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

Event **NA**

Exam Mode **OPEN LAPTOP + NETWORK**

Count(s)	Word(s)	Char(s)	Char(s) (WS)
Section 1	**950**	**4272**	**5225**
Section 2	**718**	**3395**	**4992**
Section 3	**156**	**733**	**1125**
Section 4	**765**	**3493**	**5834**
Section 5	**468**	**2109**	**3130**
Section 6	**438**	**2172**	**3370**
Total	**3495**	**16174**	**23676**

Answer-to-Question-_1_

UK tax implcations of establishing the trust

Ted is currently UK resident and is therefore taxed on his income an an airing basis.

He has a Isle of Man domicile of origin and has not aquired an UK domcile of choice as we understand he intends to return to the Isle of Man on the death of his partner.

The establishment of a trust is usullay a chargebale liftetime transfer and subject to UK IHT at 20%. However, as he is settling his non-UK situs shares or non -UK situs account, these are not currently within the scope of UK IHT and there will be no implications of the transfer.

There are no income tax implcaitions of the transfer. There will be a charge to CGT of £10,000 on the transfer and this cannot be rolled over as there is no charge to UK IHT. This gain should be covered by his personal allowance.

He will become deedmed UK domciled on 6 April 2026.

Residency of trust

The residency of the trust is important for income tax and CGT purposes. If the trust is considered UK resident, it will be subject to UK tax on its worldwide income and gains.

A trust will be considered UK resident in the following situations:
1. All trustees are UK resident
2. At least 1 trustee was UK resident and the settlor was UK resident and domciled at the date of settlement.

Therefore, as Ted is not UK domciled, the trust will no be considered UK resident for Income Tax purposes or CGT purpsoes.

However this position will be different if Murial is a joitn settlor. The trust shoudl also be set up before 6 April 2026.

Tax implications of the trust going forward

We understand that the trust is being established by a non-UK domciled individual with US quoted shares and cash from a US bank account. It therefore contains no -UK situs assets.

It is being established for the benefits of the settlors neice and her isue. We understand the settlor and his wife cannot benefit from teh trust.

IHT

As the trust is being established by a non-UK domiciled individual and does not contain any UK situs assets, it will be considered an excluded property trust.

An excluded property trust is no within the scope of UK IHT provided that it holds no UK situs assets.

However we note that the trustees plan to issue a loan to a benefiticiay which will be used to pruchase UK residential proeprty. With effect from April 6, 2017, this loan will be classed as relevant proeprty.

As such, the trustees will be subject to UK IHT on the 10 year anniversary of the trust based on the inital market value of the releavnt property, less the nil rate band available. This is subject to IHT at a rate of up to 6%. The first 10 year anniversary of the trust.

The write off of the loan will give rise to a exit charge. This will be subject be subject to IHT a rate of up to 6%, based on the amoutno of quarters that have elpase.

The trustees must file an IHT 100 form on each of the above events.

Income Tax

The trust will be considered settlor intersted if the the settlor or his spouse can benefit from the trust.

The trust is non-UK resident and therefore will ony lbe subject to income tax on its UK Source income at the rates applicable to trusts.

However as he is establishing the trusst before becomeing UK domiciled, the non-UK income will be classed as Protected Foreign Source Income (PFSI). PFSI is only subject to tax when it is matched to capitla resindet made to a UK resident beneficiary.

PFSI will be made up of the dividends pof £100,000 from the US portfolio. This income will be pooled and matched to capital payments made to Gordon.

Therefore, there is no UK income tax for Ted on the basis that it is PFSI and no0t assessable on him.

Therefore, any capital distributions to Gordon will first be mactehd to any PSFI and will be included on his self assessment return.

The caputal apayments made to UK resident beneficiairies are not matched.

Provided that the trust is not UK resident, the IOM beneficiaires will not be subject to in teh UK.

The distribution to Gordon will be classed as an income distribution and must be included on his personal tax return.

CGT

Typically, non resident trusts are not subject to CGT on non-UK gains.
Hwoever s86 provisions will assess a settlor on trust gains on an airisng basis. However these provisions do not apply as ted is non-UK domiciled and does not gave an interset in teh trust.

A trust will be consdiered settlor interest for CGT purposes if the settlor, his spouuse or his remoter issue can benefit. In this situation Ted or Muriel cannot benefit from the trust.

Hoevever, any gains arising in th trust will be pooled under the s87 provisions and only taxed when capitla payments are made to UK resident beneficiaires.

These gaisn are matched on a last in, first out basis. Any capital payments made to Gordon will therefore be matched to any stockpiled gains to the extent that they have no already been mactehd to the PFSI.

Any gains which are not paid out in teh curent tax year or the tax year before will be subject to a supplementary charge at a rate of 20%.

These gains will need ot be inlcued on Gordon's personal tax return. He can utilise his personal allowance.

Again, there are no tax implcatins on making any capital distributions to the non-UK resident benficiaires.

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

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

Answer-to-Question-_2_

The establishment of the trust Anthony's death for Barbara in her lifetime means that this is a qualifyinf interset in possession trust.

Sale of shares by Barbara

As Barbara holds the shares in AB Limited which is an unquoted trading compnay of which she is a director, the diposal of the shares will qualify for Business Asset Disposal relief (BADR) at a rate a lower rate of 10%, up to a lifetime limit of £1,000,000.

The trustees will also be able to claim BADR on the diposal of the shares as Barbara is life tenant and is a director of the company. A joint election must be made for the trustees to claim this amount. They will recive this regardless of the fact that they onyl have a 3% holding.

The gain will be as folows:

	Baraba	Trust
Proceeds	800,000	240,000
Less cost	(10)	(40,000)
Gain	299,990	200,000
Less AE	Nil	Nil
Gain	299,990	200,000
CGT @ 10%	29,999	20,000

The net proceeds available will therefore be as follows:

	Baraba	Trust
Proceeds	800,000	240,000
Less CGT payable	(29,999)	(20,000)
Availble for distribution	770,001	220,000

Tax implications of winding up

IHT implications of winding up

As discussed aove, the trust is a qualifying interst in poessesion created on the death of her husband, this assets within teh trust will be deemed to fall within Barbara's estate for IHT purposes.

Therefore, the winding up of the trust will be deemed to be a PET by the life tenant. Thrfore, the distribution of teh property will be a potentially exmept transfer for Barbars.

(i) Commercial property

The distritbion fo teh commercial property will not be a PET for IHT purposes as this is remaining within Baraba's estate.

(ii) Remaining Assets

The distribution of the remaining asssets will be a PET for IHT puproses. If Barbara survives 7 years, there will be no IHT payable.

PET	
UK residnetial property	600,000
Invesmtne portfollio	1,215,000
Proceeds from sale of AB	

	220,000	
Less Barbas cash	(40,000)	
		180,000
		1,995,000
Less 2021/22 AE		(3,000)
Less 2020/21 AE		(3,000)
PET		1,989,000

If Barbara dies within 7 years of making the PET, the IHT on this will be payable by James. He shoud ensure that the he should retain enough cash to cover the IHT liability. The IHT on this will be up to ^£665,600 (before any taper relief). JAmes shoudl therefore ensure that he holds back this cash.

(N1) PET	1,989,000
LEss NRB	(325,000)
	1,664,000
IHT @ 40%	665,600

CGT on distribtuion of trust assets

As the trustees are distributing trust assets, these will be deemed to have taken place at market value as they are being trasnferred to connected persons.

The dsitribution of the cash from teh sale of AB Ltd will not be subject to CGT as cash is not a chagreabel assets.

The trust cannot be deemed as settlor intersts as the settlor is dead.

CGT on residetial property

As the proeprty being transferred to James is residential proeprty, this will be subject to CGT at a rate of 28%.

Proceeds	600,000
less cost	300,000
Gain	300,000
CGT @ 28%	84,000

The CGT on teh residential property is due 28 days following the transfer. A CGT return must also be filed within 28 days of the transfer.

This must be filed and paied for by teh trustees .

CGT on commercial property

Prceedes	360,000
Less cost	160,000
Gain	200,000
CGT @ 20%	40,000

This will need to be included on trh trust and Estate reutrn for the year ended 5 April 2022. The tax on the gai will be payableby 31 January 2023.

CGT on investmtne portfolio

There are unrealise gains of £455,000 which will be subject to CGT at 20% giving rise to CGT ££91,000. Agains this will need to be included on trh trust and Estate reutrn for the year ended 5 April 2022. The tax on the gai will be payableby 31 January 2023.

Each beneficiary will recieve the following on distribution

Barbara:

Commercial property	360,000
Cash	40,000

James

Residential property		600,000
Invesmtn porflio		1,215,000
Cash	220,000	
Less cash to Barbara	(40,000)	
CGT on residential prop	(84,000)	
CGT on Commerical prop	(40,000)	
CGT on invesmtnt portfolio	(91,000)	
Cash distributed		

Barba was already taxed on the income on an airisng basis so there are no implications of th transfer of the proeprty.

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

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

Answer-to-Question-_3_

IHT on death

	Free estate	Settle proprty	Total
Resident	400,000		
Cash	80,000		
annuity		454,545	
	480,000	454,545	934,545
Less NRB	(166,926)	(158,074)	
Chargeable	313,074	296,471	
IHT @ 40%	125,299	118,588	

Notes:

1. As Jonty became entitled to the annuity as a result of a qualifying IIP, he is treated as having an entitlement interset in some of ah tryst assets.

Jonty died intestae, therefore his estate will be left to his nearest livign relatives. His nearest living relative is his neice, Debbie. therefore his free estate will pass to her.

The IHT on his free estate will be payable by the executors of the estate 6 months followng the month of death., being 30 April 2022.

The ate rate is 26%

Teh estate will be distributed as follows:

To Debbie

To HMRC 243,887

This is based on his portion of entitled to the trust based on teh annuity slice. This is as follows

20,000/ 66,000 x 1,500,000

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

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

Answer-to-Question-_4_

IHT on lifetime gifts

(i) Feb 2011

Cash gift to trst	150,000
Less 2010/11 AE	(3,000)
Less 2009/10 AE	(3,000)
CLT	144,000
Less NRB	(325,000)
Chargebable	Nil

(ii) April 2016

Gift of shares

MV of shares before gift	3,500,000
MV of shares after gift	(2,520,000)
Loss to donor	980,000
Less 2016/17 AE	(3,000)
Less 2015/16 AE	(3,000)
CLT	974,000
Less BPR @ 100%	(974,000)
Chargeable	Nil

The value of the shares will recieve BPR at 100% as this is a trading compnay wholy owned by Henry since 1966. The value of the gift is charged on teh loss to donor principle.

(iii) June 2016

This gift is a PET to a registered charity.

The PET is as follows:

GIft of shares	
MV of sharess before gift	2,520,000
MV after sale of shares	(1,470,000)
LEss AEs	Nil
PET	1,050,000

(iv) August 2016	
Cash gift on wedding	10,000
Less marriage allowance	(2,500)
Less AEs	Nil
PET	7,500

(v) MArch 2018	
Gift Treacle House	300,000
Less 2017/18 AE	(3,000)
Less 2016/17 AE	Nil
	297,000
LEss BPR at 50%	(148,500)
PET	148,500

This will recieve BPR at 50% as it is the trading premises used by a personal trading company.

(vi) November 2018	
Gift of farmland	350,000
LEss APR on agricultral value @100%	(75,000)
Less 2018/19 AE	(3,000)
PET	272,000

On teh basis that the argriculatral land had been held for more tha 7 years and was let on a post 1995 lease, it will recieve APR at 100% on its agriculatural value.

NRB on death

Henry's wife had fully utilised her nil rate band and therefore none is tranferable to Henry.

She did not use her residential nil rate band and this would be trasnferable but as Henry;s gross esttaet is greter than £2million the RBRB will be tapered away.

Death tax on lifetime gifts

There was a binding contract for sale of teh Sweetie HQ Ltd shares on Henry's death, and therefore the BPR is no longer available. IHT will become payabel on the value of the shares.

(i) Febyruary 2011
There is no further IHT to pay on this as Henry survived more that 7 years of making the gift.

(ii)April 2016
BPR is no longer available on teh gift of the shares.

CLT		974,000
Less NRB	(325,000)	
Less prev transfers	(144,000)	
NRB remaining		(181,000)
Chargeabel		793,000
IHT @ 40%		317,200
Less taper relief (60%)		(190,320)
IHT payablle		126,880

THis is payabel by the trustees by 31 March, 2022.

(iii) June 2016
BPR is also withdrawn on this gift however as this is to a registered charity the gift is exempt. No further IHT is payable.

(iv) August 2016
This PET has failed as he did not survive 7 years of making the gift.

Failed PET		7,500
Less NRB	325,000	
Less prev trasnfers	(181,000+ 144,000)	
NRB remaining		Nil
Chargeabel		7,500
IHT @ 40%		3,000
Less taper relief (60%)		(1,800)
IHT payable		1,200

THis is paybe by Jane 6 months following Henry's month of death, ie 31 March 2022.

(v) March 2018
BOR will also be withdrawn on the Sweetie HQ trading premises, as Sweetie HQ ceases to be a personal trading compnay. As Hnery did not survive 7 years of making the gift, the PET has failed.

PET		148,500
Add BPR clawback		148,500
		297,000
LEss NRB	325,000	
Less prev 7 years tranfers	(181,000)	
NRB reamining		(144,000)
Chargeabel		153,000
IHT @ 40%		61,200
Less taper @ 20%		(12,240)
IHT payabel		48,960

This is payabel by Fiona 6 months following the month of death, i.e. 31 March 2021.

However as this is IHT on land and uildings this is payb ale by 10 instalments.

(vi) November 2018
As Phillip no longer held the land for agricultral purpsoes and sold this, APR is withddrwan on teh original gift.

PET		272,000
Add APR clawback		75,000
		347,000
Less NRB	325,0000	
Less prev transfers	(181,000	
	_144,000)	
NRB remining		Nil
Chargeabel		347,000
IHT @ 40%		138,800

No taper relief is available as hHenry died within 3 years of making the gift.

This is payable by Phillip 6 months following the month of death i.e. 31 March 2022.

<u>IHT on death estate</u>

Estate		3,500,000
Sweetie HQ Shares		1,760,000
		5,260,000
Less NRB	325,000	
Less prev transfers	(181,000)	
NRB remaining		(144,000)
Chargeabel		5,116,000
IHT @ 40%		2,046,400

THis is payable by the executories of the estate out of the residue left to FLora by 31 March 2022.

Notes:

1. THE BPR clawback does not affect the lifetime clock for nil rate band purpoese.

2. No BPR is available for the Sweeties HQ share as there was a binding contract for sale at that date.

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

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

Answer-to-Question-_5_

The Trust is an A&M trust and woul dhave entered the relavant property regime with effect from 6 April 2008 as the beneficiaries reiev an absolute interset at age 25.

<u>Exit charge on distribution to Bess</u>

Value of trust at 30/6/2015		860,000
Nil rate band	325,000	
Less prev GCT in 7 year before settlement	(200,000)	
Less prev exits of value	(472,000)	
NRB remaining		Nil
Chargebalee		860,000
Notional IHT @ 20%		172,000
Effective IHT	172,000 / 860,000	20%
Actual rate	20% x 30 % x 24/40	3.6%

As Bess is paying the IHT there is no need to gross up the rate.

IHT on exit charge:

Value of distribution	524,500
Exit charge rate	3.6%
IHT payabel by BEss	£18,882

This is payable by 31 March 2022.

(W1) Prev transfers

Gift to trust	200,000
Less 2 x AEs	Nil as used
Less 2003/04 NRB	(255,000)
Chargeabel	Nil

(W1) Nummber of quarters since 30/06/2015 and 1 September 2021 = 24

<u>CGT on distribution to Bess</u>

There is a deemed diposla at market value when assets are distributed ot beneficiaires.

There is no CGT on teh distribution of the cash.

	The Mews	Property	Sahres
MV at date of transfer	250,000	190,000	60,000
Less base cost	(100,000)	(125,000)	(52,000)
Gain	150,000	65,000	8,000
Less Annual allowance	(6,150)		
Chargeabel	143,850	65,000	8,000

CGT @20%

As this transcciton is also chargaebl to CGT, a s260 election can be made so that Bess's base cost going forward will be reduced by the rolled over gain. Thi sis a joint election betweehn teh trustees and Bess.

As a result, no CGT is payable howveer Bess's base cost going forward will be as follows:

	The Mews	Property	Sahre
MV at aquisition	250,000	190,000	60,000
Less rolled over gains:			
	(150,000)	(65,000)	(8,000)
BASe cost carried forward			
	100,000	125,000	52,000

Sale of the Mews

The sale of the Mews will give rise to a CGT charge at a rate of 28% on the gain as this is a disposal of UK residential property.

Both Bess and Lily will be deemed to hold a 50% share. This gain will be calculed based on the Proceeds recieved (providing not to a connected party), less the base cost for each individual, and then less their persional allowances.

Principal private residence will be available to reduce the gain on the diposal as this has been the private residence of both Lily abnd Bess. This is based on:
- the period of occupation
- the last 18 months of pwndership is deemed occupation
- any period abrooad for employment puprposes
- and up to 4 years if they had to work eslewhere.

Lettigs relief will also be availabale if ithas been let to a 3rd party. This is the lower of
- gain in let period
- PPR relief

- maximum of £40,000.

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

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

Answer-to-Question-_6_

Post moterm relifes available on the death of Keshave Mavji

IHT is charged on the value of the assets in teh estate at the date of death. However, where the executors of the estate sell assets at a loss during the period of administration, relief is available.

Sale of shares

Where executors sell listed shares within 12 months of the date of death, if there is a loss a claim can if these are at a loss to claim a repayment of IHT.

We will take into account the sahres in Underhill, Big Bank and Pharmaceatucical. AS Telemcom shares were sold after the 12 months period, these cannot be taken into account when calculating any claim for relief.

	Big bank	Pharmaceutical	Underhill
PRoceeds	130,000	55,000	150,000
Less COS	(1,600)	(750)	(450)
MV at probate	(127,888)	(49,078)	(256,000)
Gain/ Loss	512	5,172	(106,450)

Thereofre there is an overall loss of £100,766.

A claim can therefore be made to reclaim IHT at 40%. A claim for repayment must be made within 3 years following the 12 month period. The claim shoudl be made for £40,306

Stand Alone Value

Assets in an estate are valued based on the related property rules. As both Neshav ad his wife own shares in Wind and the Treest and Sand in teh leaves, thee value was calculated based on their combined holdings.

A s176 calim can be made on sales if the separate interst is less then relevant proeperty and the sale is on an arms lenght basis within 3 year of the date of death.

The stand alone value is subjstituted for the related proeprty value in teh IHT calcualtion.

Estate income

	Non-savings	Savings	Divs
Rental income	20,777		
Interest		3,782	
Dividends			12,189
IHT thereon:			
20%/ 20%/7.5%	4,155	756	914
Available for distribution			
Net income	20,777	3,782	12,189
Less Tax paid	(4,155)	(756)	(914)
Less admin expenses			
			(2,500)
Available for			

distribution	16,622	3,026	8,775

Annie's position

Annie recieved an income distribution in the year. Thi sis first deemed to be paid from non, savings income, then savings income and then dividends income. Any unmatched amount will be carried forward.

Annie's 50%	Non-savings	Savings	Divs
	8,311	1,513	4,388
Less income distribution	(8,311)	(1,513)	(4,176)
Distributiable income carrief forward	Nil	Nil	212

Anni;s R185

	Net	Tax
Non savings	8,311	2,078
Savings	1,513	378
Non-savings	4,176	339

Girish's position

Girish recieved a distribuiotn of jereleery from the estate and this is deemed to have matched to distributable income.

Girish 50%	Non-savings	Savings	Divs
	8,311	1,513	4,388
Less distribution	(8,311)	(1,189)	
Distributable income c/f	Nil	324	4,388

Girish's R185

	Net	Tax
Non savings	8,311	2,078
Savings	1,189	297