(Ensure this number matches your candidate number on your desk label and on your candidate attendance form)

am 0 8 0 5 2 0 1 9 Date of Examination

Chartered Institute of Taxation

Excellence in Taxation

- [ ] Tick box if you have answered in accordance with Scots Law
- [ ] Tick box if you have answered in accordance with Northern Ireland Law

Please tick which Advanced Technical Paper you have attempted (if not already ticked below)

- [ ] Taxation of Owner-Managed Businesses
- [ ] Domestic Indirect Taxation
- [x] Inheritance Tax, Trusts & Estates
- [ ] Human Capital Taxes
- [ ] Taxation of Individuals
- [ ] Cross-Border Indirect Taxation
- [ ] Taxation of Major Corporates

- [ ] Please tick here if you have used an extra answer booklet (ensure you attach your second answer booklet to the first using a treasury tag which will be provided).

Advanced Technical

You must ensure that the Advanced Technical Papers chosen are not the same as the corresponding Awareness Modules you have sat or will be sitting.

Instructions

Your script will be scanned electronically. Failure to comply with these instructions may lead to your script not being marked. You must:

(a) Complete the details on this page and in the booklet using BLACK or BLUE ballpoint pen only.
(b) Write on both sides of the page.
(c) Not write in the margin areas indicated.
(d) Start a new page for each question you answer and indicate the question number in the box provided at the top of each page.
(e) Not remove any pages from this answer booklet or damage it in any way.

Please do all of the above before the end of the examination.

For use by examiner only

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QUESTION NUMBER 1

Qu.1 - Rock Ltd

i) IHT implications of proposed gifts and sale at undervalue

Rock Ltd is a close company as it has 5 or fewer participators. When assets are gifted or sold at undervalue, this is a loss to the participators estate for IHT in the ratio of shareholdings.

There is an exception for those holdings under 5%, in this case for Chris, the rules above will not apply and no IHT event will occur for him.

Assets gifted or sold at undervalue

We must consider the loss to the donor; value of business before is £1,000,000 however, after the gifts/sales it is worth

Value now	£1,000,000
Old studio	(150,000)
Car	(100,000)
Surplus cash	(75,000)
	675,000

QUESTION NUMBER 1

Therefore the loss in the value of the company is £325,000.

Availability of BPR

Business Property Relief (BPR) is restricted where the unquoted trading company has been owned for 2 years when there are excepted assets

Excepted assets include those that are surplus to requirements of the business and have either not been used in the previous 2 years or will be needed for future use.

In this instance, no BPR is available on the transfer of value.

Sale at undervalue

The sale of the studio will generate proceeds of £50,000 therefore the loss in value of the company shall be £275,000.

QUESTION NUMBER 1

Split between James and Anne

James = 50% = 137,500

Anne = 46% = 126,500

IHT position for James

The £10,000 to his nephew each year is exempt from IHT as it is normal expenditure out of income and he has established a pattern.

Transfer of value	137,500
2 x annual exemptions	(6,000)
	131,500

This is a potentially exempt transfer (PET) and therefore will only be chargeable to IHT if James was to die within 7 years. ~~Tapo~~ In any case, as this is his first lifetime gift it would be covered by his nil rate band, currently at £325,000.

QUESTION NUMBER 1

IHT position for Anne

The gift of £20,000 in cash to daughter for wedding is a PET, reduced by the marriage exemption of £5,000 and 2 annual exemptions totalling £6,000.

However the £300,000 into discretionary trust is a chargeable lifetime transfer.

Transfer of value			126,500
less 2 x AE			(6,000)
			120,500
Less NRB	~~300~~ 325,000		
CLT last 7 yrs	(300,000)		
1 x AE	3,000		
			(28,000)
			92,500

The transfer is a PET but as a CLT has been made in the 7 years before it will not be covered by the NRB if she is not to survive for 7 years and therefore tax would be due.

(2) IHT reporting and payment obligations

The PETs should be recorded but do not need to be submitted to HMRC.

If they were chargeable lifetime transfers (CLT) they would need to be reported on an IHT 100 form and submitted to HMRC the later of the 30 April following the tax year or 6 months after the end of month of transfer. The IHT liability would be due for payment then too.

Any failed PETs would need to be included on the IHT 400 return on the death of James or Anne and any death tax would be due the earlier of the submission of the return or 6 months after the month end of death.

QUESTION NUMBER 2

Qu. 2 - Aaron Jones

Headed paper

Mrs Jones

Your address

Our address

8 May 2019

Dear Sharon

Advise on the residue and house in Aaron's estate

I am writing to you to explain the implications of transferring half of the residue of Aaron's estate to your daughters absolutely and transferring a half share of a house to Charlotte.

Transfer of half residue to daughters

As you have already pointed out a deed of variation is not possible as Harry is a beneficiary of the trust and is a minor. In order to transfer half the residue then the trustees need to

QUESTION NUMBER 2

make the decision to appoint half of the capital.

The trust is a relevant property trust and is therefore subject to exit charges when any assets are appointed. However, as the trustees are just accelerating the advancement of capital, this can be done IHT free within 2 years of Aaron's death, ie by 10 April 2020 - by way of the will instead

I would suggest that the agricultural land be appointed before it increases in value any further. If a deed of variation was drawn up your daughters could inherit this at the probate value if statements for IHT and capital gains tax (CGT) were included.

A possibility for the agricultural land

The land in the trust won't be eligible for agricultural property relief (APR) for 7 years as it is being let out for agricultural purposes. If this could be farmed in hand, ownership of only 2 years is required.

QUESTION NUMBER 2

If APR can be secured on the land then any exit charge from the trust would be reduced to nil and therefor no IHT would be due.

CGT could be deferred as the transfer would be immediately chargeable to IHT (no matter if reduced to nil by a relief). Your daughters would then inherit the land at its current value less the gain deferred (ie £200,000) this gain would fall back into charge on the eventual land sale.

This is probably the easiest way to give your daughters an absolute interest in the residue - although not representing half the residue on death; it does now at its current value.

Half share of house to Charlotte

In this instance a deed of variation can be carried out. It must be done within 2 years of death (10 April 2020), be drafted in writing (by a solicitor) and be signed by you as you are varying the will.

QUESTION NUMBER 2

At the moment the transfer of half the house to you is an exempt transfer as you were Aaron's spouse.

Charlotte is a chargeable beneficiary and therefore more IHT would be due on the estate. For this reason, all of the executors need to be in agreement.

The additional IHT would be;

With no deed of variation:

Estate	1,800,000
Exempt to you	(500,000)
	1,300,000
Less APR	(200,000)
Less NRB Aaron	(325,000)
NRB 1st wife	(325,000)
	450,000
@ 40%	~~260,000~~ 180,000

QUESTION NUMBER 2

With deed of variation

Estate	1,800,000
APR	(200,000)
	1,600,000
Less 2 x NRB	(650,000)
Less 2 x RNRB	(250,000)
	700,000
@ 40%	280,000

Therefore the additional IHT would be £100,000.

As an alternative, you could gift the 1/2 share to Charlotte. It would be a potentially exempt transfer (PET) for you and only subject to IHT if you were to die in 7 years - after 3 years taper relief at 20% per year would be available

There would be little or no CGT to pay as long as the transfer is done whilst the value is substantially the same as at probate.

I therefore recommend that you make an

outright gift to Charlotte. Please remember that to avoid the gifts with reservation of benefits rules Charlotte and you need to split the household expenses 50/50. otherwise it will fall back into your estate for IHT.

I hope this helps.

Yours Sincerely.

T. adviser.

QUESTION NUMBER 3.

Qu. 3 - notes on Woodlands relief

There are 3 main reliefs available for woodlands;

1) Agricultural Property Relief (APR)
2) Business Property Relief (BPR)
3) Woodlands Relief

APR

If the woodland is used for the purposes of agriculture then 100% APR would apply. Or if the woodland made up a very small part of a farm it would likely be included for APR.

BPR

If the woodland was part of the farming business then BPR would apply.

If it was a standalone woodland and a commercial timber operation had taken place for at least 2 years then 100% BPR would be available.

QUESTION NUMBER 3

Both APR and BPR reduce the value of the chargeable asset in the estate. If woodlands are gifted within lifetime, the woodland must still be held by the donee and the activity to remain the same to make sure the relief is not withdrawn on the donor death.

Woodlands relief

Is available where there is a woodland in the death estate where neither APR or BPR are available to reduce it.

The relief is only available on the value of the under wood and the trees. It is not available on the underlying land value.

A claim for woodlands relief can be made by the executors within 2 years of death - as long as it had been owned by the deceased for at least 5 years.

If the claim is successful the value of the underwood / trees is not included in the death estate calculation.

QUESTION NUMBER 3

When will it become chargeable

If the woodlands is sold or gifted then an IHT recapture charge arises. The tax charge is ~~£~~ based on the net proceeds of sale (CGT can also be deducted) as can replanting in 3 years.

This is generally in excess of the value at probate – unless it was already a mature woodland.

The recapture charge generally is at 40% unless there was any unused nil rate band in the death estate.

If the woodland is relatively young at death it may be more beneficial to pay the IHT now rather than on an increased value.

Paying the recapture charge

This is payable by the donee of the woodlands and must be reported on the relevant IHT form within 6 months after

QUESTION NUMBER 3

the end of the month of transfer.

QUESTION NUMBER 4

Qu. 4 - Sheila Thomas

FILE NOTE

Sale of Thomas Logistics Ltd (TLL) shares

Sheila obtained 50% interest in the Thomas Family Trust when her father died in December 2000. This makes her life interest a qualifying interest in possession (QIIP).

A QIIP means ~~&~~ that a 50% value of the trust will be in her death estate.

However her second 50% share was obtained on 5 November 2008, when the rules had changed for IIP trusts and therefore 50% of the trust falls into the relevant property regime. Meaning that both exit and principal charges will occur.

Capital gains tax on the sale

The trust is able to benefit from entrepreneurs relief on the gain as;

QUESTION NUMBER 4

- Sheila has an IIP
- Sheila owns ~~5~~ more than 5% of the shares;
- works for the company
- it is trading
- Sheila has met these conditions for at least 12 months.

On creation of the trust the assets would have gone across at their probate value. So this is the base cost we will use to calculate the gain.

Proceeds	3,100,000
Cost (assumed)	(1,500,000)
	1,600,000

~~Less annual exemp~~

The gain of £1,600,000 then needs to be split between the shareholders in proportions to their shareholdings

QUESTION NUMBER	4

	Total	Trust	Sheila	James
	1,600,000	1,280,000	240,000	80,000
~~Less AE~~		~~(5,850)~~		
@ ~~10% ER~~				
Less AE		(5,850)	(11,700)	(11,700)
		1,274,150	228,300	68,300
@ 10%/10%/20%		127,415	22,830	13,660

The trust needs to get agreement from Sheila to claim ER as it will be deducted from her lifetime allowance of £10,000,000.

ER is not available for James as he does not work for the company. It is too late to appoint him as a director now as there are only 2 weeks ~~th~~ to the sale; for ER he would need to be a director for at least 12 months.

~~The trust could defer the gain by~~

QUESTION NUMBER	4

IHT exit charge

~~[illegible]~~ first we need to calculate the actual rate at the 10 year charge in December 2010.

Current value		
Shares		1,~~500~~ 125,000
Property		800,000
Less 100% BPR on shares		(1,125,000)
Less 50% BPR property		(360,000)
		440,000
Less NRB	325,000	
7yrs pre-creation	—	
1-10yrs distributions	—	
		(325,000)
		115,000

Notional tax at 20% = 23,000

Effective rate $\frac{23,000}{440,000} \times 100 = 5.227\%$

Actual rate = 5.227% x 30%

= 1.5681 %

QUESTION NUMBER 4

Calculate Exit charge at May 2019

Actual 10 year charge rate = 1.5681%

Adjust for number of quarters

31/12/10 - May/19 = 33/40

Actual rate = 1.5681% x 33/40

= 1.294%

Tax payable (on proportion of shares and property not covered by BPR)

= 1.294% x (600,000 - 270,000)

= 4,270

This amount would be payable by 30 November 2019.

Giving up of the life interest

At the moment Sheila has 50% QIIP and 50% relevant property trust. The 50% QIIP will be in her death estate as it stands so when this is transferred to James it is a PET. If Sheila died within 7 years then IHT would be chargeable; if she survives at least 3 years then taper relief would be available at 20% per year.

After the sale of the shares in the trust there would only be cash left. Cash is exempt from CGT. Please note that cash does not qualify for BPR.

The transfer of the 50% relevant property would have no effect for IHT as the assets are still in the trust.

James is non UK resident and is getting married. Sheila's PET can reduce by the marriage allowance of £5,000 and the usual £3,000 annual exemption (plus unused from the year before).

QUESTION NUMBER 5

Qu. 5 - Darren Chandler

Notes for meeting

Due date for any IHT to be paid is the earlier of;

- date of submission of IHT 400 return, or
- 31 March 2019

Lifetime gifts

16 October 2010 CLT			330,000
Less	10/11 AE		(3,000)
	09/10 AE		(3,000)
			324,000
Less NRB		(325,000)	(324,000)
			NIL

No lifetime tax as covered by NRB, no death tax as survive > 7 years.

QUESTION NUMBER 5

21 April 2012 Maria PET	172,000
Marriage	(2,500)
12/13 AE	(3,000)
11/12 AE	(3,000)
	163,500

25 February 2014 Simon PET	140,000
13/14 AE	(3,000)
12/13 AE (used)	–
	137,000

4 May 2016 Lance PET	20,000
16/17 AE	(3,000)
15/16 AE	(3,000)
	14,000

31 January 2017 PET 120,000

→ this was of pre-eminent artistic interest so conditional exemption should be claimed on the heritage property. This needs to be done by 31 January 2019 (within 2 years of transfer). If not done could contact HMRC for an extension.

QUESTION NUMBER 5

Death tax on life time gifts

Transferable NRB from Sally;

NRB in 96/97	200,000
less 4 x 25,000	(100,000)
	100,000

50% unused so available on Darren's death is;

150% x 325,000 = 487,500

21 April 2012 PET		163,500
NRB	487,500	
7 yrs	(324,000)	
		(163,500)
		NIL

25 February 2014 PET		137,000
Fall in value (w1)		(77,000)
		60,000
NRB (used)	487,500	–
		60,000
@40%		24,000
Taper (4-5yrs)@40%		(9,600)

QUESTION NUMBER 5

W1 Fall in value of Chandler & Sons plc shares

Value on gift	140,000
Value at death	
14,000 x 4.5 =	(63,000)
	77,000

Simon is due to pay £14,400 IHT by 31 March 2019. If he has not paid within 12 months of death then the executors will need to settle the liability

4 May 2016 PET	14,000
NRB (all used)	–
	14,000
@ 40%	5,600
Taper < 3 yrs	–
	5,600

Payable by Lance by 31 March 2019.

QUESTION NUMBER 5

31 January 2017

D on the assumption that the conditional exemption has been claimed and undertaking have been made, there is no tax on death.

If the undertaking fail or Violet sells the painting then a recapture charge at 40% will arise. Violet will be responsible for the recapture charge.

Undertakings usually include;

- preserving the painting
- keeping in the UK
- allowing public access and advertising details on HMRC's website.

QUESTION NUMBER 5

Death estate

Home		450,000
Cash		300,000
Investments		250,000
Chattels		75,000
Credit card		(4,000)
Funeral expenses		(6,000)
		1,065,000
Less NRB	487,500	
7yrs 31/1/17	–	
4/5/16	(14,000)	
25/2/14	(137,000)	
21/4/12	(163,500)	
		(173,000)
		892,000
Less 2 x RNRB		(250,000)
		642,000
@ 40%		256,800

The amount of £256,800 of IHT is due for payment by the earlier of IHT return submission or 31 March 2019. It will be payable by the executors before the residue is split equally

QUESTION NUMBER 8

between Maria and Violet.

There is sufficient cash to pay the IHT bill in Darren's estate so the payment can be made direct from his bank account. IHT form 423 should then accompany the IHT 400 form when submitted

The residence nil rate band is available when a main residence is passed to a lineal descendent, ie grandchildren. Two lots have been deducted as Sally's was unused and can therefore be transferred.

QUESTION NUMBER 6

Qu. 6 - Paula Hopper

Reporting requirements for executors

Prepare Paula's personal tax return for the period from 6 April 2016 to 3 April 2017 - this should have been submitted by 31 January 2018 with the payment of any tax due.

It is not a 'simple' estate therefore an estate return needs to be completed for each tax year until the administration has been completed. These returns are due by 31 January following the end of the tax year.

2017/18 income tax

	NS	S	D
Residential	20,125		
Commercial	7,200		
Interest		1,200	
Dividends			4,800
ISA (Exempt)			
	27,325	1,200	4,800

QUESTION NUMBER	6

	NS	S	D
	27,325	7,200	4,800
~~BR tax (20/20/7.5)~~	~~(5,465)~~	~~(240)~~	
Deductible payment			
(interest on IHT loan)	(2,000)		
	25,325		
BR tax (20/20/7.5)	(5,065)	(240)	(360)
	20,260	960	4,440

Total tax payable = 5,665

R185 for Alice (2017/18)

		Net
50%	NS	10,130
50%	S	480
50%	D	2,2~~0~~
		~~12,810~~

~~less than~~ This is more than the £7,500 jewelly distributed ∴ restrict to £7,500 of NS income.

QUESTION NUMBER 6

	Net		Tax
NS	7,500	x $^{20}/_{80}$	1,875.

2017/18 CGT

Disposal of 18 mountbatten Close

Proceeds	310,000
Probate value	(275,000)
Probate costs	
$8000 \times \frac{275}{2700}$ =	(815)
	34,185
Less AE	(11,300)
	22,885
@ 28%	6,408

Total tax for 17/18 = 6408

5,665

12,073.

QUESTION NUMBER 6

Disposal of Astri Martin

° exempt as wasting chattel.

~~Proceeds~~

2018/19 income

	NS	S	D
Residential	13,800		
Commercial	7,200		
Interest		1200	
Dividends			4800
	21000	1200	4800
BR tax (20/20/7.5)	(4200)	(240)	(360)
	16,800	960	4440
50% Alice	8,400	480	2220

Alice R185 2018/19

	Net		Tax
NS	8,400	x 20/80	2100
S	480	x 20/80	120
D	1,120	x 7.5/92.5	91
	10,000		

QUESTION NUMBER 6

CGT 2018/19

No disposals to declare on 18/19 tax return.

2019/20 income tax

	NS	S	D
Residential	1800		
Commercial	600		
Interest		200	
Dividends			800
	2400	200	800
BR tax (20/20/7.5)	(480)	(40)	(60) = 580
	1,920	160	740
Expenses	(100)	(160)	(740)
	1,820	NIL	NIL

Alice 50% 910.

QUESTION NUMBER | 6

Alice R185 2019/20

Administration period ended 31/5/19 therefore deemed to pay out all undistributed income.

	NS	S	D
2017/18	10,130	480	2220
2018/19	8,400	480	2220
2019/20	910		
	19,440	960	4440
Distributed 17/18	(7,500)		
" 18/19	(8400)	(480)	(1,120)
	3,540	480	3320

	Net		Tax
NS	3540	$\times \frac{20}{80}$	885
S	480	$\times \frac{20}{80}$	120
D	3320	$\times \frac{7.5}{92.5}$	269

QUESTION NUMBER	6

2019/20 CGT

Residential

Proceeds	295,000
Probate	(250,000)
Costs	
8000 x 250/2700	(741)
	44,259
AE	(11,700)
	32,559
@28%	9,117

Commercial

Proceeds	145,000
Probate	(135,000)
Costs	
8000 x 135/2700	(400)
	9600
@20%	1920

Total tax for 2019/20 = 1920 + 9117 + 580

= 11,617

payable by 31/1/21.

QUESTION NUMBER

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