

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

Event **NA**

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Exam ID

Count (s)	Word (s)	Char (s)	Char (s) (WS)
Section 1	519	2482	2946
Section 2	1008	4571	5577
Section 3	819	3943	4762
Section 4	532	2604	3089
Section 5	395	1860	2214
Section 6	558	2633	3146
Total	3831	18093	21734

Answer-to-Question-_1_

Part I - Income tax and CGT

Where the Executors of an estate are a mix of both UK resident and non-UK resident, then the residence of the estate for income tax purposes is determined by whether the deceased was UK resident or domiciled. Given that Jane was UK domiciled at death, the estate will be UK resident for income tax purposes and subject to UK income tax on worldwide income.

For CGT purposes, the rules differ. The estate is resident wherever the individual was resident at death. The estate is therefore non-resident for CGT purposes and will only be subject to CGT to the extent there is a trade being carried on and disposed of in the UK or on the sale of UK land/ property.

The income tax computation will therefore be as follows:

2022/23	NSI	SI	Dividends
UK Rental Income	39,000		
Foreign Interest		5,000	
Foreign Dividends			20,000
Rental Expenses	(4,000)		
Interest	(16,667)		
Taxable Income	18,333	5,000	20,000
Tax @ 20%/20%/8.75%	(3,667)	(1,000)	(1,750)
Net	14,666	4,000	18,250
2023/24			

UK Rental Income	36,000		
Foreign Interest		4,000	
Foreign Dividends			25,000
Rental Expenses	(2,000)		
Interest	(23,333)		
Taxable	10,667	4,000	25,000
Tax @ 20%/20%/8.75%	(2,133)	(800)	(2,188)
Non-Deductible Expenses - Accountancy Fees			(2,500)
Non-Deductible Expenses - Interest			(13,333)
Net	8,534	3,200	6,979
Net b/f	14,666	4,000	18,250
Total Distributable	23,200	7,200	25,229
R185 - 23/24	Payment	Tax	
Rent	8,534	2,134	
Interest	3,200	800	
Dividends	6,979	669	
R185 - 22/23	Payment	Tax	
Rent	14,666	3,667	
Interest	4,000	1,000	
Dividends	18,250	1,750	

Interest is only an allowable deduction to the extent it's paid within 12 months of the loan and the loan itself is used to pay the IHT.

Administrative expenses are non-deductible.

The ISA retains its exempt status for 3 years (including the year of death).

CGT - 23/24			
Proceeds	400,000		

Probate Value	(350,000)		
Probate Costs	(1,287)	8k x 350/2,175	
Gain	48,713		
Annual Exemption	(6,000)		
Chargeable	42,713		
CGT @ 28%	11,960		

The sale of the Bermudian shares is a non-UK situs asset and given the estate is non-resident for CGT purposes will not fall within the scope of UK CGT.

Sale of UK property will result in a CGT liability. The annual exempt allowance can be used for the year of death and the following two years.

The appropriation of the Property Ltd is not a CGT event as Kate is the beneficiary of the estate, receives the asset within 2 years and will be deemed to have received it at probate value. Any future disposal will be taxable.

Part II - Executors' liability

The executors will be required to file a UK tax return and will need to file the return by 31 January 2024 for the 2022/23 tax year and by 31 January 2025 for the 2023/24 tax year. The income tax liability must also be paid by this date along with the payments on account for the next tax year which will be equal to 50% of the liability for the year in question.

The CGT, given it relates to UK land, will be reportable and payable within 60 days of the sale completion via an online return.

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

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

Answer-to-Question- 2

Tee Ltd - Business Property Relief

Business property relief (BPR) is available at a rate of 100% where shares are held and transferred and those shares are shares in an unquoted trading company which have been held for at least 2 years.

The shares in Tee Ltd appears to meet the relevant conditions for BPR. However, relief is restricted where the trading entity holds excepted assets which broadly are those assets which are not used for the purposes of the trade or those assets which are used for personal use. This would include the surplus cash of £400,000 which is not being used for working capital and this would also include the boat valued at £500,000 for Donald's personal use.

BPR would therefore be restricted as the surplus cash and and boat would not be deemed to be relevant business property and therefore, the value of these items would be subject to IHT at 40%.

Donald could either earmark the cash for future business plans and this should be well documented, e.g. in the company accounts, so it's no longer considered an excepted asset (assuming there are viable business plans), or distribute the income albeit this will have tax consequences. He can then gift the cash, which would be a PET and not fall within his death estate and may even fall outside the scope of IHT if he survives 7 years. The boat should also be distributed or sold so that the full value of the company qualifies for BPR.

Dividends

A waiver of a dividend is not a transfer of value for IHT purposes, provided the dividend is waived 12 months before the right to the dividend has accrued. So therefore, if Donald wishes to gift his daughter the dividends from Tee Ltd, he should consider utilising this exemption.

Donald's current method of gifting dividends after having received them will result in Potentially Exempt Transfers. No IHT will be charged if he survives 7 years from the date of the gift and taper relief may be available if he survives 3 years from the date of the gift.

Normal Expenditure Out of Income

There is also an IHT charge where the transfer of value is from income, and has no impact on the donor's standard of living. It does not appear that Donald can benefit from this given he is having to sell assets to meet his income shortfall and fund living expenses. The gifts are therefore affecting his standard of living.

It would perhaps therefore make sense for him to start withdrawing the surplus cash from Tee Ltd to help remove the excepted asset and also so he has more income to meet his living expenses and any gifts of surplus income could benefit from the above exemption.

Pre-Owned Assets Charge - The Flat

Where an individual makes a transfer of cash, and that cash is then used by the donee to purchase an asset which the donor is not then virtually excluded from, the pre-owned assets ("POAT") rules come into play which levy an income tax charge on the donor on the annual/rental value of the property that he benefits from. There is a de-minimis exemption available where the rental value is less than £5,000.

The POAT rules are relevant here because Mary has used £350,000 of the £1,000,000 gift given to her to purchase a flat in which Donald lives. Donald must therefore pay income tax on the rental value which is £12,000 per annum.

To avoid this, he could pay the market rent of £12,000 to Mary. Mary would then however have an income tax charge on the rent.

The alternative would be to elect to treat the value of the flat as a gift with reservation. This would then mean that the flat would be within his death estate. As Donald is trying to reduce his death estate this does not seem like a viable option.

Therefore, he should consider Mary's income levels to determine the tax implications of paying rent. Or he should accept the POAT charge. In both cases, there will be a removal of cash from the estate and the cost of having the flat in his estate will likely outweigh the cost of the income tax he may need to pay/ Mary may need to pay.

The cash given to Mary is also a potentially exempt transfer and will be exempt provided that Donald survives for 7 years from the date of the gift. Taper relief will be available if he survives at least 3 years from the date of the gift.

Gift With Reservation

Where a donor makes a gift, and then is not virtually excluded from enjoying that gift, the gift is deemed to be a gift with reservation of a benefit ("GWROB"). Given Donald gifted Mary the artwork, but then kept it within his own house, there would be a gift with reservation.

When Mary took full occupation and the gift with reservation was released, this would have resulted in a further Potentially Exempt Transfer. Donald must survive 7 years from July 2023 when it was released for this to be exempt and at least 3 years to benefit from taper relief.

The GWROB rules could have been avoided, if he paid for the property's usage. Donald should ensure that the artwork remains in Mary's property and should ensure he does not seek to occupy it again through taking it into the flat.

If he had not benefited from the artwork, there would be no PET given since the initial gift, more than 7 years have passed.

Woodlands Relief

The value of the trees and underwood can be left out of account when calculating IHT, which amounts to £240,000 of the total land valued at £400,000.

Annual Exemption

Donald should ensure he makes gifts up to £3,000 each year to benefit from the annual exemption.

NRB

He could make a CLT of up to £325,000 to use his NRB. No further IHT would be payable if he survives 7 years from the date of the CLT.

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

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

Answer-to-Question- 3

1. Deemed domicile and scope of IHT

Stefan triggered UK tax residence in the 2011/12 tax year. For the purpose of the deemed domicile rules, split years are disregarded.

A person who is not born in the UK and does not have a domicile of origin in the UK, will become deemed domicile in the UK once they have been UK resident for 15 out of the 20 previous tax years.

Stefan will therefore become deemed domicile under the long term resident rules from 6 April 2026.

The offshore discretionary trust created whilst Stefan was non-UK domicile which holds foreign assets only, would be an excluded property trust as the trust follows the domicile of the settlor, and therefore will not be within the scope of UK IHT, even if Stefan later becomes deemed domicile.

The remainder of his worldwide estate would fall within the scope of UK IHT if he was to die whilst being deemed domicile, including any potentially exempt transfers made within the 7 years prior to his death.

Other than his UK pension fund, which is likely to fall outside the scope of IHT, he holds assets valued at £5,073,000. Assuming he dies on 6 April 2026, and the value of his assets remain the same, the PETS given in March 2023 will also become chargeable. He would not be eligible for the residence nil rate band given the total value of his estate far exceeds £2,000,000. His nil rate band would be £325,000. The IHT on his death estate is estimated to be £1,899,200 (40% x 5,073k - 325k). This does not include IHT on the Potentially exempt transfers.

2. Tax Planning Opportunities

Whilst Stefan is non-UK domiciled, he could create a further excluded property trust to hold his foreign assets. These foreign assets will continue to be excluded property for IHT purposes even when Stefan becomes deemed domicile. Transferring the foreign assets into the trust will not result in an IHT entry charge and nor will there be any

principal or exit charges. The assets will also not fall within the gift with reservation of benefit rules. Unless his UK investments provide him with necessary income, he should consider swapping them for foreign investments and also adding these to the trust.

Provided the trust itself remains offshore, i.e. the trustees are non-UK resident the trustees will not be subject to UK tax unless it receives UK source income. However, if Stefan chooses to transfer his UK bank account or UK investments into the trust, the income derived from these is likely to be disregarded under s811 ITA 2007 and there should not be any UK income tax payable.

Given the trust is settlor interested, as Stefan will continue to benefit, income arising from the trust would usually be taxable directly on the settlor. However, there is a protection where that income arises from excluded property and that income is therefore deemed to be protected foreign source income. This income will only be taxable in the hands of the settlor, if it is actually distributed. Whilst he remains non-UK domiciled, provided distributions are kept offshore, the remittance basis of taxation can be used. Once he is deemed domicile, the distributions will be matched with relevant income of the trust. It will be taxed on Stefan's non-savings income and will be subject to tax at his progressive rates of taxation. A foreign tax credit will not be allowable.

There are safe harbour provisions which apply which prevent these matching rules where the motive behind trust creation was not tax avoidance, but these are not likely to apply here and would be difficult to evidence.

Trust gains will be chargeable under s87 TCGA. The rules apply where capital payments are made to a UK resident out of the trust who is deemed domicile under the long term resident rules. Capital payments will be matched with the trust gains on a Last in, first out basis. Unmatched payments will be carried forward and matched with future gains.

However, where there is accumulated undistributed income within the trust, a capital payment will first be matched with that income and subject to income tax at the income tax rates. The remainder will then be matched with the trust gains, and will be subject to CGT. The individual's annual exempt allowance is available.

Where gains have arisen, and are not distributed in the year they arose, or the following tax year, the CGT arising on a capital payment will attract a supplementary charge of 10% for each tax year the gain remained undistributed. The maximum supplementary charge is 60%.

The above treatment will only continue to apply provided that Stefan does not taint the trust by adding property directly or indirectly to the trust once he is deemed domicile. If he taints the trust, the income and gains will arise to him as the settlor on an arising basis.

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

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

Answer-to-Question- _4_

Agricultural property relief ("APR") is available on the agricultural value of land/buildings which are used for agricultural purposes and are transferred, provided that the land has been owned for at least 2 years (or 7 years for tenanted land) and that land is used for agricultural purposes. APR is 50% where the land was let prior to 1 Sep 1995.

1. Distribute all assets in December 2024 as planned

The trust is a relevant property trust and therefore, there would be an exit charge if the assets are appointed from the Trust in December 2024. This would be based on the initial value of the trust assets (including any BPR/APR), and an effective rate multiplied by the number of quarters that the assets have been in the trust.

Initial Value			2,620,000
NRB Available		325,000	
CLTS in 7 years prior to trust creation		0	
NRB Remaining		325,000	(325,000)
Chargeable			2,295,000
IHT @ 20%			459,000
Effective Rate			17.519%
Actual Rate	17.519% x 30% x	39/40	5.124%
Relevant Property			
Becketts Field - Land			2,000,000
APR @ 50%			(200,000)
Value			1,800,000
Becketts Field - Cottage			150,000

Total Value			1,950,000
Symes Farm			
MV			4,300,000
APR @ 100%			(1,810,000)
Value			2,490,000
Chargeable			4,440,000
Exit Charge			227,506

50% of Beckett's field is not used for farming activity so APR is restricted. As the tenancy started prior to 1995, the APR is 50%.

The exit charge will need to be grossed up if the trust pays the charge.

FHLs and letting businesses do not qualify for APR.

A disposal for CGT will also arise as follows:

Beckett's Field			
Proceeds (MV)			2,150,000
Base Cost			(175,000)
Gain			1,975,000
Symes Farm			
Proceeds (MV)			4,300,000
Base Cost			(380,000)
Gain			3,920,000
Total Gain			5,895,000
AEA			(3,000)
Chargeable			5,892,000
CGT @ 20%			1,179,000

As the property was subject to IHT on exit, hold over relief can be claimed to defer the gain and reduce the base cost for the beneficiaries. The beneficiaries will be able to uplift their base cost by any exit charge payable.

2. Selling the assets in May 2025 and distributing the cash

If the assets are sold, the CGT liability would be as above. The gain cannot be held over in such an instance.

A principal charge to tax will also arise at the ten year anniversary on 31 January 2025. The maximum rate of the principal charge is 6%. This will be based on the current value of the trust as follows:

Current Value			6,450,000
APR on Beckett's Field	As above.		(200,000)
APR on Symes Farm	As Above.		(1,810,000)
Net value			4,440,000
NRB Available	As above.		(325,000)
Chargeable			4,115,000
IHT @ 20%			823,000
Effective Rate			18.536%
Actual Rate	18.536% x 30%		5.561%
Principal Charge	5.561% x	4,440,000	246,908

There would also be an exit charge on the cash subsequently distributed based on the rate calculated above, and the number of complete quarters that have passed since the last principal charge and exit:

The total cash in the trust following the payment of CGT and the principal charge, i.e.the net proceeds would be as follows:

Gross Proceeds			6,450,000
CGT Paid			(1,179,000)
Principal Charge			(246,908)
Net proceeds to be distributed	(loss in value)		5,024,092

Actual rate	5.561% x	1/40	0.139%
Exit Charge			6,983

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

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

Answer-to-Question- _5_

Requirement 1:

Given that a successful claim for a conditional exemption was made by Sir Philip, IHT would not have been payable on Robles Castle or on its contents on his uncle's death.

However, there is an IHT recapture charge where the assets which were the subject of a conditional exemption claim are subsequently sold. The sale to the British Museum will not prevent an IHT charge from arising, as this sale did not occur within 3 years of the individual's death.

The IHT recapture charge, in the even of a sale, is based on the net proceeds of sale. A deduction may be taken for CGT payable on the assets. CGT will only be payable on the sales made to a private purchaser, but the sale to the British Museum will be exempt.

	Necklace	Sword	Clock	Dining Table
Proceeds	20,000	80,000	8,500	25,000
Costs of Sale	(1,200)	(7,500)	(750)	(2,750)
Probate Value	(15,000)	(60,000)	(7,500)	(17,000)
Gain	3,800	12,500	250	5,250
CGT @ 20%	760	Exempt	50	1,050
Net Proceeds	18,040	72,500	7,700	21,200
Total net proceeds	119,440			
IHT Recapture charge at 40%	47,776			
CGT Due	1,860			
IHT Due	47,776			
Total	49,636			

Requirement 2:

The gifts would result in an IHT recapture charge as above. However, if the donee makes the necessary undertakings, i.e. the same undertakings made by Sir Philip, then the conditional exemption claim would continue.

A conditional exemption claim can be made where the following necessary undertakings are made:

- The asset/property must be in the UK and must be kept in the UK (albeit temporary absences may be agreed with HMRC);
- The public must be given reasonable access;
- The asset/property must be well maintained and preserved.

These undertakings must be given within 2 years following the date of the transfer otherwise the IHT recapture charge will arise and will be payable by the donees, i.e. Holly and Matthew.

The gift of the gnome is a PET for IHT purposes. The gift will become chargeable if Sir Philip dies within 7 years of the date of the gift. Taper relief may be available if he does survive at least 3 years from the date of the gift. However, given it's preeminent artistic interest, Holly can make a conditional exemption claim within 2 years of the PET or within 2 years of Sir Philip's death so it's not subject to IHT.

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

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

Answer-to-Question- _6_

IHT before the transaction

Lifetime gift of £110,000 will become chargeable on death, as 7 years have not elapsed since the date of the gift.

However, as Ian's first wife left her entire estate to him having made no lifetime gifts, Ian has two nil rate bands and two residence nil rate bands.

Lifetime Gift - PET			110,000
Nil Rate Band			(650,000)
Chargeable			Nil

Assets			
Main Residence			150,000
Let property			850,000
Woodwater Ltd			100,000
ComputerLine Plc			250,000
Jewellery			200,000
Residue			20,000
Total Assets			1,570,000
NRB Available	650,000		
Less: Gifts in prior 7 years	(110,000)		
NRB	540,000		(540,000)
Re ma ini ng			
Baseline Amount			1,030,000
RNRB			(150,000)

Spousal Exemption	Let property / 1/3rd to his widow		(283,333)
Chargeable			596,667
IHT @ 40%			238,667

The RNRB is limited to the value of the main residence so even though his first wife would have transferred 100% of the RNRB, his RNRB is capped at £150,000.

Woodwater Ltd has only been owned by Ian from the date of his sister's death which is less than 2 years. No inheritance tax would have been paid on these shares at the date of her death so there's no quick succession relief available.

The gift to the charity was not bequeathed by will and Lewis appears to have been given a choice as to whether to donate them or otherwise keep the funds for his own use, and therefore the lower rate of IHT cannot be considered.

IHT After

Where trust distributes assets within two years, it's deemed to pass from the will at probate value.

A deed of variation will have a similar effect if executed within 2 years. The assets will deem to have been passed from the will. The treatment of the woodwater shares will therefore not change. Jenny would be better off waiting a year and transferring the shares herself, as a PET.

The let property will be exempt under the spousal exemption. The RNRB would still be available as the main residence is passing to lineal descendants.

The treatment of the PET will be the same (as above)

Assets			
Main Residence			150,000
Let property			850,000
Woodwater			100,000
Computerline			250,000
Jewellery			200,000
Residue			20,000
Total			1,570,000

Spousal Exemption			(850,000)
RNRB			(150,000)
NRB			(540,000)
Chargeable			30,000
IHT @ 40%			12,000

Gift to charity not made by deed or via a settlement.

Karen will be able to claim some additional RNRB if she passed her main residence onto her lineal descendants given that her husband has only used part of his on death. He was eligible to use an RNRB of £350,000 but only used 42.857% of this. The unused % of the RNRB can be applied to the RNRB at Karen's death and her RNRB can be uplifted by this amount.

The transfers (other than the gift to a charity) will result in disposals for CGT purposes, including for the deeds of variation, given that there is no CGT election included.

The gift of the shares would be eligible for hold over relief under s165.

The transfer of the main residence does not result in a gain.

The transfer of the let property only results in a gain of £1,000 which would likely be covered by the AEA.

The jewellery collection is being disposed of for consideration, and therefore the DoV is not valid. A gain of £40,000 will be generated and chargeable on Paul.