

CIOT - ATT-CTA

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

Part/Module: **Part 1**

Answer-to-Question-_1_

- 1) 31 January 2021 for the 2019/20 balancing payment.
- 31 January 2021 for the first 2020/21 payment on account.
- 31 July 2021 for the second 2020/21 payment on account.

2)
Interest is due on the 2019/20 balancing payment and 2020/21 first payment on account from due date of 31 January 20221.

Interesrt due = 137
Penalty for late payment = 800

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

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

Answer-to-Question-_2_

1)

Giovanni is deemed domicile in the UK as he was a resident in the UK until 2018/19 (within the last 3 years).

He was also resident in the UK for at least 15 of the preceding 20 tax years.

He would be liable to IHT on transfers of assets anywhere in the world.

2)

Craig is an FDR - he is not deemed domicile as the rule states that FDRs who come back to the UK for no more than one year of tax residence will not be deemed domicile for IHT purposes.

He would be liable only to IHT on any assets within the UK.

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

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

Answer-to-Question-3_

| | |
|--------------------|---------|
| PET | |
| | £ |
| Gift to Bonnie | 10,000 |
| Gift to husband | 2,000 |
| Less: CY AE | (3,000) |
| PY AE | (3,000) |
| Marriage exemption | (2,500) |
| PET | 500 |

Meg made no other lifetime transfers, therefore she has the current and previous year AE to utilise.

The marriage exemption can be used to exempt a maximum of £2,500 of the gift to Bonnie as she is a remote issue.

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

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

Answer-to-Question-_4_

Investors relief is available as:

- this is not a discretionary settlement.
- shares have been held for three years.
- Manny was not an employee or officer of the ltd company
- shares were subscribed for after 17 March 2016
- Granville Ltd is a trading company.

The gains qualifying for relief are however subject to a lifetime limit of £10million per individual.

This means that some of the £11million gain would not qualify for investors relief.

Gains in respect of qualifying shares are subject to tax at 10%.

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

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

Answer-to-Question-_5_

$$50,000 \times 5\% \times .5 = 1,250$$

| | |
|----------------------------|-------|
| Amount received 30/06/2020 | 1,250 |
| Amount received 31/12/2020 | 1,250 |
| | 2,500 |

| | |
|-------------|---------|
| | Savings |
| Interest | 2,500 |
| Tax due | |
| 2,500 @ 20% | 500 |

Selling the stock cum-div (before 31/12/2020)

Accrued interest

$$1/1/21 - 30/10/20 = 64 \text{ days}$$

$$1/1/21 - 30/6/21 = 181 \text{ days}$$

$$\text{Accrued interest} = 1,250 \times 64/181 = 442$$

Accrued interest charge = 442. Taxed as savings.

This is taxed in the year the next interest date falls (30/06/21) therefore taxable 21/22.

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

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

Answer-to-Question-_6_

1)

Domicile of a trust follows that of the settlor at the time of creation.

As settlor was non-UK domiciled at creation of the trust, trust is also non UK domiciled.

Any non-UK assets owned by a non-domciled trust are excluded property and outside the UK scope for IHT purposes.

Distribution of assets do not incur exit charges.

UK situs assets liable to UK IHT.

Outside of the scope to IT and CGT on foreign assets.

UK situs assets subject to UK IT and CGT.

2)

All of the trustees are UK residents, so this is a UK trust.

Subject to UK IHT.

Subject to IT and CGT in the UK on worldwide income and assets.

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

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

Answer-to-Question-_7_

| | | £ |
|---|---------|---------------------|
| Value | | 500,000 |
| Nil band at exit | 325,000 | |
| Less: CLTs in 7 yrs pre creation | Nil | |
| | | (325,000) |
| | | 175,000 |
| Notional tax at 20% | | 35,000 |
| Effective rate: $35,000/500,000 \times 100$ | | 7% |
| Actual rate: | | |
| $7\% \times 30\% \times 22/40$ | | 1.155% |
| Exit charge $740,000 \times 1.155\%$ | | <u>8,547</u> |

Complete 1/4s between 22/8/2014 and 1/5/20 = 22

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

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

Answer-to-Question- 8_

1)

Executors can claim reasonable expenses against the estate in the course of administering it.

They claim these costs from the estate itself.

There is no relief given for executors expenses on the actual tax return.

This would be considered on the IHT returns for the estate.

Relief can obtained for costs incurred with obtaining probate using scale rates.

2)

Willow's wife R185E 2020/21:

| | £ | £ |
|----------|-------|-----|
| | Net | Tax |
| Dividend | 1,000 | 250 |

Painting - exempt chattel.

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

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

Answer-to-Question- 9 _

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

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

Answer-to-Question-_10_

Tax on death estate

| | £ |
|--|-----------|
| Estate | 950,000 |
| Less: | |
| exempt legacy to spouse (950,000 - 410,000) | (540,000) |
| Chargeable | 410,000 |
| Less NRB at death | (325,000) |
| Less CLTs < 7 yrs of death | Nil |
| | (325,000) |
| Taxable estate | 85,000 |
| IHT due @ 40% | 34,000 |

Value received by husband
540,000 - 34,000 = 506,000

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

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

Answer-to-Question-_11_

Where no will is in place the estate is distributed under intestacy.

Relatives of Jim are placed in order of priority to determine who will inherit the estate.

The same order applies to who can apply to be the administrator of the estate.

The first people in both instances would be the descendants of his full blood sister's children, Niahmh and Osian.

If would then pass to Paul, his half brother.

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

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

Answer-to-Question-_12_

1)

£

| | | |
|------------------------------|----------------|----|
| House (630,000/2) | 315,000 | |
| Less: Tenanted deduction 10% | (31,500) | N1 |
| IHT value | <u>283,500</u> | |

Under related property rules, if the house is not owned by spouses and is instead owned jointly by non spouses a tenanted deduction is given.

A property held by tenants in common will pass under the terms of their Will or intesacy, it does not automatically revert to the other owner.

N1 - Could be between 5% and 15%. Discount subject to HMRC agreement.

2)

Lyssa and Mark would be joint tenants.

If one of them dies, their share of the house automatically reverts to the surviving spouse.

This would be an exempt transfer for IHT purposes.

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

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

Part/Module: **Part 2**

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

Answer-to-Question-_13_

1)

| | £ |
|-------------------------|----------------------|
| Gift to trust (12/7/15) | 500,000 |
| Less AE: CY | (3,000) |
| PY | (3,000) |
| Gross CLT | 496,000 |
| NRB at Gift | 325,000 |
| CLTs 7 yrs pre gift | Nil |
| | (325,000) |
| | 171,000 |
| IHT @ 20% | <u>42,750</u> |

| | |
|----------------------------|---------------------|
| Death tax on lifetime gift | |
| Gross CLT | |
| (496,000 + 42,750) | 538,750 |
| NRB at death | 325,000 |
| CLTs 7 yrs pre gift | Nil |
| NRB remaining | (325,000) |
| | 213,750 |
| IHT at 40% | 85,500 |
| Less: | |
| taper relief | |
| 5-6 years 60% x 85,500 | (51,300) |
| Less: | |
| lifetime tax paid | (42,750) |
| Death tax | <u>8,550</u> |

| | |
|------------|--------------|
| Estate tax | |
| Estate | 1,950,000 W1 |
| Shares | 800,000 W2 |
| Total | 2,750,000 |

Less: NRB at death 325,000

| | |
|----------------------------------|-------------------------|
| Less CLTs < 7 yrs death(538,750) | |
| NRB remaining | Nil |
| Less: RNRB | (175,000) |
| Taxable | 2,575,000 |
| IHT @ 40% | <u>1,030,000</u> |

| | |
|--------------|-----------|
| W1 | |
| Trust assets | 350,000 |
| Cash | 10,000 |
| residence | 1,500,000 |
| W2 | |
| holdings | 800,000 |

2)

| | | |
|--------------------------------|-----------|----------|
| Estate | 1,950,000 | |
| Shares | 800,000 | |
| Less: exempt legacy to charity | (230,000) | |
| Total | 920,000 | |
| Less: NRB | Nil | As above |
| Less: RNRB | (175,000) | |
| Taxable | 745,000 | |

| | |
|---------------------------------------|-----------|
| Baseline amount | |
| Total estate (before charitable gift) | 2,750,000 |
| Less NRB | Nil |
| Baseline amount | 2,750,000 |

| | |
|------|---------|
| @10% | 275,000 |
|------|---------|

The donation amount (£230,000) is less than 10% of the baseline amount so the lower rate of IHT (36%) would not have applied.

3)

The executors can exercise power to appoint 2 or more individuals to hold the legacy until the minors reach

majority.

This should be done before the estate is finalised.

The minor grandchild will only receive the legacy once they turn 18 years old, however by virtue of the Trustees Act 1925, where property is held on behalf of a minor, whether vested or contingent, then, trustees can make payments from the legacy at their discretion.

This can be done to pay their parent or guardian, towards the minor's maintenance, school fees or benefits.

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

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

Answer-to-Question-_14_

1)

| | £ | £ | £ |
|----------------|-------------|---------|-----------|
| | Non-savings | Savings | Dividends |
| Property | 15,000 | | |
| Savings | | 2,000 | |
| Dividends | | | 15,000 |
| Taxable income | 15,000 | 2,000 | 15,000 |
| Less TMEs | | (1,000) | (1,622) |
| Total | 15,000 | 1,000 | 13,378 |

Tax due:

| | |
|----------------|----------------------|
| 1,622 @ 7.5% | 122 |
| 1,000 @ 20% | 200 |
| 13,378 @ 38.1% | 5,097 |
| 16,000 @ 45% | 7,200 |
| Income tax due | <u>12,619</u> |

Payments on account for 21/22 of £6,309 also due in Jan and July 2022.

Tax pool:

| | |
|--|---------|
| b/fwd at 6.4.2020 | 2,475 |
| Add: | |
| Tax paid at standard rate 1,000@20% | 1,000 |
| Tax paid at additional rate 16,000@45% | 7,200 |
| Tax paid at 38.1% | |
| Dividends 15,000 | 5,715 |
| Less dividends paid at 7.5% | (122) |
| Less: expenses (1,622 / 100/92.5) | (1,500) |

4)

Did Jane have an entitlement to occupy the property under the terms of the trust deed.

DOES OUR SCOPE OF SERVICES cover this work.

Are we im[partial between the trust and Jane

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

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

Answer-to-Question-_15_

To: Tax Partner
From: Me
Date: 5 November 2021
Subject: Mrs and Mrs Wainwright's Inheritance Tax Queries

Dear Partner

As discussed, I've looked into the various queries raised by the above and have provided some advice below.

The Wainwright Trust

The first thing I would flag is that a gift to a discretionary trust is, potentially, a chargeable lifetime transfer for IHT purposes.

The £1 million transfer to the trust would remain a PET, provided that Mr and Mrs Wainwright survived 7 years from the date of the gift. It would however come into charge as a CLT if they died within that period.

Both Mr and Mrs Wainwright would have annual exemptions for the previous tax year and the current tax year in order to minimise any tax due if the PET did become a CLT.

A principal charge is also calculated on each 10 year anniversary of the creation of the trust.

This is calculated based on the current value of the relevant property in the trust.

The NRB (currently £325,000) is used and is reduced by any transfers which Mr and Mrs Wainwright (the Settlers) have made in the 7 years before the trust creation, and any distributions made by the Trustees in the previous 10 years.

An exit charge would occur if there was to be a reduction in the relevant property of the trust. This typically occurs if the Trustees make payments to the beneficiaries of the trust.

The Trustees have an obligation to ensure that the IHT returns are filed on time. The returns potentially required are:

- IHT100 for chargeable lifetime transfers
- IHT100c to report exit charges

These forms are to be submitted 6 months after the end of the month of transfer, or 30 April in the following tax year (depending on which is later).

Any tax payable on an exit is due at the same time.

As a firm, it would be our duty to make the Trustees aware of their filing obligations and their obligation to pay any tax due on time.

We would do this by issuing reminders to the Trustees prior to filing and payment deadlines.

We would exercise a duty of care to the trustees, assess the requirements of the trust continually and provide advice where appropriate.

Advice should typically be given to the trustees in writing, however we can provide advice in meetings or by telephone as long as both are documented and minutes/telephone notes are taken.

We need to take into account the tax sophistication of the trustees and whether or not we have provided an adequate fee quote for the scope of work involved.

As far as the Trustees duties are concerned, I think it's important to flag up that Trustees are responsible for:

- Remaining impartial between the beneficiaries

- Observing the terms of the trust
- Providing information and keeping accurate records for the trust
- Distribute assets correct. They must provide income for beneficiaries, but also protect the capital of the trust.
- Acting unanimously, unless the trust deed states otherwise.

I hope this will be useful to you, but please let me know if you have any queries.

Yours sincerely

Tax Adviser

-----ANSWER-15-ABOVE-----

 -----ANSWER-16-BELOW-----

Answer-to-Question-_16_

| | | |
|---------------------------|-----------|----|
| Death Estate | £ | |
| Farm | 1,600,000 | |
| Farmhouse | 500,000 | |
| Farmland | 1,100,000 | |
| Less: Liabilites (Loan) | (300,000) | W3 |
| | 2,900,000 | |
| Less: APR (100,000 x 50%) | (50,000) | W1 |
| Cash | 50,000 | |
| Chattels | 15,000 | |
| Shares | 10,000 | |
| | 2,925,000 | |
| Chargeable estate | 2,925,000 | |
| Residence nil band | (175,000) | W2 |
| Nil Band | (325,000) | |
| Taxable estate | 2,425,000 | |
| IHT @40% | 970,000 | |

W1

APR is availabel on the agricultural value of the land as it was owned by the donee (Jack) and was not sold.

W2

The RNRB is available as the farmhours was Tom's main residence.

W3

The liability of the loan should be dedcuted from the value of the asset against which it's secured, i.e. against the acres gifted to Jack.

It should be deducted, before APR is considered.

Exam Mode **OPEN LAPTOP + NETWORK**
