THE CHARTERED INSTITUTE OF TAXATION

ADVANCED TECHNICAL

Inheritance Tax, Trusts & Estates

November 2023

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 2022/23 legislation (including rates and allowances) continues to apply for 2023/24 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. Daniel Hucknall was born in the UK to a UK domiciled single mother. They emigrated to Australia when he was five years old, and he remained there until 1 July 2023, when he moved to the UK to head up a new UK subsidiary of his Australian employer. He intends to remain here until 30 June 2029 and then retire back to Australia. He is widowed and has an adult daughter and two young grandchildren all living in Australia.

   On 30 April 2014, Daniel set up a discretionary trust for the benefit of his daughter and her issue. He is the sole trustee of the trust and is specifically excluded from benefitting.

   Daniel settled £550,000 of non-UK assets into the trust and it currently only holds Australian situs assets worth £850,000. The trust generates annual dividend income of £36,750 payable on 30 November and makes annual income distributions in December of £5,665 to each of the daughter and grandchildren to use up their Australian Income Tax allowances.

   The trust made net gains of £25,500 on 31 May 2023. Unrealised gains are currently £11,333.

   Daniel's daughter wishes to move to a larger house and Daniel, in his capacity as trustee, has agreed to make a capital distribution of £142,000 towards its purchase. The distribution has not yet been made.

   Daniel earns a UK salary of £200,000 per annum.

   Requirement:

   Explain the UK tax implications of the trust for Daniel (as both settlor and trustee) during his residence in the UK and on his return to Australia together with any appropriate tax planning that should be advised. (20)

2. Missie Jackson, who is UK resident and domiciled, was widowed on 21 January 2022. She is the sole beneficiary of her UK resident and domiciled husband's estate of £1 million comprising cash of £100,000, their family home (£600,000) and a holiday home (£300,000). The holiday home was used frequently and exclusively by the family and was considered to be their "second home".

   Missie has savings of approximately £300,000 in her own name.

   Missie's husband made no lifetime transfers before his death and Missie has made no lifetime transfers within the last seven years over and above lifetime exempt amounts.

   Missie was diagnosed with a degenerative condition six months ago and both her physical and mental capacity are likely to become increasingly impaired over the next few years. Although she is unsure as to the rate of progression, she has been warned by her doctor that she may require professional medical care soon. As a result of this diagnosis, Missie is considering settling certain assets into a trust established for her sole benefit.

   The holiday home is now worth £400,000. Missie does not drive and can no longer visit the holiday home as often as she used to with her husband. She has agreed with a local estate agent to let the property for £19,200 per annum.

   Missie's daughter, Georgiana, reached age 15 last week and Missie is keen to ensure that Georgiana's future is secure. Missie wants to gift the holiday home and the £100,000 cash inherited from her husband to a trust for Georgiana's benefit in the most tax efficient manner before the end of 2023. Missie is happy for her to receive the trust income and capital at age 18.

   Missie has annual income of £14,000.

   Requirement:

   1) **Explain the tax consequences of Missie settling the family home and personal savings into a trust for her own benefit.** (8)

   2) **Explain how Missie could use a deed of variation to save tax on her proposed gift into trust for her daughter and how such a trust would be treated for Income Tax and Capital Gains Tax purposes.** (12)

   Total (20)

3. Gerard Wilson, who never married and was UK resident and domiciled, died on 30 April 2023 leaving the following estate:

	£
House and contents	600,000
Bank account	300,000
Spanish Villa	300,000
Agricultural land (Note 1)	200,000
Shares in his wholly owned unquoted trading company (Note 2)	450,000
Credit cards, lifetime taxes and funeral expenses	(20,000)
Total estate (net of liabilities)	£1,830,000

Note 1: Gerard had owned the agricultural land since his father died in 1980. It is situated next to his house and was let on annual licence to a neighbouring farmer who used it for agricultural purposes. It had no development potential.

Note 2: Gerard had built up his trading company over a period of 10 years prior to his death and was the sole shareholder. The company held no surplus cash nor any non-business assets.

He had made no lifetime transfers in the seven years prior to his death.

He left his house and contents and the Spanish Villa to his niece, £100,000 to charity and the estate residue to his nephew.

Requirement:

1) Calculate with explanations, the Inheritance Tax arising by reason of Gerard's death. (8)

2) Show how the estate is distributed and state who bears the Inheritance Tax. (2)

Total (10)

4. On 14 October 1993, Douglas Butterfield, who was UK resident and domiciled, settled the Butterfield Discretionary Trust with a cash gift of £500,000 and some farmland. The trust was for the benefit of his nieces, nephews, and their issue. Douglas had made a previous chargeable lifetime transfer of £600,000 on 1 September 1990.

The trustees purchased shareholdings in the following unlisted companies:

1) In April 1994, a 12% shareholding in Fred's Investments Ltd, a company which invests in shares in listed companies.

2) In December 2015, a 55% shareholding in Aimer's Holidays Ltd, a company which owns a furnished holiday let in Cornwall. The furnished holiday let is a self-catering unit and is managed by an agent who arranges for cleaning on changeovers and deals with any emergencies.

3) In April 2022, a 15% shareholding in Starlings Ltd, a trading company which manufactures shoes.

As at 14 October 2023 the assets held by the trust were as follows:

	Market Value	Agricultural Value
	£	£
Shares in Starlings Ltd	400,000	
Shares in Fred's Investments Ltd	18,000	
Shares in Aimer's Holidays Ltd	680,000	
Farmland	300,000	200,000
Cash in savings account	100,000	
Totals	£1,498,000	£200,000

The farmland is subject to a 35-year lease entered into in 1990 with a local farmer who uses the land to grow potatoes. It is likely that the farmland will be sold for development on 30 April 2025.

No capital distributions have ever been made from the trust and income arising has been distributed in full annually.

The principal charge which arose on 14 October 2023 was £83,880. The trustees wish to take the instalment option for payment of the Inheritance Tax where possible.

Requirement:

1) Calculate with explanations, the Inheritance Tax due on 30 April 2024, 30 April 2025 and 30 April 2026. (14)

2) Calculate with explanations, how any interest will apply to each of these instalments. (6)

Total (20)

5. Lady Hannah Dumbrell, UK resident and domiciled, lives at Green Acres Hall. She made the following cash gifts for Christmas 2020:

1) £300,000 to her daughter, Victoria.

   Victoria used £250,000 to purchase a painting at auction. Lady Hannah admired the painting and so Victoria has let Lady Hannah hang it in Green Acres Hall since 6 September 2022. Lady Hannah made a promise to pay Victoria £2,000 per annum for its loan but she has not made any payments to date. Victoria was offered £6,000 per annum to rent the painting to a gallery.

2) £500,000 to her daughter, Lucinda.

   On 3 March 2021, Lucinda used the cash to part fund the purchase of a London flat for £2 million. Lady Hannah occupies the spare room at the property for 10 weeks a year in the summer but during that time has the use of the whole flat with Lucinda and Lucinda's children. For the remainder of the year, the room is occupied by Lucinda's stepson, Edward, as it is close to his university. The annual rental value of the flat is £100,000. A formal agreement was made under which Lady Hannah has a legal obligation to pay £300 per week for her occupation. This has been in place from the outset in summer 2021 and Lady Hannah has made all 10 of the required weekly payments during her occupation.

In March 2023, Lady Hannah sold a sculpture for £420,000 by private sale to an unconnected person. The sculpture was inherited by Lady Hannah on her aunt's death in 2018 when it was then valued at £300,000. At that time, the sculpture qualified as heritage property and conditional exemption was granted by HMRC with Lady Hannah giving the relevant undertakings to allow the public access. The aunt's estate was taxed at the 36% lower rate of Inheritance Tax as her Will made provision for substantial gifts to charity.

Lady Hannah is an additional rate taxpayer and will use her annual Capital Gains Tax exemption for 2022/23 against the gain arising on the sale of a residential property.

Requirement:

1) Calculate with explanations, any tax charges that arise for 2022/23 in respect of each of the cash gifts and explain how they could be avoided. (7)

2) Calculate with explanations, any tax charges arising following the disposal of the statue. (3)

Total (10)

Continued

6. Raymond Carr, who was UK resident and domiciled, died on 23 April 2020 leaving an estate valued at £20 million. By his Will, he left £8 million to his girlfriend Lynda and the residue of his estate to a discretionary trust for his children with the wish that the trustees continue his property rental business.

The estate administration has been delayed because of a claim from Raymond's estranged wife, Sally, under the Inheritance Tax (Provision for Family and Dependents) Act 1975. The claim was settled through mediation and a deed of variation was made on 22 April 2022 by Lynda in favour of Sally. That deed redirected from Lynda to Sally shares worth £2,017,000 on 22 April 2022 but with a probate value of £2 million. The deed of variation made by Lynda contained the relevant statements under the Taxation of Chargeable Gains Act 1992 and Inheritance Tax Act 1984.

The executors have made the following property sales to date:

	Original Probate value	Sale price	Selling costs	Date of sale
	£	£	£	
24 Darlaston Rise	380,000	295,000	2,500	20 September 2021
18 Cradley Hill	249,000	248,500	3,200	17 October 2021
40 Essington Drive	425,000	380,000	3,200	5 November 2021
42 Fulbrook Road	350,000	375,000	2,900	4 April 2022
1 Aldridge Way	245,000	350,000	4,500	30 April 2023
5 Bilston Street	635,000	545,000	5,000	14 June 2023

In the year ended 5 April 2022, the capital losses made on the properties (calculated taking into account the effect of any post mortem claims that could be made) were set against the capital gains made on the stock market portfolio leaving a capital loss carried forward of £5,000.

In the year ended 5 April 2023, the executors realised a net capital gain of £15,800 from the stock market portfolio.

In September 2023, the executors sold an antique clock realising a gain of £32,000 and Raymond's classic car, realising a loss of £15,000.

The estate administration will be concluded in the next month and no further disposals will be made.

Requirement:

1) **Calculate with explanations, the Inheritance Tax refund due in respect of any claims that can be made after death.** (10)

2) **Calculate, with explanations, the Capital Gains Tax due by the executors in 2022/23 and 2023/24.** (10)

Total (20)