

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	502	2209	2695
Section 2	1047	4642	5689
Section 3	564	2588	3146
Section 4	831	3770	4595
Section 5	577	2607	3131
Section 6	726	3226	3940
Total	4247	19042	23196

Answer-to-Question-_1_

1)

Jane is UK domiciled so her worldwide assets are liable to IHT.

Jane is non UK resident at the time of her death. The executors of her estate are also mixed residency and therefore only Jane's UK income will be taxable on the estate

22/23

Income tax

	NSI £	DI £	SI £
Income (N1)	39,000		-
Expenses	(4,000)		
Loan interest (N2)	(20,000)		
Taxable income	15,000		
Taxable at 20%/20%/8.75%	(3,000)		
Distributable	12,000		

N1: ISA income continues to be non taxable for 2 years post death

N2: Interest on the loan for IHT is allowable against the income for up to 12 months post death.

Loan of £500,000 x 8% / 12 = £3,333 per month of interest

From Nov 22 - March 23 = 6 months so £20,000 in 22/23

Apr 23 - June 23 = 3 months so £10,000 in 23/24

CGT

The executors are only liable for CGT on the UK property assets (which includes

Property Ltd as explained above).

The sale of the Bermuda Bank Ltd shares are therefore not subject to IHT

23/24

Income tax

	NSI £	SI £	DI £
Income	36,000		
Expenses	(2,000)		
IHT interest (N2)	(10,000)		
Taxable income	24,000		
Taxable at 20%/20%/8.75%	(4,800)		
Management exp (N3)	(2,500)		
Distributable	16,700		

CGT

	London flat £		
Proceeds	400,000		
Probate value	(350,000)		
SP/04 (N3)	(1,287)		
Gain	48,713		
AE	(6,000)		
Chargeable	42,713		
CGT @ 28%	11,960		

This CGT is due on a 60 day NRCG return so May 2024 and the CGT is due for payment at the same time

N3: Under SP/04, allowable expenses for the estate are £8,000 apportioned amongst the assets in the estate. Estate value is £2,175,000, of which the London flat is £350,000 so $£8000 \times (350/2175) = £1,287$

The appropriation of the Property Ltd shares to Kate is a distribution from a deceased estate and therefore not a disposal for CGT. Kate will acquire the shares at the trustee's

probate cost, rather than the market value at the date of distribuion.

Kate has not received a benefit in 22/23 so there is no R185 for 22/23

For 23/24, Kate's only

R185, assuming the estate's administration period has finished, the whole of the income will be distributed to Kate with its character retained and a credit for the tax paid by the executors.

	Net	Tax	
NSI	28,700	7,175	
SI	-		
DI	-		

2) Property Ltd would be classed as a property rich company as it derives its value from UK situs property. It will therefore be chargeable to UK tax on its income and its gains.

Any sales of the properties within Property Ltd would need reporting on a NRCG return online and CGT paid within 60 days.

The executors will need to register with HMRC and file a UK self assessment return to report the UK income tax they are assessable on which will be due by 31 January of the year following the end of the tax year. The first return for the tax year 22/23 is due by 31 Janaury 2024.

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

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

Answer-to-Question- 2

Donald has a nil rate band of £325,000 which can be utilised in his lifetime or at death to pass assets up to this value to his beneficiaries.

Transfers during his lifetime may lead to reduction in his death estate for IHT, however, there are certain restrictions. If Donald makes a gift with reservation (GWROB), HMRC will treat this as still within his death estate.

Donald has annual exemptions of £3,000 per year available to him which would be free from IHT. There are also gifts which are outside the scope of these allowances where the gifts are given from surplus income.

Dividends gifted to Mary

Donald does not have enough surplus income to pass all of the dividends from Tee Ltd to Mary, as evidenced by the requirement to sell shares in his portfolio to meet these gifts. This means that the passing of his dividend income from Tee Ltd to Mary from June 2023 would be deemed as a PET for IHT. If Donald were to die within 7 years of these gifts, IHT would be due (although reduced by taper relief if he survives 3 or more years).

These gifts at £150,000 per year would be a chargeable PET of £147,000 (less the annual exemption which would quickly erode away his nil rate band).

Donald should consider what surplus income he actually has and consider gifting this income to Mary without the need to sell his share portfolio.

As Donald's quoted share portfolio is held for capital growth and he cannot derive significant income from the asset, he could consider gifting this amount to Mary now. This would be a PET from the date of the gift and would fall out of IHT after 7 years.

It is worth noting that the above gift to Mary would be a CGT disposal for Donald so the unrealised gains within this portfolio should be considered. If they are significant, he can pass shares up to the value of the annual exemption of £6k per year to avoid triggering CGT.

Sale of house and gift of proceeds to Mary

Donald has sold his house and given the proceeds to MARY. This would be a PET and Donald would need to survive under July 2030 to avoid the PET still being included as chargeable when he dies.

Mary has used part of these proceeds to buy a flat where Donald lives so he has now benefitted from this gift to MARY. This would not be a GWROB as Donald is not benefitting from the original house, however it would be caught under the Pre Owned Asset tax charge (POAT). This charge is an income tax charge which Donald would need to declare and pay tax on each year.

Donald can claim to disapply the POAT charge and instead include the value of the benefit in his death estate.

Alternatively, Donald can pay Mary the market value rent of £12,000 per annum, which would be taxable income in MARY's hands, but would avoid the need to pay the POAT charge.

Artwork

The artwork inherited from Donald's sister was gifted to MARY in August 2010 but he did not stop receiving a benefit from it until July 2023 when he sold the house. Before July 2023, the artwork was a GWROB within Donald's estate and, if he had died at this point, it would have been included in his death estate.

As he has now stopped receiving the benefit from the artwork, the gift is now a PET but the clock has started at July 2023, when he stopped receiving the benefit. HE would need to survive for 7 years for this gift to be IHT free.

IHT planning for Donald

1) Tee Ltd is an unquoted trading company and Donald has held the shares for more than 2 years. The majority of the value of the company would be eligible for 100% BPR which would reduce the chargeable value.

Within the company are two excepted assets. These are non-trading assets, held by the company which would restrict the amount of BPR available. The surplus cash and personal boat would be excepted assets and would therefore reduce the BPR and leave £720k of Donald's share value exposed to IHT $((500 + 400/4,000) * 3,200,000 = 720,000)$.

If the cash balance of £400k were being held for a specific project for instance, the purchase of more land for the golf club or for working capital, it could be argued that this cash is not an excepted asset but this would need to be documented and evidenced and would be open for challenge by HMRC.

The shares in Tee Ltd (excluding the above assets) are a good asset for Donald to hold at his death and can provide the majority of the income he requires for his lifetime so we would not suggest moving the ownership of these shares during his lifetime.

2) The woodland can attract woodland relief on the value attributable to the wood. The land itself is not relievable for IHT but the value of the wood and underwood is relievable for IHT so the value within Donald's estate would be £160k (£400-240k).

There is a clawback of the relief if the wood is sold after his death for a profit.

APR is also available on the land if it were a commercial woodland operation but, given it is a cover for the golf course, this seems unlikely to succeed.

3) The quoted investment portfolio attracts no relief from IHT and, as Donald has utilised his NRB already, would likely be fully chargeable on his death. As Donald does not derive any income from the portfolio to support his lifestyle, he could consider gifting the portfolio to Mary or perhaps to a trust for Mary's children, to start the clock on the gift.

As mentioned above, this would trigger a CGT disposal so the gains and losses would need to be reviewed to maximise the efficiency of the gift.

Donald should seek to maximise his lifetime gifting and keep his assets which attract the most IHT relief i.e. the Tee Ltd shares and the woodland.

Donald does not own his main house (the flat purchased by Mary) so there is also likely to be no RNRB available for him.

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

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

Answer-to-Question- _3_

1) Stefan will become deemed domiciled in the UK from 6 April 2027, after he has been resident in the UK for 15 out of the last 20 tax years.

This will mean that his worldwide assets will be subject to UK IHT, although there will be some relief for double tax charges is applicable.

Prior to Stefan becoming deemed domiciled, any trusts he makes with foreign assets will be excluded property trusts and outside the scope of UK IHT. the trust set up in February 2020 would fall into this category and, as Stefan cannot benefit from the trust, would continue to be excluded property even when he becomes deemed domiciled in 2027.

The gifts in March 2023 were also foreign assets transfered so again excluded property transfers for IHT.

Stefan, therefore, has not used any of his NRB at present and will have a NRB of £325k and a RNRB (if not tapered to nil which looks likely given the value of his estate) of £175k. this is regardless of whether he is UK deemed domiciled or not but clearly if his worldwide assets are brought into the scope of IHT, these NRBs will not provide as much relief and the estate rate will be much higher.

Stefan plans to leave his estate to his adult children which means his exposure, were he to die while deemed domiciled would be £1,899,200 of IHT.

	£
UK home	2,500,000
UK bank account	23,000
UK investments	150,000
Swedish home	600,000
Dubai home	300,000
Foreign investment acc	1,500,000
UK pension (N1)	-
Total	5,073,000

NRB	(325,000)
Chargeable	4,748,000
IHT @ 40%	1,899,200

N1: currently exempt from UK IHT if pension trustees have discretion to apply the benefit.

2) Before Stefan becomes deemed domiciled, he should look to settle all his foreign assets onto a non UK resident trust. This will be a transfer outside the scope of UK IHT (so no lifetime tax to pay) and the trustees should be non UK resident.

Any UK situs assets should not be included in this trust.

Although Stefan still uses the Dubai and the Swedish home and will therefore still receive a benefit from those assets, this can be assessed on him and he will pay tax on the market value of the benefit.

The expected inheritance from his parents will increase his assets subject to IHT while he is UK domiciled. Stefan should consider whether he needs/wants these additional assets at his disposal or whether he can redirect the inheritance from his parents to his children, thus bypassing him entirely. This can be effected through his parents' wills or via a Deed of Variation up to 2 years after their death. If Stefan does want to retain this inheritance then they will form part of his estate, even if he retains them offshore, if they are received while he is UK domiciled.

Trust residence for IHT follows the settlor's domicile at the point of settling the trust. the trust can then be made UK resident by all trustees being UK resident.

When Stefan becomes deemed domiciled, he should take care not to taint the trust by adding any further property into it or by adding UK property. HE can be a trustee of the trust and therefore retain some control but this should be carefully considered to avoid it being viewed by HMRC as for tax avoidance.

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

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

Answer-to-Question- _4_

The trust is a relevant property trust and therefore its first principal charge will arise on 31 January 2025. Any distributions made to the beneficiaries before the first principal charge will use the initial value of the trust as the starting point for the tax rate used.

The availability of APR and BPR on the trust's assets will affect the IHT due on an exit charge and a principal charge so, considering each in turn:

Becketts Fields

The land and the cottage are let under one tenancy and the tenant has a mixed use of the land and the cottage. The cropped land and the grazing land would be eligible for APR on the agricultural value. This would be capped at 50% as it is a pre 1995 lease with more than 2 years to run. The land has been owned by the trust for more than 7 years so this criteria is also met. The furnished holiday let is not agricultural use and nor is it available for BPR so no relief will be available on the cottage's value in the trust. The land let for an outdoor activity centre would also not be considered agricultural use, nor is the trust carrying out a business on that land so no APR or BPR is available on the non agricultural land.

Symes Farm

This land is let on an FBT so 100% APR would be available on its agricultural value. The farmhouse would be included as it is a modest farmhouse and is occupied by the farmer.

1) Distribution of assets in Dec 24

Initial value

Total market value of trust fund at settlement	2,620,000		
APR Becketts N1	(262,500)		

APR Symes N1	(1,750,000)		
Value of trust fund after APR	607,500		
NRB of Settlor	(325,000)		
Chargeable value	282,500		

N1: APR on Becketts land is only 7/10ths (30 acres = not agri) at 50% so $£525,000 * 50\% = 262,500$

100% APR on Symes Farm so $£1,750,000$

Theoretical rate = $£282,500 * 20\% = 56,500$

Effective rate = $56.5/607.5 = 9.300\%$

Actual rate = $9.300\% * 30\% = 2.790\%$

The exit charge for the distribution to the beneficiaries in Dec 2024 is therefore

$£6,450,000 * 2.790\% = £179,963$

The CGT on disposal of the assets to the developers will then be in the beneficiaries' hands. There is a disposal in the trust's hands on the distribution to the beneficiaries but, as there is IHT immediately chargeable via the exit charge, the trustees and the beneficiaries can jointly elect to holdover the relief under s260.

This would pass the base cost of the trustees' effectively to the beneficiaries and they would then be taxable personally on the CGT gains. This may, however, lead to lower rates of CGT payable as there may be more annual allowances available to use.

2) Sell and distribute

When the assets are sold by the trustees, the CGT position will be:

	Residential properties £	Land £	£
Cash realised	450,000	6,000,000	6,450,000
Base cost	(105,000)	(450,000)	(555,000)
Gain	345,000	5,550,000	
trustees AE	(6,000)		

Chargeable gain	339,000		
CGT @ 28%	94,920		
CGT @ 20%		1,110,000	

Note: the sale of the residential properties will need to be reported on a 60 day return by July 2025, depending on exact completion date, and the CGT will be due at the same time. The disposal of the land is reportable by the trustees on their 25/26 tax return and CGT will be due by 31 January 2027.

The principal charge would fall on 31 January 2025, at which point the current market valuations will dictate the actual rate of IHT.

			£
Total market value of trust fund			6,450,000
Less 50% APR on 7/10ths Becketts land			(280,000)
Less 100% APR on Symes Farm			(1,810,000)
Trust value			4,360,000
Settlor's NRB			(325,000)
Chargeable			4,035,000

Theoretical rate = £4,035,000 * 20% = 807,000

Effective rate = 807/4360 = 18.509%

Actual rate = 18.509% * 30% = 5.553%

Principal charge £4,035,000 x 5.553% = £224,064 - payable in 10 annual instalments of £22,406 each.

When the distribution of the cash out of the trust is made after the sale in May 2025, an exit charge will also be due as it is more than 1 completed quarter since the principal charge.

The actual rate (assuming the distribution is made in May/June/July 25) is 5.553% x 1/40 = 0.139%

The net proceeds after CGT of the property sale is £6,450,000 - 1,204,920 - 224,064 = 5,020,936

The exit charge will therefore be: £5,020,936 * 0.139% = £6,979

Total costs

	CGT	IHT	
Option 1	N1	179,963	
Option 2	1,204,920	231,043	

N1: CGt is not claulated on option 1 but is is not expected to be higher than option 2 as the benficiaries will have their individual personal allowances to use and they may have losses to offset against the gains.

From the above calculations, option 1 would be beneficial as it takes advantage of the lower rate for the exit charge as it is based on the intial value of the trust.

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

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

Answer-to-Question- _5_

1)

A claim for conditional exemption (CE) provides exemption from IHT for certain objects which fall under the criteria set out in statute. The criteria includes "any relevant object which appears to the Board to be pre-eminent for its national, scientific, historic or artistic interest" and can include chattels, buildings and land.

To obtain this exemption, certain undertakings must be agreed to with HMRC and, if any of these are not met, or the assets are sold or disposed of, a recapture charge for IHT may become due. This recapture charge is waived if the asset is sold to a public body e.g. in this case the British Museum, or if the new owner agrees to take on the undertakings.

Looking at each disposal in turn

1. Amethyst necklace - not sold to a qualifying new owner so CGT to be paid and then IHT recapture charge calculated
2. Broad sword - sold to British Museum so exempt from CGT and no recapture charge as a qualifying heritage body. Under ssch 3. of IHTA84
3. Clock - not sold to a qualifying new owner so CGT to be paid and then IHT recapture charge calculated
4. Dining table - not sold to a qualifying new owner so CGT to be paid and then IHT recapture charge calculated

CGT

	Amethyst necklace £	Broad Sword £	Clock £	Dining Table £
Proceeds	20,000		8,500	25,000
Costs of sale	(1,200)		(750)	(2,750)
Base cost (probate value)	(15,000)		(7,500)	(17,000)
Gain/(loss)	3,800		250	5,250

AE (N1)	-	-	-
CGT @ 20%	760	50	1,050

N1: assume annual exemption used against residential property gain

The recapture charge is then calculated after deducting the CGT paid.

		£
Probate value relieved for necklace, clock and table	15 + 7.5 + 17	39,500
Less CGT on those assets	760+50+1050	(1,860)
		37,640
IHT recapture charge @ 40%		15,056

	silverware £	FReud painting £
Deemed proceeds	15,000	30,000
Base cost	(10,000)	(12,000)
Gain	5,000	18,000

CGT on gifts is $23,000 * 20\% = £4,600$

IHT recapture will then be $(£22,000 - 4,600) * 40\% = £6,960$

The garden statue was given to Holly by Sir Phillip and is currently a PET for his estate. It would be beneficial to apply for CE on this asset, if Holly is willing to accept the undertakings, as Sir Philip is not expected to survive 7 years.

2)

Sir Philip has also made gifts to his children which are PETs from his estate for IHT and disposals for CGT. Sir Philip has no NRB remaining and is not expected to survive for 7 years so there will be IHT to pay on these gifts by Holly and Matthew at 40% (as no taper relief expected either).

Holly has sold the silverware so she cannot agree to the undertakings to retain the conditional exemption so Sir Philip will be liable to pay the recapture charge on his disposal of the silverware set.

Matthew, who has retained the painting, may be willing to accept the undertakings previously agreed to for the painting in regard to maintenance and preservation of it plus provision for public access, however, as the painting is not pre-eminent in its own right, it will need to be part of a collection for the painting to continue to qualify as CE. If Matthew leaves the painting hanging in the Castle with the other CE assets then it would work for CE but there would be a GWROB issue for Sir Philip.

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

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

Answer-to-Question- _6_

1) Lifetime gifts

PET 14/10/16

	£
Cash	110,000
AEs- all used	-
Value of gift	110,000
Covered by NRB	

Death estate - pre DoV

		£
Main residence		150,000
67 Coyne St		850,000
WoodWater Shares	N1	-
Computerline plc		250,000
Jewellery		200,000
REsidue		20,000
Total estate		1,470,000
NRB N2	(650,000)	
Less PET 2016	110,000	
		(540,000)
RNRB	N3	-
Chargeable		930,000
IHT @ 40%		372,000

N1: Woodwater shares would have 100% BPR available as trading business. Not held by Ian for 2 years but inherited on death so can use Lucy's ownership period too and criteria is met. Value for IHT = 100,000 - 100,000 = 0

N2: NRB for Faye is available to Ian in full as her NRB was unused, NRB is therefore 200% £325k = £650k

N3: no RNRB as residence passing to Disc. Trust, not lineal descendants

Other notes:

- no direct gifts to spouse or charity so no exempt legacies
- QSR is available for Woodwater shares but no IHT paid so no relief

DEath Estate post DoV

The Deeds of Variation needs to be completed before 4 January 2025 and be signed by all relevant parties.

The proposed Deeds will:

1) redirect the shares in Woodwater from Jenny to Sean - no impact for IHT in Ian's death estate as both chargeable beneficiaries.

2) redirect the jewellery from Paul to Karen - now an exempt legacy as Karen is his widow. As cash to be given to Paul is not from Ian's estate, this would be a PET by Karen out of her IHT estate. The value of this PET would be £240k less annual allowances of £6k = £234k. This would leave Karen £91k of her NRB available if she were to die within 7 years.

In addiiton the following transactions will occur on 14 DEcember 2024:

3) Lewis will gift the shares to a charity - not a DoV so no impact on Ian's estate

4) the trustees will appoint the main residence to Jenny and the let property to Karen. Neither of these transactions affect the IHT computation for Ian's estate although, if the let property were appointed direct from Ian to Karen via his Will, it would save IHT of £168,843 so this should be flagged to the trustees.

There would be no change to the IHT based on the transfer of the main residence to Jenny, however, again, if this were included as part of a DoV and redirected from Ian straight to Jenny, the RNRB would be available and IHT would be saved on the property value.

	£	
Total estate	1,470,000	

Less exempt legacy (see 2) above)	(200,000)	
RNRB	-	
NRB per above	(540,000)	
Chargeable estate	730,000	
IHT	292,000	

The above proposed transactions could be better structured to take advantage of the charity exemption. If a Deed of Variation were enacted to pass the charity donation straight from Ian to the charity (could still be Lewis' choice of which charity), IHT of £49,670 would be saved ($£250k * 292/1470$).

2) Based on the tax statements being included in the DoVs as mentioned, there would be no CGT impact for the executors or Jenny on the transfer of the shares direct to Sean. Sean would acquire the shares at probate value and the disposal would be treated as a distribution of the estate and therefore exempt for CGT.

The same would apply for the redirection of the jewellery collection to Karen rather than Paul and she would acquire the jewellery at its probate value. The gift of £240k from Karen to Paul is exempt for CGT.

The gift of the shares in Computerline plc to Cat Defence is a chargeable disposal by Lewis. He acquires the shares at their probate value of £250k and then gifts them to the charity when they are worth £275k, thus making a gain of £25k. There is no opportunity to holdover this gain under s165 and s260 as they are not business assets nor is there an immediate charge to IHT so this gain will be charged on Lewis in 24/25

The disposals by the trustees of the two properties would also trigger as CGT disposal for the trustees. As they have occurred within 2 years of Ian's death, however, they would be treated as disposals under the Will and the properties would pass at probate value to Jenny and Karen.