



Chartered
Insurance
Institute

J02

Diploma in Financial Planning

Unit J02 – Trusts

September 2021 Examination Guide

SPECIAL NOTICES

Candidates entered for the February 2022 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. 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.

On-screen written exam demonstration (Demo 1)

The familiarisation test allows you to experience using the assessment platform before your exam. You can try the familiarisation test at any time here <https://uat-cii.psionline.com/phoenix/instant/launch?auth=EH6jtrqPu3J6znVp&username=ILDemo1&test=05a75b4f-1c90-4a74-a22d-ec4aa8d4ca48&autoopen=1&samewindow=1&theme=custom/alternative/CI>

Please note, although based on AF1, this example test is designed for all candidates and while there might be slight differences in layout it will give you a good idea of how to navigate and use the platform functionality.

The demonstration test is designed to allow you before the day to go through the end-to-end process from logging in to answering test questions. **We advise you try the demonstration test once you have received your login details and well in advance of the exam to help pre-empt any potential exam day technical issues.**

EXAMINERS' COMMENTS

Candidates' overall performance:

Candidates generally performed well in this examination.

It was pleasing to see those candidates who had prepared thoroughly perform consistently across the paper and score well in some of the main syllabus areas.

In particular, candidates performed well on question 2(b), the advantages/disadvantages of corporate trustees compared to non-corporate trustees, question 3(a) on implied trusts, question 12(a) on the tax treatment of income received in an interest in possession trust and question 14 on the transferable nil rate band.

Candidates found question 5 on the Variation of Trusts Act, question 10 on the conditions that must be met to apply for a debt relief order and question 12(b) on trustee expenses more difficult, scoring poorly, however it should be noted these are areas covered in the study text.

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

Candidates were asked to state six features of a contract that do not appear in a trust. This is an area that has been tested previously and was answered reasonably well by the better prepared candidates, with many commonly identifying the requirement for consideration and agreement between the parties.

Question 2

Part (a) asked candidates to describe how a trust could continue if the last surviving trustee had died. This was answered quite well, with candidates generally identifying the personal representatives of the last surviving trustee could act as trustee or appoint a new trustee.

Part (b) was answered very well with candidates able to identify the advantages and disadvantages of appointing a corporate trustee compared to a non-corporate trustee.

Question 3

Part (a) was generally answered well in which candidates were asked to briefly describe an implied trust.

Part (b), which asked for five other methods of creating a trust, was also answered well.

Question 4

Part (a) asked candidates to state the definition of a perpetuity period and an accumulation period. A brief description of the perpetuity period that could apply to a trust created before 6 April 2010 was required in part (b).

Both parts to this question were answered generally well, although some candidates provided answers in part (b) based on the 125 year perpetuity for trusts created after 6 April 2010.

Question 5

In part (a), candidates were asked to describe the powers given to the court in the Variation of Trusts Act 1958 and those who may benefit. This question was poorly answered and a number of candidates incorrectly provided answers relating to Deeds of Variation.

Part (b) was answered much better as candidates were asked to explain the drawbacks of a beneficiary making an application to vary a trust under the Variation of Trusts Act 1958.

Question 6

In part (a), candidates were asked for the main duties of an attorney under a property and financial affairs Lasting Power of Attorney. This was not answered very well. Candidates should be reminded Powers of Attorney are a core area of the syllabus and are tested regularly.

Part (b), which asked for the consequences of an attorney breaching their duties, was answered much better, with candidates commonly identifying the attorney may be removed from their role, fined and have to compensate the donor.

Question 7

This question asked candidates to identify factors the trustees of a life interest trust should consider following the death of the life tenant. It was generally answered well by those candidates who had prepared well for the examination, with answers commonly including reviewing the terms of the trust, identifying who the remaindermen are and whether they were entitled to capital.

Question 8

Part (a) asked candidates to describe the impact of divorce on the provisions of a Will made prior to the divorce. This was answered reasonably well as candidates commonly identified divorce does not invalidate a Will, but would cancel any benefit to the ex-spouse.

Part (b) was also answered quite well as candidates were required to explain how the estate would be administered if the ex-spouse was the sole executor of the will.

Question 9

Part (a), which asked candidates to explain the conditions that must be satisfied for a Deed of Variation to be effective for inheritance tax purposes, is a question that has been frequently tested previously and was answered quite well.

Part (b) was also answered quite well. It asked candidates to what state why using a Disclaimer may not be as advantageous as a Deed of Variation and many candidates were able to identify the disclaimed inheritance would go back into the estate.

Question 10

This question set out a scenario where Carlotta, who had recently been made redundant, owed £12,000 on credit cards and candidates were asked to state the conditions she must meet before she could apply for a debt relief order.

Candidates generally found this question difficult, scoring poorly, however this is an area that has been tested previously and is covered in the syllabus and J02 study text.

Question 11

Part (a) asked for a brief explanation of how an existing settlor-interested discretionary trust, holding a residential property and a share portfolio, would be treated for Capital Gains Tax purposes. This was generally well answered with candidates able to recognise the different tax rates applicable to the property/shares and the availability of the annual exempt amount applicable to trustees.

Part (b), which asked candidates to explain the trustees' responsibility for reporting and paying any future Capital Gains Tax due on a discretionary trust, was less well answered, although common correct answers were that gains should be reported via self-assessment by 31 January following the tax year of disposal.

Question 12

In part (a), candidates were asked to explain how the income received into an interest in possession trust would be treated for Income Tax purposes. This was generally well answered although candidates who were less well prepared confused this with the taxation of income received into a discretionary trust.

Part (b) asked candidates to explain how trustee expenses are accounted for when calculating taxable income and this was not well answered. This is an area which has not been tested previously in J02 although it is covered in the syllabus and study text.

Question 13

Part (a), which asked candidates to explain the benefits of using a discretionary trust compared to a bare trust with a life insurance policy used for family protection, was answered quite well. Many candidates identified the settlor/trustees retain control over who benefits and when benefits are paid. Fewer candidates recognised the benefits would not be included in the estate of the beneficiaries for IHT purposes.

In part (b), candidates were required to state three other uses for a life insurance policy held under trust and this was generally very well answered.

Question 14

It was pleasing that candidates performed very well overall on question 14.

In part (a) candidates were asked to explain how the transferable nil rate band would be obtained following the death of Florence. This was well answered.

Part (b), which asked candidates to calculate the Inheritance Tax liability on Florence's estate, was excellently answered, with many candidates achieving full marks.

Question 15

Part (a) asked candidates to describe how Shakiru's family could apply to manage his affairs if he were to lose mental capacity without either a property and financial affairs Lasting Power of Attorney (LPA) or Enduring Power of Attorney in place. This was answered quite well with candidates generally recognising an application to the Court of Protection would be required to appoint a Deputy.

Part (b), which required candidates to briefly explain the drawbacks of this, from Shakiru's perspective, compared to if he had set up a property and affairs LPA before losing mental capacity, was answered well.

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 2021/2022, 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.

If you are sitting via remote invigilation 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.
- Show your ID to the camera now, if you did not do so during the ID checks.
- Show the edge of your screen with a mirror, if you did not do this during the room scan.
- Show any blank sheets of paper for notes, if you did not show both sides to the camera during the room scan.

If you are sitting in a test centre and encounter a problem please alert the invigilator.

For candidates sitting via remote invigilation or at a test centre

- **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.
- **Different to Objective Testing exams, tax tables are provided at the right-hand side of the interface after the question paper.**
- 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 a headset, earphones, smart watch please take them off. No watches are allowed.**
- 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.

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.

PLEASE ENSURE YOU ANSWER EACH QUESTION IN THE CORRECT ANSWER BOX

1. State **six** features of a contract that do not appear in a trust. (6)

2. (a) Describe how a trust can continue if the last surviving trustee has died. (5)
(b) State **two** advantages and **two** disadvantages of appointing a corporate trustee compared to a non-corporate trustee. (4)

3. (a) Describe briefly an implied trust. (3)
(b) List **five** other **methods** of creating a trust. (5)

4. (a) State the definition of a perpetuity period and an accumulation period. (3)
(b) Describe briefly the perpetuity period that could apply to a trust created before 6 April 2010. (4)

5. (a) Describe the powers given to the court in the Variation of Trusts Act 1958 and those who may benefit. (6)
(b) Explain briefly the **drawbacks** of a beneficiary making an application to vary a trust under the provisions of the Variation of Trusts Act 1958. (4)

6. (a) Describe the main duties of an attorney under a property and financial affairs Lasting Power of Attorney (LPA). (7)
(b) Explain briefly the consequences of an attorney breaching their duties. (4)

7. Identify **eight** factors the trustees of a life interest trust should consider following the death of the life tenant. (8)
8. Ilan made a Will five years ago leaving £20,000 to his brother and the remainder of his estate to his wife. The couple recently divorced.
- (a) Describe the impact of Ilan's divorce on the provisions in his Will. (5)
- (b) Explain briefly how Ilan's estate would be administered if his wife was the sole executor of the Will. (4)
9. Tom and Harriet recently inherited their mother's estate which was left to them in her Will. Tom would like his share to go directly to his daughter.
- (a) Explain the conditions that must be satisfied for a Deed of Variation to be effective for Inheritance Tax purposes. (8)
- (b) State why using a Disclaimer may not be as advantageous as using a Deed of Variation in the circumstances described in **part (a)** above. (2)
10. Carlotta, aged 20, lives at home with her parents. She has recently been made redundant and owes £12,000 on various credit cards which she has always managed up until now.
- State the conditions Carlotta must meet before she can apply for a debt relief order. (7)
11. (a) Explain briefly how an existing settlor-interested discretionary trust, holding a residential property and a share portfolio, would be treated for Capital Gains Tax purposes. (4)
- (b) Explain briefly the trustees' responsibility for reporting and paying any future Capital Gains Tax due on a discretionary trust. (4)

12. Khalid is the trustee of an interest in possession trust. The trust currently receives interest from deposit accounts and dividends from UK shares.
- (a) Explain to Khalid how the income received in the trust will be treated for Income Tax purposes. (7)
- (b) Explain briefly how trustee expenses are accounted for when calculating taxable income. *No calculations are required.* (3)
13. (a) Explain the benefits of using a discretionary trust compared to a bare trust with a life insurance policy used for family protection. (7)
- (b) State **three** other uses for a life insurance policy held under trust. (3)
14. Claude died in June 2007. He left 30% of his nil rate band to a discretionary Will trust and the remainder of his estate to his wife Florence.
- Florence died on 1 January 2021 leaving an estate valued at £600,000 to her nieces and nephews.
- (a) Explain briefly how the transferable nil rate band is obtained following Florence's death. (4)
- (b) Calculate, **showing all your workings**, the Inheritance Tax liability on Florence's estate. (7)
15. Shakiru is worried about what would happen if he were to lose mental capacity without either a property and financial affairs Lasting Power of Attorney (LPA) or Enduring Power of Attorney (EPA) in place.
- (a) Describe briefly how Shakiru's family could apply to manage his affairs. (3)
- (b) Explain briefly the **drawbacks** of this, from Shakiru's perspective, compared to the position if he had set up a property and financial affairs LPA before losing mental capacity. (3)

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

- Offer and
- acceptance required.
- Agreement needed between parties/all parties need to be aware.
- Consideration required.
- Contracting parties can enforce terms/only contracting parties have legal and equitable rights under it.
- Contracting parties cannot be minors/a contract with a minor is unenforceable.

Model answer for Question 2

- (a)
- The personal representatives/executor of the last surviving trustee can act as trustee
 - until an appointment is made by the appointor.
 - If there was no appointor specified in the trust or the appointor is dead
 - the personal representatives can continue to act as trustee
 - or appoint new trustees.

(b) **Advantages**

Candidates would have gained two marks for any two of the following:

- A corporate trustee offers continuity as no need to replace a trustee on death.
- A trust corporation may have professional knowledge/expertise/less risk of not adhering to trustee responsibilities.
- Less risk of conflict of interest.

Disadvantages

Candidates would have gained two marks for any two of the following:

- A corporate trustee will charge for its services.
- Less likely to have knowledge of settlor's and beneficiaries' personal circumstances.
- Family may lose control.

Model answer for Question 3

- (a)
- It is not expressly written/created;
 - But is implied by actions; and
 - Intentions of the parties.
- (b)
- Deed.
 - Will.
 - Intestacy/statute e.g. Married Women's Property Act 1882.
 - Imposed by law/via a Court Order.
 - Secret/half secret.

Model answer for Question 4

- (a)
- The perpetuity period is the maximum period a trust may last.
 - At the end of this period powers must cease and the trust comes to an end.
 - The accumulation period is how long trustees can accumulate income within the trust.
- (b)
- A fixed period of 80 years
 - from the date the trust was created; or
 - The lifetime of a specified person,
 - plus 21 years.

Model answer for Question 5

- (a) *Candidates would have gained full marks for any six of the following:*
- It gives the court wide, discretionary powers
 - to vary trusts, and the beneficial interests within them, for the benefit of
 - any beneficiaries who cannot consent because they are minors
 - or are mentally incapable;
 - any contingent beneficiaries
 - any unborn beneficiaries
 - any people with a discretionary interest under a protective trust.
 - However, the court cannot take away the interest of an adult beneficiary who has not agreed to this.
- (b)
- Applying to the court is costly
 - and time-consuming.
 - Evidence would need to be provided to support the view that varying the trust would benefit the beneficiaries who cannot consent for themselves.
 - There is no guarantee that the judge will agree/unlikely judge will agree.

Model answer for Question 6

- (a)
- Follow the instructions and provisions set out in the Lasting Power of Attorney (LPA).
 - Act in the best interests of the donor.
 - Help the donor make own decisions as much as possible.
 - Not to take advantage of the position for personal gain.
 - Keep the donor's money and assets separate from her own.
 - Keep the donor's affairs confidential.
 - Ensure there is no conflict of interest.
- (b) *Candidates would have gained full marks for any four of the following:*
- Required to compensate the donor for any losses.
 - If the attorney has mistreated or purposefully neglected the donor, they could also be:
 - fined.
 - imprisoned.
 - removed as attorney.

Model answer for Question 7

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

- The terms of the trust/trust deed.
- Does the trust come to an end?
- The IHT impact of the life tenant's death.
- Who the remaindermen are/who now is entitled to capital?
- Are the remaindermen minors/what are their ages?
- Tax status of the remaindermen.
- Will the capital of the trust be appointed to them?
- Or do the assets of the trust now need to be reviewed/are they appropriate?/Attitude to risk (ATR) remaindermen.
- Seek financial advice if trustee does not have expertise.

Model answer for Question 8

- (a)
- Divorce does not invalidate the Will
 - but cancels any benefit to wife
 - unless the wording in the Will clearly states divorce should not affect her entitlement.
 - The wife's share will instead be distributed under the rules of intestacy.
 - Ian's brother will still receive his entitlement under the Will.
- (b)
- Administrators/executors would be appointed
 - by the Probate Registry/Court
 - to administer/distribute the estate
 - as his wife is unable to act as executor.

Model answer for Question 9

- (a) *Candidates would have gained full marks for any eight of the following:*
- The deed must be in writing.
 - The deed must refer to the Will.
 - It must be executed within 2 years of their mother's death.
 - It must contain a statement that the variation is to have effect for IHT as if their mother had made it.
 - If the variation were to increase the IHT payable, the deed must be signed by the personal representatives.
 - Tom must be over the age of 18
 - and of sound mind.
 - The deed must be signed by Tom/all affected beneficiaries.
 - There must be no consideration for money or money's worth.
- (b)
- A Disclaimer can only be used if inheritance has not been accepted/received by Tom.
 - The disclaimed inheritance goes back into residue of the estate/Tom has no control over where the disclaimed legacy goes.

Model answer for Question 10

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

- Carlotta must be unable to pay her debts.
- She must owe less than £20,000.
- She must have assets worth less than £1,000.
- Her disposable income must be less than £50 per month.
- She must live in England or Wales.
- She must not have been subject to another DRO in the past six years.
- She must not be involved in any other formal insolvency procedure.

Model answer for Question 11

- (a) *Candidates would have gained full marks for any four of the following:*
- Capital gains are taxed on the trustees.
 - Gains above Annual Exempt Amount (AEA)/£6150
 - are taxed at the trust rate of 20% for the share portfolio
 - or 28% for the residential property
 - if it is not the PPR of a beneficiary.
 - Hold over relief would not apply.
- (b) *Candidates would have gained full marks for any four of the following:*
- The trustees must report gains that exceed the applicable annual exempt amount;
 - If trust assets are property, they must report/pay any Capital Gains Tax (CGT) to HM Revenue & Customs.
 - within 30 days
 - via the online 'real time' service.
 - Other gains reported via self-assessment
 - by 31 January following tax year of disposal.

Model answer for Question 12

- (a) *Candidates would have gained full marks for any seven of the following:*
- Interest and dividend income all paid gross.
 - Trustees pay basic rate tax.
 - Savings income at 20%
 - Dividends at 7.5%
 - Personal allowance (PA)/Dividend allowance/Personal Savings Allowance (PSA) is not available to trustees.
 - Paid by the trustees through self-assessment.
 - Beneficiaries are entitled to a tax credit for tax paid by the trustees.
 - Higher rate/additional rate taxpayers may be liable for further tax.
 - Non-taxpayers can reclaim some/all the tax paid.
 - PA/Dividend allowance/PSA available to beneficiaries.
 - Trustees send form R185 to beneficiaries.
- (b) *Candidates would have gained full marks for any three of the following:*
- Trustees are not entitled to tax relief on expenses.
 - Trust expenses can be offset against net trust income.
 - Trust expenses are set against income in a priority order.
 - Dividends first and then savings income in this case.

Model answer for Question 13

- (a)
- The settlor/trustees retain control over who benefits
 - and when benefits are paid
 - and their percentage share.
 - Wider class of beneficiaries.
 - Unborn children can benefit.
 - Protection if beneficiaries become bankrupt/divorce/spendthrift.
 - Not included in beneficiaries' estate for IHT purposes.
- (b)
- School/university fees.
 - Shareholder/partnership protection.
 - IHT planning.

Model answer for Question 14

- (a) *Candidates would have gained full marks for any four of the following:*
- The personal representatives of Florence's estate must make a claim
 - within two years of her death
 - for Florence's nil rate band to be increased
 - by the unused proportion of Claude's nil rate band/70%
 - regardless of when Claude died.
- (b)
- $£600,000$ (estate) - $£325,000$ (Florence NRB) = $£275,000$
 $£325,000$ (Claude NRB) x 70% = $£227,500$
 $£275,000$ - $£227,500$ = $£47,500$
 $£47,500$ x 40% = $£19,000$

Model answer for Question 15

- (a) *Candidates would have gained full marks for any three of the following:*
- They would need to apply to the Court of Protection/Office of the Public Guardian (OPG).
 - To appoint a Deputy to act on Shakiru's behalf.
 - Application/supervision fees would be payable.
 - The appointment would be reviewed by the court on a regular basis.
- (b) *Candidates would have gained full marks for any three of the following:*
- Shakiru would have no say in who will manage his affairs and make decisions on his behalf.
 - It may take a long time for this to be agreed by the Court. If he had a registered LPA in place, there would be no delays.
 - There may be a long period of time when Shakiru's assets cannot be accessed and no financial decisions can be made. If he had an LPA, the attorney can act immediately.
 - The powers of the deputy would be limited and may not include powers that Shakiru would have included within an LPA.

Sept 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.	1. Explain the structure of a trust and the roles of the main parties.
3.	2. Explain how trusts are created.
4.	3. Explain the rules covering the investment of trust assets and the administration of trusts.
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.	6. Explain the bankruptcy rules, the role of the trustee in bankruptcy and alternatives to bankruptcy.
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.	8. Explain how life, pension and other investments can be placed in trust, and the tax 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 2022 paper will be based on English law and practice applicable in the tax year 2021/2022, unless stated otherwise and should be answered accordingly.

The Tax Tables which follow are applicable to the September 2021 and February 2022 examinations.

INCOME TAX

RATES OF TAX	2020/2021	2021/2022
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	£37,700
Threshold of taxable income above which additional rate applies	£150,000	£150,000
Child benefit charge:		
1% of benefit per £100 of adjusted net income between £50,000 – £60,000		
*Only applicable to savings income that falls within the first £5,000 of income in excess of the personal allowance		
Dividend Allowance	£2,000	£2,000
Dividend tax rates		
Basic rate	7.5%	7.5%
Higher rate	32.5%	32.5%
Additional rate	38.1%	38.1%
Trusts		
Standard rate band	£1,000	£1,000
Rate applicable to trusts		
- dividends	38.1%	38.1%
- other income	45%	45%
MAIN PERSONAL ALLOWANCES AND RELIEFS		
Income limit for Personal Allowance §	£100,000	£100,000
Personal Allowance (basic) §	£12,500	£12,570
Married/civil partners (minimum) at 10% †	£3,510	£3,530
Married/civil partners at 10% †	£9,075	£9,125
Marriage Allowance	£1,250	£1,260
Income limit for Married Couple's Allowance †	£30,200	£30,400
Rent a Room scheme – tax free income allowance	£7,500	£7,500
Blind Person's Allowance	£2,500	£2,520
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)	£2,830	£2,845
- family element	£545	£545
Threshold for tapered withdrawal of CTC	£16,385	£16,480

NATIONAL INSURANCE CONTRIBUTIONS

Class 1 Employee	Weekly
Lower Earnings Limit (LEL)	£120
Primary threshold	£184
Upper Earnings Limit (UEL)	£967
Total earnings £ per week	CLASS 1 EMPLOYEE CONTRIBUTIONS
Up to 184.00*	Nil
184.00 – 967.00	12%
Above 967.00	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 £184 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 170.00**	Nil
170.00 – 967.00	13.8%
Excess over 967.00	N/A

*** Secondary earnings threshold.*

Class 2 (self-employed)	Flat rate per week £3.05 where profits exceed £6,515 per annum.
Class 3 (voluntary)	Flat rate per week £15.40.
Class 4 (self-employed)	9% on profits between £9,568 - £50,270. 2% on profits above £50,270.

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 & 2013/2014	£1,500,000
2014/2015 & 2015/2016	£1,250,000
2016/2017 & 2017/2018	£1,000,000
2018/2019	£1,030,000
2019/2020	£1,055,000
2020/2021 & 2021/2022	£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 – 2021/2022	£40,000*

~ increased to £80,000 for pension input between 6 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.

*reducing 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	2020/2021	2021/2022
	£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	2020/2021	2021/2022
Individuals, estates etc	£12,300	£12,300
Trusts generally	£6,150	£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%
Business Asset Disposal Relief* – Gains taxed at:		
Lifetime limit	10%	10%
	£1,000,000	£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	2020/2021	2021/2022
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*	£175,000	£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

	2020/2021 Rates	2021/2022 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
Motorcycles	24p per mile	24p per mile
Bicycles	20p per mile	20p per mile

MAIN CAPITAL AND OTHER ALLOWANCES

	2020/2021	2021/2022	
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 1 April 2016 (Corporation Tax) or 6 April 2016 (Income Tax)			
CO ₂ 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

		2020/2021	2021/2022
		£	£
Child Benefit	First child	21.05	21.15
	Subsequent children	13.95	14.00
	Guardian's allowance	17.90	18.00
Employment and Support Allowance	Assessment Phase		
	Age 16 - 24	Up to 58.90	Up to £59.20
	Aged 25 or over	Up to 74.35	Up to £74.70
	Main Phase		
	Work Related Activity Group	Up to 74.35	Up to 104.40
	Support Group	Up to 113.55	Up to 114.10
Attendance Allowance	Lower rate	59.70	60.00
	Higher rate	89.15	89.60
Basic State Pension	Single	134.25	137.60
	Married	268.50	275.20
New State Pension	Single	175.20	179.60
Pension Credit	Single person standard minimum guarantee	173.75	177.10
	Married couple standard minimum guarantee	265.20	270.30
	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	58.90	59.20
	Age 25 or over	74.35	74.70
Statutory Maternity, Paternity and Adoption Pay		151.20	151.97

CORPORATION TAX

	2020/2021	2021/2022
Standard rate	19%	19%

VALUE ADDED TAX

	2020/2021	2021/2022
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 - £925,000	5%
£925,001 - £1,500,000	10%
£1,500,001 and over	12%

Important note regarding Stamp Duty Land Tax (SDLT) and residential property purchases:

- For purchases between 1 July 2021 and 30 September 2021, SDLT does not apply up to £250,000.
- For purchases above £250,000, the band rates above apply as normal.
- For purchases from 1 October 2021, 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%