CIOT - ATT-CTA

Paper: **ATT Paper 5 IHT Trusts and Estates**

Part/Module: **Part 1**

Answer-to-Question-_1_

Matlida's estate qualifies for informal payment of the tax liability for the whole of the administration period (and 1 IT and CGT comp) because the below conditions are met:

-Admin of estate completed within 2 years of death
-The total tax liability for the admin period < £10,000
-The probate value of the estate < £2.5 million
-The proceeds of assets sold in a tax year < £500,000 (holiday home sold for £160,000)
-The estate is not considered complex based on the contents

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

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

Answer-to-Question-_2_

For non-domiciled individuals this is generally based on the lex situs of an asset, being the location of an asset. Non-domiciled individuals are only liable to IHT on their UK assets.

Paintings - exempt from IHT as they are located in Paris

Foreign currency in bank - Subject to IHT as lex situs is where the bank branch of the account is located, in the UK

Shares - located where the register of shares is kept so the quoted co. shares are liable to IHT as the share register is the LSE. The OEIC shares are excluded property as James is non-UK domiciled.

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

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

Answer-to-Question-_3_

1)

Tom Jones has the legal ownership of the trust assets because the nominee arrangement (bare trust) means that he holds the property on behalf of his grandson. He retains legal ownership until his grandson attains the age of 18.

Tom's grandson has beneficial ownership of the trust's assets because he has immediate right to the income earned and can call upon the income and capital held.

2)

The IT and CGT liability for the trust is assessed on the beneficiary (Tom's grandson) so the basic rates of tax will apply as he has no other income or gains for 2021/22.

IT:

	£		
Dividends	40,000		
PA	(12,570)		
Taxable	27,430		
2,000 @ 0%	0		
(27,430 - 2,000) @ 7.5%	1,907		
Total IT due	**1,907**		

CGT:

	£		
Chargeable	15,000		

gain			
AE	(12,300)		
Taxable gain	2,700		
2,700 @ 10%	270		
Total CGT due	**270**		

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

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

Answer-to-Question-_4_

1)

The trust must register with the TRS by 5 October 2021, being 5 October following the first tax year of liability (2020/21). The trustees registered > 6 months late so the penalties may apply as follows:

3 months late: £100
3-6 months late: £200
> 6 months late: greater of £300 and 5% of liability to tax (£125)

2)

As Cindy's agent, we have a duty of care to inform the trustees of the timelimits and deadline for registering the trust with the TRS and make it clear the Cindy who is responsible for registering the trust. If desired, we could engage with her to register it on her behalf.

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

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

Answer-to-Question-_5_

	£	£	
Current value		450,000	
NRB	325,000		
Distributions < 10yrs	(20,000)		
NRB remaining		(305,000)	
		145,000	
NT @ 20%		29,000	
ER: 29,000/450,000 x 100		6.444%	
AR: 6.444% x 30%		1.933%	
10YC			

Annual rental:

12,000 x 9 = 108,000

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

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

Answer-to-Question-_6_

Mr Jones has a qualifying IIP because the trust was created before 22 March 2006. When the qualifying IIP ceases on his death and his wife takes successive interest, this is a chargeable lifetime transfer so IHT may be due. However, if Mr Jones died before October 2008 (so his qualifying IIP ceased), Mrs Jones taking a successive interest would be a transitional series interest becuase it passes to his surviving spouse so the IIP for Mrs Jones would also be qualifying and therefore not part of the relevant property regime.

Their son, the remainderman, will receive the assets of the trust upon the death of Mrs Jones (trust ceases) net of tax paid by the trustees. His reversionary interest is excluded property so will not form part of his estate.

--------------ANSWER-6-ABOVE---------------

--------------ANSWER-7-BELOW---------------

Answer-to-Question-_7_

	NSI (£)	SI (£)	
Rental income	25,000		
Interest		1,000	
Taxable	25,000	1,000	
1,000 @ 20%	200		
(25,000 + 1,000) - 1,000 @ 45%	11,250		
Total IT payable 2021/22	11,450		
Distributable NSI (25,000 - 200 - 11,160)	13,640		

Deemed to be paid out of income (NSI in priority then SI)

R185:

	Net	Tax
NSI	12,000	3,000

The tax deducted at source by the trustees (or a proportion of) must be repaid to the trust by John Wu because he is entitled to the net annuity rather than the tax that the trustees paid. The gross annuity is deducted from NSI as a deductible payment for the trustees.

--------------ANSWER-7-ABOVE---------------

--------------ANSWER-8-BELOW---------------

Answer-to-Question-_8_

Earthquake Ltd holding - s260 TCGA holdover relief can be claimed as the gift to trust is immediately chargeable to inheritance tax.

Volcanic Ltd warehouse - holdover relief can be claimed under s260 TCGA because the gift to trust is a chargeable lifetime transfer so is immediately chargeable to inheritance tax. Relief would also be available under s165 but relief under s260 takes priority.

Unit trust holding - the holding is exempt for CGT and IHT so no holdover relief claim can be made in respect of the transfer into trust.

--------------ANSWER-8-ABOVE---------------

--------------ANSWER-9-BELOW---------------

Answer-to-Question-_9_

	£		
Sale proceeds	530,000		
Deemed cost (PV)	(490,000)		
Chargeable gain	40,000		
PPR relief	(20,952)		
Taxable gain	19,048		
CGT @ 28%	5,333		

PPR relief available because the property was Kumar's main residence and his wife is entitled to >75% of the sale proceeds

Occupation (by wife):   22 months
Ownership (in estate):   42 months

40,000 x 22/42 = 20,952

The annual exemption is not available because is only available for the following years:

2018/19, 2019/20 & 2020/21

Because the asset is a residential property, the executors must report the disposal within 30 days of completion (23 October 2021) and a payment on account for the best estimate of the tax due must also be made by this date. If additional CGT is due, the balancing payment must be made by 31 January 2022.

--------------ANSWER-9-ABOVE---------------

--------------ANSWER-10-BELOW--------------

Answer-to-Question-_10_

	£		
Gift	500,000		
2 x AEs	(N/A)		
CLT	500,000		
NRB	(325,000)		
Taxable	175,000		
IHT @ 20% (trustees paying)	35,000		

Additional IHT (at the death rate of 40%) will be due on Rachel's death because she did not survive the 2019 gift by 7 years. Taper relief would not be available to reduce the additional IHT liability because Rachel did not survive the gift by the minimum period required of 3 years. The executors would be able to deduct the lifetime IHT paid (£35,000) from the additional liability, but this cannot produce a repayment to the estate, simply reduce the additional liability to nil.

--------------ANSWER-10-ABOVE--------------

--------------ANSWER-11-BELOW--------------

Answer-to-Question-_11_

Related property rules apply when calculating the transfer of value because Ahmed's wife owns the remaining chairs.

	Standalone value	RP Value	Higher
Before transfer:	25,000		
4/10 x 80,000		32,000	32,000
After transfer:	10,000		
2/8 x 55,000		13,750	(13,750)
Transfer of value for IHT purposes			18,250

--------------ANSWER-11-ABOVE--------------

--------------ANSWER-12-BELOW--------------

Answer-to-Question-_12_

Fall in value relief is available on the difference between the value of an asset at the date of gift by Joseph and the value at his date of death.

1) the FIV relief claim is valid because the value of the property has fallen by £50,000 between the date of gift and date of death.

2) FIV relief is not available because the car is considered a wasting chattel (useful life of less than 50 years) so the value is likely to fall anyway.

3) FIV relief is not available because Joseph's niece (donee) sold the painting at undervalue so a FIV relief claim would mean IHT exposure on the PET would be avoidable by selling the asset for lower than market value, so a claim is not possible due to anti-avoidance.

--------------ANSWER-12-ABOVE--------------

CIOT - ATT-CTA

Paper: **ATT Paper 5 IHT Trusts and Estates**

Part/Module: **Part 2**

--------------ANSWER-13-BELOW--------------

Answer-to-Question-_13_

1)

April 2012 gift -

Gift	300,000

March 2018 gift (Julia) -

Gift	3,000
Marriage ex.	(2,500)
17/18 AE	(500)
PET	nil

March 2018 gift (Ravi) -

Gift	2,500	
Marriage ex.	(N/A)	already claimed for this marriage
17/18 AE	(2,500)	
PET	nil	

May 2018 gift -

Gift	40,000	
18/19 AE	(3,000)	
PET	37,000	(no lifetime tax)

Marriage exemption not available as the marriage did not take place

January 2019 gift -

Gift	400,000
18/19 AE	(N/A)
17/18 AE	(N/A)
CLT	400,000
NRB	(325,000)

Taxable	75,000

IHT @ 20%	15,000

Proposed additions N/A for purposes of calculating lifetime IHT

The gifts to her grandchildren up to 2020 qualify for the small gifts allowance as the total gifts to each individual in a tax year < £250. From 6 April 2021, the small gifts exemption no longer applies as the gross gift to each grandchild in a tax year is £400. The NEOOI exemption does not apply as Enid makes the gifts using cash from her savings rather than from her income.

2)

DoD: 1/1/2022

April 2012 gift - no additional IHT as >7 years between gift and death

May 2018 gift (failed PET) -

PET	37,000	
NRB (325k-300k)	(25,000)	
Chargeable	12,000	

IHT @ 40%	4,800	
Taper relief	(960)	(20% 3-4 yrs)
IHT due	3,840	(payable by Beth)

January 2019 gift -

CLT	400,000	
NRB	(nil)	
Taxable	400,000	

IHT @ 40%	160,000	
Lifetime tax	(15,000)	
Additional IHT	145,000	(payable by the trustees)

Total additional IHT due following Enid's death: 148,840

--------------ANSWER-13-ABOVE--------------

--------------ANSWER-14-BELOW--------------

Answer-to-Question-_14_

1)

N1

Current value:

Agricultural land -
Value 390,000
APR @ 100% (300,000) (AV: 4,000 x 75)
Chargeable 90,000

Build Ltd shares -
Value (pref shares) - 60,000
BPR @ 100% (60,000)
nil

Ord shares held < 2 years

CV @ 10 year anniversary 990,000
APR (300,000)
BPR (60,000)
Chargeable 630,000

N2

AE utilised by gifts to children.

85,000
90,000
100,000 (loss to donor's estate rather than SP)
17,000
292,000

	£	£	
Current value (N1)		630,000	
Initial value of related trust		370,000	

		1,000,000	
NRB	325,000		
CTs <7yrs (N2)	(292,000)		
Distributions <10yrs	(111,751)		
NRB remaining		(NIL)	
NT @ 20%		200,000	
ER: 200,000/1,000,000 x 100		20%	
AR: 20% x 30%		6%	
10YC: 1,000,000 x 6%		60,000	

2)

For a discretionary trust, the beneficiaries (either a class of or named), settlor and trustees are all considered the beneficial owners of the trust property. This is because beneficiaries have no absolute right to entitlement as trustees are able to distribute the trust's income and capital at their discretion.

For a life interest trust, the life tenant is the beneficial owner during their lifetime as they are entitled to receive income and capital, distributed using trustee's flexible power. At the cessation of the life interest, the remaindermen become the beneficial owner of the trust property as the capital of the trust is ultimately held for their benefit.

--------------ANSWER-14-ABOVE--------------

--------------ANSWER-15-BELOW--------------

Answer-to-Question-_15_

To: Tax.Partner@taxfirm.co.uk
From: Tax.Assistant@taxfirm.co.uk
Date: 4 May 2022
Subject: Estate of Julian Jones

Hi Tax Partner

I have had a look at this case and respond to your queries below.

Inheritance Tax Liability

CALCULATE IHT ON ESTATE (BEFORE/AFTER RELIEFS)

Post mortem relief under S179 IHTA is available on Julian's estate because the executors have sold quoted shares and unit trust units at a loss within 12 months of death, so the relief reduceds the value of the death estate. I have demonstrated the IHT liability before and after relief to show the effect of the PMR claim.

2 August 2021 - 1 August 2022

The sale of the units in the S.A.U.T are not considered as the sale took place after the 12 month period following death.

	£		
	PV	Gross proceeds	Loss/(profit)
Strategy Plc (12,000)	60,000 (12,000x5)	11,000 (12,000-1,000)	49,000
Bank Plc (8,000)	20,000 (8,000x2.50)	24,000	(4,000)
Total loss			44,000

Restriction			(10,057)
Allowable loss			33,943

PMR restricted due to purchase of shares within 12 months from death.

(44,000) x 8,000/35,000 = 10,057

<u>Before relief:</u>

Chargeable estate	549,000
NRB	(325,000)
Taxable estate	224,000
IHT @ 40%	89,600

<u>After PMR:</u>

Chargeable estate	549,000
S179 loss	(33,943)
Revised estate	515,057

IHT (515,057 - 325,000) @ 40%   76,023

<u>Tax Repayment</u>

I understand there is an issue with the estate bank account however we are not legally able to hold the tax repayment in the firm's general current account, despite the fact that Mario has requested that we hold the funds for an approximate 5 week period. If we were to hold the funds, for any amount of time, we would need to set up a separate client account, either a mixed monies or client account, separare to our general current account.

The funds could only be transferred to the firm's general current account if they were immediately transferred into a separate client account once received. It is possible for us to set up a designated client account for the tax repayment but we must ensure that the bank is informed that the funds to be held in the account are not that of the firm, and actually belong to a client.

Use / Retention of Data

In respect of the email trail containing Mario's friends personal data, we should not collect the data or make use of it either by distributing it internally or to any other firms or using it to make contact with the individuals themselves. Any of this action would result in a GDPR breach. We should report the email message to the data protection officer of the firm in order to comply with our GDPR responsibilites as a firm.

It is also advisable that you respond to Mario to make him aware of the information that he wrongly shared with you, to ensure that we are not seen as a firm to be concealing the data in any way. In your correspondence to Mario, you should make it clear that we will destroy the data so that it cannot be misused in any way.

I hope this helps clarify things. Please let me know if you need anymore help on this case.

Regards

Tax Adviser

Question 16:

1)

2020/21:

Office block -

Rents   34,000 (3,400 x 10)

Lilac cottage -

Rents 27,500 (2,750 x 10)
Repairs (1,500)
Net rent 26,000

	NSI (£)	SI (£)	DI (£)
Rental income	60,000		
Salary	4,200		
Interest		3,420	
Divis			99,750
Deductible payment (160,000 x 6% x 8/12)	(6,400)		
Taxable	57,800	3,420	99,750
Taxed at	20%	20%	7.5%
Tax	11,560	684	7,481
Tax liability			19,725
PAYE			(840)
Tax payable			18,885

2021/22:

Office block -

Rents 34,000 (3,400 x 10)

Lilac cottage -

Rents 27,500 (2,750 x 10)

	NSI (£)	SI (£)	DI (£)
Rental income	61,500		
Salary	N/A		
Interest		3,420	
Divis			49,875
Deductible payment (160,000 x 6% x 4/12)	(3,200)		

Taxable	58,300	3,420	49,875
Taxed at	20%	20%	7.5%
Tax	11,660	684	3,741
Tax liability			16,085

2)

	£		
PV of estate	1,690,000		
Office block	(		

3)

Cost of obtaining probate: 8,000 / 2 assets disposed of

2020/21:

Lilac cottage -

Sale proceeds	645,000
Selling costs	(4,000)
Deemed cost (PV)	(550,000)
Enhancement exp.	(5,000)
Chargeable gain	86,000
Cost of obtaining probate	(4,000)
AE	(12,300)
Taxable gain	69,700

CGT @ 28% 19,516

Office block -

Deemed proceeds (MV) 705,000

Deemed cost (PV)	(680,000)
Chargeable gain	25,000
AE	(N/A)
Cost of obtaining probate	(4,000)
Taxable gain	21,000
CGT @ 20%	4,200