

Institution **CIOT - CTA**  
Course / Session **Adv Tech IHT Trusts and Estates**  
Extegrity Exam4 > 23.11.8.64

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

Event **NA**

Exam Mode **OPEN LAPTOP + NETWORK**

Answer-to-Question-\_1\_

Part one

UK domiciled individuals are liable to IHT on their worldwide assets. Non-domiciled individuals are only liable to IHT on their UK assets, their foreign assets are excluded property.

Jake was born in the US to US parents and has an American domicile of origin. Jake intends to return to the US so he has not acquired a UK domicile of choice.

Jake has been UK resident since 2010, i.e. from the 2009/10 tax year. From the 2024/25 tax year, i.e. from 6 April 2024, Jake will be deemed UK domiciled as a long-term resident on the basis that he will have been UK resident in 15 of the previous 20 tax years.

When Jake settled the trust, he was non-UK domiciled. Therefore the transfer of the US share portfolio was excluded property.

The residential property was immediately chargeable as it is a UK situs asset.

The trust will be non-UK domiciled, matching Jake's domicile position at the time of creation. Therefore, only the trust's UK assets will be relevant property within the scope of UK IHT. Jake is excluded from benefit, therefore the trust is not a GWROB and does not form part of his estate.

The immediate IHT consequences were as follows:

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June 2014			
Gift to trust	300,000		
Less: 14/15 AE	(3,000)		
Less: 13/14 AE	(3,000)		
CLT	294,000		

There was no IHT immediately payable as the gift was below Jake's nil rate band (NRB) of £325,000. The gift of the shares were excluded property (US situs).

As Jake is UK resident, he is chargeable on his worldwide gains. The residential property was his main residence prior to the transfer into the trust. Therefore the gain was covered by Principal Residence Relief (PRR) and there was no taxable gain. The US shares give rise to a gain of £6,000, however this would have been covered by Jake's annual exemption.

Gift relief would not have been in Jake's interest, although the transfer was immediately chargeable to IHT. There was no taxable gain, and a gift relief claim would mean that no PRR could then be claimed by the trustees. Moreover, the trust is non-resident and therefore gift relief could not have been claimed.

As the trustees are both US resident, the trust is non-UK resident. Therefore the trustees only pay income tax on any UK sources of income, and capital gains tax on any disposals of UK land and property under the NRCG rules.

As the residential property was the only potential source of UK income, the trustees should not have an income tax liability. If they did, the income would be taxed under the rates applicable to trust as the trust is discretionary.

The trustees should register the trust with HMRC's trust registration service.

### Part two

The trustees have disposed of a UK residential property so the NRCG rules must be considered. Disposals of UK property were brought into charge from 6 April 2015. There are three ways of calculating the gain:

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Original proceeds less cost:

Proceeds	475,000		
Less: cost	(300,000)		
Gain	175,000		

Time apportioned gain:

Property within trust from 1 June 2014 to 31 March 2024, i.e. 118 months.

Property was within the charge of CGT between 6 April 2015 and 31 March 2024, i.e. circa 108 months.

The time apportioned gain is therefore:  $175,000 \times 108/118 = 160,169$

If 6 April 2015 is used as the base cost, the gain is as follows:

Proceeds	475,000		
Less: cost	(325,000)		
Gain	150,000		

Since this method produces the lowest gain, this figure will be used. The gain is then reduced by PRR as the property was occupied by beneficiaries as a main residence during part of the ownership period.

Months ownership, 118 months (as above).

Months occupation: 1 June 2014 to 30 June 2020, 73 months

Months occupation: 1 Sep 2020 to 30 June 2023, 34 months

Last 9 months deemed occupation: 1 July 2023 to 31 March 2024, 9 months

Total months occupation: 116

Gain	150,000		
Less: PRR (150k x 116/118)	(147,458)		

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Chargeable gain	2,542		
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As the gain was below the trustees annual exemption of £3,000, there is no CGT to pay. Note that the trustees receive the full annual exemption, that is half the amount available to an individual, as Jake has not settled any other trusts.

### Part 3

As neither Jake nor a spouse can benefit from the trust, the trust is not settlor interested for income tax purposes.

As Jake's daughter is a beneficiary, the trust is settlor interested for CGT purposes, however as Jake is still non-UK domiciled he cannot be taxed on the trust gains on an arising basis.

As the settlor cannot be taxed on the trust income and gains, HMRC will seek to tax UK resident beneficiaries. Eloise and Phoebe are both UK resident, therefore any benefits received will be matched first to any accumulated income and thereafter to trust gains on a last in first out basis. Where there is a delay of more than one tax year in matching a gain, a supplementary charge will arise.

Between June 2014 and June 2020, Eloise lived in the property rent free. This was a benefit of £15,000 per annum from June 2014 to 31 March 2019. This would have been matched with the trust portfolio income of £20,000 per annum. Eloise would then have gross foreign non-savings income of £15,000 per annum, and each year unmatched income of £5,000 would have carried forward to match against future trust income and gains.

During the 2023/24 tax year, Phoebe lived rent free in the property for three months (April to June). This was a benefit of £4,500. The benefit will be matched with the trust income of £20,000. There will be unmatched income of £15,500 to carry forward.

Prior to 2023/24, Phoebe would have been receiving a benefit of £18,000 per annum which would have been matched with the portfolio income of £20,000. Leading to gross income of £18,000, and unmatched income of £2,000 to carry forward. For the 2020/21 tax year, the benefit would be apportioned to reflect the period

that Phoebe occupied the property.

In addition, the element of the trust gain accruing before 6 April 2015, i.e. £25,000, will carry forward to be offset against future benefits provided to the UK resident beneficiaires.

As Eloise moved to the UK, and has a US domicile of origin, she may be able to elect to use the remittance basis. This will not be possible if she has acquired a UK domicile of choice, i.e. she intends to settle permanently in the UK, or if she has become deemed UK domiciled as a long-term resident.

Likewise, Phoebe may have a non-UK domicile, in which case a remittance basis claim could be used to avoid an income tax charge. In this case, there are no proceeds or income to keep offshore.

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

Gerard has a non-UK domicile of origin. He has not acquired a UK domicile of choice as he does not intend to settle permanently in the UK. He has been UK resident since 2018 which is not enough to make Gerard deemed UK domiciled as a long term resident, as he would need to have been resident for at least 15 out of the previous 20 tax years.

Therefore, only Gerard's UK assets are within the scope of UK IHT. Any foreign assets are excluded property.

Lifetime transfers

January 2020

The company is a closed company as there are fewer than 5 shareholders. Transfers are attributed in proportion with Jessie and Gerard's shareholdings.

The company is a property investment company, therefore BPR is unavailable.

UK situs property is transferred, therefore this is within the charge of UK IHT.

The transfer is immediately chargeable to IHT, however it is below Gerard's NRB.

	900,000		
25% to Jessie	225,000		
75% to Gerard	675,000		

Loss to donor			
Gift of property	675,000		

Value of property in Gerard's estate (N)	(405,000)		
Loss to donor	270,000		
Less: 19/20 AE	(3,000)		
Less: 18/19 AE	(3,000)		
CLT	264,000		

N) Net of 10% tenanted discount. 900k x 50% x 90%

April 2021

A German commercial property is excluded property.

January 2022

The company is based in Germany and is a non-UK situs asset. However, where UK residential property is owned by an offshore company, the value of the shares attributable to UK residential property is within the scope of UK IHT from 6 April 2017.

The value of the shares attributable to UK residential property as at 31 December 2021 is as follows:

UK residential property	1,000,000		
Less: mortgages	(500,000)		
	500,000		

Therefore when Gerard transfers 75% of his shareholding to the trust, the value of UK property transferred is £375,000.

Transfer of value	375,000		
Less: 21/22 AE	(3,000)		
Less: 20/21 AE	(3,000)		



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CLT	369,000		
Less: NRB (325k - 264k)	(61,000)		
Taxable	308,000		
IHT @ 25%	77,000		

Gerard is paying the IHT. Tax in lifetime transfers is due on the later of 30 April following the end of the tax year, or six months from the end of the month of the transfer, i.e. by 31 July 2022.

Tax due on death (lifetime transfers)

The January 2020 transfer is covered by Gerard's NRB.

Additional tax is due on the January 2022 gift. The gift was within three years so no taper relief is available. The company is liable for the IHT, which is due no later than six months from the end of the month of Gerard's death, i.e. by 31 October 2024.

Gross CLT	446,000		
Less: NRB	(61,000)		
Taxable	385,000		
IHT @ 40%	154,000		
Less: lifetime IHT paid	(77,000)		
Tax due	77,000		

Tax on death (death estate)

Gerard could not benefit from the trust so the trust assets do not form part of his estate on death.

Gerard's UK estate only is within the charge of IHT. There is no NRB available to Gerard's executors as this was used entirely against the lifetime transfers. No RNRB is available as a main residence is not left to a lineal descendant.

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Car	40,000		
Chattels	5,000		
Bank account (joint) (N)	12,500		
Cash ISA	20,250		
Less: expenses	(1,000)		
Total	76,750		
IHT @ 40%	30,700		

N) I have assumed that £25,000 is the sum in the joint bank account and not Gerard's share.

The tax is payable by Gerard's executors on the earlier of six months from the end of the month of death, i.e. 31 October 2024, or on submission of the inheritance tax return.

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

Death estate

Oaktrees (N1)	900,000		
Less: spouse exemption	(900,000)		
Joint bank account (N2)	200,000		
Less: spouse exemption	(200,000)		
Share of rental property (N3)	83,333		
Personal Chattels	10,000		
111			
ISA stocks & shares	160,000		
Cash ISA	40,000		
Spanish property	150,862		
Less: probate costs (N4)	(7,543)		
	143,319		
Less: expenses	(5,000)		
Total free estate	431,652		

QIIP	400,000		
Total estate	831,652		
Less: NRB	(325,000)		

	Free estate	Settled property	Total
Net estate	431,652	400,000	831,652
Less; NRB	(168,685)	(156,315)	(325,000)
Taxable estate	262,967	243,685	506,652
IHT @ 40%	105,187	97,474	202,661

The executors would have £105,187, due on the earlier of the submission of the IHT return or six months from the end of the month of Paulette's death, i.e. 30 September 2024.

The trustees would have £97,474 to pay by 30 September 2024. The trust assets would then pass to Rory, less the IHT.

N1) Owned as joint tenants with Bernice her spouse. The property passes automatically to Bernice on Death and is exempt.

N2) As above, owned as joint tenants and automatically passes to spouse on death.

N3) Property owned as tenants in common, therefore Paulette's share does not pass automatically to Bernice. However, Bernice's share of the property needs to be taken into account under the related property rules. Paulette's share is treated as 50% of two thirds of the value of the property.

N4)  $175,000 / 1.16 = £150,862$

Probate costs allowable deduction up to a maximum of 5% of the probate value of the asset, i.e. the full £8,000 is not allowable.

Part two

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A deed of variation must be made no later than 2 years from Paulette's death, i.e. by 31 March 2024. If at least 10% of the baseline amount, that is the amount chargeable to IHT after exemptions and reliefs, is left to charity, then the 36% rate will apply.

As the estate contains both a general component and settled property, the baseline can be calculated separately for each component and then the 36% rate could apply for instance to the general component if the donation is larger than 10% of the baseline for the general component, but below 10% of the baseline for the estate as a whole.

Given that the objective is to save the maximum amount of IHT, the donation should be large enough so that the entire estate benefits from the 36% rate.

As the total taxable value of the estate is £506,652 (as above), a donation of at least £50,666 should be made so that the 36% rate would apply to the entire estate (including the QIIP).

The IHT would then be as follows:

	Free estate	Settled property	
Taxable	262,967	243,685	506,652
IHT @ 36%	94,668	87,727	182,395

The IHT saving would then be: £20,266

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

Part one

The losses of £22,000 from 6 April 23 to the date of death can be carried back three years to 30 June 2020. Thereafter they are wasted. The use of the losses are flexible and annual exemptions can be preserved.

	18/19	19/20	20/21	21/22	22/23	
Gains	17,000	22,000	35,000	14,000	18,000	
Less: AEA	(11,700)	(12,000)	(12,300)	(12,300)	(12,300)	
	5,300	10,000	22,700	1,700	5,700	
Less: losses in year of death			(14,600)	(1,700)	(5,700)	
Taxable gains	5,300	10,000	8,100			
CGT @ 20%	1,060	2,000	1,620			

Part two

Constance is UK domiciled and taxable on her worldwide estate. She had never married or entered a civil partnership, so does not benefit from any transferable NRB. Her entire estate is left to her niece so the RNRB is unavailable.

She made no lifetime gifts so the full NRB is available.

Main residence	800,000		

Cash at bank	50,000		
Residential let property	610,000		
Quoted shares (no BPR)	40,000		
ISA	130,000		
Less: expenses	(5,000)		
Total	1,625,000		
Less: NRB	(325,000)		
Taxable	1,300,000		
IHT @ 40%	520,000		

Estate rate (520k/1.625m): 32%.

Part three

2023/24 Income Tax

	Non-savings	Interest	Dividends	
Rental profits (N1)	36,000			
Interest on bond N2		400		
Building society interest (n3)		250		
ABD dividends (N4)			5,600	
Less: interest on IHT loan (n6)	(3,000)			

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Taxable				
	33,000	650	5,600	
Tax @ 20%/8.75%	(6,600)	(130)	(490)	
Balance	26,400	520	5,110	
Less: distributio n (N7)	(26,400)	(520)	(5,110)	

N1) Rents received by the executors July 23 to March 24 (9 months):  $48,000/12 \times 9 = 36,000$ . Property sold in March

N2) Cash received by the executors on 31 March 24.

N3) received by executors on 1 Jan 24.

N4) The dividend received 30 April 2023 would have been taxed on the deceased's tax return covering the period to death. The remaining dividends are received by the estate during the tax year, with the exception of the dividend received 1 May 2024 in the 2024/25 tax year.

N5) Income and gains from ISAs are exempt up to three years from Constance's death.

N6) The interest on the loan has been paid within twelve months of the loan being taken out to pay the IHT. Therefore the expense is deductible from non-savings to save tax at a higher rate.

N7) The main residence and Quoted shares are transferred to Jane. This is treated as a distribution of income up to the value of income remaining in the trust.

#### 2023/24 CGT

The distribution of the main residence to Jane is not a disposal. The transfer takes place at probate value. Likewise, the quoted shares are transferred to Jane at probate value, their market value is irrelevant.

The disposal of the ISA is exempt from CGT up to three years from death.



The disposal of the residential property gives rise to a gain:

Proceeds	610,000		
Less: probate value	(600,000)		
Less: SP 2/04 (N)	(2,954)		
Gain	7,046		
Less AEA (N2)	(6,000)		
Taxable gain	1,046		
CGT @ 28%	292		

N) The estate of £1,625,000 exceeds £1,000,000 but is below £5,000,000. Therefore the deducting is £8,000 as a proportion of the probate value:

$$8,000 \times 600,000 / 1.625m = 2,954$$

N2) The estate is permitted the full AEA in the year of death and the following two tax years, i.e 23/24, 24/25 and 25/26.

2024/25 income tax

	Dividends		
Dividends	2,000		
Tax @ 8.75%	(175)		
Balance	1,825		

At the end of the administration period, the remaining trust income is treated as having been distributed.

R185s

Income accruing pre death	225	Interest	
Less: basic rate tax	(45)		
Net pre death income	180		

Estate rate (as above)	32%		
IHT attributable to accrued income (180 x 32%)	58		
Grossed up @ 100/80	73		

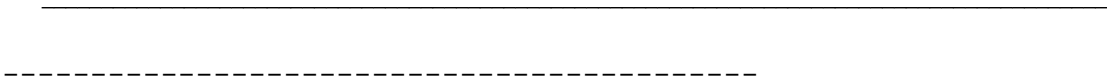
2023/24 R185

	Non-savings	Interest	Dividends
Net residuary income (as above)	26,400	520	5,110
Grossed up @ 100/80 or 100/91.25	33,000	570	5,600
Less: accrued income adjustment		(73)	
	33,000	497	5,600

23/24	Net	Tax	Gross
Non-savings	26,400	6,600	33,000
Interest	398	99	497
Dividends	5,110	490	5,600

24/25	Net	Tax	Gross
Dividends	1,825	175	2,000

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 -----ANSWER-4-ABOVE-----



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

Prior to Mary's death on 6 June 2023, she had an interest in possession over the trust property. Therefore any income relating to the period 6 April 23 to 6 June 23 will be taxed at basic rate.

Thereafter, the assets pass onto a discretionary trust taxed at the rates applicable to trusts.

	Non-savings	Interest	
Gross	20,000	1,750	
Less income subject to IIP (2/12)	(3,333)	(292)	
Less expenses N1)		(457)	
Income taxed at RAT	16,667	1,001	

N1)  $500 \times 100/91.25 \times 10/12 = 457$

Income Tax at RAT:

$1,000 \times 20\% = 200$   
 $15,667 \times 45\% = 7,050$   
 $1,001 \times 45\% = 450$

$457 \times 8.75\% = 40$

Total discretionary income tax liability: 7,740

Tax pool:  $(7,740 - 40) = 7,700$   
Less tax credit:  $(5,000 \times 45/55) = (4,091)$   
**Tax pool cf = 3,609**

Tax on IIP element

	Non-savings	Interest	
Gross	3,333	292	
Tax @ 20%	(667)	(58)	
Less (N) : expenses		(83)	
Balance	3,266	151	

N)  $500 \times 2/12$

R185s

Mary had an IIP and received the trust income less basic rate tax and expenses.

Tom does not have an IIP so he receives whatever is distributed to him.

Mary	Net	Tax	
Non-savings	3,266	817	
Interest	151	38	

Tom	Net	Tax	
Non-savings	5,000	4,091	

Part two

Mary had a qualifying interest in possession as she received her IIP on the death of Peter (immediate post death interest). On Mary's death, the trust became relevant property subject to exit and principal charges.

The trustees are paying the tax so the actual rate is grossed up.

Complete quarters between 6 June 2023 and 30 April 2024: 3

Trust assets at Mary's death	1,205,000		
Less: IHT paid	(448,000)		
Initial value of trust	757,000		

Less: NRB (325k - 216,500)	108,500		
	648,500		
Notional IHT @ 20%	129,700		
Effective rate	17.133%		
Actual rate (17.133% x 30% x 3/40)	0.385%		
Grossed up (0.385% x 100/(100-0.385 )	0.386%		
Exit charge (30,000 x 0.386%)	116		

The exit charge is due six months from the end of the month of transfer, i.e. by 31 October 2024 and the IHT 100 is due on the same date.

Mary lifetime gifts

January 2018			
Cash	100,000		
Less: 17/18 AE	(3,000)		
Less: 16/17 AE	(3,000)		
Failed PET	94,000		

Car to Tom	20,000		
Less: 19/20 AE	(3,000)		
Less: 18/18 AE	(3,000)		
Failed PET	14,000		

Wedding gift	20,000		
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Less: wedding exemption (granddaughter)	(2,500)		
Less: 21/22 AE	(3,000)		
Less: 20/21 AE	(3,000)		
Failed PET	11,500		

Cash to son	100,000		
less: 22/23 AE	(3,000)		
Failed PET	97,000		

Total chargeable transfers: 216,500

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

APR is available on transfers of agricultural land and buildings. The rate is 100% of the agricultural value (AV) of the land where the land is farmed by the donor or tenanted on a post September 1995 lease (for pre Sep 1995 long leases, the rate is 50%). If the donor farms the land themselves, the minimum ownership period of the land & buildings for APR is two years. Where the land is tenanted this must have been owned for seven years.

Where there is any developmental value in the land, BPR may be available on the excess above the agricultural value.

Richard Lifetime gifts

March 2017

Provided Richard had owned the land for at least two years, APR will be available at a least 100% of the agricultural value of the land. The ownership period is two years because Richard farms the land himself.

If there is any developmental value in the land, BPR will be available at 50% on the basis that this is land used in the donor's farming partnership.

However, as Diedre is Richard's wife, the transfer is exempt under the spouse exemption.

November 2017

The barns & farmland were used in Richard's farming business. Therefore they qualify for 100% APR. Land & buildings used in the donor's partnership also qualifies for 50% BPR to any excess value above the AV.

APR will be removed on death as the land & buildings are no longer being used for the purposes of agriculture.



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Ethan has sold a portion of the land and has not reinvested all of the net proceeds in replacement agricultural property within three years of the sale. Therefore APR is not available on Richard's death.

#### December 2021

There would have been no IHT immediately payable during lifetime as the AV of the land was equal to its market value, and the land would have qualified for 100% APR as the land was farmed by Richard and had been owned for at least two years.

#### February 2022

The AV of the land qualifies for 100% APR as the land had been owned for two years and farmed by Richard's partnership.

The balance qualifies for BPR @ 50% being land used in Richard's farming partnership.

Gift of land	1,000,000		
Less: APR @ 100%	(140,000)		
	860,000		
BPR @ 50%	(430,000)		
	430,000		
Less: AE x2	(6,000)		
PET	424,000		

As Richard died within seven years of making the gift, the PET is chargeable.

#### Death of Richard

Richard's partnership share qualifies for 100% BPR on death. The residue passes to Deidre and is exempt.

#### Death of Deidre

Farmhouse - the farmhouse will qualify for APR @ 100% of the

agricultural value, provided that Ethan directs the farming business from the property and the property is commensurate with the size of the land. No BPR will be available.

Farm Cottage - APR is available at 100% of the AV because the property had been occupied by Deidre following Richard's death, who was a widow of a farm worker (Richard).

Farmland acquired 1 March 2017 - APR @ 100% of the AV will apply because the land is tenanted (Deidre let the land to the partnership), and Deidre has owned the land for at least seven years.

Farmland & barns - provided that the farmland & barns are let to the property and continue to be used for agricultural purposes APR will be available. Deidre acquired the property on Richard's death and their ownership periods are aggregated. Therefore Deidre will have been deemed to have owned the land for at least seven years.

Note that as Deidre was not involved in the farming partnership, she is not entitled to BPR.