

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

Event **NA**

Exam Mode **OPEN LAPTOP + NETWORK**

Exam ID

Count (s)	Word (s)	Char (s)	Char (s) (WS)
Section 1	626	2872	3358
Section 2	805	3515	4313
Section 3	645	3003	3617
Section 4	583	2765	3237
Section 5	407	1866	2221
Section 6	529	2332	2797
Total	3595	16353	19543

Answer-to-Question-_1_

The resident status of an estate is dependent on the the resident status of the executors. If all executors are non-resident, the estate will be non-resident.

If all executors are UK resident, the estate will be UK resient.

Where there is a mixed residency status, the estate will be UK resident if the deceased is either UK resident or UK domiciled.

Jane's executors are mixed residency but as Jane was UK domiciled, the estate will be UK resident for incoem tax purposes. IT wil be taxable on its worldwide income.

Capital gains tax is different, this goes on resident status of the deceased. As Jane was non-resident at the time of her death, the estate will be non-resident for CGT. It will therefore only be liable to CGT on it's UK situ assets.

2022/23

	No tes	NSI £	SI £	DI £		
UK rental		39,000				
Foreign dividends				20,000		
Foreign interest			5,000			
Rental exp		(4,000)				
Loan	2	(16,667)				
Taxable income		18,333	5,000	20,000		

Tax payable

		£		
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18,333	20%	3,667		
5,000	20%	1,000		
20,000	8.75%	1,750		
Tax due		6,417		

Tax is payable 31st January 2024

2023/24

	No tes	NSI £	SI £	DI £		
Rental		36,000				
Foreign dividend			25,000			
Foreign interest				4,000		
Loan interest	2	(23,333)				
Rental exps		(2,000)				
Accountancy		(2,500)				
Taxable income		8,167	25,000	4,000		

Tax payable

		£			
8,167	20%	1,633			
25,000	20%	5,000			
4,000	8.75%	350			
Tax payable		6,983			

Income Tax is due 31st January 2025

CGT 2023/24 - rental property

		£	
Proceeds		400,000	
Probate value		(350,000)	
Probate cost (N3)		(1,287)	
Gain		48,713	
AEA		(6,000)	
		42,713	
CGT	28%	11,960	

gains on the disposal of the residential property are due to be reported along with CGT

paid within 60 days of the disposal.

Distributable income

	NSI	SI	DI		
22/23	18,333	5,000	20,000		
22/23 tax	(3,667)	(1,000)	(1,750)		
23/24	8,167	25,000	4,000		
23/24 tax	(1,633)	(5,000)	(350)		
Loan int not deductible for tax	(13,333)				
Distributable income	7,867	24,000	21,900		

R185

	Net	Tax	
NSI	7,867	1,967	
SI	24,000	6,000	
DI	21,900	2,100	
	53,767	10,067	

1. ISA's keep their tax free status for 3 years post death or until the estate comes to an end, if before.
2. Loan interest on a loan taken out to cover IHT is deductible for tax purposes for interest paid in the 12 months after the loan has been taken out. any tax paid after this date is not allowable. 22/23 £16,667 ($500,000 \times 0.08\% / 12 \times 5$). 23/24 £23,333 ($500,000 \times 0.08 / 12 \times 7$)

There is no rule for estates to say which type of income the loan interest should be deducted from. So deduct from NSI as most tax beneficial

3. The estate is valued at £2,175,000. Therefore, according to the scale rates, the allowable cost for probate is $8,000/\text{value of estate} \times \text{probate value of asset}$ ($8,000/2,175 \times 350$)
=1,287

4. The full AEA is allowable in the year of death and the following tax year only.

5. The distribution of Pro[perty Ltd will be matched against the available income in the estate and reported on a R185. Assets distributed within 2 years of death have no effect on CGT as they are treated as distributed in the will.

As the estate is UK resident, it will be liable to UK income tax on its worldwide gains. The estate needs to register with HMRC by 5th October 2023 and will be required to submit tax returns by the 31st January each year.

As the estate is non-resident for CGT purposes as the deceased was non-resident at the time of death, CGT will only be due on its gains on UK situs assets.

Therefore, the sale of the Bermuda bank shares will not give rise to a UK CGT charge.

The sale of the rental property will be charged at 28% and must be paid and reported within 60 days of sale

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

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

Answer-to-Question- 2

Tee Ltd

The shares in Tee Ltd will be eligible for BPR as it satisfies the conditions. The shares have been held for 2 years and the company is an unquoted trading company.

BPR is restricted where there are excepted assets held by the company. The boat held for personal use along will be an excepted asset. The surplus cash, unless earmarked for a future business use will be an excepted asset.

BPR will therefore be restricted to account for the excepted assets.

Woodland

Woodland relief is available where the land on which the trees are growing is not eligible for APR

AND the deceased was beneficially entitled to the land for the 5 consecutive year preceding his death.

Where this applies, an election can be made to leave out the value of the trees from the estate.

In Donalds case, the value to be included in his estate would therefore be £240,000.

This election must be made by the board within 2 years of death.

There would be a recapture charge on the value of the trees once they are eventually sold.

Quoted investments

No relief is available for the quoted investments. BPR is not available as the shares quoted. £900,000 will be included in the estate.

Living expenses

Habitual gifts out of income do not fall within the scope of IHT (they are not PETs) provided they do not impact the standard of living for the person making the gifts. The gifts by Donald of his dividends don't seem to be out of spare available income as shares have had to be sold to cover the shortfall. Therefore, currently, the gifts will likely be considered PETs and will come into charge of IHT if Donald dies within 7 years.

Gift of home proceeds

The gift of the proceeds will be treated as a PET. If Donald dies within 7 years, this will become charged to IHT.

Taper relief will be available if Donald survived 3-7 years.

As Mary used the proceeds to purchase the flat that Donald now lives in, this will give rise to a POAT charge as the proceeds were used within 7 years of the gift.

This will mean that Donald will be liable to income tax on the benefit. Assuming Donald does not pay any rent, the benefit will be the full market rent of £12,000 per year.

The £12,000 will be treated as forming part of Donald's income. As Donald is an additional rate tax payer, he will pay 45% tax on the 12k every year (£5,400)

A POAT charge can be avoided if Donald pays market rent to Mary. Mary would then be taxed on the rent received.

Alternatively, an election can be made to treat the gift as a GWROB. This will treat the value of the flat as still being in Donald's estate on death.

If Donald were to die within 7 years, the PET would become chargeable along with the GWROB. To avoid double tax charges, IHT will be calculated on the PET and with the GWROB in the estate. Whichever yields the largest liability will be used.

If a GWROB election was to be made, this would need to be made by 31st January following the end of the tax year that the POAT first arose.

Painting

The gift of the artwork will have been a PET and treated as a GWROB as Donald continued to benefit from the asset. A

A further PET will arise when the GWROB comes to an end in July 23. If Donald dies

within 7 years, a tax charge will arise.

Taper relief will be available if he survives 3-7 years.

Reccommendations

To reduce the restriction of BPR on the trading company, the excess cash should be earmarked for a future business use. IT will then not be an excepted asset.

Alternatively, Donald could take out the cash as additional dividends. These extra dividends would then provide Donald with unused personal income. IF he then set up regulary payments to MARY out of this income, they would not be in the scope of IHT. A statement should be made so that it is clear that the first payment is the first of a series of gifts out of income.

Donald could pay Mary market rent for the flat to avoid a POAT or a GWROB charge. The £1,000,000 would then be treated as a PET and IHT will only be due if Donald dies within 7 years.

Lifetime gifts could also be made oput of Donald estate each year to make use of his available annual exemptions of £3,000.

Other lifetime exemptions that could be made use of are:

1. Small gift exemption of £250 per person, per year
2. Wedding gift exemption of £5,000 to a child, £2,500 to a grandchiuld and £1,000 to anyone else

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

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

Answer-to-Question- _3_

Stefan will become deemed domiciled when he has been UK resident for 15 out of the last 20 tax years. This will be in March 2027. He will therefore become deemed domiciled on 6th April 2028.

While Stefan is non-domiciled, only his UK situ assets will come into the scope of UK IHT.

Once Stefan is deemed domiciled, he will be liable to IHT on his worldwide assets.

Stefan will be entitled to a NRB of £325,000

He will also be entitled to a RNRB of £175,000. As the home is being left to lineal descendants, the RNRB will be available on death however, this will be tapered away as the estate value is over £2m.

Exposure to #IHT once deemed domiciled

	Notes	£		
UK home		2,500,000		
UK Bank		23,000		
Uk invest		150,000		
Swedish home		600,000		
Dubai home		300,000		
Foreign invest	1	1,500,000		
		5,073,000		
NRB		(325,000)		
		4,748,000		
IHT	40%	1,899,200		

1. The UK pension fund will not form part of the estate
2. The gifts to the discretionary trust and foreign investment account are gifts of excluded property and therefore do not reduce the NRB

3. RNRB is not available as tapered away (estate above 2.35m)

Stefan set up the discretionary trust for his grandchildren while he was non-uk domiciled. This trust will therefore be an excluded property trust. The trust will not be liable to exit charges or principle charges, even after Stefan becomes UK domiciled. The trust doesn't hold any uk assets or have any uk income. The trust income and gains will only be taxable in the UK if it is distributed to a UK beneficiary.

Protect assets from UK tax

IF Stefan were to set up a trust while he is non-uk domiciled, this would be an excluded property trust.

A trust is resident where it's trustees are resident. If all trustees are non-resident, the trust will be non-resident.

If all trustees are uk-resident, the trust will be uk resident.

If the trustees have a mixed resident status, the trust will be resident where the settlor was resident at the time of creation.

UK resident trusts are taxed on their worldwide income and gains

non-resident trusts are taxed on their UK income and gains on UK situ assets.

A trust is domiciled where the settlor is domiciled. If Stefan set up a trust while he is non-domiciled, the trust will keep its non-domiciled status even after Stefan becomes deemed domiciled.

Foreign assets that are transferred to the trust before Stefan is deemed domiciled will be a transfer of excluded property. This transfer would not be a CLT or reduce the availability of the NRB should Stefan die within 7 years.

Therefore, if Stefan were to transfer the foreign assets to the trust before he is deemed domiciled, this will reduce his value of his estate for IHT.

Where a settlor can benefit from the trust assets, the trust will be a settlor interested trust.

A UK resident but non-domiciled settlor of a settlor-interested trust will be taxable on the trust income and gains on an arising basis.

While Stefan is non-domiciled, he could use the remittance basis. HE would therefore only be taxed on the income of the trust if it were actually brought to the UK.

Once Stefan becomes deemed domiciled, the foreign income of the trust will be protected foreign source income. This means that the foreign income will only be taxable on the settlor if it is matched to a distribution to a UK beneficiary.

If foreign assets are transferred to the trust, these will become excluded property. They will therefore not be subject to exit or principle charges even after Stefan becomes deemed domiciled.

If the trustees of the trust were all non-resident, the trust would be non-resident and therefore only liable to UK tax on UK income and gains on UK situ assets.

Th

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

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

Answer-to-Question- _4_

The trust will not be an age 18-25 trust as although Andrew intended for the assets to be appointed by age 25, this is not stipulated in the trust deeds.

The trust is therefore a relevant property trust.

The first 10 year principle charge will be payable on 31/01/2025.

IF the trust assets are appointed in December 2024, not principle charge will become due. An exit charge will become payable and the distribution will be a disposal for CGT

		£		
Initial value of trust		2,620,000		
NRB		(325,000)		
		2,292,000		
Notional tax	20%	458,400		
Effective rate		17.496%		
Actual rate	17.496 x30% x 40/39	5.118%		

IHT due on distribution
 $£6,450,000 \times 5.118\% = £330,111$

IHT would be due within 6 months of the end of the month of distribution along with form IHT100.

The beneficiaries are liable to the exit charge

1. APR and BRP is ignored when calculating the exit charge before the first principle charge.

Capital gains

A claim for S.260 holdover relief could be made in respect of the distributions as they are immediately chargeable to IHT.

This would mean that the gain heldover would be deducted from the market value at the time of distribution. Any IHT payable in respect of the assets would also be included as a cost, increasin the beneficiaries base cost.

		£	
MV		6,450,000	
Trustees basecost		(555,000)	
Gain		5,895,000	
S.260		(5,895,000)	

Beneficiaries base cost

		£	
MV		6,450,000	
S.260		(5,895,000)	
IHT-Exit charge		330,111	
Base cost		885,111	

Selling assets in May 25

Principle charge 31/01/25

		£	
100 acres	800,000		
APR	(200,000)	600,000	
Cottage		150,000	
200 acres	4,000,000		
APR	(1,600,000)	2,400,000	
Farmhouse	300,000		
APR	(210,000)	90,000	
Total		3,240,000	

NRB		(325,000)	
		2,915,000	
Notional tax	20%	583,000	
Effective rate	583/3,240	17.994%	
Actual rate	17.994 x30%/40x40	5.38%	

The 10 year principle charge will be:
 $£6,450,000 \times 5.38\% = £347,010$

Bekett's Fields - The lease is a pre September 1995 lease. APR will be available on the APR value of the land that is used for agricultural purposes at a rate of 50%. It has been owned for 7 years.

50% is used for agricultural purposes. 50% APR value x 50% = £200,000 apr

No APR will be available for the land that is not used in a farming business.

No APR or BPR will be available on the Cottage as it is used as a holiday let.

Symes Farm - As this is let on a Farm business tenancy and it has been owned for 7 years, 100% APR will be available on the APR value of the land.
 APR will also be available on the Farmhouse where it is used in the farming business and is not excessive in size for the size of the farm.

Capital Gain

		£	
		6,450,000	
Cost		(555,000)	
Gain		5,895,000	
AEA		(3,000)	
Gain		5,892,000	
CGT	20%	1,178,400	

CGT will become due for payment on 31/01/2027. Payable by trustees.

As the distribution of the cash is made more than 3 months after the principle charge,

an exit charge will be payable.

		£	
MV		6,450,000	
CGT		(1,178,400)	
principle charge		(347,010)	
Cash available		4,924,590	
Actual rate	5.38%/40x1	0.135%	
Exit charge	4,924,590 x 0.135%	6,648	

Exit charge will be £6,648. payable by the beneficiaries, within 6 months of the end of the month of distribution.

As the CGT and the principle charge will be a liability in the trust, these are deducted from the proceeds to find the cash distributable.

The exit charge will be calculated using the effective rate at the 10 year principle charge an adjusted for non complete quarters

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

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

Answer-to-Question- _5_

A recapture charge will come into effect when an asset is sold which had a conditional exemption claim.

The recapture charge will be the sales proceeds (less expenses and CGT paid on the sale) This will for part of the former estate and IHT will then be calculated on this.

The sale to the British Museum, assuming that the british museum will continue to satisfy the criteria for the conditional exemption, no recapture charge shall arise. The sale will also be treated as having a NGNL affect for CGT

Capital gains

	Necklace £	Table £
	20,000	25,000
Probate cost	(15,000)	(17,000)
Cost of slae	(1,200)	(2,750)
Gain	3,800	5,250
CGT 20%	760	1,050

The clock will be a wasting chattle as it is a moveable item with a life expectancy of under 50 years and therefore exempt for CGT
 CGT will be payable on 31/01/26

Recapture charge -IHT

	Necklace £	Table £	Total
Proceeds	20,000	25,000	
Cost	(1,200)	2,750)	
CGT	(760)	(1,050)	

Net proceeds		18,040	21,200	
Recapture charge		7,216	8,480	15,969

As the estate was charge to IHT, the recapture charge will be 40%
Recapture charge is payable within 6 months

A Conditional exemption is availabel on assets which have a national, scientific, historic or artistic interest.

The property must be kept permanently in the UK

The property must be kept in good repair and maintenance for the preservation of its character

The property must be reasonably be made available to the public.

The gifts on 20/09/2024 will be PET's. If Sir Philip dies within 7 years of the gift, IHT will be payable at 40% (subject to taper relief is survived 3-7yrs) an the IHT will be payable by the donee's.

Holly has sold the silverware so no claim for conditional exemption can be made.
IHT will becoe due on the PET of £15,000 x40= £6,000 if donor dies within 3 years.
Holly will be liable to CGT on the £5,000 gain however, if her AEA is availble, this will cover this amount

The painting is not pre-eminent in its own right so is not qualyfing.
The PET of £30,000 will becoem chargeable to IHT when Sir Philip dies. (30k x 40 =£12,000) payable by Matthew

Garden Statue - If holly met the above criteria for the conditional exemption on the Garden S~tatue, no IHT would be due.
A claim should therefor be made. This can be made within 2 years of Sir Phillips death

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

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

Answer-to-Question- _6_

Original death estate

	Notes		£	
Main residence			150,000	
67 Coyne st			850,000	
Woodwater Ltd	1	100-100	0	
Computerline PLC			250,000	
Jewellery			200,000	
Residue			20,000	
Total estate			1,570,000	
NRB		650,000-110,000	540,000	
			1,030,000	
IHT		40%	412,000	

1. Woodwater ltd is an unquoted trading company, although it hasn't been owned for the 2 years, as it was inherited on his sisters estate, it is possible to combine the total ownership period. As Lucy held the shares for 10 years, the 2 Year ownership period for BPR is satisfied. 100% BPR is therefore allowable
2. Karen doesn't have an IIP so the gift to the trust is not covered by the spousal exemption.
3. The gift to Jenny in Oct 16 will become a failed pet as within 7 years of death. No tax will be due on the PET as covered by NRB
4. Ian has inherited 100% of Faye's NRB as her estate was covered by the spousal exemption. $325,000 \times 2 = \pounds 650,000$ available

5. RNRB is not available as the main residence has been left to trust, not directly to a lineal descendent.

6. Karen will inherit the RNRB. Therefore, she will have £350,000 on her death (unless limits change)

Revised estate

Assets distributed by a trust within 2 years of death are treated as having been appointed within the will. Therefore, the IHT will not be calculated with the new allocation of assets.

			£	
Gross estate as above			1,570,000	
charity	3		(275,000)	
Spousal exemption	2		(850,000)	
NRB			(95,000)	
RNRB	1		(350,000)	

1. As the main residence is now being left to a lineal descendent, the full NRB will be available. 200% is available as Ian inherited Faye's unused RNRB

2. 67 Coyne street is now being left to a spouse so a spousal exemption applies.

3. Gifts to charity made within 2 years of death will be treated as being left in the will

4. Due to the appointments in the trusts and the deed of variations, the estate is now covered by all allowances and no IHT is due.

A IHT refund will then be repayable to the executors

5 Karen will inherit her husband's unused NRB as follows

		£	
		650,000	
PET		(110,000)	
Used in estate		(95,000)	
Unused		445,000	
Unused %	445/650	68.46%	

Karen will inherit 68.46 of her husbands NRB

Capital gains

The appointment in the trusts will give rise to a CGT charge. As there is only a gain of £1,000 on the two properties, this will be covered by the trusts £3,000 AEA.

The deed of variation of Woodwater should included a statement to say that the asset is to be transferred with not effect on CGT. This will mean that Sean will inherit the shares at probate value and no gain will arise on Jenny.

However, this is likely to be covered by Jennys AEA so it may be beneficial to not include a statement and the uplift will be free of CGT.

It will not be possible for Paul to include a statement in the deed of variation to have no affet on cgt as he has sold the asset for consideration. CGT will then be due on the Gain of £40,000.