

Institution **CIOT - CTA**  
Course **Adv Tech IHT Trusts and Estates**

Event **NA**

Exam Mode **OPEN LAPTOP**

Answer-to-Question-\_1\_

1)

The trust was UK resident since the settlor was UK domiciled and UK resident and one of the trustees is UK resident.

The trust became non-UK resident as all trustees were non-UK resident once Amanda resigned.

Therefore, until 05/02/2023, the trust is subject to income tax and capital gains on its worldwide income and gains. From and including 06/02/2023, the trust is subject to income tax on UK income and CGT on gains relating to residential property only.

Income tax

			NS	S	D
UK interest	3,000+600			3,600	
UK divs	10,000+1,000				11,000
UK rental	10,000+2,000-2,500		9,500		
			9,500	3,600	11,000
less expenses	500*100/91.25				(548)
			9,500	3,600	10,452
standard rate	1,000@20%	200			
NS income	8,500@45%	3,825			
S income	3,600@45%	1,620			
D income	10,452@39.35%	4,113			
expenses	548@8.75%	48			
accrued income	300@45%	135			
		9,941			

accrued income deemed capital and taxable at 45%, not credit for this in R185.

income tax due and self assessment tax return by 31/01/2025 for 2023/24 tax year.

Since all income is UK sourced, taxable on all income for the year.

Capital gains

**Sale of 50 rasberry shares 08/10/2022**

Proceeds			35,000		
less cost	225,000*		(25,000)		
	50/450				
gain			10,000		

**Sale of 50 rasberry shares 14/01/2023**

**Base cost**

Purchase		450	225,000		
04/05/20					
15					
sale		(50)	(25,000)		
08/10/20					
22					
		400	200,000		
purchase		55	41,250		
10/11/20					
22					
		455	241,250		
Proceeds			40,000		
less cost	241,250*		(26,511)		
	50/455				
			13,489		

Disposal of treasury stock is exempt disposal for CGT purposes. Since trust became non-resident from and including 06/02/2023, any disposal of the UK shares will not be subject to UK CGT. Disposal of shares on 06/03/2023, therefore not subject to UK CGT. Capital gains tax and self assessment tax return by 31/01/2025 for 2023/24 tax year.

Total gains	13,489+10,000		23,489		
less AEA			(6,150)		
			17,339		
CGT @ 20%			3,468		

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The commercial property would be taxable at a rate of 20% as it is not residential on the difference in value at 05/02/2023 of 450,00 and the cost of 200,000.

Proceeds			450,000		
less cost			(200,000)		
gain			250,000		
CGT @ 20%			50,000		

Since amanda is resigning and the trust is becoming non-UK resident, this gives rise to a deemed disposal of all assets at 05/02/2023.

Since the UK commercial property falls under the non-resident capital gains tax rules and will be taxable at a later date on the eventual disposal, even whilst the trust is non resident, it is possible for no deemed disposal to arise on this.

There will be no deemed disposal of the cash.

**Strawberry plc shares**

proceeds			70,000		
less cost			(50,000)		
gain			20,000		
CGT @ 20%			4,000		

The annual exempt amount has already been used in the year against the actual disposals so will not be available.

**Raspberry shares**

The deemed disposal will be on the remaining shares held at 05/02/2023.

Value at 05/02/2023			384,000		
less base cost remaining	241,250-26,511+58,125		(272,864)		
gain			111,136		

CGT @ 20%			22,272		

2)

Distribution to Tilly gives rise to an exit charge since the trust is discretionary and is a relevant property trust. Edward paid tax on way in so value of trust at 17/01/2015 is the amount settled of 900,000

Initial value of trust				900,000	
NRB			325,000		
less CTs prior 7 years to creation			(nil)		
less distributions prior 10 years			(nil)	(325,000)	
				575,000	
notional tax @ 20%				115,000	
effective rate	(115,000 / 900,000) @ 30%			3.8333%	
actual rate	3.8333%* (31/40)			2.971%	
exit charge	2.971%*75,000			2,228	

17/01/2015-13/01/2023 = 31 quarters  
would be 32 quarters is was a few days later at 17/01/2023.  
exit charge due by 31/07/2023 on delivery of IHT100.

tilly paying IHT so no need to gross up actual rate.

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-----ANSWER-1-ABOVE-----  
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-----ANSWER-2-BELOW-----  
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Answer-to-Question-\_2\_

Residence

The trust is non-UK resident and non-UK domiciled since Fernando was non-domiciled when he set up the trust. The trust is an excluded property trust as it was settled by a non-UK domiciled settlor and all the assets are outside the UK. All non-UK assets are excluded property, making it a EPT. The trust therefore does not file tax returns in the UK and is not subject to relevant property charges of exit and principles charges.

Income tax

For income tax purposes the trust is not settlor interested as Fernando nor his spouse can benefit from the trust.

As the trust not settlor interested and Fernando is non-UK resident, the anti avoidance provisions tax the beneficiaries under s. 731. This is only where a benefit is received, which is first matched against accumulated income and then against gains once income is exhausted.

An income tax charge will not arise where it can be shown that the reason for the settlement was not mainly to avoid tax, however the burden of proof of this is on the taxpayer and is difficult to prove. HMRC are unlikely to accept a claim of this. Charges will only arise on UK resident beneficiaries as non-residents are not subject to UK tax. If non-resident beneficiaries receive a benefit, accumulated income or undistributed gains will not be wasted against these distributions. Therefore, the distribution to Matteo will not use any of the gains or accumulated income. Income that has accumulated and has not been used will carry forward to set against future benefits.

Distribution of 120,000 is first matched against accumulated income of 8,500.

Trust income			8,500		
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basic rate band	37,000- (40,000- 12,570) = 9,570	8,500@20%	1,700		
			1,700		

income tax of 1,700 will be due by 31 January 2025 for the 2023/24 tax year. A self assessment tax return will be required to be filed by the same date to report this trust income.

No UK tax credit comes with this income since it is not taxable in the UK with all non-UK situs assets.

The beneficiary may be able to claim back some of the foreign tax suffered by the trust using Form ESC B18.

Capital gains tax

For CGT purposes, the trust is settlor interested as Fernando's grandchildren can benefit from the trust. Since Fernando is non-UK domiciled and non-UK resident now and cannot be taxed, the transfer of assets abroad anti-avoidance provisions tax the beneficiaries under s. 87.

They are taxed under s.87 when they receive a benefit. A benefit includes a low interest loan and capital distribution.

The benefit is first matched with accumulated income and then available gains.

A supplementary charge will arise at 10% each year for gains not distributed in the year they arise or the following year. This is up to a maximum of 60%.

Losses that arise are only available to carry forward against future gains and cannot be set against previous gains.

Charges will only arise on UK resident beneficiaries as non-residents are not subject to UK tax. If non-resident beneficiaries receive a benefit, accumulated income or undistributed gains will not be wasted against these distributions. Therefore, the distribution to Matteo will not use any of the gains or accumulated income.

Personal capital losses of the beneficiaries cannot be set against trust gains attributed to them. The annual exempt amount of the beneficiary is available to set against gains though.

Gains that have not been set against benefits will continue to carry forward to match against future benefits.



Gains are used on a last in first out basis (LIFO earlier gains used first).

The unmatched distribution of 111,500 (120,000-8,500) will now be set against gains in a LIFO basis.

Loss from 2018/19 carries forward tpo reduce 2019/20 gain.

Unmatche d distribu tion				111,500	
2022/23 gain				(56,457)	
2020/21 gain				(21,364)	
2019/20 gain			27,450-1 5,250	(12,200)	
2017/18				(11,213)	
Unmatche d distribu tion at 6 April 2024 to carryfow ard				10,266	

The unmatched benefit of 10,266 will carryforward and will be set against future accumulated income and gains from 2024/25 as none anticipated in 2023/24.

All income and gains have been exhausted.

The benefit matched with the gains will become taxable.

2022/23 gain				56,457	
2020/21 gain				21,364	
2019/20 gain				12,200	
2017/18 gain				11,213	

				101,234	
AEA				(12,300)	
				88,934	
CGT @ basic rate	9,570-8,500	1,070@10%		107	
		87,864@20%		17,573	
				17,680	
supplementary charge:					
2020/21	17,680* (21,364/101,234)	@30%		1,119	
2019/20	17,680* (12,200/101,234)	@ 40%		852	
2017/18	17,680* (11,213/101,234)	@ 60%		1,175	
				20,826	

No supplementary charge will arise on 2022/23 as these were distributed in the following year after they arose.  
 2020/21 gains will suffer a charge of 30%  
 2019/20 gains charge will be 40%  
 2017/18 gains will be 60%

CGT and charges due by 31/01/2025.

The beneficiary may be able to claim back some of the foreign tax suffered by the trust using form ESC B18.

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 -----ANSWER-2-ABOVE-----  
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-----ANSWER-3-BELOW-----  
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Answer-to-Question-\_3\_

Lifetime gift

Since Hitesh paid the tax on the lifetime gift into trust, the gross chargeable lifetime transfer would have included the tax paid on settlement.

Candle Ltd		1,500,000			
less BPR @ 100%		(1,500,000)		Nil	
Office building		400,000			
less BPR @ 50%		(200,000)		200,000	
Cash				300,000	
Quoted shares				250,000	
				750,000	
less 2018/19 AE				(3,000)	
less 2017/18 AE b'fwd				(3,000)	
CLT				744,000	
NRB				(325,000)	
Taxable				419,000	
IHT @ 20/80				104,750	
GCLT	104,750+			848,750	
	744,000				

BPR was available at 50% on the value of the office building as it was used by the partnership of which Hitesh was a partner, assuming he has a controlling holding. At the point it was settled into trust, it has met the ownership condition of 2 years.

Death tax on lifetime gift to trust

GCLT				848,750	
BPR withdrawn				1,500,000	
				2,348,750	
NRB				(325,000)	
				2,023,750	
IHT @ 40%				809,500	
less taper relief	4-5 years =40%			(323,800)	
				485,700	
less lifetime tax paid				(104,750)	
				380,950	

Since the office building was held by the trust for at least 2 years, BPR @ 50% will remain. It doesn't matter that Hitesh has deceased and is no longer controlling shareholder as he was at the date of the initial gift. Therefore BPR is not withdrawn on the building.

Since the shares in Candle Ltd had been disposed of and were no longer held at death, BPR is withdrawn in full. Taper relief available as more than 3 years since gift to trust and death.

IHT due by trustees 31/10/2023 or on delivery of IHT400 if earlier.

2)

The trustees should use the gross sale proceeds of 1,800,000 and reinvest into relevant business property.

If this is done within 2 years of the disposal of the candle LTD shares, the ownership period will be deemed to continue.

The ownership rule is that for BPR the asset is held for 2 years. There are rules to help meet this rule as follows:

- sold and replaced using all the proceeds to reinvest within 2 years of disposal of RBP

- a spouse is treated as inheriting their late spouses ownership p[eriod if on death
- there have been two transfers of relevant business property and the earlier transfer was made on death and BPR was available on this earlier transfer.

Relevant business proeprty is:

- shares in an unqupoted trading company, available at 100%
- shares in a quoted treading company of which the doner has a controlling shareholding of more than 50%, BPR available at 100%
- business proeprty, land, property, plant & machinery used by the company, available at 50%, where they also have a controlling shareholding in the company
- partnershgp or business hsare, avasilable at 50%

If the company is an invetsment company, this is specifically excluded.

If the gross proceeds of 1,800,00 are not wholly reinvested into relevant buysienss proeprty, BPR will not be deemed to have continued.

If the sale proceeds are reinvested in relevant business proeprty, within 2 years of disposal, the BPR wont be deemed to have been withdrawn.

If so, the trustees can make a claim and can a refund on the IHT paid on the BPR withdrawn at death.

It is also available on holding companies that are mainly trading, mainly means more than 50%.

If there is acontarct for sale, BPR will be withdrawn or not avialble.

Therefore the trust should use the gross proceeds, ignoring the cost of sale, to reinvest into business property wqualifying for 100% BPR to ensure none of the BPR is withdrawn.

If this is done within 2 years then the position woul db e as follows, as it is treated as satisfying the condiiton opf BPR.

GCLT				848,750	
NRB				(325,000)	
				523,750	

IHT @ 40%				209,500	
less taper relief	4-5years = 40%			(83,800)	
				125,700	
less lifetime tax paid				(104,750)	
				20,950	

The difference of (380,950-20,950) 360,000 will be repayable if this is done.

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 -----ANSWER-3-ABOVE-----  
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-----ANSWER-4-BELOW-----  
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Answer-to-Question- \_4\_

NRB

NRB 2007/08				300,000	
less lifetime gift		100,000- 6,000		(94,000)	
less cash to daughter from estate				(100,000)	
Unused				106,000	
Unsued NRB	(106,000 /300,000 ) *100			35.333%	

Since Peter did not use all of his Nil rate band, Maria will inherit the remaining NRB on her death. Transfer were to Maria on Peter's death was covered by the spousal exemption.

The 50% of the family home was covered by spousal exemption as Maria has the lfe interest with Jeanie as the remainder man. On Maria's death, the famiyl home goes to Jeanie and forms part of her estate.

NRB available on Maria's death =  $135.333\% \times 325,000 = 439,833$

No available NRB left after Peters death as fully used when including half share of home going to daughter.

RNRB

The residential nil rate bamnd of Peter will be available in full as this wasnt available in 2007/08 and therefore was fully unused. Maria will inherit this

$175,000 \times 200\% = 650,000$

RNRB available as etstae does not exceed £2 millipn. It is

tapered £1 for every £2 where the estate exceeds £ 2 million.

Marias lifetime gifts

The 3 gifts made in marias lifetime potentially exempt transfers and only hchargebale if death is within 7 years. Taper relief is available if mor than 3 on the amount not covered by the NRB. Gift to daughter of 100,000 is not taxable on death as more than 7 years.

Gift to granddaughter 2018				20,000	
less marriage exemption				(2,500)	
less 2018/19 AE				(3,000)	
less 2017/18 AE b'fwd				(3,000)	
				11,500	

PET of 11,500 covered by NRB to granddaughter on death.

gift to grandson				20,000	
less 2019/20 AE				(3,000)	
less 2018/19 b'fwd	used			(Nil)	
				17,000	

Gift to grandson of 17,000 also covered by NRB on death.

Estate

50% main residence		600,000			
less tenanted deduction	@10%	(60,000)		540,000	
Pineapple crush		15,000*204p		30,600	
Peach Plc		30,000*166p		49,800	



Fruit Salad UT		5,321.94 *98p		5,216	
bank account				43,987	
premium bonds				50,000	
personal goods				25,000	
motor vehicles				15,000	
Industrial unit			500,000		
less BPR @ 50 %			(250,000)	250,000	
70% shareholding in jerram Ltd			960,000		
less BPR @ 100%			(960,000)	Nil	
				1,009,603	
less liabilities				(10,013)	
				999,590	
NRB			325,000		
less CTs prior 7 years			(11,500+ 17,000)	(296,500)	
				703,090	
less exempt charitable legacy				(38,328)	
				664,762	
IHT @ 36%				239,314	

Inheritance tax due on the death estate will be due 31/08/2023 or

on delivery of the IHT400 if earlier.

Tenanted deduction of 10% as daughter owns other half share of property.

Quoted companies take lower of average of quarter up rule.

Pineapple crush:204p

-  $(207-203)/2 = 205$

-  $203+1 = 204$

Peach Melba Plc:166p

-  $(164+172)/2 = 168$

=  $164+2 = 166$

Authorised unit trust uses lower of bid prices.

Fruit Salad Unit Trust: 98p

Premium bonds winnings exempt from income tax but included as asset in death estate.

Victoria cross medal is an exempt asset in the death estate, even if awarded to grandfather. This remains outside scope of IHT.

Jerram Ltd qualified for BPR @ 100% on the death of Peter since it was an unquoted trading company which was held for at least 2 years at the date of this death. As this was transferred to Maria on the death of Peter (spouse), Maria inherits Peter's ownership period. Therefore BPR is available on Maria's death as she continued to hold these shares at her death. She would've satisfied the ownership period of 2 years anyway.

Related property rules do not apply with Peter's cousin, but they will apply to Maria as trust of which she has an interest in possession, holds 50% of the shares in Jerram Ltd of which she holds 20%.

The holding within the trust of the shares & business property is covered by BPR and since the trust continues to hold these shares and business property, BPR will remain as the trust has met the 2 year ownership period themselves.

BPR is only available at 50% on business [property used by the company where there is a controlling shareholding]. Under related property rules, this is satisfied.

Charitable donation

To get the lower rate of 36%, a charitable donation will be made at 10% of the baseline amount. The baseline amount considers all reliefs but not the residential nil rate band or amount of exempt legacy to charity.

net estatee		999,590	
NRB	325,000		
less CTs prior 7 years	(11,500+17,000)	(296,500)	
		703,090	
baseline amount	@10%	70,309	

charitable legacy made of 70,309 to get lower rate of 36%

Section 39a spreading will apply as residue contains BPR and specific gift made which is a non BPR asset.

Estater before BPR	1,009,603+250,000+960,000		2,219,603	
Estate after BPR			1,009,603	
Spreading	70,309*(1,009,603/2,213,603)		31,981	

Spreading will reduce the charitable legacy which is exempt by allocating some of the BPR from the residue against it and therefore wasting the BPR.

31,981 will therefore be allocated to the exempt charitable legacy, meaning only 38,328 (70,309-31,981) will only be exempt in the estate.

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-----ANSWER-4-ABOVE-----  
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-----ANSWER-5-BELOW-----  
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Answer-to-Question-\_5\_

1)  
Since she left no will but had issue (children), the surviving spouse (shemar) will take any personal chattels absolutely and a fixed net sum of 270,000 being tax free, with the residue being split with 50% on trust for the spouse and 50% on trust for the children.

As Lisa was UK resident and domiciled, her estate includes her worldwide assets.

Lifetime gifts

15/11/2014 - cash gift to non dom spouse

Gift to non-dom spouse		250,000	
less 2014/15 AE		(3,000)	
less 2013/14 AE b'fwd		(3,000)	
PET		244,000	

No death tax as was potentially exempt transfer and more than 7 years since gift.

16/12/2019 - half share of property to non-dom spouse

Gift of half share		200,000	
less 2019/20 AE		(3,000)	
less 2018/19 AE b'fwd		(3,000)	
PET		194,000	

Death tax due on 2019 gift as less than 7 years since PET.

PET		194,000	
less spousal exemption	325,000	(325,000)	
		(131,000)	

Gift in 2019 covered by spousal exemption, 131,000 remaining for

death estate.

Estate				4,500,000	
Villa		550,000*		275,000	
		50%			
				4,775,000	
less foreign probate costs		275,000*		(13,750)	
		5%			
net estate				4,761,250	
less spousal exemption				(131,000)	
less NRB				(325,000)	
				4,305,250	
IHT @ 40%				1,722,100	

No tenanted deduction for villa held jointly with spouse.  
No residential nil rate band available on death as estate exceeds £2,350,000 as tapered from £2 million.

Spousal exemption available to use in full as net sum exceeds this.

IHT due by 30/05/2023 or on delivery of IHT400 if earlier.

2)

As Shemar is a non-domiciled individual, the spousal exemption between Lisa to Shemar is only 325,000 rather than exempt.

It is possible for Shemar to make an election and be treated as a domiciled individual if a claim is made within 2 years of Lisa's death/.

This election only applies for inheritance tax purposes and not income tax/ capital gains tax so he will not be subject to other tax in the UK.

If the claim is made, any transfers to Shemar will be fully exempt as he is treated under the normal spousal rules.

The election cannot be revoked once it is made.

If the claim is made, Shemar is treated as being domiciled in the UK for IHT purposes until 4 years have passed as Shemar being a non-UK resident, post the election. Therefore, if he dies during this period, his entire estate would be subject to UK IHT. This is opposed to only his UK assets being subject to UK IHT as a non-domiciled individual.

The notice to be treated like this must be made in writing to HMRC.

The claim can be made to take effect from an earlier date than death of up to 7 years to include any lifetime gifts made from Lisa to Shemar which may become taxable on her death but not a date earlier than marriage, being 10/01/2010 or 06/04/2013. Therefore, can be treated as taking effect from 23/11/2015.

Shemar should weigh up his age and health as to whether he would survive 4 years post the election as a non-UK resident to not be caught by UK IHT on his worldwide assets.

Shemar will have no IHT liability in the UK if the amount inherited from Lisa is taken offshore as he will have no UK assets.

If the election is made there would be a large tax saving as a fixed net sum of 270,000 (tax free) plus half the residue would be exempt from IHT as follows.

net estate				4,761,250	
less fixed net sum to spouse				(270,000)	
				4,491,250	
less exempt residue 50% to trust				(2,245,625)	
				2,245,625	
less NRB				(325,000)	
				1,920,625	
IHT @ 40%				768,250	


Assuming election made going back so lifetime gifts does not use NRB.

The election should be made for the IHT saving and going back to before 15/11/2014 so that the earlier lifetime gifts are covered by the spousal exemption and do not use any of the NRB, even though the 15/11/2014 is outside of the 7 years.

This gives a tax saving of 953,850 (1,722,100-768,250).

Shemar should remain non-resident once the election is made so that the 4 year clock of being non-resident starts straight away for the election to cease.

If ceases within 4 years:

worldwide estate				1,200,000	
inherited residue	((4,761,250-270,000)/2)-768,250			1,477,375	
fixed net sum cash				270,000	
				2,947,375	
NRB				(325,000)	
				2,622,375	
				1,048,950	

Quick succession relief will not be available as no tax paid on amount to spouse as covered by exemption.

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-----ANSWER-5-ABOVE-----  
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-----ANSWER-6-BELOW-----  
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Answer-to-Question-\_6\_

Principle charge on 07/01/2023 will mean IHT is due 31/07/2023 or on delivery of IHT100 if earlier.

Interest in possession from age 25 and no entitlement to capital, on trustees discretion.

IIP that arise after 22/03/2006 will not be qualifying and are under relevant property rules.

QIIP is only for immediate post death interests, transitional serial interests, created before 22/03/2006 or disabled trust.

31/01/2013 exit

07/01/2013-31/01/2013 = 0 quarters

exit was within firsts quarter following principle charge to no exit charge as 0 quarters for all 4 of 25,000 distributions.

16/04/2018 - adriana

effective rate				4.6%	
actual rate		$4.6\% \times 20 / 40$		2.3%	
gross up		$2.3\% \times 100 / (100 - 2.3)$		2.354%	
exit charge		$2.3\% \times 150,000$		3,531	

31/03/2013-16/04/2018 = 20 quarters

due with IHT 100 31/10/2018.

21/10/2022 - sam cash

effective rate				4.6%	
actual rate		$4.6\% \times 38 / 40$		4.37%	
gross up		$4.37\% \times (100 / (100 - 4.37))$		4.57%	



exit charge		4.37%*150,000		6,855	

31/03/2013-21/10/2022 = 38 quarters  
due 30/04/2023 with IHT 100.

21/10/2022 - sam unit 7

exit charge		4.37%*95,000		4,152	

due 30/04/2023 with IHT 100.  
same rate as above.

21/10/2022 - jamie unit 8

exit charge		4.37%*95,000	4,152		
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due 30/04/2023 with IHT 100.  
same rate as above.

21/10/2022 - adriana unit 3

exit charge		4.37%*106,200	4,641		

due 30/04/2023 with IHT 100.  
same rate as above.

Legal costs

Legal costs can be considered in value of asset at exit, havent been included above.

CGT

The exits are deemed to have been disposed of by the trust at their market values, the legal costs are considered. CGT is at a rate of 20% as no residential property and the trust has an annaul exempt amount of 6,150.

CGT is due by 31st January following the tax year of disposal. S.260 gift relief is available to rollover the gain of the trustees against the market value, the beneficiaries will receive the assets at the same base cost of the trust if the claim is made.

This would need to be made within 4 years of the end of the year of gift.

S.260 can apply as transfer subject to IHT on same transfer even if nil payable like 31/01/2013 exit.

07/01/2023 principle charge

current value	UK listed shares			3,458,000	
	AIM		500,000		
	less BPR @ 100%		(500,000)	nil	
	securities			296,354	
	portfolio			960,000	
	accumulated income 2018			30,000	
				4,744,354	
NRb			325,000		
less CTs prior 7 years before creation			(nil)		
less distributions in prior 10 years			(696,200)	(Nil)	
				4,744,354	
Notional tax @20%				948,871	
effective rate				20%	
actual rate				6%	
Principle		$(6\% \times 40/40) \times 4,744$			

e charge		,354			
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principle charge considers BPR.

AIM is considered unlisted so BPR available at 100% as held for at least 2 years/.

undistributed income which has accumulated and not formally capital, will be added to value of trust if accumulated more than 5 years ago.

all rates grossed up as payable by trustees.

Npo NRB available so actual rate is of 6%