THE CHARTERED INSTITUTE OF TAXATION

ADVANCED TECHNICAL

Inheritance Tax, Trusts & Estates

November 2021

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.

- Except as set out below or indicated by additional information in the question, you may assume that 2020/21 legislation (including rates and allowances) continues to apply for 2021/22 and future years.

  1) You MUST assume that the UK remains within the European Union.

  2) You MUST ignore all temporary Covid related legislation including furlough, grants, loans and the reductions in VAT and SDLT rates.

  Except in relation to points 1) and 2) above, 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. Ted is aged 75 years. He has an Isle of Man domicile of origin and moved to the UK in March 2011 when he married his wife, Muriel. Ted is taxed in the UK on the arising basis.

They now live in Lancashire, but both have kept their previous residences: Muriel, her London flat for occasional use and Ted, his bungalow on the Isle of Man as a holiday home. Ted has always been clear that he will return to live in his bungalow on the Isle of Man if Muriel predeceases him.

Neither Muriel nor Ted have any children. Ted has made no gifts over the past seven years.

Ted has a managed US share portfolio worth £4 million, inherited a few years ago from his uncle. It comprises £3.6 million in quoted shares and £400,000 in a US current account. The shares provide him with dividend income of approximately £100,000 each year. Currently, a net gain of £10,000 would be realised if all the shares were sold.

Ted's sister, Betty is married to John. They have one daughter, Charlotte who is married to Evan. Charlotte and Evan have three children: David, Freddie and Gordon. All were born on the Isle of Man and apart from Gordon, continue to live there. Gordon, now 27, has lived and worked in the UK since university and considers the UK to be his permanent home. He does not intend to return to the Isle of Man to live and on 1 June 2022, he will marry his UK domiciled fiancée. Gordon intends to buy a flat in London as their marital home.

Ted wants to settle half of the portfolio shares plus the cash on a discretionary trust for Charlotte and her issue. He would like the trustees to consider distributing £40,000 of the trust income equally between the beneficiaries every year. He would also like the trustees to give Gordon an interest free loan of £400,000 in June 2022 which is to be used for a deposit on the London flat. It is intended that Gordon will have an 18-month payment holiday and then repay the loan in equal instalments over 10 years ending on 30 November 2033. Ted would like the trustees to consider forgiving any amount that Gordon is unable to pay.

Otherwise, Ted is happy for the trustees to deal with the trust funds as they see fit according to the current and future needs of each of the beneficiaries.

Requirement:

1) **Explain the immediate UK tax implications of setting up the trust and how the trust residence will be determined**. (6)

2) **Explain the ongoing and future liabilities to UK tax for Ted, the trustees, and the beneficiaries if the trust is not UK resident, considering the potential for the trustees' forgiveness of the loan to Gordon, and for future benefits to be provided to the beneficiaries. Calculations are not required.**

(14)

Total (20)

2. Barbara Warden is 73 years old, UK domiciled and resident and in good health. She has made no previous lifetime transfers.

Barbara's husband, Anthony, died UK domiciled on 14 June 2008. Anthony's Will left a gift to their son, James equal to the value of the nil rate band at the date of his death. The estate residue was left on trust to Barbara for life, then absolutely to James. The trust is called The Anthony Warden Will Trust and Barbara and James are the trustees.

Barbara has been a director and 10% shareholder in AB Ltd for many years. AB Ltd is an unquoted trading company. She is retiring and had received an offer to sell her shares for £800,000, which she accepted on 31 October 2021. The base cost of her shares is £10. Barbara has already realised gains sufficient to use her annual exemption for the current year.

The trustees also accepted an offer to sell their 3% holding in AB Ltd on 31 October 2021 for £240,000. The trustees' base cost for the shares is £40,000. The trustees have already realised gains sufficient to use the trust annual exemption for the current year and have no losses brought forward. The trust's remaining assets are as follows:

Assets	Probate Value	Market Value
	£	£
UK commercial property (let)	160,000	360,000
UK residential property (let)	300,000	600,000
Investment portfolio		1,215,000

The investment portfolio has unrealised gains of £455,000.

Barbara wants James to benefit from the trust assets now rather than on her death. However, she requires an ongoing income. The trustees therefore propose to wind up the trust and appoint to Barbara:

1) The commercial property from which she will continue to receive an annual rent; and

2) A fixed sum of £40,000 from the net cash proceeds available for distribution from the sale of the shares in AB Ltd.

James will receive the remaining cash, the residential property, and the investment portfolio.

Requirement:

1) Calculate, with explanations, the Capital Gains Tax arising on the sale of the shares in AB Ltd by Barbara and the trust, and the net trust proceeds available for distribution. (5)

2) Explain the tax implications of the proposed winding up of the trust in Barbara's lifetime, stating the amounts to be appropriated to each beneficiary, who would be responsible for payment of any tax arising and how those liable could ensure that the tax was able to be paid when and if it became due. (15)

Total (20)

3. Jonty Feldspar, UK resident and domiciled, died intestate on 18 October 2021 aged 55. He lived alone, had never been married, had no issue and his parents had predeceased him.

Jonty had made no lifetime transfers. At the time of his death his free estate comprised:

	£
Private residence in Yorkshire	400,000
Cash in UK bank account	80,000
Total	£480,000

Jonty also had a "free of tax" annuity of £20,000 per annum from the Myles Feldspar Will Trust, which was created on the death of his brother Myles in 2010. Myles was his only sibling. Debbie, Myles' only daughter, is the life tenant of the trust and her children are the remaindermen.

The trust income for 2020/21 was as follows:

	£
Property income (net of expenses)	43,000
Bank interest	8,000
UK dividends	15,000
Total	£66,000

At the date of Jonty's death, the trust assets were valued at £1.5 million.

Requirement:

Calculate the Inheritance Tax liability arising on Jonty's death stating by whom this is payable, the due date(s) of payment, and how his estate will be distributed.

(10)

4. Henry Cotterill, UK resident and domiciled, died on 28 September 2021 and left his entire estate to his daughter, Flora. His wife, Alice had predeceased him on 2 May 2017 and had fully utilised her nil rate band on her death.

At the time of his death, Henry's private residence, cash and quoted investments had a combined value of £3.5 million. In addition, he owned 60% of the shares in Sweetie HQ Ltd. Sweetie HQ Ltd was founded in 1966 and has always been a wholly trading company. It has 100,000 shares in issue, which were originally all owned by Henry.

On 20 September 2021, contracts were exchanged to sell the entire share capital of Sweetie HQ Ltd and Treacle House (the trading premises) to Candy Corp Ltd, an unrelated company. The sale was completed on 31 October 2021.

The values of the shares in Sweetie HQ Ltd in 2016 and 2021 were as follows:

Percentage shareholding	20%	60%	80%	100%
	£	£	£	£
Market value of shares 2016	350,000	1.47million	2.52million	3.5million
Market value of shares 2021	420,000	1.76million	3.02million	4.2million

Henry had made the following gifts during his lifetime:

10 February 2011
A cash gift of £250,000 on the creation of the Henry Cotterill Grandchildren's Settlement 2011. The trustees agreed to pay any tax arising on the gift.

14 April 2016
A gift of 20,000 shares in Sweetie HQ Ltd to the Henry Cotterill Discretionary Trust 2016. The trustees agreed to pay any tax arising on the gift.

23 June 2016
A gift of 20,000 shares in Sweetie HQ Ltd to The Old Donkeys of Northumberland (a registered UK charity). The shares were still held by the charity at the date of Henry's death.

5 August 2016
A cash gift of £10,000 to his granddaughter Jane on her marriage.

20 March 2018
A gift of Treacle House, the trading premises of Sweetie HQ Ltd (which Henry had always owned personally) to his daughter Flora. The premises were worth £300,000 at that time.

5 November 2018
A gift of 10 acres of land to his grandson, Philip. Henry had inherited the land from his late wife, Alice who had in turn inherited it from her father in 1978. At the time of the gift to Philip, the land had been let for the last 10 years to a local farmer who used it for agricultural purposes, and it continued to be so let and used throughout Philip's ownership. At the date of the gift, the agricultural value of the land was £75,000 but its prime location meant that it commanded a premium and so its market value was £350,000. Philip sold the land to a developer on 31 January 2021.

Requirement:

Calculate the Inheritance Tax due by reason of Henry's death, stating the due dates for payment of the tax and by whom this is payable. (20)

5. Demelza Johns, resident and domiciled in England, created the Johns Accumulation and Maintenance Trust for her two named grandchildren, Lily and Bess, on 30 June 2005. No holdover relief was claimed on any of the assets transferred into the trust.

Demelza has always used her annual exemption on 6 April every year by cash gifts to her children. Other than this, the only previous gift she had made was £200,000 to the Johns Discretionary Settlement in June 2003.

The terms of the Johns Accumulation and Maintenance Trust provided for entitlement to trust income and capital at age 25. Lily was 25 on 7 October 2018 and Bess was 25 on 1 September 2021. Lily's 50% share was paid out on her 25th birthday but no other capital distributions have been made from the trust. All trust income has been paid out annually.

The nature and values of the assets are as follows:

	Initial Value/ Base Cost Whole fund 30 June 2005	Value Whole fund 30 June 2015	Distribution (Lily) Half share 7 October 2018	Value Bess's share 1 September 2021
	£	£	£	£
Cash	20,000	15,000	12,000	24,500
Residential property in London ("The Mews")	200,000	350,000	220,000	250,000
Commercial property in Cornwall	250,000	375,000	170,000	190,000
Share portfolio	500,000	120,000	70,000	60,000
	£970,000	£860,000	£472,000	£524,500

On 7 October 2018, the base cost of the whole share portfolio was £90,000 and on 1 September 2021, the base cost of the remaining half share was £52,000. No sales of shares have been made since 6 April 2021. Any discount for jointly held property should be ignored.

In the past, The Mews had been rented to a third party. However, Lily and Bess moved into the property on Bess's 25th birthday and intend to occupy it as their home for the foreseeable future.

Requirement:

1) Calculate the Capital Gains Tax position on each asset and the overall Inheritance Tax due on the absolute entitlement of Bess's share on her 25th birthday assuming that any appropriate elections are made. (11)

2) Explain the Capital Gains Tax position should The Mews be sold at a profit on 1 September 2024. (4)

Total (15)

6. Keshav Mavji, who was UK domiciled and resident, died on 14 April 2020. By his Will he left the residue of his estate to his daughter, Annie and son, Girish equally.

His death estate was valued at £9,294,524 and the Inheritance Tax paid thereon was £3,717,809. The administration period is ongoing.

The following shares were the only shares held by Keshav at his death. With the exception of Telecom plc, all of the shareholdings were sold by the executors on 31 December 2020. Telecom plc was sold on 1 May 2021. All sales were made to unconnected third parties.

Shareholdings	Description	Shares	Value 14 April 2020	Proceeds	Costs of Sale
			£	£	£
Wind in the Trees Ltd	Unquoted investment company	30,000	150,000	200,000	12,000
Sand and Leaves Ltd	Unquoted investment company	10,000	600,000	450,000	900
Underhill plc	Open ended Investment Company	20,000	256,000	150,000	450
Big Bank plc	Quoted company	17,265	127,888	130,000	1,600
Pharmaceutical plc	Quoted company	8,887	49,078	55,000	750
Telecom plc	Quoted company	1,368	25,799	24,000	480

On his death, Keshav's estranged wife, Bina, also held 30,000 shares in Wind in the Trees Ltd and 10,000 shares in Sand and Leaves Ltd. The market values of their combined shareholdings at the date of his death were as follows:

Wind in the Trees Ltd (60,000 shares) – £380,000
Sand and Leaves Ltd (20,000 shares) – £1.4 million

Estate income received and administration expenses incurred in the period to 5 April 2021 were as follows:

	£
Rental income	20,777
Interest	3,782
Dividends	12,189
Administration expenses met from income	2,500

On 31 March 2021, Girish was given his father's jewellery worth £9,500 and on 5 April 2021, Annie received an interim income payment of £14,000.

Requirements:

1) Explain any relevant post-mortem reliefs that are available, calculate the value of the possible claims and the Inheritance Tax refund due in respect of each of them. (9)

2) Prepare the relevant R185 entries where appropriate for the year ended 5 April 2021 and show the estate income position at 5 April 2021. (6)

Total (15)