



Chartered  
Insurance  
Institute

# J02

## Diploma in Financial Planning

Unit J02 – Trusts

October 2020 Examination Guide

### SPECIAL NOTICES

**Candidates entered for the February 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

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## 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](http://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](http://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/](http://www.cii.co.uk/qualifications/assessment-information/introduction/). This is *essential reading* for all candidates.

## In the examination

### The following will help:

#### Spending 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 pleasing that candidates performed better in this sitting of the J02 examination, with more candidates managing to attain high marks, particularly in questions that tested central syllabus areas. Candidate performance was generally more consistent apart from a couple of questions that covered syllabus areas that were peripheral. Fewer candidates scored poorly, and it appeared that more candidates had undertaken meaningful study in preparation for this exam, possibly because of Covid-19 lockdowns and more time availability.

Candidates performed well on question 1 covering legal and beneficial ownership of trust assets together with trustees' duties, question 2 on bare trusts, question 8 on the laws of intestacy including the administration of estates and question 11 on the taxation of a deceased individual.

Candidates found greater challenges in answering question 3 on constructive trusts and question 4 on transitional serial interests but these were contained in the study text so well-prepared candidates should have been able to gain marks.

When studying for the J02 Trusts examination it is recommended that candidate's study past Examination Guides and read the Examiner's Comments in preparation for sitting this examination. In doing so this should aid candidates in identifying areas of the syllabus which require further study. In addition, a comprehensive reading of the J02 study text for this course is also strongly recommended.

### Question 1

In part (a) candidates performed very well in explaining the differences between legal and beneficial ownership of trust assets. Many candidates correctly identified that the trustees were the legal owners of trust assets, that they should register trust assets in their name and that beneficiaries were the beneficial owners.

For part (b) candidates generally identified trustees' duties well. Candidates most often stated that trustees must adhere to the trust deed, must protect trust property and act impartially among beneficiaries.

### Question 2

In this question on bare trusts, most candidates again performed very well. Many identified that the beneficiaries and their percentage share could not be changed, that the gift qualified as a potentially exempt transfer, and beneficiaries were entitled to their share of trust assets at age 18. Fewer candidates mentioned the parental settlement rule.

### **Question 3**

Part (a) of this question asked candidates to describe a constructive trust and very few candidates gained many marks. This was a more difficult 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.

For part (b) candidates were asked to identify an example of when a constructive trust might arise from an existing discretionary settlement and this was poorly answered.

### **Question 4**

In part (a) candidates were asked to describe circumstances when a 'transitional serial interest' can arise. Unfortunately, few candidates had any real idea when this might occur, a variety of incorrect responses were given. Similarly, for part (b) this question on the Inheritance Tax implications of a beneficiary having a 'transitional serial interest' was poorly answered.

### **Question 5**

For part (a) candidates were asked to describe the main differences between charitable trusts and private trusts and this was generally well answered. Most candidates correctly identified a charitable trust as not being subject to the general law on perpetuities, as it can continue indefinitely, that there is a restriction on accumulations for charitable trusts allowing such trusts to accumulate income for a maximum of 21 years or for the life of the settlor. Also, that charitable trusts are not liable to tax. Fewer candidates stated that if a charitable trust becomes impracticable, it will not fail.

Part (b) asked candidates to identify specific 'charitable purposes', as specified in the Charities Act, that a charity must comply with in order to qualify for HM Revenue & Customs tax reliefs and was excellently answered by the majority of candidates, many of whom gained full marks.

### **Question 6**

Part (a) required candidates to identify key requirements that must apply before James, the attorney, can act with the health and welfare lasting power of attorney (LPA) and was excellently answered. Most candidates accurately indicated that the LPA must be registered with the Office of the Public Guardian and that Tim (the donor) must have lost mental capacity.

Part (b) asked candidates to describe types of decision James (attorney) can make for Tim (donor) with a health and welfare LPA. Candidates found this question more challenging and their performance was a little disappointing. Generally, candidates correctly stated that this included granting or refusing consent to medical treatment and decisions on where Tim lives. Fewer gave decisions on personal care or end of life care.

### Question 7

Part (a) of this question asked candidates to explain briefly how a mutual Will works and was fairly well answered. Many candidates accurately identified that assets are generally left to the survivor on first death, on second death to the children of the marriage and after the first death the Will of the survivor cannot be changed. Few candidates stated that there had to be an agreement between Leo and Alison or that a mutual Will can be revoked prior to the first death with the consent of both parties.

In part (b) candidates were asked to state the requirements for a Will to be legally valid and they answered this very well. Many candidates scored well, but fewer identified that two independent people must both witness and sign the Will.

### Question 8

For part (a) candidates had to explain briefly how Noah's estate will be distributed under the laws of intestacy and this was excellently answered. Most candidates achieved good marks, but some still stated that Theresa would receive £250,000 as a statutory legacy, when in fact it should have been £270,000 as the amount was increased in February 2020.

Part (b) asked candidates to describe the main duties of the administrator of Noah's estate and again this was excellently answered, with many candidates scoring high marks.

### Question 9

In part (a) this question required candidates to explain how the Capital Gains Tax annual exempt amount for Tomasz's new trust is determined for the 2020/2021 tax year and it was very well answered by most candidates. Many candidates scored well, but the least frequent answer given was, if Tomasz were to create any further trusts, each trust will receive one fifth of the full trust annual exempt amount of £1,230.

For part (b) requiring an explanation of the impact of Capital Gains Tax holdover relief if Tomasz transfers his shares into the new trust. Overall, this was not particularly well answered. Few candidates stated that all of the trustees had to agree to apply for Capital Gains Tax holdover relief.

### Question 10

Part (a) asked candidates to identify the state benefits that would indicate an adult beneficiary was entitled to the protection of the 'trusts for vulnerable beneficiaries' provisions and generally this was not performed well. Many candidates gave attendance allowance and disability living allowance, but few gave constant attendance allowance, personal independence payment or Armed Forces independence payment.

In part (b) this question required candidates to identify the events that will revoke the special Income Tax treatment for 'trusts for vulnerable beneficiaries' and this was quite poorly answered. Marks would have been awarded for the person in relation to whom the election was made ceases to be a vulnerable person, the trust in relation to whom the election was made ceases to be a qualifying trust or the trust is terminated.

### **Question 11**

Question part (a) required candidates to calculate the Income Tax that Javed's estate will be liable for during the 2020/2021 tax year and this was excellently answered.

For part (b) candidates were asked to describe how the disposal of the shares made by the personal representatives during the administration period will be treated for Capital Gains Tax purposes and this was slightly disappointingly answered. Fewer candidates stated they are entitled to deduct the full annual exempt amount of £12,300, instead often stating it was £6,150, or that the personal representatives are deemed to have acquired the shares at market value at the date of death.

### **Question 12**

Part (a) asked for a description to how Kwasi's existing level term policy can be written under trust and it was not well answered. Few candidates said he can write his existing policy under trust by executing a suitable trust deed and assign the legal ownership of the policy to trustees using a deed of assignment.

In part (b) this question required candidates to state what gives the trustees the right to make a claim under the policy and it was disappointing that many candidates did not identify that it was because they were the legal owners.

### **Question 13**

This question asked candidates to explain how the single bond will be assessed for tax purposes for the 2020/2021 tax year, without calculations, and was reasonably well answered. Not all candidates identified that as the settlor was not alive in the tax year when the bond is surrendered the gain will be assessed on the trustees.

### **Question 14**

For part (a) candidates were asked to explain the conditions that HM Revenue & Customs require for the premiums paid into a whole of life policy written under trust, in order for them to qualify under the normal expenditure exemption and this was quite well answered. Most candidates correctly stated that the premiums are made from income and they should not reduce the transferor's standard of living. Fewer candidates stated that they should be regular/habitual.

Question part (b) required candidates to identify types of income that qualify for the normal expenditure exemption and this was answered fairly well. However, there was quite a bit of repetition and overlap particularly around pension income, savings income and incorrectly some that were capital distributions.

### **Question 15**

This question asked candidates to identify principal factors Ethan and Mathaus should now consider as a result of the death of the last surviving life assured, who was also a beneficiary, and it was answered satisfactorily. Few candidates mentioned that the type of trust may affect beneficiaries' entitlement or whether the trustees need to invest the proceeds for the benefit of the remaining beneficiaries.

## 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 in the correct answer box**
- 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)**     Explain briefly the main differences between legal and beneficial ownership of assets held within a trust. **(4)**
- (b)**     State **five** main duties and responsibilities of trustees. **(5)**
  
2.     Describe how a typical bare trust operates. **(8)**
  
3.     **(a)**     Describe briefly a constructive trust. **(3)**
- (b)**     Identify an example of when a constructive trust might arise from an existing discretionary settlement. **(2)**
  
4.     **(a)**     Describe briefly **three** circumstances when a 'transitional serial interest' can arise. **(3)**
- (b)**     Explain briefly the Inheritance Tax implications of a beneficiary having a 'transitional serial interest'. **(3)**
  
5.     **(a)**     Describe briefly the main differences between charitable trusts and private trusts. **(6)**
- (b)**     Identify **six** specific 'charitable purposes', as specified in the Charities Act, that a charity must comply with in order to qualify for HM Revenue & Customs tax reliefs. **(6)**

6. James is the appointed attorney to a health and welfare lasting power of attorney (LPA) for his father Tim.
- (a) Identify **three** key requirements that must apply before James can act with the health and welfare LPA. (3)
- (b) Describe briefly **six** types of decision James can make for Tim with this type of LPA. (6)
7. Alison and Leo are married with two children and would like to set up Wills that benefit each other on first death and their children thereafter.
- (a) Explain briefly how a mutual Will works. (5)
- (b) State the requirements for the Will to be legally valid. (7)
8. Theresa has two children, Sophie, aged 22 and Archie, aged 25. Her husband Noah has just passed away without leaving a valid Will.
- (a) Explain briefly how Noah's estate will be distributed under the laws of intestacy. (5)
- (b) Describe briefly the main duties of the Administrator of Noah's estate. (6)
9. Tomasz is the settlor of three existing trusts and is about to create his fourth discretionary trust. He is considering gifting shares he purchased in 2009 into the trust, on which he has made significant gains.
- (a) Explain briefly how the Capital Gains Tax annual exempt amount for Tomasz's new trust is determined for the 2019/2020 tax year. *No calculations are required.* (4)
- (b) Explain the impact of Capital Gains Tax holdover relief if Tomasz transfers his shares into the new trust. (5)
10. (a) Identify **four** State Benefits that would indicate that an adult beneficiary was entitled to the protection of the 'trusts for vulnerable beneficiaries' provisions. (4)
- (b) Identify the **three** events that will revoke the special Income Tax treatment for 'trusts for vulnerable beneficiaries'. (3)

- 11.** Javed died on 1 October 2019. Between 6 April 2019 and 30 September 2019, he received taxable income of £55,000 and dividend income of £5,000. On 1 March 2020 Javed's personal representatives encashed shares which realised £100,000 after expenses. Javed bought the shares for £60,000 and the probate value was £80,000. He had all his tax allowances available. The personal representatives have made no losses during the administration period.
- (a)** Calculate, **showing all your workings**, the Income Tax that Javed's estate will be liable for during the 2019/2020 tax year. **(6)**
- (b)** Describe briefly how the disposal of the shares made by the personal representatives during the administration period will be treated for Capital Gains Tax purposes. *No calculations are required.* **(5)**
- 12.** Kwasi has held a level term assurance policy for three years. He now wishes to write this into trust to ensure the sum assured is outside of his estate for Inheritance Tax purposes on his death.
- (a)** Describe briefly to Kwasi how his policy can be written under a trust. **(5)**
- (b)** State what gives the trustees the right to make a claim under the policy. **(1)**
- 13.** Wilf died on 10 March 2019. At the time of his death he was settlor of an onshore single premium life assurance bond written under a discretionary trust. The Trustees were UK resident. The Trustees surrendered the bond on 30 November 2019, with it having made a significant gain since inception.
- Explain how the bond will be assessed for tax purposes for the 2019/2020 tax year. *No calculations are required.* **(8)**
- 14.** **(a)** Explain briefly the conditions that HM Revenue & Customs require for the premiums paid into a whole of life policy, written under trust, in order for them to qualify under the normal expenditure exemption. **(4)**
- (b)** Identify **five** types of income that qualify for the normal expenditure exemption. **(5)**
- 15.** Ethan and Mathaus are trustees of a small family trust which comprises various investments including a life policy. The last surviving life assured of the life policy, who was also one of the beneficiaries, has recently died.
- Identify **eight** principal factors Ethan and Mathaus should now consider as a result of this death. **(8)**

**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 four of the following:*

**Legal ownership**

- Trustees are the legal owners of trust assets.
- Assets are registered in the trustee's names.
- Trustees cannot use trust assets for their own benefit;
- they must use them for the benefit of the beneficiaries.

**Beneficial ownership**

- Beneficiaries have beneficial/equitable ownership.
- Beneficiaries are entitled to economic benefit or use of the trust assets.
- Income and gains from the trust assets belong to the beneficiaries.

(b) *Candidates would have gained full marks for any five of the following:*

- Trustees must adhere to the trust deed.
- Trustees must protect trust property.
- Trustees must ensure that everything they do with trust property is done for the benefit of the beneficiaries.
- Trustees must act impartially among beneficiaries.
- Trustees should ensure that they are registered as legal owners of the trust assets.
- Trustees must adhere to Trustee Act 2000 legislation.

**Model answer for Question 2**

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

- A bare trust is created for the benefit of fixed beneficiaries;
- and their percentage shares cannot be changed.
- Bare trusts are potentially exempt transfers:
- which means that there are no periodic;
- or exit charges;
- there is no immediate lifetime Inheritance Tax even if the gift exceeds the nil rate band.
- For the gift to avoid Inheritance Tax the settlor must survive 7 years after making the gift.
- Taper relief will start to apply after 3 complete years to reduce the Inheritance Tax liability.
- For Inheritance Tax purposes the assets are treated as being part of the beneficiaries' estate.
- Beneficiaries are absolutely entitled to their share of the trust when they reach 18.
- The beneficiaries are also liable for any income tax or capital gains incurred by the trust.
- There are different taxation rules when a gift into a bare trust is made by a parent (parental settlement rule).

**Model answer for Question 3**

- (a)
- A constructive trust is one imposed by law/the courts;
  - regardless of the intentions;
  - or presumed intentions of the parties involved.
- (b) *Candidates would have gained full marks for any two of the following:*
- Where an individual takes trust property from the trust not permitted under trust law;
  - in the knowledge that it was in breach of trust law;
  - they will be deemed to hold it on constructive trust for the beneficiaries.

**Model answer for Question 4**

- (a) *Candidates would have gained full marks for any three of the following:*
- A beneficiary had an interest in possession before 5 October 2008;
  - in a trust created before 22 March 2006.
  - The interest in possession arose on the death of a spouse;
  - who had an interest in possession before 5 October 2008.
  - A current interest in possession in a trust arose on the death of any person with a transitional serial interest;
  - where the trust fund includes a pre-22 March 2006 life policy.
- (b) *Candidates would have gained full marks for any three of the following:*
- It is a potentially exempt transfer and not taxable under the relevant property regime.
  - The trust fund is treated as being in the beneficiary's estate for Inheritance Tax purposes.
  - There will be no periodic charges;
  - or exit charges.

**Model answer for Question 5**

**(a)** *Candidates would have gained full marks for any six of the following or giving suitable differences of private trusts:*

- A charitable trust cannot be void for uncertainty.
- A charitable trust is not subject to the general law on perpetuities as it can continue indefinitely.
- A charitable trust can be varied if it becomes obsolete.
- Charitable trusts can accumulate income for a maximum of 21 years or for the life of the settlor;
- unless the court or the Charity Commission provide for a different period of accumulation.
- If a charitable trust becomes impracticable, it will not fail;
- the property of charitable trusts can be applied to another charitable purpose as close as possible to the original one (cy-près doctrine).
- Charitable trusts are not liable to tax.

**(b)** *Candidates would have gained full marks for any six of the following:*

- The prevention or relief of poverty;
- the advancement of education;
- the advancement of religion;
- the advancement of health or the saving of lives;
- the advancement of citizenship or community development;
- the advancement of the arts, culture, heritage or science;
- the advancement of amateur sport;
- the advancement of human rights, conflict resolution or reconciliation;
- the promotion of religious or racial harmony, equality or diversity;
- the advancement of environmental protection or improvement;
- the relief of those in need because of youth, age, ill health, disability, financial hardship or other disadvantage;
- the advancement of animal welfare;
- the promotion of the efficiency of the armed forces of the Crown or the efficiency of the police, fire and rescue services or ambulance services.

**Model answer for Question 6**

- (a)**
- It must be registered;
  - with the Office of the Public Guardian.
  - Tim must have lost mental capacity.

- (b)**
- Decisions on daily routine.
  - Decisions on personal care services.
  - Decisions on medical care (including agreeing or refusing treatment).
  - Decisions on where Tim lives.
  - Decisions on end-of-life care.
  - Decisions on social services.

**Model answer for Question 7**

- (a) *Candidates would have gained full marks for any five of the following:*
- Mutual Wills are an agreement where a couple (Alison & Leo) effect Wills;
  - disposing of their property in an identical way.
  - A mutual Will can be revoked prior to the first death;
  - with the consent of both parties (Alison & Leo).
  - The testator's (Alison or Leo's) assets are left to the survivor on first death;
  - after the first death the Will of the survivor cannot be changed;
  - and on second death assets are left to their children.
- (b)
- The testator must be over 18;
  - they must be of sound mind;
  - and under no pressure to make the Will.
  - It must be in writing.
  - It must be signed by the testator.
  - It must be signed and witnessed;
  - by 2 independent people.

**Model answer for Question 8**

- (a)
- Theresa will receive Noah's chattels;
  - and a £270,000 statutory legacy;
  - plus 50% (half) of the residue of Noah's estate absolutely.
  - Sophie and Archie will receive the remaining 50% (half) of the residue estate absolutely;
  - which will be split equally between them.
- (b) *Candidates would have gained full marks for any six of the following:*
- The administrator determines the assets & liabilities of the estate;
  - collects the assets of the estate;
  - pay liabilities of the estate;
  - including tax;
  - completes estate accounts;
  - before applying to the probate registry for grant of letters of administration;
  - once the grant is received;
  - the administrator can distribute the estate as per laws of intestacy.

**Model answer for Question 9**

- (a)
- Trusts qualify for half of the standard Capital Gains Tax (CGT) annual exempt amount of £12,300/a single trusts' annual exempt amount would be £6,150.
  - If more than one trust exists the allowance is divided by the number of trusts in existence;
  - the trust's annual exempt amount in this case is divided by 4, as four trusts will exist, therefore a £1,537.50 allowance will be available on each trust.
  - Should Tomasz create any further trusts each trust will receive one fifth of the trust annual exempt amount (£1,230).
- (b) *Candidates would have gained full marks for any five of the following:*
- Capital Gains Tax (CGT) holdover relief for a discretionary trust allows realised gains to be deferred;
  - all of the trustees have to agree to applying for the gain to be held-over;
  - that would be otherwise chargeable to CGT on disposal.
  - No Capital Gains Tax is due on Tomasz's gift into trust.
  - The market value of the shares;
  - on the day the shares were transferred into trust;
  - would then be reduced by the amount of held-over gain;
  - leaving the trustees acquisition base cost as the cost at which Tomasz acquired them.

**Model answer for Question 10**

- (a) *Candidates would have gained full marks for any four of the following:*
- Attendance allowance.
  - Disability living allowance.
  - Personal independence payment.
  - An increased disablement pension.
  - Constant attendance allowance.
  - Armed forces independence payment.
- (b)
- The person in relation to whom the election was made ceases to be a vulnerable person.
  - The trusts in relation to whom the election was made ceases to be a qualifying trust.
  - The trusts are terminated.

**Model answer for Question 11**

(a)

Earned income	£55,000	
Dividend income	£5,000	
Earned income - Personal allowance	£55,000-£12,500 = £42,500	
Basic rate band	£37,500 x 20%	£7,500
Higher rate tax on balance	£5,000 x 40%	£2,000
Dividend allowance	£2,000 x 0%	£0
Taxable dividend x dividend tax rate	£3,000 x 32.5%	£975
Total Income Tax due		£10,475

- (b)
- The personal representatives are liable for Capital Gains Tax (CGT) at 20% on disposals made during the administration period.
  - They will be liable for CGT on the gain made post-death of £20,000.
  - They are deemed to have acquired the shares at market value at the date of death.
  - They are entitled to deduct the annual exempt amount of £12,300.
  - They will pay 20% on the balance between the post death gain and annual exempt amount (£20,000 - £12,300 = £7,700 x 20% = £1,540.)

**Model answer for Question 12**

- (a)
- Kwasi can write his existing policy under trust by executing a suitable trust deed;
  - he can then assign the legal ownership of the policy to trustees using a deed of assignment;
  - for the benefit of the beneficiaries.
  - A notice of the assignment should be given to the life office;
  - and the deed should be kept with the life policy.
- (b)
- As legal owners of the trust policy the trustees have the right to make a claim.

**Model answer for Question 13**

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

- As the Wilf (settlor) was not alive in the tax year when the bond is surrendered;
- the gain will be assessed to income tax;
- on the trustees.
- The trustees will be eligible for the starting rate band of £1,000;
- which will usually be taxed at 20%;
- as the bond is UK based a notional 20% tax credit is offset against the Income Tax liability;
- on the remaining taxable gain, the trustees will be taxed at the rate applicable to trusts;
- which is 45%;
- the net tax liability is 45% (rate applicable to trusts) - 20% (notional tax credit) = 25%.
- Top slicing will not be available.

**Model answer for Question 14**

- (a)
- They should be regular/habitual.
  - They are made out of income.
  - The gift should not reduce the transferor's standard of living.
  - The gifts are made as part of the transferor's normal expenditure.
- (b) *Candidates would have gained full marks for any five of the following:*
- Earned income.
  - Self-employed income.
  - Pension income (including pension annuity income).
  - Dividend income.
  - Distributions from fixed interest, cash deposits and purchase life annuity income.
  - Property income.
  - Royalties.

**Model answer for Question 15**

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

- The trustees should claim the policy proceeds.
- The trust document will need to be reviewed.
- The trustees should consider whether they need to invest the policy proceeds;
- the trustees should consider reviewing the trust investments;
- or the trustees should consider which beneficiaries the proceeds go to.
- The trustees should consider the type of trust as this may affect beneficiaries' entitlement.
- The trustees should consider other beneficiaries needs.
- The trustees should consider if the life assured's death causes a need to make a payment from the trust to their estate;
- they should consider whether the deceased's share passes under intestacy rules or their Will.
- The trustees should consider the tax implications.

## October 2020 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.	1. Explain the structure of a trust and the roles of the main parties.
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.	5. Explain the use of Wills and the consequences of dying intestate.
8.	5. Explain the use of Wills and the consequences of dying intestate.
9.	7. Analyse how trusts are subject to tax and how a liability can fall to the settlor, trustees or beneficiaries.
10.	7. Analyse how trusts are subject to tax and how a liability can fall to the settlor, trustees or beneficiaries.
11.	7. Analyse how trusts are subject to tax and how a liability can fall to the settlor, trustees or beneficiaries.
12.	8. Explain how life assurance policies, pension benefits and other investments can be placed in trust, and the tax and other implications.
13.	8. Explain how life assurance policies, pension benefits and other investments can be placed in trust, and the tax and other implications.
14.	9. Apply effective trust and related tax planning solutions.
15.	9. Apply effective trust and related tax planning solutions.

**All questions in the February 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 October 2020 and February 2021 examination.**

## INCOME TAX

RATES OF TAX	2018/2019	2019/2020
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	£34,500	£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
<i>*not applicable if taxable non-savings income exceeds the starting rate band of £5,000.</i>		
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%
<b>MAIN PERSONAL ALLOWANCES AND RELIEFS</b>		
Income limit for Personal Allowance §	£100,000	£100,000
Personal Allowance (basic)	£11,850	£12,500
Married/civil partners (minimum) at 10% †	£3,360	£3,450
Married/civil partners at 10% †	£8,695	£8,915
Marriage Allowance	£1,190	£1,250
Income limit for Married Couple's Allowance †	£28,900	£29,600
Rent a Room scheme – tax free income allowance	£7,500	£7,500
Blind Person's Allowance	£2,390	£2,450
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%
<i>§ the Personal Allowance reduces by £1 for every £2 of income above the income limit irrespective of age (under the income threshold).</i>		
<i>† where at least one spouse/civil partner was born before 6 April 1935.</i>		
<i>** Investment above £1,000,000 must be in knowledge-intensive companies.</i>		
Child Tax Credit (CTC)		
- Child element per child (maximum)	£2,780	£2,780
- family element	£545	£545
Threshold for tapered withdrawal of CTC	£16,105	£16,105

## NATIONAL INSURANCE CONTRIBUTIONS

Class 1 Employee	Weekly
Lower Earnings Limit (LEL)	£118
Primary threshold	£166
Upper Earnings Limit (UEL)	£962

Total earnings £ per week	CLASS 1 EMPLOYEE CONTRIBUTIONS
Up to 166.00*	Nil
166.01 – 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 £118 per week. This £118 to £166 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 166.00**	Nil
166.01 – 962	13.8%
Excess over 962.00	13.8%

*\*\* Secondary earnings threshold.*

<b>Class 2 (self-employed)</b>	Flat rate per week £3.00 where profits exceed £6,365 per annum.
<b>Class 3 (voluntary)</b>	Flat rate per week £15.00.
<b>Class 4 (self-employed)</b>	9% on profits between £8,632 - £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

### 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.

### 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*

~ 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 at a rate of £1 for every £2 of adjusted income in excess of £150,000 where threshold income exceeds £110,000.

MONEY PURCHASE ANNUAL ALLOWANCE	2018/2019	2019/2020
	£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	2018/2019	2019/2020
Individuals, estates etc	£11,700	£12,000
Trusts generally	£5,850	£6,000
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%
Entrepreneurs' Relief* – Gains taxed at:	10%	10%
Lifetime limit	£10,000,000	£10,000,000

*\*For trading businesses and companies (minimum 5% employee or director shareholding) held for at least one year (2018/2019), two years (2019/2020).*

## INHERITANCE TAX

### RATES OF TAX ON TRANSFERS

	2018/2019	2019/2020
Transfers made on death after 5 April 2015		
- Up to £325,000	Nil	Nil
- Excess over £325,000	40%	40%
Transfers made after 5 April 2015		
- 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*	£125,000	£150,000
- 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%

## CAR BENEFIT FOR EMPLOYEES

The charge for company car benefits is based on the carbon dioxide (CO<sub>2</sub>) emissions. There is no reduction for high business mileage users.

### For 2019/2020:

- The percentage charge is 16% of the car's list price for CO<sub>2</sub> emissions of 50g/km or less.
- For cars with CO<sub>2</sub> emissions of 51g/km to 75g/km the percentage is 19%.
- For cars with CO<sub>2</sub> emissions of 76g/km to 94g/km the percentage is 22%.
- Cars with CO<sub>2</sub> emissions of 95g/km have a percentage charge of 23% and thereafter the charge increases by 1% for every complete 5g/km to a maximum of 37% (emissions of 165g/km and above).

There is an additional 4% supplement for diesel cars not meeting Euro 6 emission standards. However, the maximum charge remains 37% of the car's list price.

**Car fuel** The benefit is calculated as the CO<sub>2</sub> emissions % relevant to the car and that % applied to a set figure (£24,100 for 2019/2020) e.g. car emission 90g/km = 22% on car benefit scale. 22% of £24,100 = £5,302.

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 contribution's (Class 1A) of 13.8%.

## PRIVATE VEHICLES USED FOR WORK

	2018/2019 Rates	2019/2020 Rates
<b>Cars</b>		
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
<b>Motor Cycles</b>	24p per mile	24p per mile
<b>Bicycles</b>	20p per mile	20p per mile

## MAIN CAPITAL AND OTHER ALLOWANCES

2018/2019    2019/2020

Plant & machinery (excluding cars) 100% annual investment allowance (first year)	£200,000	£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	8%	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 <sub>2</sub> emissions of g/km:	50 or less*	51-110	111 or more
Capital allowance:	100%	18%	6%
	first year	reducing balance	reducing balance

\*If new

## MAIN SOCIAL SECURITY BENEFITS

		2018/2019	2019/2020
		£	£
Child Benefit	First child	20.70	20.70
	Subsequent children	13.70	13.70
	Guardian's allowance	17.20	17.60
Employment and Support Allowance	Assessment Phase		
	Age 16 – 24	Up to 57.90	Up to 57.90
	Aged 25 or over	Up to 73.10	Up to 73.10
	Main Phase		
	Work Related Activity Group	Up to 102.15	Up to 102.15
	Support Group	Up to 110.75	Up to 111.65
Attendance Allowance	Lower rate	57.30	58.70
	Higher rate	85.60	87.65
Basic State Pension	Single	125.95	129.20
	Married	201.45	201.45
Single Tier State Pension	Single	164.35	168.60
Pension Credit	Single person standard minimum guarantee	163.00	167.25
	Married couple standard minimum guarantee	248.80	255.25
	Maximum savings ignored in calculating income	10,000.00	10,000.00
Bereavement Payment*		2,000.00	2,000.00
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	57.90
	Age 25 or over	73.10	73.10
Statutory Maternity, Paternity and Adoption Pay		145.18	148.68

\*Only applicable where spouse or civil partner died before 6 April 2017.

\*\* Only applicable where spouse or civil partner died on or after 6 April 2017.

## CORPORATION TAX

	2018/2019	2019/2020
Standard rate	19%	19%

## VALUE ADDED TAX

	2018/2019	2019/2020
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%

*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 is 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%