

Institution **CIOT - ATT**
Course **ATT Paper 5 IHT Trusts and Estates**

Event **NA**

Exam Mode **OPEN LAPTOP + NETWORK**

Exam ID

Count (s)	Word (s)	Char (s)	Char (s) (WS)
Section 1	91	392	483
Section 2	116	535	652
Section 3	55	233	285
Section 4	199	949	1149
Section 5	46	205	235
Section 6	166	775	940
Section 7	176	758	934
Section 8	52	261	291
Section 9	132	575	707
Section 10	74	331	405
Section 11	44	218	243
Section 12	93	474	706
Section 13	84	396	596

Answer-to-Question- 1

As the trust is an Interest In Possession, the life tenant must be assessed under the Business Asset Disposal Relief rules. The trust will be entitled to claim BADR, as Sacha is a director and she has owned the shares for at least two years. Aromas Ltd is Sacha's personal trading company, as Sacha owns at least 5% of the ordinary share capital and is also able to exercise at least 5% of the voting rights. Sacha has also been the life tenant of this trust for at least two years.

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

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

Answer-to-Question- 2

- 1) A deed of variation cannot be executed, as valuable consideration has been made, in the form of monetary consideration.
- 2) No deed of variation can be made here, as valuable consideration has been made in the form of half of the wines from Mary's collection.
- 3) A deed of variation can be executed. No consideration has been received. A statement under IHTA 1984 s.142 should be made so that Felicity does not incur the IHT on the gift. A statement under TCGA 1992 s.62 should also be made so that the disposal is disregarded and the asset passes at probate value to the nominated person, Samuel. Therefore Felicity will not pay CGT on the transfer.

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

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

Answer-to-Question- 3

		Savings	Dividends
Bank interest		3,000	
Dividend			4,000
		3,000	4,000
Interest on loan	$30,000 \times 8\% \times 5/12$	(1,000)	
Taxable income		2,000	4,000

Income tax liability

SI $2,000 \times 20\%$ 400
DI $4,000 \times 8.75\%$ 350
Total tax payable 750

ISA is still tax free as within 3 years and 1 day from date of death

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

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

Answer-to-Question- 4

Firstly, my firm must inform the Trustees that there is an error in their 2022/23 tax return, as soon as it has been identified. Correspondence with the client over this matter should be recorded, and appropriate advice should be given. We should seek to persuade the client to correct the errors, and we must ensure it is clearly documented that we are not assisting the client to conceal any offence that has been committed. We must request that the client authorises us to disclose the error to HMRC and we must give oral and written advice on the consequences. If the trustees are unwilling to still disclose, then we must cease to act, notifying HMRC of our cessation to act, advising the client that we are ceasing to act, consider whether we need to make a report to MLRO, consider whether we need to inform HMRC that our reports and statements cannot be relied upon and consider our response to a professional enquiry should we receive a request. We must ensure that we are showing integrity, whilst staying confidential to the client. We must also be objective and ensure that we are maintaining professionalism in our work and decisions.

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

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

Answer-to-Question- 5

Transfer	$15000+7000 \times 50$		1,100,000
APR	$100\% \times 7000 \times 50$		(350,000)
Transfer			750,000
NRB		325,000	
CLTs in previous 7 years	Transfer to life interest trust is a PET	0	
			(325,000)
CLT			425,000
IHT @ 20%			85,000

No AEA available as Sonny uses this every April.

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

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

Answer-to-Question- 6

Camille will not be caught under the Pre-Owned Asset tax rules as this is a gift between husband and wife and falls under the spousal exemption.

This will not come under the Pre Owned Asset tax rules, as this is a gift with reservation of benefit. This is because Rita is purchasing the artwork for her daughter with the intention of keeping it in her home and therefore benefitting from it.

Anthony's motorboat will fall under the Pre-owned Asset tax charge. This is because his father has given him cash to purchase an asset where he will receive a benefit. To mitigate the charge, Anthony's father could pay Anthony for the use of the boat. This will be deducted from his father's notional income which will be reported on his tax return. However, Anthony could then incur a tax charge of the rental amounts his father is paying to him. Furthermore, if Anthony waited seven years before purchasing the boat, a POAT charge will not apply.

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

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

Answer-to-Question- 7

An IHT 400 full death estate return will be required for Geoff's estate, as he made a gift with reservation of benefit within the 7 years prior to his death. Although, there is no IHT to be paid, as the value of Geoff's estate including his gift with reservation of benefit (his house), is £220,000. This is assuming the house's value did not increase between the date of gift and the date of death. The transfer of the house is also covered fully by Geoff's nil rate band therefore no tax is due. Full details will still need to be disclosed to HMRC due to the gift with reservation of benefit. There is also no suggestion that this was agreed to be a Pre-Owned Asset.

Diego's estate will not need to prepare a full estate return form IHT 400, as he had made no reportable gifts, no gifts with reservation, there is no IHT due as Diego's estate is covered fully by his nil rate band at the date of death. This is an excepted estate.

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

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

Answer-to-Question- _8_

Part 1

Transfer		485,000
AEA 2023/24	(3,000)	
AEA 2022/23	(3,000)	
		(6,000)
		479,000
NRB	325,000	
CLTs in previous 7 years	0	
NRB remaining		(325,000)
Taxable		154,000
IHT @ 20/80		38,500

No BPR as quoted trading company shares are from an investment company.

PART 2

GCLT

$$38,500 + 479,000 = \text{£}517,500$$

Initial Value

£485,000

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

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

Answer-to-Question- 9

HMRC do not allow gift relief to be claimed by someone who is outside of the scope for UK CGT. Alys will be outside of the scope for UK CGT when she emigrates. As she is emigrating within 6 years of the gift relief claim, the deferred gain will be clawed back. The deferred gain of £130,000 will be chargeable on Alys as the donee from the date she emigrates. However, sometimes HMRC can find it difficult to collect the tax due from the donee once they have emigrated, therefore if Alys fails to pay the CGT within 12 months of the normal due date, this being 31 January 2025, HMRC have the right to pursue the donor, which is the trustees of the Cowboy Discretionary Trust, for the donee's CGT liability.

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

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

Answer-to-Question- 10

A specific legacy might fail if the legatee witnessed the testators will. The asset, in this case, the ring, no longer exists or does not belong to the deceased at the date of death. This is ademption of the gift. The legatee, being the son, dies before Ronald, in which case the gift fails and passes to Alan's descendants. The legatee refuses to take the gift, which is known as disclaimer of the gift.

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

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

Answer-to-Question- _11_

Free Estate			740,000
NRB at death		325,000	
CLTs previous 7 years		0	
NRB remaining			(325,000)
Chargeable estate			415,000
IHT at 40%			166,000
Foreign tax relief	W1		(42,622)
IHT due			123,378

W1

Value of asset/total value of estate x iht

$$190,000/740,000 \times 166,000 = 42,622$$

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

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

Answer-to-Question- 12

York Apartment

Sales proceeds 350,000
Cost W1 (170,000)
Gain 180,000
PRR nil
Chargeable gain 180,000

W1
MV 210,000
Gift relief (40,000)
Base cost 170,000

No PRR can be given when a gain has been deferred under s.260.

Manchester House

Sales proceeds 495,000
Cost (375,000)
Gain 120,000
PRR W1 (120,000)
Chargeable gain nil

W1

	Absent	Deemed occupied	Occupied
1/1/2015 - 30/6/2016			18
1/7/2016 - 30/6/2018 up to 3yrs any reason		24	
1/7/2018 - 31/12/2019			18
1/1/2020 - 30/6/2022 employed abroad, any period		30	
1/7/2022 - 1/1/2024			18
		54	54

Total ownership period 108 months

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

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

Answer-to-Question- 13

The annuity income is added to Maurice's other income to ascertain whether the correct amount of income tax has been paid by the Trust. It is assessed on Maurice's tax rates.

Trade income	8,900
Annuity	6,000
Total Income	14,900
Less Personal allowance	(12,570)
Taxable income	2,330

NSI BRB 2330 x 20%	466
Less income tax paid on annuity	(1,200)
Income tax repayable	(734)

Maurice is not entitled to this repayment. This is due to the Alcott Trust and must be repaid to the trust.

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

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Section 14	351	1585	2133
Section 15	188	815	1001
Section 16	259	1310	1607
Section 17	551	2382	2888

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

Answer-to-Question- _14_

PART 1

The effect of Rod's remarriage on the income tax position for the Trust, is that the Trust is now considered a discretionary trust. This means that the Trustees now have discretion over the amount of income they distribute to Rod, and the tax rates have changed for the Trust. The Trust will be a mixed trust for the 2022/23 tax year, as the period before his remarriage will be considered as an IIP and the remaining period will be discretionary.

Income Tax 2022/23

	IIP Period	Discretionary period			
		SI	DI	SI	DI
Dividends	15000 x 3/12 & 9/12		11,250		3,750
Interest	12000 x 3/12 & 9/12	9,000		3,000	
TMEs	1500 x 3/12 x 100/91.25	0	0		(411)
Taxable income		9,000	11,250	3,000	3,750

Tax due for 2022/23

IIP SI 9,000 x 20% 1,800
 IIP DI 11,250 x 8.75% 984
 Disc SI 1,000 x 20% 200
 Disc SI 2,000 x 45% 900
 Disc DI 3,750 x 39.35% 1,476

TMEs	411 x 8.75%	36
Total tax liability		5,396
Less POAs		(3,560)
Tax payable		1,836

Income tax 2023/24

Discretionary trust

		SI	DI
Dividends			40,000
Interest		10,000	
TMEs	1500 x 100/91.25		(1,644)
Taxable		10,000	38,356

Tax due for 2023/24

SI 1,000 x 20%	200
SI 9,000 x 45%	4,050
DI 38,356 x 39.35%	15,093
TME 1,644 x 8.75%	144
Tax liability	19,487
Less POAS	(5,396)
Tax payable	14,091

CGT 2023/24

Sales proceeds	32,000
Cost	(24,000)
Gain	8,000
AEA	(3,000)
Chargeable gain	5,000
CGT @ 20%	1,000

PART 2

There are penalties for not registering on the TRS. The trust can incur a penalty of £5,000 for not doing so. There is however no penalty for not completing annual TRS returns. If the trustees can prove this was not deliberate the penalty may not be charged. HMRC might be satisfied if the Trustees register the trust within a specific timeframe. The trustees will be liable to the penalty. The penalty might also be mitigated as the Trust was

already being compliant, by completing annual tax returns. The trustees should appeal the penalty if they receive one and give the grounds on which they are appealing.

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

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

Answer-to-Question- 15

PART 1

The shares do qualify for BPR in Rex's death estate. This is because the shares are held in an unlisted trading company. Some of the shares were held for at least two years. The inherited shares from his wife's estate, although had not been held by Rex personally for at least two years, fall within the exception for shares which are inherited on the death of a spouse. They will qualify for 100% BPR.

PART 2

The shares will qualify for BPR at 100% as Rex had held the shares for at least two years when he gifted them to Jack in May 2020, and Jack still held the shares on Rex's death. The shares are still unlisted.

PART 3

The shares transfererd will qualify for BPR. Although Jack has disposed of some of the shares, which he has only held since Rex's death, provided that one of the two transfers within the last two years was on death, this still qualifies for BPR. One transfer was on Rex's death and the other to the discretionary trust, therefore the shares can be claimed for 100% BPR.

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

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

Answer-to-Question- 16

PART 1

Before we begin work for the executors, we must complete the anti-money laundering checks on the executors and produce a letter of engagement, setting out my firms fees, legal obligations and the scope of the work. It will also be necessary to check that I have the expertise and skills within my firm to act for the client and complete all work required. I must also ensure there is no potential conflict of interest within my firm.

PART 2

Free Estate			2,152,250
Liabilities	funeral expenses		(2,250)
Spouse exemption			(475,000)
Charity exemption	UK charity only		(160,000)
Chargeable estate			1,515,000
NRB		325,000	
CLTs		(150,000)	
Remaining NRB			(175,000)
RNRB	W1		(99,875)
Taxable estate			1,240,125
IHT @ 36%	1240125 X 36%		446,445

W1

RNRB 175,000
 1/2 x (2152250-2250) - 2000000 (75,125)
 Tapered RNRB 99,875

Tapered residence nil rate band as estate before expemptions, but after liabilities is worth more than £2,000,000.

W2

Chargeable estate 1,241,125
Add charity exemption 160,000
Baseline amount 1,401,125

$$1,401,125 \times 10\% = 140,113$$

Estate qualifies for reduced IHT rate of 36% as at least 10% of baseline amount has been left to charity.

PART 3

The primary role of an executor is to undertake the wishes of the will. Ensuring distributions are made to the correct people or the correct assets. The executor has to register the death, apply for probate, ensure the IHT has been paid and keep estate accounts. You can forego your responsibility as an executor by renouncing your role as executor and ensuring necessary deeds and forms are signed and lodged with HMRC.

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

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

Answer-to-Question- 17

PART 1

1) No exit charge will be due on the capital payment to Isabella 1/5/2023 as she is still under the age of 18 at this age. With an 18-25 Trust, there are only exit charges after the beneficiary reaches the age of 18, and is then entitled to the capital.

2) There will be an exit charge due, as Harry had reached the age of 18.

Initial value of trust			1,000,000
Initial value of related trust			0
NRB at exit		325,000	
CTs in 7 years prior		0	
NRB			(325,000)
			675,000
Notional IHT	$675000 \times 20\%$		135,000
Effective rate	$135000/1000000 \times 100$		13.5%
Actaul rate	$13.5 \times 30\% \times 0/40$		0
Exit charge	$0\% \times 3500$		0

No IHT due, as there are zero quarters between the date of Harry becoming 18 and the date of the transfer of capital.

3)

Initial value of trust			1,000,000
Initial value of related trust			0
NRB at exit		325,000	
CTs in 7 years prior		0	
NRB			(325,000)
			675,000

Notional IHT	$675,000 \times 20\%$		135,000
Effective rate	$135000/1000000 \times 100$		13.5%
Actual rate	$13.5 \times 30\% \times 23/40$		2.329%
Exit charge	$8000 \times 2.329\%$		£186

Due on Darcey's capital distribution as she reached the age of 18 5/8/2018.

PART 2

The children are each entitled to the land when they reach the age of 25. This creates a disposal for CGT for the trust, as the individuals are entitled to the capital at the age of 18, under the new A&M 18-25 trust rules. Any distributions made after that age, do not qualify under A&M rules and will be subject to exit charges and CGT according to ordinary rules for trusts. The gain can be deferred under s.260 gift relief and this will mean that the base cost for the beneficiaries will be reduced, which is likely to result in a higher gain for them when they subsequently sell their share. The trustees will need to report the gain on the trust tax return and pay any CGT due on the disposal. The disposal will be deemed as having sales proceeds which are the market value of the land at the date of transfer less the cost which the land was acquired for, or the value of the land at the date of the acquisition by the trust. The trustees will need to be pay CGT at 20%, after deducting the annual exemption for trusts, which is half of the individual annual exempt amount.

PART 3

The land could be distributed before the age of 18. In this case this is not a chargeable transfer for IHT or CGT, under the 18-25 Trust rules. If distributing the asset after the beneficiary has turned 18, the Trust will want to distribute each share in different tax years, in order to use each year's annual exempt amount. This also might help from a cash flow point of view. In addition to this, if the trust has sufficient income, part of the capital can be transferred as income instead, so that no CGT is suffered. The beneficiary could make a claim for repayment in doing it this way also. Furthermore the asset distributed could be distributed on a gradual basis, just utilising the trust's annual exempt amount each year, so that there would be no CGT payable.