



Chartered  
Insurance  
Institute

# J02

## Diploma in Financial Planning

Unit J02 – Trusts

October 2019 Examination Guide

### SPECIAL NOTICES

Candidates entered for the April 2020 examination should study this examination guide carefully in order to prepare themselves for the examination.

Practice in answering the questions is highly desirable and should be considered a critical part of a properly planned programme of examination preparation.

## J02 – Trusts

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**Published March 2020**

Telephone: 020 8989 8464

Email: [customer.serv@cii.co.uk](mailto:customer.serv@cii.co.uk)

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## IMPORTANT GUIDANCE FOR CANDIDATES

### Introduction

The purpose of this Examination Guide is to help you understand how examiners seek to assess the knowledge and skill of candidates. You can then use this understanding to help you in your preparation for this examination.

### Before the examination

#### Study the syllabus carefully

This is available online at [www.cii.co.uk](http://www.cii.co.uk). All the questions in the examination are based directly on the syllabus. *You will be tested on the syllabus alone*, so it is vital that you are familiar with it.

There are books specifically produced to support your studies that provide coverage of all the syllabus areas. However, you should be prepared to read around the subject. This is important particularly if you feel that further information is required to fully understand a topic, or an alternative viewpoint is sought. The reading list which can be found with the syllabus provides valuable suggestions.

#### Note the assumed knowledge

For the Diploma in Financial Planning, candidates are assumed to have studied the relevant units of the Certificate in Financial Planning or the equivalent. This knowledge is set out on the relevant syllabus.

#### Read widely

If you do not have experience in advising clients whose financial needs are relatively sophisticated, *it is quite unrealistic to expect that the study of a single textbook will be sufficient to meet all your requirements*. While books specifically produced to support your studies will provide coverage of all the syllabus areas, you should be prepared to read around the subject. This is important, particularly if you feel that further information is required to fully understand a topic, or an alternative viewpoint is sought. It is vital that your knowledge is widened beyond the scope of one book. The reading list which can be found with the syllabus provides valuable suggestions.

### **Make full use of the Examination Guide**

This Examination Guide contains a full examination paper and model answers. The model answers show the types of responses the examiners are looking for and which would achieve maximum marks. *However, you should note that there are alternative answers to some question parts which would also gain high marks.* For the sake of clarity and brevity not all of these alternative answers are shown.

This guide and previous Examination Guides can be treated as 'mock' examination papers. Attempting them under examination conditions as far as possible, and then comparing your answers to the model ones, should be seen as an essential part of your exam preparation. The examiner's comments on candidates' actual performance in each question provide further valuable guidance. You can obtain copies of the two most recent examination guides free of charge at [www.cii.co.uk](http://www.cii.co.uk).

### **Know the layout of the tax tables**

Familiarise yourself with the information contained within the tax tables printed at the back of each Examination Guide. These tax tables will be provided to candidates as part of the examination paper. The tax tables enable you to concentrate on answering the questions without having to worry about remembering all the information. *Please note that you are not allowed to take your own tax tables into the examination.*

### **Know the structure of the examination**

- Assessment is by means of a two-hour written paper.
- All questions are compulsory.
- The paper is made up of 15 short questions.
- Each question part will clearly show the maximum marks which can be earned.
- The paper will carry a total of 130 marks.

### **Appreciate the standard of the examination**

Candidates must demonstrate that they are capable of advising clients *whose overall levels of income and capital require a more sophisticated scheme of investment* than is normally prepared by a level 4 qualified adviser. These clients require a critical appraisal of the various financial planning options available to them.

### **Read the Assessment information and Exam policies for candidates**

The details of administrative arrangements and the regulations which form the basis of your examination entry are available online at [www.cii.co.uk/qualifications/assessment-information/introduction/](http://www.cii.co.uk/qualifications/assessment-information/introduction/). This is *essential reading* for all candidates.

## In the examination

### The following will help:

#### **Spend your time in accordance with the allocation of marks:**

- The marks allocated to each question part are shown on the paper.
- If a question has just two marks allocated, there are likely to be only one or two points for which the examiner is looking for, so a long answer is wasting valuable time.
- Conversely, if a question has 12 marks allocated, a couple of lines will not be an adequate answer. Always remember that if the paper is not completed, your chances of passing will be reduced considerably.
- Do not spend excessive time on any one question; if the time allocation for that question has been used up, leave some space, go on to the next question and return to the incomplete question after you have completed the rest of the paper, if you have time.

#### **Take great care to answer the question that has been set.**

- Many candidates leave the examination room confident that they have written a 'good' paper, only to be surprised when they receive a disappointing result. Often, the explanation for this lies in a failure to think carefully about what the examiner requires before putting pen to paper.
- Highlighting key words and phrases is a technique many candidates find useful.
- The model answers provided in this Examination Guide would gain full marks. Alternative answers that cover the same points and therefore answer the question that has been asked would also gain full marks.

#### **Tackling questions**

Tackle the questions in whatever order feels most comfortable. Generally, it is better to leave any questions which you find challenging until you have attempted the questions you are confident about. Candidates should avoid mixing question parts, (for example, 1(a)(i) and (ii) followed by 2(b)(ii) followed by 1(e)(i)) as this often leads to candidates unintentionally failing to fully complete the examination paper. This can make the difference between achieving a pass or a narrow fail.

It is vital to label all parts of your answer correctly as many questions have multiple parts to them (for example, question 1(a) may have parts (i), (ii) and (iii)). Failure to fully distinguish between the separate question parts may mean that full credit cannot be awarded. It is also important to note that a full answer must be given to each question part and candidates should not include notes such as 'refer to answer given in 1(b)(i)'.

### **Answer format**

Unless the question requires you to produce an answer in a particular format, such as a letter or a report, *you should use 'bullet points' or short paragraphs*, since this allows you to communicate your thoughts in the most effective way in the least time. The model answers indicate what is acceptable for the different types of question.

Where you are asked to perform a calculation, it is important to show **all** the steps in your answer. The majority of the marks will be allocated for demonstrating the correct method of calculation.

Provided handwriting is legible, candidates will **not** lose marks if it is 'untidy'. Similarly, marks are not lost due to poor spelling or grammar.

### **Calculators**

If you bring a calculator into the examination room, it must be a silent, battery or solar-powered, **non-programmable** calculator. The use of electronic equipment capable of being programmed to hold alphabetical or numerical data and/or formulae is prohibited. You may use a financial or scientific calculator, provided it meets these requirements. The majority of the marks will be allocated for demonstrating the correct method of calculation.

## EXAMINER COMMENTS

### Candidates' overall performance:

Candidates' performance was somewhat mixed in this sitting of the exam, with several candidates managing to attain high marks, particularly in questions that tested main syllabus areas.

Candidates performed well in question 3 on the benefits and drawbacks of gifting into a discretionary trust compared to making a direct outright gift, also question 5 on how a lone parent's estate will be held for their two children on that parent's death and question 9 on Power of Attorney.

Candidates who intend to sit the J02 examination are advised to study previous past examiner comments and to use past papers in preparation for their sitting. This should help candidates identify areas of the syllabus where further study is required. It is also strongly recommended that a comprehensive reading of the J02 study text for this course is undertaken.

### Question 1

In part (a), candidates did not perform particularly well in identifying pieces of legislation used to govern trusts under English law. This is an area that underpins the basis of trusts and it was hoped candidates' performance would have been better. Part (b) on the general power of investment that applied to trusts was generally well answered.

### Question 2

In part (a), most candidates correctly identified that Dexter would continue as the last surviving trustee if Zak died. Part (b) asked what would happen if Dexter subsequently died and this was reasonably well answered. Many candidates correctly stated that Dexter's personal representatives would become trustees on his death. A mix of other correct answers included an appointer, if one was in existence, the settlor or ultimately the courts.

### Question 3

Candidates generally performed well in this question on the benefits and drawbacks of gifting into a discretionary trust compared to making a direct outright gift. Candidates mostly identified that the benefits were that the settlor did not have to decide at outset which beneficiaries ultimately benefit, which can include unborn potential beneficiaries. Often whilst alive the settlor, as trustee, can influence when benefits are paid to beneficiaries and have involvement in decisions on the management of trust assets. For drawbacks candidates often identified that, if the gift was in excess of the nil rate band, it would incur a 20% chargeable lifetime transfer charge, also there might be periodic and exit charges.

#### Question 4

This question was quite poorly answered by many candidates. Few showed any depth of knowledge on fully secret trusts. In part (a), some candidates correctly identified that the testator must communicate with the legatee and that this must be during the testator's lifetime. In part (b), a reasonable number of candidates correctly identified that the trust would fail if no communication had taken place during the testator's lifetime.

#### Question 5

Many candidates generally answered well on the explanation of how Julie's estate will be held for her two children. Most correctly identified that Julie died intestate and that her estate will be created under statutory trust for her minor children who will share the estate equally and be entitled to the trust assets once they are age 18.

#### Question 6

In part (a), many candidates performed reasonably well in identifying the restrictions which could apply to the trust under the Perpetuities and Accumulations Act 2009. They correctly identified that the trust is subject to a single 125-year perpetuity period and income could be accumulated for the whole trust period. Part (b), on how the statutory duty of care in the Trustee Act 2000 applies to the solicitor and Jack, was slightly disappointingly answered. Too few candidates correctly identified that the solicitor should have to exercise a higher duty of care and skill than Jack the lay trustee.

#### Question 7

Part (a) of this question asked candidates to explain the effects of *Saunders v Vautier* (1841) and this was generally well answered, with many candidates gaining full marks. In part (b), very few candidates knew anything about this question part on the Variation of Trusts Act 1958 where the court would need to be persuaded that variation was for the benefit of the applicant.

#### Question 8

This question on how an Excluded Property Trust may benefit Albin was satisfactorily answered. Often candidates correctly stated that Albin would have to be non-domiciled, his assets would have to be non-UK assets and that the assets would not then be subject to Inheritance Tax.

#### Question 9

Part (a) was slightly disappointingly answered by many candidates. The correct answer was Lasting Power of Attorney (property and financial affairs). Part (b) was reasonably well answered by many candidates whilst part (c) was generally well answered with many correct answers provided.



### **Question 10**

This question was very poorly answered for both parts (a) and (b). In part (a), few candidates stated that the Independent Mental Capacity Advocate is appointed to support and represent an individual who lacks mental capacity or those who have no one to speak for them on their behalf as there are no family or friends. In part (b) few candidates provided any correct answers.

### **Question 11**

Part (a), on the steps that must be taken for Arabella and Max to receive Fiona's inheritance, was generally well answered with candidates giving all the correct answers. Part (b) was not answered well with few candidates giving any correct responses.

### **Question 12**

Part (a) was reasonably well answered by some candidates. In part (b)(i) many candidates correctly calculated the Income Tax that was due on the trust, but some lost a mark for not showing their workings. Part (b)(ii) was not particularly well answered, candidates often did not give enough of the detailed explanation of how the tax liability for the 2018/2019 tax year will be paid to HM Revenue & Customs.

### **Question 13**

This question on identify and describing the most common needs for placing a life policy in trust was very disappointingly answered. Candidates generally just mentioned the benefits of placing a life policy in trust, however, at least one candidate gained full marks.

### **Question 14**

This question on how a typical discretionary loan trust works was well answered with some candidates gaining high marks. Candidates often gave the answers relating to the core parts of the scheme, but many also provided the less well known answers.

### **Question 15**

This question on beneficiaries of a discretionary trust being unhappy about the amount of income paid to them was disappointingly answered. In part (a), some candidates correctly stated that there should be a review of the trust including the investment performance. For part (b), some correctly identified that the beneficiaries could apply to the courts or bring the trust to an end.

# J02



Chartered  
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## Diploma in Financial Planning

### Unit J02 – Trusts

October 2019 examination

#### SPECIAL NOTICES

All questions in this paper are based on English law and practice applicable in the tax year 2019/2020, unless stated otherwise in the question, and should be answered accordingly.

It should be assumed that all individuals are domiciled and resident in the UK unless otherwise stated.

#### Instructions

- Two hours are allowed for this paper.
- **Do not begin writing until the invigilator instructs you to.**
- **Read the instructions on page 3 carefully before answering any questions.**
- Provide the information requested on the answer book and form B.
- You are allowed to write on the inside pages of this question paper, but you must **NOT** write your name, candidate number, PIN or any other identification anywhere on this question paper.
- The answer book and this question paper must **both be handed in personally by you** to the invigilator before you leave the examination room. **Failure to comply with this regulation will result in your paper not being marked and you may be prevented from entering this examination in the future.**

## Unit J02 – Trusts

### Instructions to candidates

#### Read the instructions below before answering any questions

- **Two hours** are allowed for this paper which consists of 15 short answer questions and carries a total of 130 marks.
- You are strongly advised to attempt **all** questions to gain maximum possible marks. The number of marks allocated to each question part is given next to the question and you should spend your time in accordance with that allocation.
- Read carefully all questions and information provided before starting to answer. Your answer will be marked strictly in accordance with the question set.
- You may find it helpful in some places to make rough notes in the answer booklet. If you do this, you should cross through these notes before you hand in the booklet.
- It is important to show all steps in a calculation, even if you have used a calculator.
- If you bring a calculator into the examination room, it must be a silent, battery or solar-powered, non-programmable calculator. The use of electronic equipment capable of being programmed to hold alphabetic or numerical data and/or formulae is prohibited. You may use a financial or scientific calculator, provided it meets these requirements.
- Tax tables are provided at the back of this question paper.
- Answer each question on a new page and leave six lines blank after each question part.

**Subject to providing sufficient detail you are advised to be as brief and concise as possible, using note format and short sentences on separate lines wherever possible.**

**Attempt ALL questions**

**Time: 2 hours**

*To gain maximum marks in a calculation, you **must** show **all** your workings and express your answers to **two** decimal places.*

1.     **(a)**     State **five** pieces of legislation, excluding the Trustee Act 2000, that are used to govern trusts under English law. **(5)**  
  
          **(b)**     Describe briefly the general power of investment that should be applied by trustees for trusts governed by the Trustee Act 2000. **(4)**
  
2.     A trust has been set up with Zak and Dexter as trustees.  
  
          Describe briefly how the trust powers would be exercised if:  
  
          **(a)**     Zak dies first. **(2)**  
  
          **(b)**     Then Dexter subsequently dies. **(6)**
  
3.     State **five** benefits and **five** drawbacks from a settlor's perspective of gifting into a discretionary trust compared to making a direct outright gift. **(10)**
  
4.     **(a)**     State the conditions that must be visible to a court for it to be satisfied that a fully secret trust exists. **(4)**  
  
          **(b)**     Explain briefly what happens if the communication for a fully secret trust is not carried out during the testator's lifetime. **(2)**
  
5.     Julie recently died with an estate valued at £320,000, she did not leave a valid Will. At the time of her death she was single and had two children aged two and seven.  
  
          Explain how Julie's estate will be held for her two children. **(6)**

6. John created a trust in 2014 and appointed his solicitor as trustee along with his brother Jack. Following John's death, the trustees are conducting a review.
- (a) Explain any restrictions which could apply to the trust under the Perpetuities and Accumulations Act 2009. (4)
  - (b) Explain briefly how the statutory duty of care in the Trustee Act 2000 applies to the solicitor and Jack. (5)
7. Explain briefly the effect of:
- (a) *Saunders v Vautier* (1841). (5)
  - (b) The Variation of Trusts Act 1958 where the court would need to be persuaded that variation was for the benefit of the applicant. (3)
8. Albin is non-UK domiciled and has been living and working in the UK for the past 12 months and intends to stay for longer. Albin has significant overseas assets and is concerned about the implications of UK taxation on his assets.
- Explain how an Excluded Property Trust may benefit Albin. (7)
9. Mairead has been seconded to the Australian subsidiary of her firm and wants to set up a power of attorney looking to plan financially for the longer term.
- (a) State the most appropriate Power of Attorney for her circumstances. (1)
  - (b) Describe briefly the process for setting up this Power of Attorney. (4)
  - (c) State **four** circumstances that would lead to the Power of Attorney being revoked, other than at Mairead's request. (4)
10. (a) Explain briefly the role and duties of an Independent Mental Capacity Advocate. (4)
- (b) State **four** changes in the Mental Health Act 2007, compared to the Mental Health Act 1983, that relate to people affected by dementia. (4)

- 11.** Fiona and John have an estate worth £10.2 million. They have two adult children, Arabella and Max.
- Fiona’s father, Albert has died leaving £1.1 million in his Will to Fiona as sole beneficiary. Fiona wants Albert’s estate to be left to Arabella and Max in equal shares.
- At the time of Albert’s death, he was living with Florence who was financially dependent on Albert and claims he had intended for her to inherit half of his estate.
- (a) Explain the steps that must be taken for Arabella and Max to receive Fiona’s inheritance. **(6)**
- (b) Explain briefly what action, if any, Florence can take to make a claim for provision against Albert’s estate. **(4)**
- 12.** The Belmont Family Discretionary Trust accumulates its income and has no expenses. It receives dividends of £15,000 for the tax year 2018/2019. In the tax year 2017/2018, the income tax payable had been £4,000. The settlor has one other existing trust.
- (a) Describe briefly the trustees responsibilities for making the trust payment. **(3)**
- (b) (i) Calculate, **showing all your workings**, the income tax due on the trust. **(5)**
- (ii) Describe briefly how the tax liability for the 2018/2019 tax year will be paid to HM Revenue & Customs. **(3)**
- 13.** Identify and describe briefly the **five** most common needs for placing a life policy in trust. **(10)**
- 14.** Describe how a typical discretionary loan trust works. **(11)**
- 15.** The beneficiaries of a discretionary trust are unhappy about the amount of income paid to them.
- (a) State the steps that need to be taken by the trustees once they are aware of the beneficiaries concerns. **(4)**
- (b) State the main options available to trustees and beneficiaries. **(4)**

**NOTE ON MODEL ANSWERS**

The model answers given are those which would achieve maximum marks. However, there are alternative answers to some question parts which would also gain high marks. For the sake of clarity and brevity not all of these alternative answers are shown. An oblique (/) indicates an equally acceptable alternative answer.

**Model answer for Question 1**

**(a)** *Candidates would have gained full marks for any five of the following:*

- Trustee Act (1925).
- Law of Property Act (1925).
- Administration of Estates Act (1925).
- Recognition of Trusts Act (1987).
- Trusts of Land and Appointment of Trustees Act (1996) (TLA).
- Trustee Delegation Act (1999).
- Perpetuities and Accumulations Act (1964).
- Perpetuities and Accumulations Act (2009).
- Inheritance and Trustees' Powers Act (2014).
- Variation of Trust Act (1958).

**(b)** *Candidates would have gained full marks for any four of the following:*

- Trustees have the power to invest as if they are the absolute owner;
- irrespective of the trust's date of creation.
- The powers are available in addition to any limited express power of investment vested in the trustees;
- but subject to any limitation imposed by any other legislation;
- or subject to any limitation imposed by trust deed;
- or by the standard investment criteria of the Act that includes:
  - review the investments;
  - suitability of trust investments;
  - the need for diversification;
  - that they should consider proper advice.

**Model answer for Question 2**

- (a)
- The powers can be exercised by Dexter/the surviving trustee;
  - subject to any restriction in the trust deed.
- (b) *Candidates would have gained full marks for any six of the following:*
- If last surviving trustee/Dexter dies;
  - the power can be exercised by their/Dexter's legal personal representatives;
  - until an appointment is made.
  - The personal representatives can continue to act;
  - or they can appoint trustees.
  - If trust has an appointor, they can appoint trustees;
  - if Settlor is alive they could appoint trustee(s);
  - Or the Court can appoint trustee(s).
  - The trust is not made void by death of all trustees so it must continue.

**Model answer for Question 3**

Benefits

*Candidates would have gained full marks for any five of the following:*

- The settlor does not have to decide at outset who benefits so can include unborn potential beneficiaries.
- The settlor does not have to decide how much or percentage share at outset.
- The settlor trustee and/or trustees retain control over who benefits.
- The settlor trustee and/or trustees control when benefits are paid.
- The settlor trustees and/or trustees retain control over management of the assets.
- There can be protection for beneficiaries against divorce, bankruptcy or if they are spend thrifts.

Drawbacks

*Candidates would have gained full marks for any five of the following:*

- There is a potential 20% chargeable lifetime transfer tax charge on entry.
- There are potential periodic charges.
- There are potential exit charges.
- The administration of the trust is more complex.
- There are extra costs involved.
- There is a potentially higher tax liability on initial income.
- There is a potentially higher tax liability on capital.
- The settlor ultimately loses sole control over who benefits.



**Model answer for Question 4**

- (a)
- The testator must communicate;
  - a legally binding obligation under their Will on the legatee;
  - which the legatee must accept.
  - The communication of the trust concerned can be made at any time during the testator's lifetime.
- (b)
- The trust will fail;
  - it will become a beneficial gift to the legatee.

**Model answer for Question 5**

- The trust will be created under statute, statutory trust or intestacy.
- The property of the trust will held by trustees;
- with all income held in trust;
- for Julie's two children who are joint beneficiaries:
- they will become entitled at age 18;
- or on earlier marriage.

**Model answer for Question 6**

- (a)
- The trust is subject to a single 125 year perpetuity period.
  - Income can be accumulated for the whole trust period.
  - A shorter trust period may have been chosen;
  - and incorporated in the trust deed.
- (b)
- The trustees must exercise such care and skill as is reasonable, acting in best interests of beneficiaries.
  - Any special knowledge or expertise that they have;
  - whether they are acting as a trustee as part of their business or profession;
  - the solicitor will therefore have to exercise a higher duty of care and skill than;
  - Jack who has no legal training or background but must still act responsibly.

**Model answer for Question 7**

- (a)
- A trust can end if;
  - all beneficiaries are ascertained;
  - all beneficiaries are aged 18 or over;
  - all beneficiaries are of sound mind.
  - There is a unanimous agreement of all beneficiaries.
- (b)
- A trust can be varied if it is for the social, moral and educational, as well as financial, benefit;
  - but cannot take away the benefit of an adult beneficiary;
  - without their agreement.

**Model answer for Question 8**

*Candidates would have gained full marks for any seven of the following:*

- As Albin is non-UK domicile, he would qualify to make a gift into an excluded property trust.
- Albin's overseas assets can be settled in the trust;
- and are not liable to UK Inheritance Tax;
- any additions should be made while he is non-UK domiciled.
- Any assets settled in the trust must be non-UK assets and never been based in the UK.
- Should Albin become deemed domicile, no further assets should be transferred to the trust.
- The assets in the trust remain 'excluded' property even if Albin becomes domiciled or deemed domiciled or:
  - is included as a beneficiary under the trust.
  - Residence of the trustee does not affect Inheritance Tax position.
  - The trust assets are not subject to UK taxes.

**Model answer for Question 9**

- (a)
- Lasting Power of Attorney (property & financial affairs).
- (b)
- Complete the prescribed Lasting Power of Attorney (property & financial affairs) form.
  - Submit this form to the Office of the Public Guardian for registration.
  - The form must be signed by the donor, attorney and a certificate provider.
  - It must be witnessed and signed by an independent person.
- (c)
- Bankruptcy of attorney or donor.
  - Death of attorney.
  - Incapacity of attorney.
  - They can be removed by the Court of Protection.

**Model answer for Question 10**

- (a) *Candidates would have gained full marks for any four of the following:*
- The Independent Mental Capacity Advocate is appointed to support and represent an individual who lacks capacity;
  - but has no one to speak for them or there are no family or friends who will speak on the individual's behalf.
  - Independent Mental Capacity Advocates only become involved when certain decisions need to be made involving serious medical treatment;
  - and long-term care moves.
  - The Independent Mental Capacity Advocate can challenge attorney or deputy decisions.
- (b) *Candidates would have gained full marks for any four of the following:*
- A nearest relative now includes civil partner.
  - A person who has been sectioned can challenge who they want to be designated as their nearest relative.
  - A person who is detained in hospital under the Mental Health Act 2007 has the right to access an Independent Mental Capacity Advocate, who will explain their rights and how they can challenge a section.
  - A guardian has the power to take a person to a place where they are required to live.
  - Approved mental health practitioners, as well as social workers, can recommend that a person is sectioned or has a guardian.

**Model answer for Question 11**

- (a) *Candidates would have gained full marks for any six of the following:*
- Fiona can effect a deed of variation which;
  - refers to the Will to be varied.
  - Fiona must sign the deed of variation;
  - and the executors must also sign the deed of variation.
  - The deed of variation must be effected within two years of Albert's death.
  - It must contain a statement that the variation is to have effect for Inheritance Tax as if Albert had made it.
  - There must be no consideration in money or money's worth.
- (b)
- Florence can challenge the Will;
  - under the Inheritance (Provisions for Family and Dependents) Act 1975;
  - which must involve court proceedings.
  - She could apply for financial provision on the grounds that the Albert's Will did not make reasonable financial provision for her.

**Model answer for Question 12**

- (a)
- Trustees are liable to pay income tax under self-assessment;
  - they must complete a tax return;
  - and they are jointly and severally liable for any tax due.
- (b) (i)
- $£1,000 / 2 = £500$  (standard rate band as 2 trusts exist)
  - $£500 \times 7.5\% = £37.50$
  - $£15,000 - £500 = £14,500$
  - $£14,500 \times 38.1\% = £5,524.50$
  - Total tax = £5,562
- (ii)
- £2,000 payable by 31 January 2019.
  - £2,000 payable by 31 July 2019.
  - £1,562 payable by 31 January 2020.

**Model answer for Question 13**

- Providing protection for a family;
- placing a term assurance or whole of life policy under trust for a spouse or civil partner and/or children.
- Partnership protection;
- arranging a term assurance or whole of life policies under trust for the other partners in a business to give them the necessary funds on the death of a partner to buy their share of the partnership from the estate.
- Director share protection;
- establishing term assurance or whole of life policies in trust for the other shareholding directors to provide funds for them to buy shares from the estate.
- Inheritance Tax planning;
- placing a term assurance or whole of life under trust to fund the Inheritance Tax payable on death.
- School fees provision or protection;
- arranging policies under trust to pay school fees for children either by lump sum or to protect school fee payments if parent dies.

**Model answer for Question 14**

*Candidates would have gained full marks for any eleven of the following:*

- HM Revenue & Customs accepts that a starter gift is not required.
- The settlor sets up a trust and:
  - makes a loan;
  - which is invested into an investment bond or collective investments.
- No transfer of value for Inheritance Tax occurs because the settlor has not made a gift.
- The settlor is usually appointed as one of the trustees.
- Any future investment growth is held for the benefit of the beneficiaries and it accrues outside of the settlor's estate.
- Since the settlor is excluded from benefiting from the growth, the value of the capital used to fund the loan trust is effectively frozen in the estate.
- The settlor's entitlement from the trust is therefore limited to the amount of the original loan.
- If any loan balance is still unpaid at the time of death, it will form a part of the settlor's estate for Inheritance Tax purposes and pass under the Will or under the intestacy rules.
- The settlor has control over, and access to, their original loan capital, and can demand the balance of the outstanding loan at any time.
- The loan can be repaid ad hoc or by regular instalments.
- Withdrawals can be made in a tax efficient manner from 5% per annum single premium bond or as capital gain within the Annual Exempt Amount (AEA) for collective investments.
- When calculating the potential inheritance tax charge on each ten-year anniversary, the value of the trust fund will be reduced by any loan still outstanding to the settlor.
- Loan repayments to the settlor do not attract Inheritance Tax exit charges.

**Model answer for Question 15**

- (a)
- The trustees should review the trust;
  - to see if there are specific provisions set out for dispute resolution.
  - They should assess the investment performance of the trust.
  - They should also reconcile the income received against distributions.
- (b)
- The trustees could agree to make alterations to income payments.
  - The beneficiaries could seek arbitration, mediation or professional advice;
  - or commence Court proceedings.
  - If no agreement can be made ultimately the beneficiaries may be able to end the trust under *Saunders v Vautier* (1841) provisions.

## October 2019 Examination - J02 Trusts

Question Number	Syllabus learning outcomes being examined
1.	1. Explain the structure of a trust and the roles of the main parties.
2.	1. Explain the structure of a trust and the roles of the main parties.
3.	1. Explain the structure of a trust and the roles of the main parties.
4.	2. Explain how trusts are created.
5.	2. Explain how trusts are created.
6.	3. Explain the rules covering the investment of trust assets and the administration of trusts.
7.	3. Explain the rules covering the investment of trust assets and the administration of trusts.
8.	3. Explain the rules covering the investment of trust assets and the administration of trusts.
9.	4. Explain the consequences of giving a Power of Attorney or an Enduring Power of Attorney.
10.	4. Explain the consequences of giving a Power of Attorney or an Enduring Power of Attorney.
11.	7. Analyse how trusts are subject to tax and how a liability can fall to the settlor, trustees or beneficiaries.
12.	7. Analyse how trusts are subject to tax and how a liability can fall to the settlor, trustees or beneficiaries.
13.	8. Explain how life assurance policies, pension benefits and other investments can be placed in trust, and the tax and other implications.
14.	9. Apply effective trust and related tax planning solutions.
15.	9. Apply effective trust and related tax planning solutions.

**All questions in the October 2019 paper will be based on English law and practice applicable in the tax year 2019/2020, unless stated otherwise and should be answered accordingly.**

**The Tax Tables which follow are applicable to the October 2019 and April 2020 examination.**

## INCOME TAX

RATES OF TAX	2018/2019	2019/2020
Starting rate for savings*	0%	0%
Basic rate	20%	20%
Higher rate	40%	40%
Additional rate	45%	45%
Starting-rate limit	£5,000*	£5,000*
Threshold of taxable income above which higher rate applies	£34,500	£37,500
Threshold of taxable income above which additional rate applies	£150,000	£150,000
Child benefit charge:		
1% of benefit for every £100 of income over	£50,000	£50,000
<i>*not applicable if taxable non-savings income exceeds the starting rate band of £5,000.</i>		
Dividend Allowance		£2,000
Dividend tax rates		
Basic rate		7.5%
Higher rate		32.5%
Additional rate		38.1%
Trusts		
Standard rate band		£1,000
Rate applicable to trusts		
- dividends		38.1%
- other income		45%
<b>MAIN PERSONAL ALLOWANCES AND RELIEFS</b>		
Income limit for Personal Allowance §	£100,000	£100,000
Personal Allowance (basic)	£11,850	£12,500
Married/civil partners (minimum) at 10% †	£3,360	£3,450
Married/civil partners at 10% †	£8,695	£8,915
Marriage Allowance	£1,190	£1,250
Income limit for Married Couple's Allowance †	£28,900	£29,600
Rent a Room scheme – tax free income allowance	£7,500	£7,500
Blind Person's Allowance	£2,390	£2,450
Enterprise Investment Scheme relief limit on £2,000,000 max**	30%	30%
Seed Enterprise Investment relief limit on £100,000 max	50%	50%
Venture Capital Trust relief limit on £200,000 max	30%	30%
<i>§ the Personal Allowance reduces by £1 for every £2 of income above the income limit irrespective of age (under the income threshold).</i>		
<i>† where at least one spouse/civil partner was born before 6 April 1935.</i>		
<i>** Investment above £1,000,000 must be in knowledge-intensive companies.</i>		
Child Tax Credit (CTC)		
- Child element per child (maximum)	£2,780	£2,780
- family element	£545	£545
Threshold for tapered withdrawal of CTC	£16,105	£16,105



## NATIONAL INSURANCE CONTRIBUTIONS

Class 1 Employee	Weekly
Lower Earnings Limit (LEL)	£118
Primary threshold	£166
Upper Earnings Limit (UEL)	£962

Total earnings £ per week	CLASS 1 EMPLOYEE CONTRIBUTIONS
Up to 166.00*	Nil
166.01 – 962.00	12%
Above 962.00	2%

*\*This is the primary threshold below which no NI contributions are payable. However, the lower earnings limit is £118 per week. This £118 to £166 band is a zero-rate band introduced in order to protect lower earners' rights to contributory State benefits e.g. the new State Pension.*

Total earnings £ per week	CLASS 1 EMPLOYER CONTRIBUTIONS
Below 166.00**	Nil
166.01 – 962	13.8%
Excess over 962.00	13.8%

*\*\* Secondary earnings threshold.*

<b>Class 2 (self-employed)</b>	Flat rate per week £3.00 where profits exceed £6,365 per annum.
<b>Class 3 (voluntary)</b>	Flat rate per week £15.00.
<b>Class 4 (self-employed)</b>	9% on profits between £8,632 - £50,000. 2% on profits above £50,000.

## PENSIONS

TAX YEAR	LIFETIME ALLOWANCE
2006/2007	£1,500,000
2007/2008	£1,600,000
2008/2009	£1,650,000
2009/2010	£1,750,000
2010/2011	£1,800,000
2011/2012	£1,800,000
2012/2013	£1,500,000
2013/2014	£1,500,000
2014/2015	£1,250,000
2015/2016	£1,250,000
2016/2017	£1,000,000
2017/2018	£1,000,000
2018/2019	£1,030,000
2019/2020	£1,055,000

### LIFETIME ALLOWANCE CHARGE

55% of excess over lifetime allowance if taken as a lump sum.

25% of excess over lifetime allowance if taken in the form of income, which is subsequently taxed under PAYE.

### ANNUAL ALLOWANCE

TAX YEAR	ANNUAL ALLOWANCE
2015/2016	£40,000~
2016/2017	£40,000*
2017/2018	£40,000*
2018/2019	£40,000*
2019/2020	£40,000*

~ increased to £80,000 for pension input between April - 8 July 2015. If not used, can be carried forward to pension input period of 9 July 2015 - 6 April 2016, subject to a maximum of £40,000.

\*tapered at a rate of £1 for every £2 of adjusted income in excess of £150,000 where threshold income exceeds £110,000.

MONEY PURCHASE ANNUAL ALLOWANCE	2018/2019	2019/2020
	£4,000	£4,000

### ANNUAL ALLOWANCE CHARGE

20% - 45% determined by the member's taxable income and the amount of total pension input in excess of the annual allowance or money purchase annual allowance.

## CAPITAL GAINS TAX

EXEMPTIONS	2018/2019	2019/2020
Individuals, estates etc	£11,700	£12,000
Trusts generally	£5,850	£6,000
Chattels proceeds (restricted to five thirds of proceeds exceeding limit)	£6,000	£6,000

### TAX RATES

Individuals:		
Up to basic rate limit	10%	10%
Above basic rate limit	20%	20%
Surcharge for residential property and carried interest	8%	8%
Trustees and Personal Representatives	20%	20%
Entrepreneurs' Relief* – Gains taxed at:	10%	10%
Lifetime limit	£10,000,000	£10,000,000

*\*For trading businesses and companies (minimum 5% employee or director shareholding) held for at least one year (2018/2019), two years (2019/2020).*

## INHERITANCE TAX

### RATES OF TAX ON TRANSFERS

	2018/2019	2019/2020
Transfers made on death after 5 April 2015		
- Up to £325,000	Nil	Nil
- Excess over £325,000	40%	40%
Transfers made after 5 April 2015		
- Lifetime transfers to and from certain trusts	20%	20%

*A lower rate of 36% applies where at least 10% of deceased's net estate is left to a registered charity.*

### MAIN EXEMPTIONS

Transfers to		
- UK-domiciled spouse/civil partner	No limit	No limit
- non-UK-domiciled spouse/civil partner (from UK-domiciled spouse)	£325,000	£325,000
- main residence nil rate band*	£125,000	£150,000
- UK-registered charities	No limit	No limit

*\*Available for estates up to £2,000,000 and then tapered at the rate of £1 for every £2 in excess until fully extinguished*

Lifetime transfers		
- Annual exemption per donor	£3,000	£3,000
- Small gifts exemption	£250	£250

Wedding/civil partnership gifts by		
- parent	£5,000	£5,000
- grandparent/bride and/or groom	£2,500	£2,500
- other person	£1,000	£1,000

100% relief: businesses, unlisted/AIM companies, certain farmland/building

50% relief: certain other business assets

Reduced tax charge on gifts within 7 years of death:

- Years before death	0-3	3-4	4-5	5-6	6-7
- Inheritance Tax payable	100%	80%	60%	40%	20%

Quick succession relief:

- Years since IHT paid	0-1	1-2	2-3	3-4	4-5
- Inheritance Tax relief	100%	80%	60%	40%	20%

## CAR BENEFIT FOR EMPLOYEES

The charge for company car benefits is based on the carbon dioxide (CO<sub>2</sub>) emissions. There is no reduction for high business mileage users.

### For 2019/2020:

- The percentage charge is 16% of the car's list price for CO<sub>2</sub> emissions of 50g/km or less.
- For cars with CO<sub>2</sub> emissions of 51g/km to 75g/km the percentage is 19%.
- For cars with CO<sub>2</sub> emissions of 76g/km to 94g/km the percentage is 22%.
- Cars with CO<sub>2</sub> emissions of 95g/km have a percentage charge of 23% and thereafter the charge increases by 1% for every complete 5g/km to a maximum of 37% (emissions of 165g/km and above).

There is an additional 4% supplement for diesel cars not meeting Euro 6 emission standards. However, the maximum charge remains 37% of the car's list price.

**Car fuel** The benefit is calculated as the CO<sub>2</sub> emissions % relevant to the car and that % applied to a set figure (£24,100 for 2019/2020) e.g. car emission 90g/km = 22% on car benefit scale. 22% of £24,100 = £5,302.

1. **Accessories** are, in most cases, included in the list price on which the benefit is calculated.
2. **List price** is reduced for capital contributions made by the employee up to £5,000.
3. **Car benefit** is reduced by the amount of employee's contributions towards running costs.
4. **Fuel scale** is reduced only if the employee makes good **all** the fuel used for private journeys.
5. **All car and fuel benefits** are subject to employers National Insurance contribution's (Class 1A) of 13.8%.

### PRIVATE VEHICLES USED FOR WORK

	2018/2019 Rates	2019/2020 Rates
<b>Cars</b>		
On the first 10,000 business miles in tax year	45p per mile	45p per mile
Each business mile above 10,000 business miles	25p per mile	25p per mile
<b>Motor Cycles</b>	24p per mile	24p per mile
<b>Bicycles</b>	20p per mile	20p per mile

## MAIN CAPITAL AND OTHER ALLOWANCES

2018/2019    2019/2020

Plant & machinery (excluding cars) 100% annual investment allowance (first year)	£200,000	£1,000,000
Plant & machinery (reducing balance) per annum	18%	18%
Patent rights & know-how (reducing balance) per annum	25%	25%
Certain long-life assets, integral features of buildings (reducing balance) per annum	8%	6%
Energy & water-efficient equipment	100%	100%
Zero emission goods vehicles (new)	100%	100%
Electric charging points	100%	100%
Qualifying flat conversions, business premises & renovations	100%	100%

**Motor cars:** Expenditure on or after 01 April 2016 (Corporation Tax) or 06 April 2016 (Income Tax)

CO <sub>2</sub> emissions of g/km:	50 or less*	51-110	111 or more
Capital allowance:	100%	18%	6%
	first year	reducing balance	reducing balance

\*If new

## MAIN SOCIAL SECURITY BENEFITS

		2018/2019	2019/2020
		£	£
Child Benefit	First child	20.70	20.70
	Subsequent children	13.70	13.70
	Guardian's allowance	17.20	17.60
Employment and Support Allowance	Assessment Phase		
	Age 16 – 24	Up to 57.90	Up to 57.90
	Aged 25 or over	Up to 73.10	Up to 73.10
	Main Phase		
	Work Related Activity Group	Up to 102.15	Up to 102.15
	Support Group	Up to 110.75	Up to 111.65
Attendance Allowance	Lower rate	57.30	58.70
	Higher rate	85.60	87.65
Basic State Pension	Single	125.95	129.20
	Married	201.45	201.45
Single Tier State Pension	Single	164.35	168.60
Pension Credit	Single person standard minimum guarantee	163.00	167.25
	Married couple standard minimum guarantee	248.80	255.25
	Maximum savings ignored in calculating income	10,000.00	10,000.00
Bereavement Payment*		2,000.00	2,000.00
Bereavement Support Payment**	Higher rate - First payment	3,500.00	3,500.00
	Higher rate - monthly payment	350.00	350.00
	Lower rate – First payment	2,500.00	2,500.00
	Lower rate – monthly payment	100.00	100.00
Jobseeker's Allowance	Age 18 - 24	57.90	57.90
	Age 25 or over	73.10	73.10
Statutory Maternity, Paternity and Adoption Pay		145.18	148.68

\*Only applicable where spouse or civil partner died before 6 April 2017.

\*\* Only applicable where spouse or civil partner died on or after 6 April 2017.

**CORPORATION TAX**

	2018/2019	2019/2020
Standard rate	19%	19%

**VALUE ADDED TAX**

	2018/2019	2019/2020
Standard rate	20%	20%
Annual registration threshold	£85,000	£85,000
Deregistration threshold	£83,000	£83,000

**STAMP DUTY LAND TAX**

	Residential
Value up to £125,000	0%
£125,001 - £250,000	2%
£250,001 and £925,000	5%
£925,001 and £1,500,000	10%
£1,500,001 and over	12%

*Stamp Duty Land Tax (SDLT) is payable in England and Northern Ireland only. Land Transaction Tax (LTT) is payable in Wales and Land and Buildings Transaction Tax (LBTT) is payable in Scotland. The rates for LTT and LBTT are different to the rates shown above.*

*Additional SDLT of 3% may apply to the purchase of additional residential properties purchased for £40,000 or greater.*

*SDLT is charged at 15% on interests in residential dwellings costing more than £500,000 purchased by certain corporate bodies or non-natural persons.*

*First-time buyers benefit from SDLT relief on purchases up to £500,000 when purchasing their main residence. On purchases up to £300,000, no SDLT is payable. On purchases between £300,000 and £500,000, a flat rate of 5% is charged on the balance above £300,000.*

	Non residential
Value up to £150,000	0%
£150,001 and £250,000	2%
£250,001 and over	5%