

CIOT - ATT

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

Part/Module: **Part 1**

Answer-to-Question-_1_

1. The Yin Family Settlement 1

This settlement is a trust which is resident in the UK for income tax and capital gains tax purposes as the following conditions are met:

- at least one of the trustees (Mr. Yin's wife) is resident in the UK and
- the settlor, Mr Yin was resident in the UK at the time when he made settlement.

Even though one of the trustee is non-resident in the UK, it will still be treated as a UK resident trust.

The trustees will be taxed on worldwide income (UK and overseas) and on capital gains arising from disposals of assets worldwide.

2. The Yin Family Settlement 2

This settlement is a non-UK resident trust as none of the trustees are UK resident, even though Mr. Yin, the settlor was a UK resident at the time he made the settlement.

The trustees here will be taxed on UK income and on capital gains arising from disposals of UK land and property.

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

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

Answer-to-Question-_2_

Investors' relief is extended to Trustees and will apply where:

- The trustees dispose of the shares in an unlisted trading company which they had subscribed for and owned for at least three years;
- a beneficiary has an interest in possession in settled property which includes the relevant shares;
- the IIP had been held for at least three years prior to the share disposal;
- the eligible beneficiary has not been an employee of the company for at least three years prior to the share disposal; and
- the IIP was not for a fixed term.

The shares held by the Reilly Trust in Reilly Ltd qualify for all of the above conditions but only for the gain related to Joseph's interest in the trust as Joseph does not work in Reilly Ltd.

The gain in relation to Tom's interest is not eligible for Investors' relief claim as he was working for Reilly Ltd at the time of the sale of the shares by the trust.

Hence, investors' relief is provided on 50% of the gain.

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

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

Answer-to-Question- 3_

- The Wright Discretionary Trust - Income tax computation - 2023/24

	Non-savings £	Interest £	Dividend £
rental income	9,000		
interest income		2,000	
dividends			15,000
Less: annuity (gross) £10,000 x 100/80 = £12,500			
- annuity to non-savings income	(9,000)		
- annuity to interest		(2,000)	
- annuity to dividends (remaining)			(1,500)
Taxable income	0	0	13,500
Less: expenses (£1,000 x 100/91.25)			(1,096)
Income subject to RAT			12,404
Tax:	£		
£1,000 @ 8.75%	88		
£11,404 @ 39.35%	4,487		
£1,096 @ 8.75%	<u>96</u>		
Total income tax payable by the trustees for 2023/24	4,671		

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

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

Answer-to-Question- 4_

If property is owned jointly by two or more persons, these persons will either hold the property as "joint tenants" or as "tenants in common".

i. Tenants in common

As Mr James and his wife held the property in Belmont House as tenants in common, what this means is that:

- both Mr, James and his wife co-owned the property together, but the property was not physically dividend into equal shares.
- Both Mr James and his wife had the rights to ownership to the whole property and can use the whole property.
- When Mr James dies, his share of the property did not automatically pass to his wife.
- As Mr James owned the property jointly with his wife, related property rules will apply and the value of the house for IHT purposes is half of £550,000 = £275,000

ii. Joint tenants

- Mr James and his son co-owned the property together, but the property is not physically divided into equal shares.
- Both Mr James and his son had the rights to ownership in relation to the whole property and can use the whole property
- As Mr James died, ownership of the Fenwick House automatically passes to his son.
- Mr James could not have left his share of the property in their will to whomever they want.
- For IHT purposes, the value of the Fenwick House will be Mr James' half of the share in the Fenwick House - £220,000 (£440,000 x 50%).

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

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

Answer-to-Question- 5_

- It is not possible to make a gift relief claim on the gift to the Patel Family Trust as Mr Patel has an interest in the trust.
- The interest in the trust here means that the trust property is applied to the benefit of minor children.

Hence, gift relief is not possible in this case and disposal is subject to CGT.

CGT computation 2023/24 -

	£
- sale proceeds (market value)	600,000
Less: cost	<u>(500)</u>
Chargeable gain	599,500
Less: Annual exemption	<u>(6,000)</u>
taxable gain	593,650
CGT payable @ 20%	118,730

Mr Patel can pay CGT in instalments as the following conditions are met:

- CGT liability arose as a result of the gift
- Mr. Patel cannot claim gift relief
- The asset gifted falls within s.281(3) being that the shares transferred in to the trust were shares in an unlisted company (doesn't need to be trading).

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

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

Answer-to-Question- 6

- Additional IHT on death

	£	£
value of gift		450,000
less: AE 2021/22		(3,000)
less: AE 2020/21		<u>(3,000)</u>
Failed PET		440,000
Available NRB at Mrs. Jones' death		<u>(325,000)</u>
Taxable		115,000
IHT @ 40%		46,000
Less: Taper relief (not available as died within 3 years of gift)		<u>NIL</u>
IHT payable on Mrs. Jones death by her daughter		46,000

Mrs Jones' daughter should have paid the above tax due by 31 October 2023.

However, as she is making the tax payment on 31 October 2024, the total balance due payment should include the interest, as shown below:

		£
IHT due		46,000
plus interest: £46,000 x 6.5%		<u>2,990</u>
Total payment required to be made by 31 October 2024		48,990

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

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

Answer-to-Question-_7_

Sandra is not UK domiciled for IHT purposes, hence, only her UK situs assets are subject to UK IHT on Sandra's death.

1. Residential property in New Zealand - non-UK situs. Exclude.
2. £50,000 holding in open-ended investment companies - UK situs. Include.
3. \$20,000 held in a foreign currency bank account of a UK bank - non-UK situs as the branch is located outside the UK in foreign currency - Exclude.
4. EUR 1,000 held in cash - UK Situs, Include.

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

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

Answer-to-Question- 8

We need to first see what is the IHT payable on Rebecca without electing for Pierre to be treated as UK domiciled -

		£	
gross estate		1,255,000	
Less: spousal exemption (restricted)		(325,000)	
chargeable estate		930,000	
less: nil rate band		(325,000)	
Taxable estate		605,000	
IHT @ 40%		242,000	

If Pierre were to die soon, his UK IHT would be:

		£	
UK estate inherited from Rebecca (£1,255,000 - £242,000)		1,013,000	
Less: NIL Band		(325,000)	
Taxable estate		688,000	
IHT @ 40%		275,200	

Assets passing after Pierre's death = £1,300,000 +
 £1,013,000 - £275,200 = £2,037,800.

If Pierre is elected to be treated as UK Domicile, the IHT payable on both the deaths are as follows:

On Rebecca's death

		£	
gross estate		1,255,000	
Less: spousal exemption (not		(1,255,000)	

restricted)		
chargeable estate		NIL

On Pierre' death:

		£
Worldwide assets (£1,255,000 + £1,300,000)		2,555,000
Less: nil band x 2		(650,000)
Taxable estate		1,905,000
IHT@ 40%		762,000

Assets passing after Pierre's death = £2,555,000 - £762,000
 = £1,793,000.

Therefore, it is more beneficial for Pierre to **not** elect to be treated as UK domiciled and remain non-UK domicile as more assets will pass after his death.

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

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

Answer-to-Question- 9_

1. Charlotte - Pecuniary legacy
2. John - Specific Legacy
3. Amber - General legacy
4. Irene - Residuary Legacy

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

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

Answer-to-Question-_10_

- Josie should keep her own tax affairs up to date. Neglect of Josie's own affairs could raise doubts within HMRC as to the standard of the Josie's professional work and could bring Josie or their professional body into disrepute.

- As Josie is in a dispute with HMRC regarding her own tax affairs, she may wish to consider engaging an agent to represent her.

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

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

Answer-to-Question- 11_

- Exit IHT charge - Mavis Joan Discretionary Trust

	£	£
Initial value of teh trust (£450,000 + £300,000)		750,000
(no related trust created on the same day)		
Nil rate band available	325,000	
Less: CLT in 7 years before creation (£120,000 - £6,000)	(114,000)	
available NRB		<u>(211,000)</u>
Taxable		539,000
Notional IHT @ 20%		107,800
Effective rate - £107,800/ £750,000 x 100%		14.373%
Actual rate 14.37% x 30% x 16/40		1.724%
Exit Charge:		
£600,000 x 1.74%		10,440

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

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

Answer-to-Question- 12_

Tax pool for the year ended 5 April 2024

	£	£
tax pool b/f		17,000
plus tax paid by trustees:		
- on non-savings income = (£1,000 x 20%) + (£9,000 x 45%)	4,250	
- on dividend income = (£28,904 x 39.35%)	<u>11,369</u>	
		15,619
Less: credit for beneficiary (£20,000 x 45/55)		<u>(16,367)</u>
Total tax pool to carryforward on 5 April 2024		16,252

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

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

Answer-to-Question- 13_

As Stephen has passed away intestacy, his estate is divided as follows:

		£	
total estate		600,000	
- passed to spouse			
- personal chattels		5,000	
- house as joint tenant		200,000	
- legacy of £322,000		322,000	
- 50% of life interest in the estate		36,500	
total to spouse		563,500	
remainder to his children equal shares	36,500/ 4	9,125	

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

CIOT - ATT

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

Part/Module: **Part 2**

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

Answer-to-Question-_14_

1)

Jakub's income tax computation - 2023/24 - death of death 5 September 2023

	Total £	Non- savings income £	Savings income £	Dividend income £
taxable pension	12,570	12,570		
dividends	12,000			12,000
Interest (none received for the period he was alive, none taxable as taxed on cash basis)	0		0	
Property income £2,000 x 5	<u>10,000</u>	<u>10,000</u>		
Total income	34,570	22,570	0	12,000
Less: personal allowance	<u>(12,570)</u>	<u>(12,570)</u>		
Taxable income	22,000	10,000		12,000
Tax:	£			
£10,000 x 20%	2,000			
£1,000 x 0%	0			
£11,000 x 8.75%	<u>963</u>			
Total Income tax payable for 2023/24 on Jakub's income from 6 April 2023 to 5 September 2023	2,963			

Jakub's CGT Computation - 2023/24

		£
- sale of painting (the only asset sold when Jakub was alive in 2023/24 tax year)		
proceeds		10,000
less: cost		(25,000)
capital gain/ (loss)		(15,000)
As there is a loss, there is no CGT payable in 2023/24 tax year		

These losses can be carried back three years. The repayment of CGT claim for the prior three years are as follows:

			£
2023/24 capital loss	15,000		
Loss carried baack to 2022/23 (£2,000 x 100/20)	(£10,000)	x 20% repayment as CGT paid on 20%	2,000
loss carried back to 2021/22 (£2,000 x 100/20) or lower of loss remaining, £5,000	(5,000)	x 20% repayment as CGT paid on 20%	1,000

2)

Executor's Income tax computation 2023/24

	Non-savings £	Savings £	Dividend £
rental income	12,600		

(£2,000 x 4) + (£2,300 x 2)			
interest (£3,000 + £3,000)		6,000	
Total	12,600	6,000	
Tax @ 20%/ 8.75%	2,520	525	

Total income tax payable = £2,520 + £525 = £3,045

Exectuor's CGT computation 2023/24

		£	£
- sale of shares in invest plc			
proceeds		30,000	
less: probate value		<u>(35,000)</u>	
loss			(5,000)
- sale of investment property			
proceeds		240,000	
less: probate value		<u>(220,000)</u>	
Gain			20,000
Total gain			15,000
less: annual exemption			(6,000)
Taxable gain			9,000
CGT payable @ 28%			2,520

3)

Chargeable value of Jakub's death estate

		£	
gross estate		800,000	
accrued interest (included as he was entitled to receive this interest income, even if		<u>2,500</u>	

it was not received)			
Total estate		802,500	

Residential nil rate band is not available as the residential property was an investment property. No spousal exemption available as well because the estate was left to his daughter.

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

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

Answer-to-Question-_15_

To: Tax Partner
From: Tax Adviser
Date: 8 May 2024
Subject: The Style Discretionary Trust

Dear Partner,

Thank you for the opportunity to help you with this task.

1.

Please find below my calculation of the Inheritance Tax Charge on the Styles Discretionary Trust's 10-year anniversary on 13 December 2023.

	£	£
Current value of the trust:		
Investment porftolio		500,000
Agricultural land	160,000	
Less: APR - 50% on farmland value of £110,000 (n1)	<u>(55,000)</u>	
includable agriculatural land value		105,000
shares in dress Ltd	120,000	
less: BPR @ 100%	<u>(120,000)</u>	
		NIL
Cash		30,000
undistributed income held in the trust for 5 years (£20,000 x 5)		<u>100,000</u>
Total current value		735,000
Initial value of Cornelia Life Interest Trust (n2)		<u>150,000</u>
Total		885,000

Nil rate band	325,000	
Less: CLT in 7 years before creation (cash to Mirroball Discretionary trust and used up annual allowance)	(35,000)	
Less: exit in last 10 years (£50,000 x 2)	(50,000)	
available NRB		<u>(240,000)</u>
Taxable		645,000
Notional IHT @ 20%		129,000
Effective rate (£129,000/£885,000) x 100		14.576%
Actual rate - 14.576% x 30%		4.373%
Principal Charge		
£735,000 x 4.373%		32,142

Notes -

1. APR is available on the farmland but is available at 50% as the farmland has been tenanted on a pre-1 September 1995 lease and had more than two years to run at the date when the famrland was transferred to the trust.

2. We will only consider the initial value of the Cornelia Life Interest Trust as this trust was created on the same day as Styles Discretionary Trust.

2)

As Revelle LLP, we should take the folloiwng steps before accepting the trustees of the Style Discretionary Trust as our client:

- We should communicate with the previous adviser before accepting the appointment, provided we have the trustees' permission to do so.

- When permission has been received, we should ask the previous adviser, in writing, whether the previous adviser is aware of any professional reason why we should not accept

the appointment.

- It will usually be convenient to request at the same time, relevant handover information to ensure that the trustees' affairs are properly dealt with, on a timely basis, and that no filing deadlines, time limits for claim, elections, notices of appeal and other similar matters are missed in the transitional period. Requests should be reasonable and relevant and the likely cost to the trustees and/ or previous adviser of supplying the information should be considered.

If we do not receive a positive response to their professional enquiry, we should consider the facts and circumstances and other available evidence carefully before deciding whether to accept the trustees' appointment.

3)

As our firm only provides services relating to Inheritance Tax and Trusts. Our firm is not qualified to advise on specific investment products and we should therefore recommend that the client seek independent financial advice.

If we do provide investment advice, we will be in breach of FSMA and this could leave us open to a criminal charge, punishable on indictment to a maximum term of two years' imprisonment and/ or fine.

I hope the above is helpful and if you have any questions, please do let me know.

Regards,
Tax Adviser

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

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

Answer-to-Question-_16_

Thelma -

1) Inheritance Tax on lifetime transfers

1. Gift to Discretionary Trust (February 2011) -

	£	£
transfer of value		306,000
Less: Annual exemption 2010/11		(3,000)
Less: annual exemption 2009/10		<u>(3,000)</u>
Chargeable transfer		300,000
Nil rate band at the date of gift	325,000	
Less: CLT in 7 years before gift	NIL	
less: available NRB		(325,000)
Taxable		NIL

No lifetime transfer tax to pay as the chargeable transfer less than the nil band.

2. Gift to Chimney Life Interest Trust April 2017 -

	£	£
transfer of value		100,000
Less: Annual exemption 2017/18		(3,000)
Less: annual exemption 2016/17		<u>(3,000)</u>
Chargeable transfer		94,000
Nil rate band available at the date of gift	325,000	
less: CLT in 7 years before gift	<u>(300,000)</u>	
Less: available NRB		<u>(25,000)</u>

Taxable		69,000	
IHT payable - grossed up 20/80		17,250	
GCT - £94,000 + £17,250		111,250	

The IHT is grossed up by 20/80 as Thelma paid the inheritance tax on these lifetime IHT.

3. Vintage car to nephew, Ian - January 2018

	£	£	
value of car		60,000	
less: AE (used up)		NIL	
Potentially exempt transfer (PET)		60,000	

No lifetime tax on PETs, these will become chargeable at Thelma's death as she died within seven years of making this gift.

4. Release of the Gift made with reservation to Ian, the vintage car - August 2020

The vintage car gifted to Ian but still enjoyed by Thelma is a gift with reservation of benefit. It will be treated as PET when gifted and will be treated as PET when Thelma stopped driving it in August 2020.

	£	£	
value of car in August 2020		75,000	
less: AE 2020/21		(3,000)	
Less: AE 2019/20		<u>(3,000)</u>	
PET		69,000	

4. Gift of main home to children - December 2020

	£	£	
value of the house		165,000	

LEss: AE (used up)		NIL	
PET		165,000	

No lifetime tax on PET.

2)

Additional IHT on lifetime transfers due to Thelma's death within 7 years

1. Cash to Lifetime trust - April 2017

	£	£	
GCT		111,250	
NRB at death	325,000		
less: used in 7 years before gift	<u>(300,000)</u>		
available NRB		<u>(25,000)</u>	
TAXable		86,250	
IHT @ 40%		34,500	
LEss: taper relief (6 to 7 years - 80%)		(27,600)	
Less: lifetime tax		<u>(17,250)</u>	
IHT payable		NIL	

2. Vintage car to nephew - January 2018

	£	£	
PET		60,000	
Nil rate band	325,000		
less: CTs in 7 years before gift	(411,250)		
avaialble NRB		NIL	
Taxable		60,000	
IHT @ 40%		24,000	
LEss: taper relief (5 to 6 years - 60%)		<u>(14,400)</u>	
IHT payable		9,600	

3. Vintage car to nephew - August 2020 - when Thelma gave up

her gift with reservation of benefit

	£	£
PET		69,000
NIL band	325,000	
less: CLT in 7 years before gift	(471,250)	
available NRB		NIL
Taxable		69,000
IHT @ 40%		27,600
Less: taper relief (none, as less than 3 years from death)		NIL
IHT payable		27,600

4. gift of house to children - December 2020

	£	£
PET		165,000
Nil band	325,000	
less: CTs in 7 years before gift	<u>(540,250)</u>	
available NRB		NIL
Taxable		165,000
IHT @ 40%		66,000
less: taper relief (none, less than 3 years from death)		NIL
IHT payable		66,000

All of the above additional IHT payable on Thelma's death are to be paid by 31 January 2024.

Thelma's estate

	£	£
Cash		40,000
house (this will be included as she was still getting the benefit of the house, so was a gift with		<u>175,000</u>

reservation of benefit)		
total estate		215,000
Nil band available at her death	325,000	
Less: CTs in last 7 years of death	(705,250)	
Available NRB		NIL
Taxable estate		215,000
IHT on her death estate @ 40%		86,000

-----ANSWER-16-ABOVE-----

-----ANSWER-17-BELOW-----

Answer-to-Question-_17_