental capacity and has been managing his finances ever since. Recently, the health of his father has improved significantly, and he now has capacity to take control of his own affairs.

(a) Explain briefly the key assessment factors used to decide if Peter has regained mental capacity. **(4)**

(b) Outline the steps that Peter would need to take to formally manage his own affairs again following his recovery. **(4)**

7. **(a)** Describe the Court of Protection considerations in appointing a deputy. **(7)**

(b) State **four** pieces of guidance from the Mental Capacity Act 2005 Code of Practice that a deputy should adhere to in performing their duties. **(4)**

8. Lance lives with his partner Bryony. They have a daughter aged three. Neither of them have made a valid Will.

(a) Identify **three** main requirements that Lance and Bryony must fulfil before executing a valid Will. **(3)**

(b) State **three** circumstances that will automatically revoke Lance and Bryony's Will. **(3)**

9. Eamon, aged 93, has recently died and left his estate to his four adult children equally. His daughter Isla already has a large estate and wishes to effect a disclaimer.

(a) Describe the process Isla must follow in order to make a successful disclaimer. **(7)**

(b) Describe briefly the effect of the disclaimer if executed in these circumstances. **(5)**

10. Joe, a widower, has recently died. His executors are in the process of administering his estate.

(a) Describe the executors' duties regarding the payment of the Inheritance Tax liability to HM Revenue & Customs. **(6)**

(b) Explain briefly how the executors would assess the available nil rate band on Joe's death. *No calculations are required.* **(4)**

11. State **four** advantages and **four** disadvantages of a non-statutory trust compared to a statutory trust. **(8)**

12. Harry set up a discretionary trust for his grandchildren six years ago. The trust is invested in gilts and equity unit trusts. In the tax year 2020/2021 dividend income was received of £6,500. This is the only trust that Harry has set up.

(a) Calculate, **showing all your workings**, the Income Tax liability on the dividend income received within the discretionary trust. **(5)**

(b) Explain the Capital Gains Tax treatment of the investments held within the trust should the trustees dispose of them. *No calculations are required.* **(5)**

13. Describe how the potential Inheritance Tax is calculated on creation of a relevant property trust. *No calculations are required*. **(8)**

14. State **five** advantages and **five** disadvantages of using a discounted gift discretionary trust compared to a flexible reversionary discretionary trust. **(10)**

15. The Marshall Family Trust was set up to help support the settlor's grandchildren with school, university and living costs at the discretion of the trustees. Trust investments include an investment bond, a portfolio of collective investments and cash.

Identify **seven** factors to consider following changes to the taxation of investments held within the trust. **(7)**

NOTE ON MODEL ANSWERS
The model answers given are those which would achieve maximum marks. However, there are alternative answers to some question parts which would also gain high marks. For the sake of clarity and brevity not all of these alternative answers are shown. An oblique (/) indicates an equally acceptable alternative answer.

Model answer for Question 1

(a) *Candidates would have gained full marks for any five of the following:*
- A trust is an arrangement where the settlor;
- creates a legal obligation over property;
- to transfer the property to the trustees;
- over which the trustees have control;
- for the benefit of beneficiaries;
- any one of whom may enforce the obligation.

(b) *Candidates would have gained full marks for any three of the following:*
- By the deed that creates a trust.
- Where a trust is created by a Will.
- Under the laws of intestate succession/intestacy.
- By the court.

(c) *Candidates would have gained full marks for any four of the following:*
- The trustee in bankruptcy cannot claim the policy;
- even if it was taken out with intent to defraud the creditors.
- The only claim a trustee in bankruptcy can make is on the premiums paid by the bankrupt settlor and even then;
- only if it can be proved that the policy was taken out with intent to defraud the creditors.
- This protection does not extend to any beneficial interest of the bankrupt.

Model answer for Question 2

- The rule set by *Knight v Knight* is that for a valid trust to be created there needs to be three certainties.
- Words/intention.
- The most obvious way to demonstrate an intention to create a trust is by putting that intention in writing.
- Subject matter.
- The subject matter, the property to be held upon trust, must be certain.
- Objects.
- The objects of the trust, the beneficiaries, must be certain.

Model answer for Question 3

Candidates would have gained full marks for any six of the following:

- This is a trust for the benefit of a person under the age of 25;
- set up under the Will or intestacy of a deceased parent;
- or under the Criminal Injuries Compensation scheme.
- The beneficiaries do not automatically receive the trust benefits at age 18;
- until then income is accumulated.
- Accumulated trust income and/or capital can be appointed to beneficiaries;
- at the discretion of the trustees any time between 18 and 25.
- Beneficiaries must become entitled to trust income and capital by age 25.

Model answer for Question 4

(a)
- When property is held under a joint tenancy, all joint holders have an identical and equal interest in the property.
- When one joint tenant dies, the property passes automatically to the surviving joint tenant;
- because of 'the right of survivorship'.
- The deceased person's share of the property cannot therefore be disposed of by their Will or intestacy.
- This is not a transfer of value for Inheritance Tax purposes.

(b)
- Where the property is held under a tenancy in common, on the death of one joint tenant their share passes as part of the deceased tenant's estate;
- as directed by their Will or the law of intestacy.
- This does result in a transfer of value for Inheritance Tax purposes.
- This could reduce the security of tenure for the surviving tenant following first death.

Model answer for Question 5

Candidates would have gained full marks for any eight of the following:

- The trustees have a statutory duty of care.
- This is relevant as AIM listed equities are smaller, higher risk companies and tend to be speculative in nature.
- They must consider the need for diversification;
- investing in individual AIM-listed companies alone may not be suitable;
- and they use upmost diligence to avoid loss.
- They must consider the interests of all beneficiaries.
- They should consider that there is a beneficiary entitled to income for life which AIM shares may not produce income/sufficient income thus penalising the life tenant.
- They must obtain and consider proper advice from a suitably qualified professional;
- unless the trustees have the relevant experience and expertise in AIM listed investments.

Model answer for Question 6

(a)
- Can Peter/donor understand the information required in order to make a decision?
- Can Peter/donor understand the consequences of making or not a making a decision?
- Can Peter/donor weigh up information to make a choice?
- Can Peter/donor communicate the decision?

(b)
- An application should be made to revoke the Enduring Power of Attorney;
- It should be made to the Court of Protection;
- and accompanied by medical evidence proving Peter now has mental capacity.
- A fee of £365 needs to be paid to the Court of Protection for the application.

Model answer for Question 7

(a)
- If a person loses mental capacity;
- and there is no valid Lasting Power of Attorney or Enduring Power of Attorney in place;
- the Court of Protection will have to decide who would be a suitable deputy.
- The deputy will usually be a close friend or family member of the person who needs help making decisions;
- but they can also be a professional.
- The deputy must be aged 18 or over.
- The deputyship will be evidenced by an order of the court.

(b)
- To only make decisions in the person’s best interests;
- To only make the decisions allowed by the court;
- and always apply a high standard of care when making decisions;
- and keep a record of any decision(s) made in the role.

Model answer for Question 8

(a)
- They must be over the age of 18.
- They must be of sound mind.
- They must be under no pressure to make the Will.

(b) *Candidates would have gained full marks for any three of the following:*
- By physically destroying the Will.
- By making a new Will revoking all previous Wills.
- By marriage;
- unless the Will states it was made in anticipation of them getting married.

Model answer for Question 9

(a)
- To disclaim the property it must not already have been accepted by Isla;
- this means Isla legally renounces her entitlement.
- She must disclaim it within 2 years;
- of her father Eamon’s death.
- The disclaimer must be in writing.
- Isla must ensure there is no consideration for money or money’s worth.
- Isla should ensure that the disclaimer must contain a statement that it is to have effect for Inheritance Tax as if the disclaimed benefit had never been conferred.

(b)
- With a disclaimer the property passes back into Eamon’s estate;
- to whomever else Eamon named as beneficiaries under his will/Eamon’s three other adult children beneficiaries.
- Isla has no control over who receives her disclaimed legacy.

Model answer for Question 10

(a)
- The executors must complete the Inheritance Tax account;
- showing Joe’s assets and liabilities;
- plus any gifts he made in the last 7 years;
- and any gifts with reservation.
- The executors must pay Inheritance Tax by the end of the 6th month after Joe has died.
- The Inheritance Tax must be paid before the grant of probate can be issued.

(b)
- Joe may have a nil rate band available, potentially up to £325,000;
- in addition he may have all or part of his wife’s remaining nil rate band.
- Joe could also have a residence nil rate band;
- He may also have all or part of his deceased wife’s remaining residence nil rate band.

Model answer for Question 11

Advantages
- The settlor can nominate a class(es) of beneficiary, including potential unborn beneficiaries.
- There is flexibility to change who ultimately benefits.
- There is flexibility to change the percentage/monetary share a beneficiary receives.
- The trustees generally control when benefits are paid to beneficiaries.
- There is flexibility over whether the trustees appoint income and/or capital.
- The ability to protect trust funds from beneficiaries who are about to divorce/are bankrupt/or are spendthrifts.

Disadvantages
- There is no protection from creditors accessing trust funds.
- They are potentially more complex to administer/costly.
- They have potentially more complex taxation.
- The beneficiary(ies) lack certainty of appointment.
- The settlor has less control over the eventual recipients of trust fund.

Model answer for Question 12

(a) Dividend income = £6,500 received gross.
- The first £1,000 (standard rate band) is taxed at basic rate tax.
- £1,000 x 7.5% (basic rate)= £75
- £6,500 - £1,000 (standard rate band) = £5,500
- £5,500 x 38.1% (rate applicable to trusts) = £2,095.50
- £75 + £2,095.50 = £2,170.50

(b)
- The trustees are potentially liable for Capital Gains Tax on disposal of the equity unit trusts.
- There is no Capital Gains Tax on the disposal of gilts.
- The trustees have an annual exempt amount of half the individual annual exempt amount at £6,150.
- Trustees pay Capital Gains Tax on chargeable gains at the rate of 20%.
- Trustees could claim Capital Gains Tax holdover relief if the equity unit trust units are being appointed to beneficiaries.

Model answer for Question 13

- The creation of a relevant property trust is a chargeable lifetime transfer.
- Inheritance Tax will be payable at the lifetime rate of 20%;
- if the transfer into trust takes the settlor's cumulative total;
- of chargeable gifts over;
- the current nil rate band/£325,000;
- in the past 7 years.
- The settlor may have the use of the annual exemption of up to £3,000 for current tax year;
- and up to £3,000 for the previous tax year.

Model answer for Question 14

(a) Advantages

- The transfer of value for Inheritance Tax is less than the original investment due to the immediate discount.
- There is potentially an immediate Inheritance Tax saving if the donor dies within 7 years.
- The investment can exceed the donor's nil rate band, provided the discounted gift reduces the gift within the nil rate band.
- The 5% tax-deferred annual withdrawal facility means that the settlor can receive regular payments/use of Capital Gains Tax annual exempt amount for collective investments.
- A jointly owned discounted gift trust can be set up so the payments will be made for the lifetime of the surviving settlor.

(b) Disadvantages

- The regular withdrawals from the discounted gift trust are fixed for life and have to be taken;
- The settlor has no access, with a discounted gift trust, to any of the capital, outside of the retained rights.
- The beneficiaries cannot receive any benefit, from a discounted gift trust, while the settlor is still alive.
- If the annual payments from a discounted gift trust to the settlor are not spent, they could increase the value of their estate for Inheritance Tax.
- The settlor(s) would need to be medically underwritten.

Model answer for Question 15

Candidates would have gained full marks for any seven of the following:

- To consider the potential need to rebalance/switch the trust's investments.
- To consider which investments are most suitable after the taxation changes.
- To consider the changes in the tax position of the beneficiaries.
- To consider the effect in a change in tax position of the settlor.
- To consider the effects on after tax income.
- To consider the effects on after tax capital.
- To consider the effects on education plans for the grandchildren;
- and any potential change of the objectives of the trust this may cause.
- To consider seeking professional financial advice if the trustees do not have the expertise.

February 2021 Examination - J02 Trusts		
Question Number	**Syllabus learning outcomes being examined**	
1.	1.	Explain the structure of a trust and the roles of the main parties.
2.	2.	Explain how trusts are created.
3.	2.	Explain how trusts are created.
4.	2.	Explain how trusts are created.
5.	3.	Explain the rules covering the investment of trust assets and the administration of trusts.
6.	4.	Explain substituted decision making, to include all types of Power of Attorney and other options.
7.	4.	Explain substituted decision making, to include all types of Power of Attorney and other options.
8.	5.	Explain the use of Wills and the consequences of dying intestate.
9.	5.	Explain the use of Wills and the consequences of dying intestate.
10.	5.	Explain the use of Wills and the consequences of dying intestate.
11.	7.	Analyse how trusts are subject to tax and how a liability can fall to the settlor, trustees or beneficiaries.
12.	7.	Analyse how trusts are subject to tax and how a liability can fall to the settlor, trustees or beneficiaries.
13.	7.	Analyse how trusts are subject to tax and how a liability can fall to the settlor, trustees or beneficiaries.
14.	8.	Explain how life, pension and other investments can be placed in trust, and the tax implications.
15.	9.	Apply effective trust and related tax planning solutions.

All questions in the April 2021 paper will be based on English law and practice applicable in the tax year 2020/2021, unless stated otherwise and should be answered accordingly.

The Tax Tables which follow are applicable to the February and April 2021 examination.

INCOME TAX

RATES OF TAX	2019/2020	2020/2021
Starting rate for savings*	0%	0%
Basic rate	20%	20%
Higher rate	40%	40%
Additional rate	45%	45%
Starting-rate limit	£5,000*	£5,000*
Threshold of taxable income above which higher rate applies	£37,500	£37,500
Threshold of taxable income above which additional rate applies	£150,000	£150,000
Child benefit charge:		
1% of benefit for every £100 of income over	£50,000	£50,000

*Only applicable to savings income that falls within the first £5,000 of income in excess of the personal allowance

Dividend Allowance		£2,000
Dividend tax rates		
Basic rate		7.5%
Higher rate		32.5%
Additional rate		38.1%
Trusts		
Standard rate band		£1,000
Rate applicable to trusts		
- dividends		38.1%
- other income		45%

MAIN PERSONAL ALLOWANCES AND RELIEFS		
Income limit for Personal Allowance *§*	£100,000	£100,000
Personal Allowance (basic) *§*	£12,500	£12,500
Married/civil partners (minimum) at 10% *†*	£3,450	£3,510
Married/civil partners at 10% *†*	£8,915	£9,075
Marriage Allowance	£1,250	£1,250
Income limit for Married Couple's Allowance*†*	£29,600	£30,200
Rent a Room scheme – tax free income allowance	£7,500	£7,500
Blind Person's Allowance	£2,450	£2,500
Enterprise Investment Scheme relief limit on £2,000,000 max**	30%	30%
Seed Enterprise Investment relief limit on £100,000 max	50%	50%
Venture Capital Trust relief limit on £200,000 max	30%	30%

§ the Personal Allowance reduces by £1 for every £2 of income above the income limit irrespective of age (under the income threshold).
† where at least one spouse/civil partner was born before 6 April 1935.
*** Investment above £1,000,000 must be in knowledge-intensive companies.*

Child Tax Credit (CTC)		
- Child element per child (maximum)	£2,780	£2,830
- family element	£545	£545
Threshold for tapered withdrawal of CTC	£16,105	£16,385

NATIONAL INSURANCE CONTRIBUTIONS

Class 1 Employee	Weekly
Lower Earnings Limit (LEL)	£120
Primary threshold	£183
Upper Earnings Limit (UEL)	£962

Total earnings £ per week	CLASS 1 EMPLOYEE CONTRIBUTIONS
Up to 183.00*	Nil
183.00 – 962.00	12%
Above 962.00	2%

**This is the primary threshold below which no NI contributions are payable. However, the lower earnings limit is £120 per week. This £120 to £183 band is a zero-rate band introduced in order to protect lower earners' rights to contributory State benefits e.g. the new State Pension.*

Total earnings £ per week	CLASS 1 EMPLOYER CONTRIBUTIONS
Below 169.00**	Nil
169.00 – 962.00	13.8%
Excess over 962.00	13.8%

*** Secondary earnings threshold.*

Class 2 (self-employed)	Flat rate per week £3.05 where profits exceed £6,475 per annum.
Class 3 (voluntary)	Flat rate per week £15.30.
Class 4 (self-employed)	9% on profits between £9,500 - £50,000. 2% on profits above £50,000.

PENSIONS

TAX YEAR	LIFETIME ALLOWANCE
2006/2007	£1,500,000
2007/2008	£1,600,000
2008/2009	£1,650,000
2009/2010	£1,750,000
2010/2011	£1,800,000
2011/2012	£1,800,000
2012/2013	£1,500,000
2013/2014	£1,500,000
2014/2015	£1,250,000
2015/2016	£1,250,000
2016/2017	£1,000,000
2017/2018	£1,000,000
2018/2019	£1,030,000
2019/2020	£1,055,000
2020/2021	£1,073,100

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.

ANNUAL ALLOWANCE

TAX YEAR	ANNUAL ALLOWANCE
2015/2016	£40,000~
2016/2017	£40,000*
2017/2018	£40,000*
2018/2019	£40,000*
2019/2020	£40,000*
2020/2021	£40,000*

~ increased to £80,000 for pension input between April - 8 July 2015. If not used, can be carried forward to pension input period of 9 July 2015 - 6 April 2016, subject to a maximum of £40,000.

**tapered by £1 for every £2 of 'adjusted income' over £240,000 to a minimum of £4,000 if 'threshold income' is also over £200,000.*

MONEY PURCHASE ANNUAL ALLOWANCE	2019/2020	2020/2021
	£4,000	£4,000

ANNUAL ALLOWANCE CHARGE

20% - 45% determined by the member's taxable income and the amount of total pension input in excess of the annual allowance or money purchase annual allowance.

CAPITAL GAINS TAX

EXEMPTIONS	2019/2020	2020/2021
Individuals, estates etc	£12,000	£12,300
Trusts generally	£6,000	£6,150
Chattels proceeds (restricted to five thirds of proceeds exceeding limit)	£6,000	£6,000

TAX RATES		
Individuals:		
Up to basic rate limit	10%	10%
Above basic rate limit	20%	20%
Surcharge for residential property and carried interest	8%	8%
Trustees and Personal Representatives	20%	20%
	10%	10%
Business Asset Disposal Relief* – Gains taxed at:		
Lifetime limit	£10,000,000	£1,000,000

**For trading businesses and companies (minimum 5% employee or director shareholding) if held for at least two years.*

INHERITANCE TAX

RATES OF TAX ON TRANSFERS	2019/2020	2020/2021
Transfers made on death		
- Up to £325,000	Nil	Nil
- Excess over £325,000	40%	40%
Transfers		
- Lifetime transfers to and from certain trusts	20%	20%

A lower rate of 36% applies where at least 10% of deceased's net estate is left to a registered charity.

MAIN EXEMPTIONS

Transfers to		
- UK-domiciled spouse/civil partner	No limit	No limit
- non-UK-domiciled spouse/civil partner (from UK-domiciled spouse)	£325,000	£325,000
- main residence nil rate band*	£150,000	£175,000
- UK-registered charities	No limit	No limit

**Available for estates up to £2,000,000 and then tapered at the rate of £1 for every £2 in excess until fully extinguished.*

Lifetime transfers		
- Annual exemption per donor	£3,000	£3,000
- Small gifts exemption	£250	£250
Wedding/civil partnership gifts by		
- parent	£5,000	£5,000
- grandparent/bride and/or groom	£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%

Quick succession relief:

- Years since IHT paid	0-1	1-2	2-3	3-4	4-5
- Inheritance Tax relief	100%	80%	60%	40%	20%

PRIVATE VEHICLES USED FOR WORK

	2019/2020 Rates	2020/2021 Rates
Cars		
On the first 10,000 business miles in tax year	45p per mile	45p per mile
Each business mile above 10,000 business miles	25p per mile	25p per mile
Motor Cycles	24p per mile	24p per mile
Bicycles	20p per mile	20p per mile

MAIN CAPITAL AND OTHER ALLOWANCES

	2019/2020	2020/2021
Plant & machinery (excluding cars) 100% annual investment allowance (first year)	£1,000,000	£1,000,000
Plant & machinery (reducing balance) per annum	18%	18%
Patent rights & know-how (reducing balance) per annum	25%	25%
Certain long-life assets, integral features of buildings (reducing balance) per annum	6%	6%
Energy & water-efficient equipment	100%	100%
Zero emission goods vehicles (new)	100%	100%
Electric charging points	100%	100%
Qualifying flat conversions, business premises & renovations	100%	100%

Motor cars: Expenditure on or after 01 April 2016 (Corporation Tax) or 06 April 2016 (Income Tax)

CO_2 emissions of g/km:	50 or less*	51-110	111 or more
Capital allowance:	100% first year	18% reducing balance	6% reducing balance

**If new*

MAIN SOCIAL SECURITY BENEFITS

		2019/2020	2020/2021
		£	£
Child Benefit	First child	20.70	21.05
	Subsequent children	13.70	13.95
	Guardian's allowance	17.20	17.90
Employment and Support Allowance	Assessment Phase		
	Age 16 - 24	Up to 57.90	Up to £58.90
	Aged 25 or over	Up to 73.10	Up to £74.35
	Main Phase		
	Work Related Activity Group	Up to 102.15	Up to 74.35
	Support Group	Up to 111.65	Up to 113.55
Attendance Allowance	Lower rate	58.70	59.70
	Higher rate	87.65	89.15
Basic State Pension	Single	129.20	134.25
	Married	201.45	268.50
Single Tier State Pension	Single	168.60	175.20
Pension Credit	Single person standard minimum guarantee	167.25	173.75
	Married couple standard minimum guarantee	255.25	265.20
	Maximum savings ignored in calculating income	10,000.00	10,000.00
Bereavement Support Payment	Higher rate – First payment	3,500.00	3,500.00
	Higher rate – monthly payment	350.00	350.00
	Lower rate – First payment	2,500.00	2,500.00
	Lower rate – monthly payment	100.00	100.00
Jobseeker's Allowance	Age 18 - 24	57.90	58.90
	Age 25 or over	73.10	74.35
Statutory Maternity, Paternity and Adoption Pay		148.68	151.20

CORPORATION TAX

	2019/2020	2020/2021
Standard rate	19%	19%

VALUE ADDED TAX

	2019/2020	2020/2021
Standard rate	20%	20%
Annual registration threshold	£85,000	£85,000
Deregistration threshold	£83,000	£83,000

STAMP DUTY LAND TAX

	Residential
Value up to £125,000	0%
£125,001 - £250,000	2%
£250,001 and £925,000	5%
£925,001 and £1,500,000	10%
£1,500,001 and over	12%

Important note: For residential properties purchased between 8th July 2020 and 31st March 2021, Stamp Duty Land Tax does not apply up to £500,000. For purchases above £500,000, the band rates above apply as normal. Additional SDLT rules still apply as below.

Stamp Duty Land Tax (SDLT) is payable in England and Northern Ireland only. Land Transaction Tax (LTT) is payable in Wales and Land and Buildings Transaction Tax (LBTT) is payable in Scotland. The rates for LTT and LBTT are different to the rates shown above.

Additional SDLT of 3% may apply to the purchase of additional residential properties purchased for £40,000 or greater.

SDLT may be charged at 15% on interests in residential dwellings costing more than £500,000 purchased by certain corporate bodies or non-natural persons.

First-time buyers benefit from SDLT relief on purchases up to £500,000 when purchasing their main residence. On purchases up to £300,000, no SDLT is payable. On purchases between £300,000 and £500,000, a flat rate of 5% is charged on the balance above £300,000.

	Non residential
Value up to £150,000	0%
£150,001 and £250,000	2%
£250,001 and over	5%