THE CHARTERED INSTITUTE OF TAXATION

ADVANCED TECHNICAL

Inheritance Tax, Trusts & Estates

May 2024

TIME ALLOWED

3 HOURS 30 MINUTES

- All workings should be shown and made to the nearest month and pound unless the question specifies otherwise.
- Candidates who answer any law elements in this paper in accordance with Scots law or Northern Ireland law should indicate this where relevant.
- Scots law candidates may provide answers referring to Land and Buildings Transaction Tax rather than Stamp Duty Land Tax.
- Unless otherwise indicated by the provision of additional information in the question, you may assume that 2023/24 legislation (including rates and allowances) continues to apply for 2024/25 and future years. Candidates answering by reference to more recently enacted legislation or tax cases will not be penalised.
- Additional marks may be awarded for presentation.
- You must type your answer in the space on the screen as indicated by the Exam4 guidance.

1. Jake Burrows, born in the US of US parents, was widowed in 2008. In 2010, he moved to the UK to be near his grandchildren after his daughter Eloise moved here for her work. Although he has been UK resident since then, he intends to return to the US within the next 10 years. On 1 June 2014, having made no previous lifetime transfers, he settled the following assets onto discretionary trust:

	£
A residential property in Birmingham, UK	300,000
A US share portfolio	250,000 (gain £6,000)

The discretionary beneficiaries are Eloise and her two daughters Rebecca and Phoebe who normally live with her. Jake is specifically excluded from benefitting from the trust. Jake's brother, Norman and Norman's wife, Carole, who are both US resident and domiciled, are the trustees.

Jake moved out of the residential property on its transfer into trust (it was his former principal private residence).

The residential property was never let and was occupied rent free by the trust beneficiaries:

1) From 1 June 2014 to 30 June 2020 by Eloise and her family as their main residence.

2) From 1 September 2020 to 30 June 2023, by Phoebe as her main residence whilst attending the local University.

The property was sold on 31 March 2024 for £475,000. The proceeds were placed into the US portfolio bank account.

The property was valued on 6 April 2015 at £325,000 and its market value rental was as follows:

1 June 2014 – 31 March 2019	£15,000 per annum
1 April 2019 – 31 March 2024	£18,000 per annum

The trust received portfolio income of £20,000 per annum.

Requirement:

1) Explain the Income Tax, Capital Gains Tax and Inheritance Tax implications for the settlor of his settlement of assets on the trust and of its ongoing operation. (5)

2) Calculate with explanations, the Capital Gains Tax payable by the trustees on the sale of the property. (8)

3) Calculate with explanations, the Income Tax charged on the beneficiaries under s.731 ITA 2007. (7)

Total (20)

You are NOT required to consider interest or penalties.

2. Jessie Mallon was born in the UK and is UK resident and domiciled. Her business partner, Gerard Fagan, was born in Germany but moved to the UK in 2018 and has been UK resident since then. He has retained his German domicile status as he maintains his intention to return to Germany at some point in the future. Neither Jessie nor Gerard have made any previous lifetime transfers.

Jessie and Gerard owned 25% and 75% of FM Property GmbH respectively. FM Property GmbH is a non-resident property investment company owning both UK and German residential and commercial property.

On 1 January 2020, the company gifted a UK commercial property with a market value of £900,000, 50% to Jessie's husband and 50% to Gerard.

On 1 April 2021, the company gifted a German commercial property with a market value of £1,850,000 to Jessie's brother, Tim.

On 1 January 2022, Gerard created the Fagan Discretionary Trust and transferred to it his 75% company shareholding worth £3 million. Gerard paid any Inheritance Tax due. Gerard's brother, Michael and Michael's wife, Nina, who both live in Germany, were appointed as trustees. The beneficiaries of the trust are Gerard's nieces and nephews.

The balance sheet of FM Property GmbH on 31 December 2021 was as follows:

		£	£
Fixed assets:	UK Commercial property	800,000	
	UK Residential properties	1,000,000	
	German Commercial Properties	1,500,000	
	German residential property	1,100,000	
Current assets	Cash at Bank	95,000	
	Debtors	5,000	
Total assets			4,500,000
Liabilities:	Mortgage on UK residential properties	(500,000)	
Total liabilities			(500,000)
Net Assets less liabilities			£4,000,000

Gerard died suddenly on 15 April 2024 and, by his Will, left his entire estate to Scott with whom he lived in London. At the date of his death, his UK assets comprised his car valued at £40,000, personal chattels worth £5,000, a joint bank account with Scott holding cash of £25,000, and a cash ISA that Scott had invested on Gerard's behalf on 5 April 2024 valued at £20,250. Gerard had a private cremation which cost £1,000.

Requirement:

Calculate with explanations, the Inheritance Tax arising on the lifetime transfers and on Gerard's subsequent death, stating the due date of payment and who is liable to make that payment of the tax. (20)

3. Paulette Grisham, who was UK resident and domiciled, died on 31 March 2024 having made no previous lifetime transfers.

She left behind her life partner, Bernice whom she had recently married, and her stepson William, aged six. Paulette had recently applied to adopt William, but the adoption had not been finalised before her death. Paulette had never previously been married nor entered into a civil partnership.

Paulette's Will was prepared some time before and not in anticipation of her marriage to Bernice and is now void leaving her estate to be devolved under the rules of intestacy.

Paulette's UK estate comprised the following:

	Market Value of the whole £
A qualifying life interest in the Grisham family trust – the remainderman is her brother Rory	400,000
Oaktrees – her home owned as joint tenant with Bernice	900,000
A joint bank account with Bernice	200,000
1/3 of a rental property with the remainder owned 1/3 by her brother Rory and 1/3 by Bernice as tenants in common	250,000
Personal chattels including her car and some items of jewellery	10,000
Stocks and share ISAs	160,000
Cash ISAs	40,000

Paulette also owned a holiday home in Spain valued at €175,000. The rate of exchange on 31 March 2024 was €1.16: £1.

Funeral and testamentary expenses were £5,000.

Obtaining letters of administration in the UK cost £2,000 and a further £8,000 was spent realising the value of the Spanish property.

Paulette had expressed a wish to make a small gift on her death to a registered charity and Bernice wants to make sure that Paulette's wishes are carried out.

Bernice has heard that by varying her interest in the estate and redirecting some of this to a registered charity Inheritance Tax can be saved.

Requirement:

1) **Calculate with explanations, the Inheritance Tax arising on Paulette's death.** (7)

2) **Calculate with explanations, the optimum amount that could be re-directed to charity under a valid deed of variation for Inheritance Tax purposes and the maximum Inheritance Tax saving that could be achieved.** (3)

Total (10)

4. Constance Ellis died on 30 June 2023. She was UK resident and domiciled and had never married or entered a civil partnership. She had made no lifetime transfers and left her entire estate to her niece, Jane who lived with her.

Constance had submitted her 2022/23 Return and paid her 2022/23 tax liability on 31 May 2023. Following her death, the executors claimed to reduce any payments on accounts for 2023/24 to nil on the basis that her liability to Income Tax up the date of her death was covered by her personal allowances and reliefs. Constance made net capital losses of £22,000 from 6 April 2023 to the date of her death.

Constance' capital gains (non-residential) in prior years, when she was a higher rate taxpayer, were:

		Annual exemption
	£	£
2022/23	18,000	12,300
2021/22	14,000	12,300
2020/21	35,000	12,300
2019/20	22,000	12,000
2018/19	17,000	11,700

The estate assets and liabilities at the date of her death were as follows:

Assets	£	Notes on Post-Death Transfers
Main residence	800,000	Occupied by Jane and transferred to her on 28 February 2024
Cash at bank	50,000	
Residential let property	600,000	Sold for £610,000 31 March 2024
Shares in ABC plc	40,000	Transferred to Jane 28 February 2024 when market value was £50,000
Stocks and shares ISA	130,000	Sold 31 January 2024 for net proceeds of £138,000
Funeral expenses	(5,000)	

The Executors established that the following income was received in the period 6 April 2023 to 1 May 2024:

Source	Date paid	Total Income	Notes
		£	
Rents paid (cash basis)	28th of each month	48,000	
Interest on 1-year fixed rate bond (account closed 31 March 2024)	31 March 2024	400	£100 accrued interest at date of death
Building society interest (account closed 1 January 2024)	1 January 2024	250	£125 accrued interest at date of death
Dividends from ABC plc	30 April 2023	2,000	
	31 July 2023	2,000	Ex-div 1 July 2023
	30 October 2023	1,800	
	28 January 2024	1,800	
	1 May 2024	2,000	Ex-div 28 March 2024
ISA dividends of £500 per month until sold on 31 January 2024	Last day of each month	5,000	

The executors incurred interest of £3,000 on 28 February 2024 on a loan to pay the Inheritance Tax. The administration period ended on 30 April 2024.

Requirement:

Calculate, with explanations:

1) The Capital Gains Tax liability to the date of death. (8)

2) The estate rate for the death estate. (4)

3) The Income Tax and Capital Gains Tax liability for the administration period stating the form R185 entries for Jane and calculating the higher rate adjustment for income subject to Inheritance Tax under s.669 ITTIOA 2005. (8)

Total (20)

5. Peter died on 24 May 2014 and under his Will created a life interest trust for his wife Mary and on her death passing onto discretionary trust in favour of his children and remoter issue. The trust assets comprised the family home valued at £800,000, contents valued at £20,000, a small let cottage valued at £150,000 and £50,000 cash for maintenance of both properties. The balance of Peter's estate passed entirely to Mary. Peter made no other chargeable transfers in his lifetime.

Mary died on 6 June 2023 when the trust properties were valued at £950,000 and £200,000 respectively and the contents of the family home were valued at £20,000. The cash remaining was £35,000 (the trustees had spent £15,000 on a new roof for the cottage). The trustees paid £448,000 Inheritance Tax on Mary's death borrowing the money from Peter's daughter Lillian who continued to live in the family home.

Peter and Mary were resident and domiciled in the UK when they died.

Mary had made the following potentially exempt transfers in the seven years prior to her death:

Date	Gift	£
1 January 2018	Cash to daughter Lillian	100,000
31 May 2019	Car for grandson Tom	20,000
20 June 2021	Wedding present for granddaughter Sophie	20,000
31 December 2022	Cash to son Geoff	100,000
Total		£240,000

Income assessable on the trust for 2023/24 was as follows:

Source	£
Rent	20,000
Bank interest of £145.83 paid on 5th of every month, on a principal sum of £35,000 at a rate of 5% (paid into current account)	1,750
Total	21,750

Trust management expenses relating to 2023/24 and met from income totalled £500.

The trust made an income distribution of £5,000 to Tom to fund car repairs on 5 April 2024. However, it proved to be beyond repair and the trust made a capital distribution of £30,000 to Tom to enable him to purchase a new vehicle on 30 April 2024. The trustees agreed to pay any tax due.

Requirement:

1) Calculate with explanations, the Income Tax liability for 2023/24 of the trustees and the tax pool carried forward after the income distribution to Tom, stating the R185 entries for Tom and Mary respectively. (8)

2) Calculate with explanations, the exit charge on the appointment of the cash to Tom. (7)

Total (15)

6. Richard Davis, who was UK resident and domiciled, died on 30 April 2023. He used his annual exemptions on 6 April each year on various gifts to family and friends. He was survived by his wife, Deidre. Richard was a partner in a farming partnership with his son Ethan, which was formed in 2000. Richard personally owned the land farmed by the partnership.

Richard had made the following lifetime gifts:

<u>1 March 2017</u>

To his wife Deidre, 100 acres valued at £1 million.

The land continued to be used by the partnership for grazing cattle and mowing hay. Deidre received annual rental income of £15,000 from the partnership.

<u>1 November 2017</u>

To his son Ethan, two barns situated on a half-acre plot valued at £50,000 together with 20 acres of farmland all used by the partnership for grazing cattle. The market value of the land was equal to its agricultural value of £220,000.

Ethan immediately set up a riding school in partnership with his wife Chloe using the barns and land. Eight acres were sold in September 2022 at their agricultural value of £160,000, Ethan used the proceeds to repay the mortgage on his residence. He and Chloe continued to run the riding school on Richard's death.

<u>1 December 2021</u>

To the newly created Davis grandchildren's trust, 50 acres of farmland. The market value of the land was equal to its agricultural value of £700,000.

Ethan and his wife are trustees, and Ethan's children (of which there are currently two) and remoter issue are the discretionary beneficiaries. The trust received rent from the partnership of £9,000 per annum.

<u>1 February 2022:</u>

To Ethan, a 10-acre plot of land farmed by the partnership.

The agricultural value of the land was £140,000 but its market value was £1 million as there was the possibility of it being developed soon. The partnership continued to use the land for agricultural purposes following the gift.

On Richard's death, his partnership share passed to Ethan who continued to farm as a sole trader and the residue of his estate passed to Deidre.

Deidre died on 31 March 2024, and on her death, the assets passed to Ethan as follows:

	Market Value £
Farmhouse with an agricultural tie inherited by Deidre on Richard's death – occupied by Richard and Deidre until his death then by Ethan	400,000
Farm cottage inherited by Deidre on Richard's death – occupied by a retired farmworker until 31 March 2022, occupied by Deidre following Richard's death	150,000
100 acres of farmland gifted to Deidre from Richard on 1 March 2017	1,500,000
100 acres of farmland with barns inherited by Deidre on Richard's death	1,750,000

Requirement:

Explain the availability of Agricultural Property Relief and Business Property Relief on the lifetime gifts and on Richard's and Deidre's deaths. (15)

You are NOT required calculate the Inheritance Tax on the lifetime gifts or on Deidre's death.