

# Taxation and trusts

**Objective:** To develop in the candidate, who has already reached the standard of the FPC, not only a knowledge of the UK tax system and the law and practice of trusts, but also an 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.

Changes to the syllabus can be identified by the grey text.

## Assumed knowledge and application skills

It is assumed that the candidate already has the knowledge and application skills gained from study of the relevant elements of units 1, 2 and 3 of the FPC. 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 recommended to take this unit before tackling other units, as its syllabus contains subject matter which is built on in the other units.

**Method of assessment:** See page 5 in the 2004 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.
- The syllabus printed here will be examined in 2004. Changes may be made to the syllabus to be examined in 2005 and these will be highlighted in the 2005 syllabuses.

## 1. Personal taxes

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

*Candidates should know*

- how people liable to Income Tax, CGT and IHT have to settle their liability, and how self assessment works with Income Tax;
- the due dates and how the taxes are collected.

*They should know*

- under which schedules the different types of income are taxed;
- the definition of savings, non-savings and dividend income;
- what allowances are available and to whom they are available;
- what types of income are taxable and non-taxable.

*They should know*

- the types of capital gains which are exempt and non-exempt;
- basic principles of reinvestment holdover and rollover relief;
- application of indexation;
- application of taper relief.

*They should know*

- the exemptions for IHT, tapering relief, the level of the nil rate band and when it is applied;
- the difference between chargeable lifetime transfers and potentially exempt transfers.

### 1.2 Residence and domicile

*Candidates should know*

- the definition of residence, ordinary residence and domicile as it applies in the UK.

*They should know*

- 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 know*

- the different classes of NI contributions and who is liable to pay each class.

*They should understand*

- calculation of the various NI contributions, and the difference between contracted-out and contracted-in NI contributions.

## 2. Tax planning aspects

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

*Candidates should be aware of*

- the differences in taxation procedures for employed and self-employed people;
- how these differences affect the rights and entitlements to State pensions and other State benefits.

*Candidates should know*

- details of Working Tax Credit, Child Tax Credit and Pensions Credit.

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

*Candidates should know*

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

### 2.3 Marriage

*Candidates should know*

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

### 2.4 Children

*Candidates should know*

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

### 2.5 Retirement

*Candidates should know*

- the taxation aspects of investments for people in retirement/senior citizens;
- details and calculation of additional age allowance and the married couple's age allowance.

### 2.6 Bankruptcy and individual arrangements

*Candidates should know*

- 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. Investments

### 3.1 Tax planning uses of onshore investments

*Candidates should know*

- 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; holiday lettings; Individual Savings Accounts (ISAs); investment trusts; letting rooms; 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 know*

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

## 4. Inheritance tax

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

*Candidates should know*

- the definition of exempt transfers, chargeable lifetime transfers and excluded property and the IHT implications in different circumstances;
- the definition, suitability, advantages and disadvantages of potentially exempt transfers, gifts with reservation, business property relief, agricultural property relief.

*They should understand*

- the use of different types of life assurance products to cover IHT liabilities.

### 4.2 Wills

*Candidates should know*

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

*They should understand*

- 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.

*Candidates should be able to*

- 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 know*

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

## 7. Statutory trusts

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

*Candidates should know*

- details of statutory trusts.

*They should understand*

- these trusts with respect to provisions for MWPA 1882;
- other Acts concerning statutory trusts: Law of Property Act 1925, Administration of Estates Act 1925 and Perpetuities and Accumulation Act 1964.

## 8. Non-statutory trusts

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

*Candidates should know*

- the advantages, disadvantages, 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.

## 9. Trustees

### 9.1 Powers and duties

*Candidates should know*

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

## 10. Trust assets

### 10.1 Investment; conversion; apportionment; distribution

*Candidates should know*

- provisions for investment under Trustee Act 2000;
- principle of apportionment between capital and income and the calculation of apportionment; principle of duty to convert;
- 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 recognise*

- which type of trust is suitable from a given set of circumstances.

*They should know*

- the tax planning aspects of accumulation and maintenance trusts, discretionary trusts, interest in possession trusts and bare trusts.

*They should be able to*

- select which is the most tax efficient trust in a case study scenario.

## 12. Tax implications of trusts

### 12.1 How trusts are taxed; tax implications for the settlor, the trustees and the beneficiaries, covering Income Tax, CGT and IHT

*Candidates should know*

- the tax aspects of Income Tax, CGT and IHT in respect of accumulation and maintenance trusts, discretionary trusts, life interest trusts, bare trusts and overseas trusts;
- 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. Insurance policies under trust

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

*Candidates should know*

- 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.

## 15. Power of attorney

### 15.1 What a power of attorney is

*Candidates should know*

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

## 16. Pensions

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

*Candidates should know*

- why a pension is written under trust and how the trust is set up: formal deed, declaration, board resolution, employer trust.

*They should know*

- about flexible trusts for death benefits, and the IHT implications.

*They should understand*

- how existing pension policies may be put under trust: discretionary, interest in possession, and the implications of doing this.

## 17. Collective investment funds

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

*Candidates should know*

- the mechanics of 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.

Most of these additional study materials can be borrowed or purchased from CII Information Services at [www.cii.co.uk/is](http://www.cii.co.uk/is)

## Primary text

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

## Case studies

Taxation and Trusts. 7th ed. London: Chartered Insurance Institute, 2003. (Case study workbook; G10).

## Reference works and additional reading

Easy Steps to Understanding Income Tax Calculations: a Step by Step Practical Approach. Chorleywood, Herts: Life Insurance Association, 2000.

Easy Steps to Understanding Inheritance Tax: a Step by Step Practical Approach. Chorleywood, Herts: Life Insurance Association, 2000.

Easy Steps to Understanding the Taxation of Trusts and the Implications: a Step by Step Practical Approach. Chorleywood, Herts: Life Insurance Association, 2000.

Equity & Trusts. L. B. Curzon. 2nd ed. London: Cavendish, c1997.

Equity and Trusts. Textbook. 3th ed. London: Old Bailey Press, 2001.

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.

Lamont's Glossary: the Definitive Plain English Money and Investment Dictionary for the Finance Professional and Money-Minded Consumer. Barclay W. Lamont. 8th ed. London: Advanced Media Group, 1997.

The Law of Trusts. J. G. Riddall. 6th ed. London: Butterworths, c2002.

Modern Equity. Hanbury & Martin. 15th ed. London: Sweet & Maxwell, 1997.

The Modern Law of Trusts. Parker and Mellows. 7th ed. London: Sweet & Maxwell, 1998.

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.

Tolley's Tax Guide. Arnold Homer, Rita Burrows. Croydon, Surrey: Tolley. Annual.

Trusts Law: text and materials. Graham Moffatt. 3rd ed. London: Butterworths, 1999.

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. 7th ed. London: Sweet and Maxwell, 1997.

Zurich Tax Handbook. Harlow, Essex: Pearson Education. Annual.

## Periodicals

Financial Adviser. London: FT Business. Weekly. Also available online at [www.ftadviser.com/financial\\_adviser](http://www.ftadviser.com/financial_adviser)

Financial Times. London: Financial Times. Daily. Also available online at [www.ft.com](http://www.ft.com)

The Journal. London: The CII. Six issues a year. Also available online (CII members only) at [www.cii.co.uk/is](http://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](http://www.moneymarketing.co.uk)

Pensions Management. London: FT Business. Monthly.

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

Planned Savings. London: Informa. Monthly.

Prospect. Chorleywood, Herts: Life Insurance Association. Monthly.

Technical Adviser. London: Society of Financial Advisers in association with Technical Connection. Quarterly. Also available online at [www.sofa.org](http://www.sofa.org) (SOFA members only) or [www.cii.co.uk/is](http://www.cii.co.uk/is) (pay per view).

Which? London: Consumers' Association. Monthly.

## Examination guides

You are strongly advised to study these before the examination. Please visit [www.cii.co.uk](http://www.cii.co.uk) to buy online or contact CII Customer Service for further information on 020 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.