THE CHARTERED INSTITUTE OF TAXATION

ADVANCED TECHNICAL

Inheritance Tax, Trusts & Estates

November 2020

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, you may assume that 2019/20 legislation (including rates and allowances) continues to apply for 2020/21 and future years. Candidates answering by reference to more recently enacted legislation or tax cases will not be penalised.

- You must type your answer in the space on the screen as indicated by the Exam4 guidance.

1. You are a private client adviser acting for the executors of your former client, Yolande Darling, who died on 26 April 2018, aged 78. Yolande was UK resident and domiciled and left the following UK estate:

	£
The Croft, her main residence (including £30,000 contents)	660,000
Bank account	600,000
Yew Manor, her son Shaun's residence	200,000
Beech House, a commercial property	185,000
Residential investment properties:	
Ash Cottage	210,000
Oak Villa	250,000
Treetops	195,000
Share portfolio (ISA £200,000, non-ISA £100,000)	300,000
Liabilities	(50,000)
Total estate (net of liabilities)	2,550,000

The estate was left as follows:

Beneficiaries	Legacies	Notes
Children	Contents	To be shared as agreed between themselves.
Five grandchildren	£50,000 cash	£10,000 to each paid 31 December 2018.
Shaun (Son)	Yew Manor, Oak Villa, Treetops	All three properties transferred 5 April 2019 (no change in value since death).
	£130,000 cash	Cash paid 31 December 2018.
Elizabeth (Daughter)	Residue	Lived with mother at The Croft since May 2009, moved into Ash Cottage on 31 July 2018 when Ash Cottage appropriated to her at value of £215,000.

The remainder of the non-cash estate assets were sold as follows:

Asset	Date	Proceeds	Costs of Sale
		£	£
Beech House	1 January 2019	220,000	5,000
ISA portfolio	5 October 2019	190,000	
Non-ISA portfolio	5 October 2019	99,000	
The Croft	26 March 2020	850,000	15,000

Income was received by the executors as follows:

	2018/19		2019/20	
	Rent	Dividends	Rent	Dividends
	£	£	£	£
Oak Villa	5,500		6,000	
Treetops	5,500		6,000	
Ash Cottage	1,200		0	
Beech House	8,000		0	
ISA portfolio		3,300		1,800
Non-ISA portfolio		2,200		1,200

Continued

1. Continuation

The estate administration period ended on 5 April 2020 and the balance of the estate was distributed on 30 June 2020. Administration expenses met from income were £800 for 2018/19 and £600 for 2019/20. The executors, having registered the estate, have received notices to file self-assessment tax returns and want you to prepare these on their behalf.

Requirement:

1) Calculate the executors' tax liabilities for 2018/19 and 2019/20, showing the payment due dates and the residuary income available for distribution. (17)

2) State the R185 entries for each of the beneficiaries (3)

Total (20)

Ignore any potential liability to interest and/or penalties.

2. You are a tax manager at a firm of accountants. Your tax partner has recently met with the executors of the estate of Mrs Sharon Jones who was UK domiciled and died on 17 October 2020. The executors are particularly concerned with any impact of the liabilities on Sharon's estate from gifts received from her father, Felix, who was also UK domiciled.

On 28 February 2016, Felix gifted to Sharon a property valued at £400,000, which she sold in 2019.

On 14 March 2018, Felix died leaving an estate of £2.5 million. In his Will he bequeathed £300,000 to charity with the residue passing into a life interest trust for Sharon for her lifetime and on her death, to Sharon's eldest daughter Rosemary absolutely.

Sharon's younger daughter Georgia is the sole beneficiary of Sharon's estate.

At the date of Sharon's death, the trust assets were valued at £1,750,000 and the value of her remaining net estate was:

		£
Property (value of Sharon's share)	Jointly owned with Georgia	750,000
Investments	Not qualifying for BPR	1,400,000
Cash at bank		100,000

Felix and Sharon did not have any transferable nil rate bands available to them, and Sharon had made no lifetime gifts. Felix always made regular gifts of £3,000 on 6 April each year to use his annual exemption.

Requirement:

Prepare calculations of the Inheritance Tax liabilities arising on the deaths of Felix and Sharon, stating who is liable for the tax, when the tax is to be paid and how the estates are to be distributed. (20)

3. You are a private client manager in a firm of Chartered Accountants and your clients are the trustees of the Healy Grandchildren's Settlement 1997. Evan Healy is the primary trustee and your main contact.

The settlement is an accumulation and maintenance trust created by Evan's father, Gerald on 1 December 1997 on the birth of his first grandchild, Evan's son, Tomas. Gerald is also a trustee together with his daughter Veronica (Evan's sister). Gerald has always been UK resident and domiciled and had made no previous chargeable lifetime transfers or related settlements at the date of settlement.

The initial settlement comprised 500 shares in the family investment company, Healy Family Investments Ltd, valued at £200,000 on 1 December 1997. Evan has advised you that the company's value has grown significantly in the intervening period due to its holdings in mainly blue-chip companies. He has had no formal valuation to quantify this.

The beneficiaries (Gerald's grandchildren) are Tomas, his younger sister Beatrice and their cousin Amelie (Veronica's only child). Each are entitled to their share of the income at age 25 and to the capital at age 30.

Trust income comprises company dividends of £10,000 per annum payable every 31 March. These are paid directly into the trust bank account, which pays interest annually on 31 December. The trust has not formally accumulated any of the income.

Distributions of income have been made periodically to the beneficiaries to use up the tax pool and to obtain repayments of tax. The last income distribution made before the last 10-year anniversary in December 2017 was on Tomas's 14th Birthday (1 December 2011) and this used up all the prior-years' undistributed income. A further income distribution was made on Tomas's 21st Birthday (1 December 2018).

No distributions of capital have been made to date.

Gerald pays directly for any professional fees relating to the trust and these amounts always fall within his annual exemption for Inheritance Tax.

Evan is aware that the Finance Act 2006 heralded some changes for accumulation and maintenance settlements. He is aware of your previous advice that he should have considered the settlement's Inheritance Tax position on its last 10-year anniversary, the first since the new rules came into effect. However, Gerald was ill with cancer when the 10-year anniversary arose, and Evan has been busy caring for him since. Gerald has now been given the all-clear and Evan has approached you with a view to bringing the trust's Inheritance Tax affairs up to date.

Evan is keen to deal with HMRC himself if possible but wants you to set out what he needs to do, if anything.

Requirement:

Write a letter to Evan:

1) **Considering whether the settlement needs to complete a form IHT100 and setting out the steps to calculate a principal charge.** (11)

2) **Explaining the due dates for submission and payment and the implications of doing so late.** (4)

Total (15)

4. Your firm's Tax Partner has just heard that his good friend and client, Sue Brown (UK resident and domiciled) died tragically at age 45 on 31 October 2020 following a skiing accident in Switzerland.

Sue, who never married, wrote travelogues, the royalties from which had provided her with an annual income of approximately £100,000 for the last 20 years.

Sue made gifts to various friends every 6 April to fully utilise her annual exemption.

Sue doted on her only niece Charlotte whose father, Edward, struggled financially as a single parent. She took her on holiday every summer and gave her an annual holiday allowance of £1,000 to buy clothes and accessories for the trip.

In addition to the above Sue had made the following gifts in the years preceding her death:

2 February 2009	£320,000 upon creation of a discretionary trust for Charlotte and her issue. Sue paid the Inheritance Tax entry charge and also paid the annual accountancy fees.
1 April 2013	£200,000 to her brother Edward to pay off his mortgage when he lost his job as a teacher in the local school.
1 April 2014	£50,000 to the local tennis club (where Charlotte played tennis regularly) to help fund a new indoor tennis hall. The club is open to the local community, run entirely by volunteers and is registered with HMRC.
15 December 2015	£150,000 cash addition to the above discretionary trust. Sue paid the Inheritance Tax entry charge.
31 August 2016	£15,000 to "Party X", a political party (see Note 1).
2 February 2020	£200,000 to Charlotte on her 18th birthday.

Note 1

Party X was formed in 2014. Polling just over one million votes, it won a single seat in Parliament at the general election held on 7 May 2015. Although the party retained its seat in the 2017 general election, the number of votes dropped to approximately 500,000.

Sue's death estate comprised the following:

	£
Her house in the Berkshire countryside	1,000,000
Contents – mainly various mementos from her travels	100,000
Cash in bank	800,000
Intellectual property rights (qualifying for 100% business property relief (BPR))	1,000,000
Total estate	2,900,000

Under Sue's Will, the house and contents pass free of tax to her brother Edward, the intellectual property rights pass to the discretionary trust and the residue of her estate passes to "Party X".

The cost of the funeral together with various credit card balances and outstanding utility bills will be approximately £25,000.

Requirement:

Prepare draft Inheritance Tax computations stating who is to bear the tax and the expected distributions to be made to each of the legatees from the death estate.

(15)

5. You are a tax adviser in a firm of Chartered Tax Advisers. You recently met with your client, Mr Robert Witting, a widower aged 65, who has been diagnosed with terminal cancer and has a life expectancy of no more than four months. Robert, a higher rate taxpayer who is UK resident and domiciled, is anxious to put his affairs in order. He intends to leave his entire estate, comprised of the following assets, to his only child, Daphne.

Asset	Notes	Current Value
Cash	Held in household bank account	£3,850
Red plc 20,000 shares	A quoted company. Cost £1 per share in January 2001	£0.13 per share
White plc 8,000 shares	A quoted company. Cost £8 per share in August 2013	£50 per share
Blue Ltd 10,000 shares	10% holding in an unquoted trading company. Subscribed for under the Enterprise Investment Scheme at £1 per share (nominal value) on 14 June 2018	£1.20 per share

At your meeting Robert mentioned the following:

Robert's wife died in May 2007 and left her estate of £500,000 to Daphne. On his wife's death Robert succeeded to a life interest in a trust created by his wife's grandfather in December 2000. The terms of the trust provide that on Robert's death the life interest will pass to Daphne and thereafter to her children absolutely. The current value of the trust assets is £1.5 million.

In August 2017, Robert gifted his home 'Littleton' to Daphne who immediately took up occupation as her main residence and at the same time Robert moved out to live with his older sister. At the time of the gift, the property was valued at £300,000 and its current value is £375,000. However, concern over his declining health has prompted Robert to consider moving into a nursing home but Daphne has suggested he should return to live with her at 'Littleton' where she can care for him. Robert is anxious to know if there are any tax issues arising from him moving in with Daphne.

Daphne is due to be married in the next couple of months and has recently set up a new business in partnership with her future husband. Robert would like to gift Daphne some cash to help with her start-up costs. The cash held in his bank account is required for his day to day living expenses and therefore he would need to realise cash from assets held.

Robert's tax affairs are all up to date. In the previous four years he has reported the following gains:

	2016/17	2017/18	2018/19	2019/20
	£	£	£	£
Net gains before annual exemption	16,000	-	14,300	16,720

Robert has asked you to advise on whether there is any tax benefit in either gifting assets, or selling the assets and gifting some/all of the proceeds to Daphne before his death and in particular, the Inheritance Tax position of those gifts should he die before March 2021.

Continued

5. Continuation

Requirement:

1) **Explain, supported by calculations, the most tax efficient strategy for Robert to make lifetime gifts to Daphne.** (10)

2) **Explain the potential Inheritance Tax position on Robert's death assuming that your recommendations in respect of lifetime gifts are all adopted.** (10)

Total (20)

6. You are a tax manager with Planters Chartered Tax Advisers. A contact at a local firm of solicitors, Greentrees LLP, has requested advice in respect of the residence nil rate band available to the executors of a mutual client's estate, Mr Ash Deceased.

Mr Ash, died UK domiciled in March 2020 leaving a total estate of £750,000, including his home valued at £110,000. He had sold his previous home for £150,000 in October 2018 purchasing the current home for £95,000. His entire estate has been left to his children. Mr Ash had no transferrable nil rate band, or transferrable residence nil rate band, and had made no lifetime gifts.

Requirement:

Write an email to the solicitors explaining how the residence nil rate band will apply to Mr Ash's estate. (10)