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

Event **NA**

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Count(s)	Word(s)	Char(s)	Char(s) (WS)
Section 1	**1041**	**4595**	**5619**
Section 2	**691**	**3276**	**3918**
Section 3	**369**	**1724**	**2079**
Section 4	**781**	**3534**	**4274**
Section 5	**623**	**2740**	**3180**
Section 6	**685**	**3057**	**3631**
Total	**4190**	**18926**	**22701**

Answer-to-Question-_1_

George is domiciled in Guernsey and has been resident in the UK since 6 April 2018. If George is resident in the UK for 10 out of the last 20 tax years, he will become long term UK resident (LTUKR). He will then be within the UK IHT and be taxed on all income and gains worldwide. He will be LTUKR from 5 April 2028.

George set up a discretionary trust on 1 December 2020. As George is not LTUKR, the trust set up will be excluded property trust given the assets in the trust are all foreign situs.

Therefore, there will be no exit charges or principal charges while George is non-LTUKR. From 5 April 2028, this will change as he will be deemed LTUKR for being a UK resident for 10 out of the last 20 tax years.

FIG relief doesn't apply as been UK resident since 2018.

Income tax

Income tax on the trust is based on the residency of the trustees. The trustees are not mentioned here so assumed they are overseas as he is domiciled in Guernsey. The trust was set up in December 2020 when the trust was based on the domicility of the settlor - as this was Guernsey, the trust is overseas for income tax. Therefore, only income relating to UK assets will be chargeable for income tax. As the assets are all foreign situs, there will be no income tax.

Anti avoidance provisions will tax undistributed income on overseas trusts to settlor under s624 ITTOIA 2005 or s720 ITA 2007. However, as George is not a beneficiary of the trust, this won't apply.

The anti avoidance provisions will then tax accumulated income on UK resident beneficiaries under s731 ITA 2007 if the beneficiaries are entitled to a capital distribution.

Capital gains tax

Capital gains tax on the trust is based on the residency of the settlor when he made the trust. As George was UK resident, the trust is within the scope of UK Capital gains tax on trust assets.

There is a wider scope for the definition of settlor interested for capital gains tax on overseas trusts. This includes children and grandchildren. Here, as the beneficiares are Georges children, anti avoidance provisions will tax any gains on the settlor under s86 TCGA 1992. Therefore, George will be taxed on any gains if in receipt of a capital distribution. Any stockpiled gains under s86 TCGA 1992 will be matched against any capital distribution received.

If George becomes non resident, then any gains will then be matched against capital distributions on the UK resident beneficiaries (ie children) under s87 TCGA 1992.

Leaving UK ad ceased to be UK resident on 5 April 2027

If George leaves the UK and ceases to be UK resident on 5 April 2027, then he won't be deemed long term UK resident as he'd only have been UK resident for 9 out of the last 20 tax years.

Therefore, any accumulated income will remain in the trust and be matched against any

capital distribution to UK resident beneficiaries.

IHT status

As the trust set up on 1 December 2020 is all foreign situs assets, then there will be no IHT exit charge as it is excluded property. George should sell his UK home and proceeds paid into a non UK bank account. The proceeds would then be excluded property. George would also be able to claim principal residence relief (PRR) if this was nominated as his main residence and therefore no capital gains tax payable.

The foreign assets in his estate would be excluded property.

Trust

If the trustees become non resident, then there will be an emigration charge.

All assets are deemed to be disposed of at market value and then repurchased at the market value.

As the trust is within the charge of capital gains tax, there will be a capital gains tax charge. However, as the current values are same as the initial values of the trust, then there will be no gain no loss.

Leaving UK and ceased to be UK resident on 5 April 2028

As George is LTUKR as he has been resident in the UK for 10 out of 20 tax years, then he will be taxable on his worldwide income and gains. Also, the IHT status of the trust set up in December 2020 will now be within UK IHT as he is LTUKR.

If George were to die, then the estate will increase by £0.15m for the current market values at 5 April 2028.

Any income or gains will be taxed on the discretionary trust at rates applicable to trusts ie 39.35% for dividend income and 45% for non savings and savings income.

Capital gains tax will be at 24% and there will be an annual exempt amount of £1,500 available to offet against any capital gains for the trustees.

The trust will be a relevant property trust within the scope of UK IHT and there will be an exit charge.

This will be based on the initial values of the trust:

		£	£
Initial value of trust			900,000

NRB		325,000	
Less CTs in previous 7 years prior to trust		0	
			(325,000)
			575,000
IHT @ 20%			115,000

ER: 115,000 / 900,000 = 12.778%

AR: 12.778% x 30% x 29/40 (w1) = 2.779%

Exit charge = 950,000 x 2.779% = £26,400

This will be due within 6 months from the end of the IHT transfer (ie 31 October 2028).

(W1) Number of quarters

01/12/20 - 05/04/2028 = 29 quarters

As the trustees are deemed to dispose of assets at their market value and reacquire them, there will be an exit charge of £26,400.

There will be a principal charge based on the current value of the trust on 1 December 2030 - £1,000,000.

There will be another principal charge on the 20 year anniversary (ie 05/04/38) based on the current values of £1,500,000 if the trust is within UK charge.

Capital gains tax based on the market values of the assets at 5 April 2028.

£50,000 gain less AEA £1,500 for the trust = £48,500 x 24% = £11,640 to be paid on the trust self assessment return to be reported on 2027/28 return and payable by 31 January 2029.

----------ANSWER-1-ABOVE----------

----------ANSWER-2-BELOW----------

Answer-to-Question-_2_

IHT status of the trust

The trust is an overseas trust as the trustee is a trust corporation resident in Jersey and Balraj is non long term UK Resident (LTUKR) when he set up the trust (pre 06/04/2025 based on domicile rules - which he was domiciled in India).

Balraj continues to be non LTUKR as he has not been UK resident in the last 10 out of 20 previous tax years.

Therefore, the trust is an excluded property trust and this is evidenced further by trust assets being a portfolio of foreign shares and no UK assets.

There is no exit charge on the capital distribution to Daniel as the trust is an overseas trust (excluded property).

Income tax

Income tax is based on the residency of the trustees - here the trustees are overseas and therefore there will be no income tax on the trust.

However, anti avoidance provisions will tax any foreign income at the hands of the settlor under s624 ITTOIA 2005 or s720 ITA 2007 if the trust is settlor interested. The trust is settlor interested as Balraj spouse can benefit from the trust.

Safe harbour rules to exempt the trust from anti avoidance rules are available under s737 ITA 2007. However, as Balraj set up the discretionary trust prior to coming to UK to minimise his UK tax liability, this will likely fail.

Therefore any capital payment will be taxed in the hands of Balraj under s720 ITA 2007.

Capital gains tax

Capital gains tax is based on the residency of the settlor when creating the trust or the LTUKR status of the settlor. As the trust was settled when Balraj was non resident and non LTUKR, the trust won't be within the UK CGT regime.

Instead, anti avoidance provisions will tax any foreign gains at the hands of the settlor under s86 TCGA 1992 if the trust is settlor interested. The trust is settlor interested as Balraj spouse and children (wider scope of definition for CGT) can benefit from the discretionary trust.

Any capital distribution from the trust will be matched against any foreign gains.

There will be a supplementary charge added to any capital gains tax for any delay in realising the foreign gain.

There is no supplementary charge for a gain realised in the current and preceding year. However, there is a 10% charge added for each year there after. Therefore, if the foreign gain is realised after 2 tax years, there will be a 20% charge which is capped at 60% (ie 6 years).

FIG relief won't apply as Balraj is not a qualifying new resident.

The capital distribution of £60,000 to Daniel on August 2026 will be taxed on Balraj firstly by matching the relevant income on a first in first out basis (FIFO). Then, any unmatched gains will be matched against the distribution on a last in first out basis (LIFO).

		£	Supp charge
Capital distribution		60,000	
Matched against relevant income first			
2021/22	(6000)		
2022/23	(6500)		
2023/24	(7000)		
2024/25	(7500)		
2025/26	(8000)		
		(35,000)	
Matched against relevant gains			
2025/26	0		
2024/25	(15,000)		20%
2023/24			
2022/23	(3,525)		40%

2021/22	(6,475)		50%
		(25,000)	

Note: The loss in 2025/26 is carried forward against future foreign gains to offset against.

The loss in 2023/24 is offset against gains in 2024/25. However, the capital distribution will continue to be matched against later foreign gains.

Unused 2021/22 foreign gain carried forward against future capital distributions is (12,000 - 6475) = £5525

Therefore, the capital distribution will result in income tax of:-

2026/27	**Non savings**		
	£		
s720 income	35,000		
Personal allowance	(12,570)		
	22,430		
tax @ 20%	4486		
1st POA	2243	4486 x 50%	
Balance due	6729	due 31.01.2028	
2nd POA	2243	due 31.07.2028	

Unused basic rate band = 50270 - 35,000 = 15270 available at lower CGT rate.

Capital gains	25000		
Less AEA	(3000)		
Gain	22000		
Tax			
15270 @ 18%	2749		
6730 @ 24%	1615		
	4364		
Add supp charge			

2024/25	524	4364 x 20% x 15000/25000	
2022/23	227	4364 x 40% x 3525/25000	
2021/22	565	4364 x 50% x 6475/25000	
TOTAL CGT	**5680**	Due 31.01.2028	

Payable by Balraj on 31/01/2028 on his self assesssment return for 2026/27.

----------ANSWER-2-ABOVE----------

----------ANSWER-3-BELOW----------

Answer-to-Question-_3_

The trust most suitable for Hannah would be a disabled persons trust.

The trust is treated as being a qualifying interest in possession trust meaning thre will be no exit or principal charges on any distributions from the trust providing Hannah meets the criteria under s89 IHTA 1984.

Under s89A IHTA 1984, if Hannah were to settle property herself, this wouldn't constitute a gift with reservation of benefit (GWROB). As it follows the QIIP rules, any assets transferred into the trust would be as if Hannah owned it anyway within her estate.

She would be entitled to personal, savings and dividend allowances unlike other trusts which we can use on any income/gains from the trust.

She will also be entitled to any capital losses to offset against any capital gains.

Income will be taxed at the basic rate (20% on non savings and savings income) and 8.75% for dividends.

Expenses are not deductible for income tax purposes but will come be deductible against net distributable income.

The annual limit is the lower of :-

a) £3,000 and
b) 3% of the amount that is the maximum value of the settled property in question.

The trust would fail to meet the criterion under S89 IHTA 1984 if Grace was made a benficiary as she wouldn't meet the requirements of a disabled person. The trust would then fail to be a disabled persons trust and enter the relevant property regime where the trust would be applicable to rates of trust (ie 39.35% on dividend income and 45% on non

savings and savings income). There would be exit charges and principal charges on any capital distributions.

Therefore, it is imperative Grace is not made a beneficiary of the trust.

On Hannah's death, the trust is treated in the same way as a qualifying interest trust under s48 IHTA 1984. The trust assets would form part of Hannah's estate as settled property and any IHT due would be payable and reportable at the hands of the trustees. Her free estate on her death would be chargeable to IHT in the hands of the executors.

Providing the nil rate band would cover the trust assets at death, there will be no IHT to pay.

----------ANSWER-3-ABOVE----------

----------ANSWER-4-BELOW----------

Answer-to-Question-_4_

Steph left her entire estate of £500,000 to husband Alex, which would be a spousal exemption on death and therefore, Steph's nil rate band will be available to uplift on Alex death as she made no chargeable transfers during her lifetime.

Nil rate band transferred to Alex and Alex NRB on death will be £325,000 x 200% = £650,000.

As the farmhouse is left to Layla (lineal descendent), residence nil rate band relief may also be available. If so, Steph's unused RNRB can be transferred on Alex death estate (dependent on the total estate).

Lifetime gifts made by Alex

15.03.2020 - gift of 30% partnership share to his children.

The gift of the partnership share in farming partnership will qualify for both APR and BPR at 100%. APR takes priority over BPR.

		£	£
PET	Note 1		150,000
APR @ 100%			(150,000)
IHT due			0

There is no IHT payable on as it is a potentially exempt transfer (PET).

NOte 1 : Alex uses his annual exemptions on 6 April each year so no AEA to offset against gifts.

Gift 23.04.2024

		£	£
Shares in AM			230,000
BPR @ 100%			(230,000)
IHT due			0

No IHT due as BPR available at 100% - AM Contracting Ltd is an unquoted trading company and held shares for over 2 years.

BPR to be retested on death of Alex.

Gift 27.12.2024 - wedding gift

		£	£
wedding gift			25000
marriage exemption			(5000)
PET			20000

Again, no IHT due as a PET. Marriage exemption of £5000 available as wedding gift to daughter.

On death

Failed PET - 15.03.2020

		£	£
Failed PET			0
Add: APR withdrawn	Note 2		50,000
NRB at death	above	(650,000)	
Less CTs in previous 7 years		0	
			(50,000)
IHT due			nil

Note 2: APR withdrawn on 1/3 of the gift (10% share given to Josh) as he has sold it and not replaced with qualifying business / agricultural property.

BPR would have been available on the gift to of the partnership share to Layla. As she has used all net proceeds and purchased a warehouse where she runs her unincorporated trading business, BPR remains as replacement business property within 3 years and still held. Therefore, BPR at 100% of Layla shareholding.

As Tom continues to hold his share, APR maintained on his share.

No IHT due as within nil rate band (uplifted by Steph unused NRB). The NRB available is now £600,000.

Failed PET on 23/04/2024

		£	£
shares in AM			0

As Josh continues to own the shareholding, BPR is maintained and no further IHT payable.

Failed PET on 27/12/24

		£	£
Failed PET			20,000
NRB		650,000	
Less used in previous 7 years		(50,000)	
			(20000)
IHT payable			nil

No further IHT payable on the failed PET 27/12/24.

Nil rate band available on death is £580,000 (650,000 - 50,000 - 20,000).

Alex Death estate

		£	£
87.5% share in Moore Farming Partnership		1,050,000	
APR @ 100%	W1	(1,050,000)	
			nil
40% shareholding in AM Contracting Ltd		200,000	
Less: BPR @ 100%	W2	(200,000)	

			nil
Barn owned personally and used by AM	W3		105,000
River Farmhouse		230,000	
Less APR @ 100%	W4	(185,000)	
			45,000
Commercial rental units	W5		600,000
Cash and chattels			65,000
Total assets			815,000
Less funeral expenses			(5000)
Total estate			810,000
Less Nil rate band at death		650,000	
Less CTs in previous 7 years		(70,000)	
			(580,000)
			230,000
Less residence nil rate band	W6		(350,000)
IHT due			£nil

There is no IHT on death as it is covered by the NRB and RNRB.

Notes

(W1) APR at 100% as the farming partnership is continued to be run by Tom. APR at 100% of the agricultural value which is equal to the market value at death.

(W2) BPR available at 100% as unquoted trading company and shares held for more than 2 years by virtue of s109 IHTA 1984.

(W3) No BPR available for the barn owned personally and used by AM as Alex does not have a controlling shareholding in the company after he gifted 60% to son, Josh.

(W4) APR available at 100% as farm house was used for the management of the farm and continued to run the farm until death. APR restricted to the agricultural value of the farm.

(W5) No BPR on rental business as investment company by virtue of s113 IHTA 1984.

(W6) Residence nil rate band (RNRB)

As the farm house is left to a lineal descendent (daughter Layla), residence nil rate band is available. THis is uplifted by Steph's default allowance.

		£	£
Residential enhanement			175,000
Default allowance			175,000
			350,000
Total estate		230,000	
Add back BPR/APR	1,050,000 + 200,000 + 185,000	1,435,000	
		1,665,000	

as the estate is not over £2m, no tapering of the RNRB.

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

----------ANSWER-5-BELOW----------

Answer-to-Question-_5_

2023/24

	Note	Non savings	Interest	Dividends
		£	£	£
Rent		10,650		
Less interest on IHT loan	1	(1750)		
		8900		
Interest			6700	
Dividends				2750
Dividends - ISA	2			exempt
Total income		8900	6700	2750
Tax @ 20% / 20% / 8.75%		(1780)	(1340)	(241)
		7120	5360	2509

Notes:

N1: Interest on the first 12 months of a loan taking out to pay IHT is deductible against income tax only.

N2: Income - dividends or interest - from an ISA are exempt for the first 3 years (or on cessation of administration if before - ie here would be 31 May 2025).

As there are no expenses, the net distributable income for 2023/24 is shown above.

This is split equally between the four beneficiaries. Any distributions will be offset against their net distribution available. Otherwise, they will be carried forward against 2025/26.

		Non savings	Interest	Dividends
		£	£	£
Net distributable income		7120	5360	2509
Divided equally between 4 beneficiaries				

Max		1780	1340	627
Dean		1780	1340	627
Evie		1780	1340	627
Jack		1780	1340	628

Max received a net income cash distribution of £1300 - this will be offset against his net distributable income from the estate for 2023/24 against non savings income first.

		Non savings	Int	Div
		£	£	£
2023/24 net distributable income		1780	1340	627
Distribution		(1300)		
Carried forward		480	1340	627

R185 - 2023/24 for Max

		Net	Tax
		£	£
Non savings income		1300	325

This will need to be given to Max by the executors to report on Max's 2023/24 self assessment tax return.

The rest of the 2023/24 distributable income are carried forward.

2024/25

	NOte	Non savings	Interest	Dividends
		£	£	£
Rent		9800		
INterest			6000	

Dividends - ISA				exempt
Dividends				3275
Total income		9800	6000	3275
Tax @ 20% / 20% / 8.75%		(1960)	(1200)	(287)
Net distributable income		7840	4800	2988
Divided equally				
Max		1960	1200	747
Dean		1960	1200	747
Evie		1960	1200	747
Jack		1960	1200	747

2025/26

As the administration finished on 31/05/25, executors will only prepare estate returns to this date. All other income received after this date will need to be given to the beneficiaries and reported on their own self assessment tax returns.

2025/26	Note	Non savings	Interest	Dividends
		£	£	£
Rent (2/12 x 1835)		306		
Bank interest (2/12 x £2000)			167	
Dividends (2/12 x 400)				67
Dividends - ISA				exempt
Distributable income		306	167	67
Tax at 20% / 20% / 8.75%		(61)	(33)	(6)
		245	134	61
Divided equally:				
Max		62	34	16
Dean		61	33	15
Evie		61	33	15
Jack		61	33	15

As the administration period ends 31.05.2025 the distributable inome is as follows for 2025/26 for Dean, Evie and Jack

		NS	I	D
		£	£	£
2023/24		1780	1340	627
2024/25		1960	1200	747
2025/26		61	33	15
Total		3801	2573	1389

The executors will issue an R185 to these as follows:

		Net	Tax
		£	£
Non savings		3801	950
Savings		2573	643
Dividends		1389	133

For Max, it'll be as follows:

		NS	S	D
		£	£	£
2023/24		480	1340	627
2024/25		1960	1200	747
2025/26		61	33	15
		2501	2573	1389

The executors will issue an R185 to Max :

		Net	Tax
		£	£
Non savings income		2501	625
Savings income		2573	643

Dividends		1389	133

These will need to be included on their 2025/26 tax return and submitted by 31 January 2027. They will have a tax credit.

Capital gains tax will be reported on the estate return for 2023/24. THis will also need to be reported on an online property return and CGT paid within 60 days of completion of sale (ie 1 April 2024). There will be interest accruing and late penalties if not paid by this date.

----------ANSWER-5-ABOVE----------

----------ANSWER-6-BELOW----------

Answer-to-Question-_6_

The executors can make a claim under s179 IHTA 1984. Under this claim, the aggregate of the values of sale proceeds would be the value comprised in the death estate on the value of quoted shares in the 12 months following death. Costs of sales are excluded in the calculation.

Here, the disposals in the 12 months following death relate to Dragon Plc shares and Banana Plc shares. As the Citrus plc shares are sold on 20 August 2023, these are not included in the calculation for s179 IHTA 1984 post mortem relief.

A claim must be made within 4 years of death (ie 19 August 2026).

There was a 1:2 rights issue at £4 per share for Dragon Plc on 20 October 2022.

Under s180 IHTA 1984, if a claim is made and at any time during date of death and two months after, the proportion of the claim is restricted. However, the sale was after 2 months on 20 October 2022.

Under s183 IHTA 1984, where there is a change of shareholdings within the period 12 months after date of death, which includes a reorgniasation as it is here with Dragon Plc - rights issue, there needs to be an adjustment to the value of the shareholding for the s179 IHTA post mortem relief as follows:

50,000 x 4000/6000 = £33,333

		Probate value	Sales proceeds	Loss / (gain)
		£	£	£
Dragon Plc		33,333	52,000	(18,667)
Banana Plc		100,000	95,000	5000
				(13,667)

As there is an overall gain as a result, there will be no s179 IHTA post mortem relief

available on the quoted shares.

Part 2)

Capital gains tax position

As gross estate is over £1m but less than £5m, there will be relief for probate at the SP 2/04 - a fixed amount of £8000 divided by the value in the estate of each asset.

Dragon Plc shares - 23/12/22

		£	£
Sale of shares	52,000 - 260	51740	
Less probate costs	as above	(33,333)	
Gain		18,407	
Less SP 2/04 relief	8000 x 50/2127	(188)	
		18,219	
AEA		(3000)	
		15,219	
CGT @ 20%		3044	

2023/24

		Banana shares		Citrus shares
		£		£
MV of disposal	95000 - 475	94525	12000 - 60	11940
Less costs		(100,000)		(25000)
Gain / (Loss)		(5475)		(13,060)

Loss to be carried forward of £(13060 + 5475) £18,535

2025/26

		Lodge		Bungalow		Townhouse
		£		£		£
MV	565,000 - 14125	550,875	275,000 - 6875	268125	750000 - 18750	731250
Less costs		(500,000)		(310,000)		(700,000)
Gain		50875		(41875)		31250
Less SP 2/04		(1881)		(1166)		(2633)
Taxable gain		48994		(43041)		28617
				0	PRR as owned by Zara and lived as main residence	(28,617)
CGT @ 24%						0

Total gain being (48994 - loss of 43041 - capital loss bfwd 23/24 18535) = loss of £10082.

Capital gains tax on residential properties will need to be paid and reported within 60 days of completion of sale which will be £48,994 x 24% = £11759

However, as there is a capital loss by the end of 2025/26 tax, this Capital gains tax can be reclaimed on Estate return 2025/26. The capital gains tax of £11,759 on the disposal of the lodge will be reclaimed and repaid to estate to distribute.

Under s176 IHTA 1984 post mortem relief, any losses of qualifying land and buildings within 3 years of date of death can be comprised in the death estate. The sale in the fourth year will be included too.

The claim must be made within 4 years of death.

	Probate	Sale proceeds	Loss / (Gain)

Lodge	500,000	565,000	(65,000)
Bungalow	310,000	275,000	35,000
Townhouse	700,000	750,000	(50,000)

Post mortem relief available for bungalow for IHT purposes under s176 IHTA 1984. The relief would be (£35,000) saving IHT at 40% of £14000.

There is no residence nil rate band available on death as the house was left to niece, Zara who is not a lineal descendant.

Death Estate of Abbas

		£	£
Banana shares			100,000

Citrus shares			25000
Dragon shares			50000
Town house			700000
Lodge			500000
Bungalow			275000
Cash			210000
Classic car			197000
Other chattels			35000
			2092000
Less NRB			(325,000)
			1,767,000
IHT due @ 40%			706,800