

## J02

# Diploma in Financial Planning

## Unit J02 – Trusts

October 2017 examination

### SPECIAL NOTICES

All questions in this paper are based on English law and practice applicable in the tax year 2017/2018, 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.

### Instructions

- Two hours are allowed for this paper.
- **Do not begin writing until the invigilator instructs you to.**
- **Read the instructions on page 3 carefully before answering any questions.**
- Provide the information requested on the answer book and form B.
- You are allowed to write on the inside pages of this question paper, but you must **NOT** write your name, candidate number, PIN or any other identification anywhere on this question paper.
- The answer book and this question paper must **both be handed in personally by you** to the invigilator before you leave the examination room. **Failure to comply with this regulation will result in your paper not being marked and you may be prevented from entering this examination in the future.**



## Unit J02 – Trusts

### Instructions to candidates

#### Read the instructions below before answering any questions

- **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.
- You may find it helpful in some places to make rough notes in the answer booklet. If you do this, you should cross through these notes before you hand in the booklet.
- It is important to show all steps in a calculation, even if you have used a calculator.
- If you bring a calculator into the examination room, it must be a silent, battery or solar-powered, non-programmable calculator. The use of electronic equipment capable of being programmed to hold alphabetic or numerical data and/or formulae is prohibited. You may use a financial or scientific calculator, provided it meets these requirements.
- Tax tables are provided at the back of this question paper.
- Answer each question on a new page and leave six lines blank after each question part.

**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. Explain the legal definition of a trust. **(8)**
  
2. Identify **four** main types of trust beneficiary and explain briefly their beneficial interest under each trust. **(8)**
  
3. Edward is a trustee of a trust which was settled on 5 October 2010. There is no perpetuity period specified in the trust deed.
  - (a) Explain the perpetuity period that would apply to the trust. **(3)**
  - (b) Explain briefly the provisions of the relevant Trust Act for the accumulation of income within the trust. **(2)**
  
4.
  - (a) State **four** categories of beneficiary who may benefit as a result of exceptions to the principle that trusts cannot be varied under the Variation of Trusts Act 1958. **(4)**
  - (b) Describe briefly the conditions under which beneficiaries can bring a trust to an end under the rule Saunders v. Vautier (1841). **(5)**
  
5. Katya, who is non-UK domiciled, moved to the UK on 1 April 2017. On 1 September 2016, Katya transferred her existing investments into an offshore discretionary trust intending that her children benefit. She has appointed non-UK resident trustees.

Explain the tax implications for any income and capital gains arising from the trust. **(9)**

6. Thomas set up a General Power of Attorney in 2003, appointing Dorothy as his attorney.
- (a) Describe briefly Dorothy's powers as attorney for Thomas. (5)
- (b) Describe briefly the circumstances that will bring Thomas's General Power of Attorney to an end. (5)
7. Describe the **five** key principles set out in the Mental Capacity Act 2005. (10)
8. Carole, who was single, died in September 2017. At the time of her death her estate was valued at £1,200,000. She did not leave a valid Will and her partner Lloyd has agreed to be the administrator of her estate. Lloyd has established that Carole's surviving relatives are her grandmother Lily, grandfather Albert and aunt Suzy.
- (a) Explain Lloyd's role as the administrator in dealing with Carole's estate. (9)
- (b) Explain briefly how Carole's estate will be distributed. (2)
9. Dominic died on 1 March 2017. His daughter Davinia is the sole beneficiary of his Will and she has decided she would like her entitlement to be split between her two children.
- Explain briefly the conditions that need to be met for Davinia to execute a deed of variation so that it is successful for Inheritance Tax purposes. (8)
10. Thomas is a trustee of a discretionary trust and has recently been declared bankrupt.
- (a) Explain briefly what the implications for the trust are in those circumstances. (3)
- (b) Explain briefly what the trustee in bankruptcy's interest might be in the trust if one of the beneficiaries was made bankrupt. (5)

QUESTIONS CONTINUE OVER THE PAGE

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11. Describe the duties that the trustees of an existing trust must undertake in dealing with the Income Tax self-assessment obligations, both during and after the end of the 2016/17 tax year. (10)
12. Megan, aged 69, died on 5 October 2016 with a valid Will. Between 6 April 2016 and the date of her death, Megan received pension income and savings interest sufficient to make her a basic rate tax payer. The personal representatives of her estate received dividend income on 5 May 2017 of £7,500 from shares that Megan held at the date of her death. Probate was granted on 6 September 2017.
- (a) Describe how the savings interest received by Megan during the tax year of her death will be treated and taxed. *No calculations are required.* (7)
- (b) Calculate, **showing all your workings**, the Income Tax that Megan's personal representatives will be liable for on dividends received during the administration period. (3)
13. Clint became a member of a trust based occupational pension scheme in 2008. He completed an expression of wishes form for the death benefit of the scheme nominating his wife Kate as sole beneficiary. On 30 September 2017, Clint died whilst still a current member of the pension scheme.
- Describe briefly the process that the scheme trustees should follow before paying out the death benefit. (7)
14. Harry, aged 72, has an estate with a significant Inheritance Tax liability and is considering making a gift into an absolute trust. The beneficiaries of the trust are to be his three adult children, Jack, Louise and Robert who are all married.
- State **four** advantages and **four** disadvantages of gifting into an absolute trust compared to a discretionary trust. (8)
15. State **nine** factors that are likely to cause a review of the investment policy of a trust. (9)

**The tax tables can be found on pages 8 – 16**

## INCOME TAX

RATES OF TAX	2016/2017	2017/2018
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	£32,000	£33,500
Threshold of taxable income above which additional rate applies	£150,000	£150,000
Child benefit charge from 7 January 2013: 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.</i>		
Dividend Allowance		£5,000
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)	£11,000	£11,500
Married/civil partners (minimum) at 10% †	£3,220	£3,260
Married/civil partners at 10% †	£8,355	£8,445
Transferable tax allowance for married couples/civil partners	£1,100	£1,150
Income limit for age-related allowances †	£27,700	£28,000
Rent a Room relief	£4,250	£7,500
Blind Person's Allowance	£2,290	£2,320
Enterprise Investment Scheme relief limit on £1,000,000 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>		
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)	£113
Primary threshold	£157
Upper Earnings Limit (UEL)	£866

### Total earnings £ per week

### CLASS 1 EMPLOYEE CONTRIBUTIONS

Up to 157.00*	Nil
157.01 – 866.00	12%
Above 866.00	2%

*\*This is the primary threshold below which no NI contributions are payable. However, the lower earnings limit is £113 per week. This £113 to £157 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 157.00**	Nil
157.01 – 866.00	13.8%
Excess over 866.00	13.8%

*\*\* Secondary earnings threshold.*

<b>Class 2 (self-employed)</b>	Flat rate per week £2.85 where profits exceed £6,025 per annum.
<b>Class 3 (voluntary)</b>	Flat rate per week £14.25.
<b>Class 4 (self-employed)</b>	9% on profits between £8,164 - £45,000. 2% on profits above £45,000.

## 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

### 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
2011/2012	£50,000
2012/2013	£50,000
2013/2014	£50,000
2014/2015	£40,000
2015/2016	£40,000~
2016/2017	£40,000*
2017/2018	£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	2016/2017	2017/2018
	£10,000	£10,000

### 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	2016/2017	2017/2018
Individuals, estates etc	£11,100	£11,300
Trusts generally	£5,550	£5,650
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.*

## INHERITANCE TAX

RATES OF TAX ON TRANSFERS	2016/2017	2017/2018
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*	£100,000	£100,000
- 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:					
	0-3	3-4	4-5	5-6	6-7
- Inheritance Tax payable	100%	80%	60%	40%	20%

Quick succession relief:					
	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 2017/2018:

- The percentage charge is 9% 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 13%.
- For cars with CO<sub>2</sub> emissions of 76g/km to 94g/km the percentage is 17%.
- Cars with CO<sub>2</sub> emissions of 95g/km have a percentage charge of 18% and thereafter the charge increases by 1% for every complete 5g/km to a maximum of 37% (emissions of 200g/km and above).

There is an additional 3% supplement for diesel cars not meeting Euro IV 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 (£22,600 for 2017/2018) e.g. car emission 100g/km = 17% on car benefit scale. 17% of £22,600 = £3,842.

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

	2016/2017 Rates	2017/2018 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

	2016/2017	2017/2018	
Plant & machinery (excluding cars) 100% annual investment allowance (first year)	£200,000	£200,000	
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%	8%	
Energy & water-efficient equipment	100%	100%	
Zero emission goods vehicles (new)	100%	100%	
Qualifying flat conversions, business premises & renovations	100%	100%	
<b>Motor cars:</b> Expenditure on or after 01 April 2016 (Corporation Tax) or 06 April 2016 (Income Tax)			
CO <sub>2</sub> emissions of g/km:	75 or less*	76-130	131 or more
Capital allowance:	100%	18%	8%
	first year	reducing balance	reducing balance

*\*If new*

## MAIN SOCIAL SECURITY BENEFITS

		2016/2017	2017/2018
		£	£
Child Benefit	First child	20.70	20.70
	Subsequent children	13.70	13.70
	Guardian's allowance	16.55	16.70
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 109.30	Up to 109.65
Attendance Allowance	Lower rate	55.10	55.65
	Higher rate	82.30	83.10
basic State Pension	Single	119.30	122.30
	Married	190.80	195.60
new State Pension	Single	155.65	159.55
Pension Credit	Single person standard minimum guarantee	155.60	159.35
	Married couple standard minimum guarantee	237.55	243.25
	Maximum savings ignored in calculating income	10,000.00	10,000.00
Bereavement Payment Support Payment*		2,000.00	2,000.00
Higher rate - lump sum		N/A	3,500.00
Higher rate - monthly payment		N/A	350.00
Standard rate – lump sum		N/A	2,500.00
Standard rate – monthly payment		N/A	100.00
Jobseekers Allowance	Age 18 - 24	57.90	57.90
	Age 25 or over	73.10	73.10
Statutory Maternity, Paternity and Adoption Pay		139.58	140.98
<i>Only applicable where spouse or civil partner died on or after 6 April 2007*</i>			

**CORPORATION TAX**

	2016/2017	2017/2018
Standard rate	20%	19%

**VALUE ADDED TAX**

	2016/2017	2017/2018
Standard rate	20%	20%
Annual registration threshold	£83,000	£85,000
Deregistration threshold	£81,000	£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, Wales and Northern Ireland only. Land and Buildings Transaction Tax (LBTT) is payable in Scotland at different rates to the 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.*

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



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