

Taxation and trusts

Objective: To develop in the candidate:

- a sound knowledge of the UK tax system;
- a sound knowledge of the law and practice of trusts;
- the ability to apply knowledge and skills to practical situations;
- the ability to advise individual clients on the tax treatment of their investments and the use of trusts to meet their current and foreseeable future needs.

Assumed knowledge and application skills: Assumed knowledge may not appear in detail within the learning outcomes but forms part of the syllabus and thus may be examined. It is assumed that the candidate already has the knowledge and application skills gained from a study of the relevant elements of the Certificate in Financial Planning or equivalent qualification. It is also assumed that the candidate can use basic financial mathematics for tasks such as grossing up, projecting future values of current amounts and discounting future amounts into current values. Candidates are advised to take this unit before attempting other units, as its syllabus contains subject matter which is built on in other units.

Method of assessment: See the 2006 Advanced Financial Planning Certificate 'Information for candidates' brochure.

Notes:

- The syllabus is examined on the basis of the legislative position in England three months prior to the examination date.
- Where law and practice in Scotland differs, this will be explained in the primary text.

1. Personal taxes

1.1 Income Tax, Capital Gains Tax (CGT), Inheritance Tax (IHT): schedules, rates, allowances, exemptions, liability, collection

Candidates should be able to

- *explain* how people liable to Income Tax, CGT and IHT have to settle their liability and how the taxes are collected;
- *identify* the allowances available and to whom they are available;
- *define* savings, non-savings and dividend income;
- *explain* what types of income are taxable and non-taxable;
- *explain* how self assessment works;
- *describe* the tax treatment of different types of employee benefits;
- *identify* the types of capital gains which are exempt and non-exempt;
- *explain* the basic principles of reinvestment holdover and rollover relief;
- *explain* indexation and taper relief and when they are applied;

- *identify* the exemptions for IHT, taper relief, business property relief, agricultural relief, quick succession relief, the level of the nil rate band and when it is applied;
- *explain* the difference between chargeable lifetime transfers and potentially exempt transfers.

1.2 Residence and domicile

Candidates should be able to

- *define* residence, ordinary residence and domicile as it applies in the UK;
- *explain* how the rules relating to these definitions are applied in establishing an individual's residence and domicile status and how that status affects Income Tax, CGT and IHT.

1.3 National Insurance

Candidates should be able to

- *identify* the different classes of NI contributions and who is liable to pay each class;
- *explain* the difference between contracted-out and contracted-in NI contributions;
- *calculate* the various NI contributions and NI liability of individuals.

2. Tax planning considerations

2.1 Employment/self-employment: pensions, social security benefits

Candidates should be able to

- *identify* the differences in taxation procedures for employed and self-employed people;
- *define* how these differences affect the rights and entitlements to State pensions and other State benefits;
- *explain* how Working Tax Credit, Child Tax Credit and Pensions Credit are applied.

2.2 Share option schemes, enterprise management incentive, employee share incentive plans

Candidates should be able to

- *describe* the details of share option schemes, enterprise management incentive and employee share incentive plans;
- *explain* the tax implication of these schemes, why they are implemented, the benefits and drawbacks of each scheme.

2.3 Marriage

Candidates should be able to

- *explain* the tax advantages and disadvantages of independent taxation, pension sharing and divorce;
- *identify* the IHT and CGT aspects of separation and divorce.

2.4 Children

Candidates should be able to

- *explain* the taxation treatment of children's investments, including gifts from parents, gifts from other than parents;
- *describe* how trusts for children compare with designated accounts.

2.5 Retirement

Candidates should be able to

- *identify* the taxation aspects of investments for people in retirement/senior citizens;
- *describe* and *calculate* additional age allowance and the married couple's age allowance.

2.6 Bankruptcy and individual arrangements

Candidates should be able to

- *apply* the basic principles of bankruptcy and individual arrangements as they relate to individuals and the financial planning measures that can be taken to safeguard an individual's financial position.

3. The use of investments

3.1 Tax planning uses of onshore investments

Candidates should be able to

- *explain* the tax treatment of the following investments:
 - bank accounts;
 - building society accounts;
 - corporate bonds;
 - enterprise zone property;
 - enterprise investment schemes;
 - forestry/woodlands;
 - friendly society plans;
 - gilts;
 - guaranteed growth/income bonds;
 - guaranteed equity bonds;
 - holiday lettings;
 - Individual Savings Accounts (ISAs);
 - investment trusts;
 - letting rooms;
 - buy to let property;
 - life assurance policies;
 - local authority bonds;
 - National Savings;
 - Open Ended Investment Companies (OEICs);
 - pensions;
 - PEPs;
 - permanent interest bearing shares;
 - single premium bonds;
 - shares;
 - unit trusts;
 - venture capital trusts.

3.2 Tax planning uses of offshore investments

Candidates should be able to

- *explain* the tax treatment of the following offshore investments:
 - investment funds investing in equities;
 - foreign currency;
 - single premium bonds;
- *identify* the tax implications for investor of 'roll-up' funds, distributor funds and offshore insurance company bonds;
- *identify* the tax reasons for investing offshore.

4. Inheritance tax planning

4.1 Tax planning aspects with particular regard to transfers, exemptions, relief, gifts

Candidates should be able to

- *define* exempt transfers, chargeable lifetime transfers and excluded property and the IHT implications in different circumstances;
- *define* suitability, advantages and disadvantages of potentially exempt transfers, gifts with reservation, business property relief, agricultural property relief;
- *identify* the use of different types of life assurance products to cover IHT liabilities;
- *explain* the application of pre-owned assets tax to the disposal of assets and how this tax applies to life assurance trust arrangements.

4.2 Wills

Candidates should be able to

- *explain* the rules and tax implications governing wills and intestacy/succession;
- *identify* the tax treatment of owning a property either as tenants in common or as joint tenants;
- *explain* the use of discretionary trusts set up under wills; post-death deeds of variation and disclaimers;
- *identify* the difference between mutual wills and mirror/reciprocal wills.

5. Calculation of tax liabilities

5.1 Liabilities of individuals to Income Tax, CGT and IHT; tax planning measures to reduce liability

Candidates should be able to

- *calculate* a tax liability from data given; taking into account appropriate allowances, reliefs and exemptions;
- *demonstrate* practical ways of reducing the liability.

6. The essentials of a trust

6.1 What a trust is; the use of trusts in financial planning

Candidates should be able to

- *define* a trust, relationship between trustees and beneficiaries: equitable interest;
- *explain* the use of trusts including offshore trusts;
- *describe* the three certainties of a trust;
- *describe* how trusts are created.

7. Statutory trusts

7.1 Married Women's Property Act 1882; other statutory trust legislation

Candidates should be able to

- *identify* statutory trusts and explain their provisions for:
 - MWPA 1882;
 - Law of Property Act 1925;
 - Administration of Estates Act 1925;
 - Perpetuities and Accumulation Act 1964.

8. Non-statutory trusts

8.1 Bare, interest in possession, discretionary, business protection, pensions, wills

Candidates should be able to

- *explain* the advantages, disadvantages and suitability of:
 - interest in possession trusts;
 - accumulation and maintenance trusts;
 - discretionary trusts;
 - overseas trusts;
 - will trusts;
 - absolute trusts;
 - bare trusts;
 - express trusts;
 - implied trusts;
 - constructive trusts;
 - inheritance loan trusts (gift and loan plans);
 - discounted gift trusts;
 - trusts for the disabled;
 - trusts for the vulnerable.

9. Trustees

9.1 Powers and duties

Candidates should be able to

- *describe* in connection with trustees: appointment, discharge, duties, honesty, breach of trust, powers of delegation:
 - trustees' duties under the Trustees Act 2000;
 - trustees' powers under the Trustees Delegation Act 1999.

10. Trust assets

10.1 Investment; conversion; apportionment; distribution

Candidates should be able to

- *identify* the provisions for investment under the Trustee Act 2000;
- *describe* the principle of apportionment between capital and income; the calculation of apportionment and the principle of duty to convert;
- *identify* how trust assets are affected by bankruptcy.

11. Suitable trusts for different circumstances

11.1 Planning and tax saving aspects

Candidates should be able to

- *explain* which type of trust is suitable from a given set of circumstances;

- *explain* the tax planning aspects of accumulation and maintenance trusts, discretionary trusts, interest in possession trusts and bare trusts;
- *explain* the use of inheritance loan trusts, discounted gift trusts and trusts for the vulnerable;
- *select* which is the most tax efficient trust in a case study scenario.

12. Tax implications of trusts

12.1 Tax implications for the settlor, the trustees and the beneficiaries and how trusts are taxed for Income Tax, CGT and IHT

Candidates should be able to

- *identify* the tax aspects of Income Tax, CGT and IHT in respect of accumulation and maintenance trusts, discretionary trusts, interest in possession trusts, bare trusts and overseas trusts;
- *describe* how these aspects should be related to the settlor, the trustees and the beneficiary of each type of trust.

13. Tax calculations for trusts

13.1 Tax liability for different types of trust from information given

Candidates should be able to

- *calculate* the liability for Income Tax, CGT and IHT, for different types of trust.

14. Power of attorney

14.1 What a power of attorney is

Candidates should be able to

- *explain* how an enduring and general power of attorney are set up and the implications of doing this.

15. Insurance policies under trust

15.1 When policies should be written under trust, with particular reference to IHT; MWPA and other trust wordings

Candidates should be able to

- *explain* the consequences, including those relating to IHT, of writing a life assurance policy under a discretionary trust, an interest in possession trust, accumulation and maintenance trust and bare trust.

16. Pensions under trust

16.1 When pensions should be written under trust, with particular reference to occupational/personal pensions

Candidates should be able to

- *explain* why a pension is written under trust and how the trust is set up under a formal deed, declaration, board resolution, employer trust;
- *describe* flexible trusts for death benefits, and the IHT implications;
- *explain* how existing pension policies may be put under a discretionary or interest in possession trust and the implications of doing this.

17. Collective investment funds under trusts

17.1 Establishment; authorised or unauthorised; offshore; taxation aspects for unit holders and trust managers

Candidates should be able to

- describe how onshore and offshore collective investment funds are established with reference to:
 - the trust deed;
 - trust objectives;
 - winding-up procedure;
 - income equalisation;
 - issue and redemption of units;
 - expenses;
 - taxation of unit holders;
 - taxation of funds;
 - trustees' remuneration;
 - trusts valuation.

Reading list

The following list provides details of various publications which may assist with your studies. The primary text for this syllabus is shown in bold type. Periodicals and publications listed as additional reading will be of value in ensuring candidates keep up to date with developments and in providing a wider coverage of syllabus topics. Any reference materials cited are authoritative, detailed works which should be used selectively as and when required.

Note: The examination will test the syllabus alone. The reading list is provided for guidance only and is not in itself the subject of the examination.

CII/Personal Finance Society members can borrow most of these additional study materials from CII Information Services and may be able to purchase some at a special discount. For further information on lending and discounts go to www.cii.co.uk/is

Primary text

Taxation and trusts. London: The CII. Coursebook G10.

Case studies

Taxation and trusts. 10th ed. London: The CII, 2005. (Case study workbook; G10.)

Additional reading

Equity and trusts. L B Curzon. 2nd ed. London: Cavendish, 1997.

Equity and trusts. Margaret Halliwell. 4th ed. London: Old Bailey Press, 2003.

Equity and trusts in a nutshell. Angela Sydenham. 5th ed. London: Sweet & Maxwell, 2000.

Essential law for the tax practitioner. Philip Moss, Roger Bertram. 2nd ed. London: Chartered Institute of Taxation, 1997.

The financial adviser's handbook of trustee investment. Ian Muirhead. Epsom, Surrey: Solicitors for Independent Financial Advice, 1998.

Income tax calculations: a step by step practical approach. Bristol: SDB Training. Annual.

Inheritance tax: a step by step practical approach. Bristol: SDB Training. Annual.

Lamont's glossary: the definitive plain English money and investment dictionary for the finance professional and money-minded consumer. Barclay W Lamont. 9th ed. Surbiton, Surrey: Lamonts Glossary Ltd, 2004. Also available online at www.cii.co.uk/is/dictionaries (CII/Personal Finance Society members only).

The law of trusts. J G Riddall. 6th ed. London: Butterworths, 2002.

Modern equity. Hanbury and Martin. 16th ed. London: Sweet & Maxwell, 2001.

The modern law of trusts. Parker and Mellows. 8th ed. London: Sweet & Maxwell, 2003.

Money matters: retirement and beyond. Valerie J Smart. Edinburgh: W Green, 1999.

A step-by-step guide to wills and probate. A K Biggs, K Donnelly. 3rd ed. London: Callow, 2000.

The taxation of trusts: a step by step practical approach. Bristol: SDB Training. Annual.

Tolley's tax guide. Arnold Homer, Rita Burrows. Croydon, Surrey: Tolley. Annual.

Trusts law: text and materials. Graham Moffatt. 4th ed. London: Butterworths, 2004.

St James's Place tax guide. Walter Sinclair. London: Macmillan. Annual.

Wills, administration and taxation: a practical guide. J S Barlow, L C King, A G King. 8th ed. London: Sweet and Maxwell, 2003.

Zurich tax handbook. Harlow, Essex: Pearson Education. Annual.

Periodicals

Financial Adviser. London: FT Business. Weekly. Also available online at www.ftadviser.com

Financial Solutions. London: Editorial Design Concepts. Journal of the Personal Finance Society. Monthly.

Financial Times. London: Financial Times. Daily. Also available online at www.ft.com

The Journal. London: The CII. Six issues a year. Also available online (CII/Personal Finance Society members only) at www.cii.co.uk/is

Money Management. London: FT Business. Monthly.

Money Marketing. London: Centaur Communications. Weekly. Also available online at www.moneymarketing.co.uk

Pensions Management. London: FT Business. Monthly.

Pensions World. Haslemere, Surrey: LexisNexis UK. Monthly.

Examination guides

You are strongly advised to study these before the examination. Please visit www.cii.co.uk to buy online or contact CII Customer Service for further information on +44 (0)20 8989 8464.

Exam technique/study skills

There are many modestly priced guides available in bookshops. You should choose one which suits your requirements. An example is:

The exam secret: how to make the grade. Barbara Brown. Tadworth, Surrey: Elliott Right Way Books, 2000.

For a more interactive approach, you should consider:

Winning the brain game. London: The CII, 1996. CD-ROM.