

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	<b>75</b>	<b>326</b>	<b>400</b>
Section 2	<b>235</b>	<b>1040</b>	<b>1270</b>
Section 3	<b>81</b>	<b>356</b>	<b>412</b>
Section 4	<b>94</b>	<b>448</b>	<b>539</b>
Section 5	<b>115</b>	<b>529</b>	<b>620</b>
Section 6	<b>155</b>	<b>699</b>	<b>851</b>
Section 7	<b>181</b>	<b>834</b>	<b>1012</b>
Section 8	<b>121</b>	<b>567</b>	<b>661</b>
Section 9	<b>108</b>	<b>467</b>	<b>574</b>
Section 10	<b>102</b>	<b>436</b>	<b>534</b>
Section 11	<b>70</b>	<b>299</b>	<b>346</b>
Section 12	<b>49</b>	<b>245</b>	<b>293</b>
Section 13	<b>90</b>	<b>435</b>	<b>499</b>

Answer-to-Question- 1

Life interest trust and therefore may be eligible for BADR.

Sacha is a beneficiary and has worked at the company for over 2 years. While they are only disposing of 4% of the shares, Sacha does own 20% of the shares and therefore the sale of the shares is eligible for BADR at a flat rate of 10%.

Beneficiary owns > 5% shares in a qualifying company. There is no minimum shareholding for the trustees.

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-----ANSWER-1-ABOVE-----  
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-----ANSWER-2-BELOW-----  
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Answer-to-Question- 2

If the beneficiary receives a disposal under the will or under rules of intestacy, they are under no legal obligation to accept the gift and may therefore disclaim it. If this happens then the asset would pass to the person entitled to the residue of the estate.

Executors must also agree to it if it results in more inheritance tax becoming payable.

1) A deed of variation cannot be made as the cash Sam is exchanging the painting for is not coming out of Mary's estate. The variation would be made for money and in this case the variation does not rewrite Mary's will. The transfer is not deemed to have therefore been made.

2) A deed of variation can be made as Felicity (beneficiary of the painting) wants Sam to have the painting, this is as long as Samuel also agrees to the terms. There is no consideration, they have simply decided to swap assets and therefore a deed of variation can be made.

3) A deed of variation can be made as Felicity (beneficiary of the painting) wants Sam to have the painting, this is as long as Samuel also agrees to the terms.

Utilise their annual allowances in terms of the capital gains element of the transfers. Have they got any losses they can use against the gains?

Would it be better to gift the asset and use their nil rate band?

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-----ANSWER-2-ABOVE-----  
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-----ANSWER-3-BELOW-----

Answer-to-Question- 3

Tax is at the basic rate. No allowances claimable.

£1,500 x 7 (7 months of rent after death) = £10,500

Interest paid on loan to pay IHT = £30,000 x 5/12 x 8% = £1,000

	Non-Savings £ (NS)	Interest £ (I)	Dividends £ (D)
Bank Interest		3,000	
Dividend			4,000
ISA Interest (Not taxable)		NIL	
Rental Income	10,500		
Less: Interest paid on loan to pay IHT	(1,000)		
	9,500	3,000	4,000
Tax @ BR 20%/20%/8.75%	1,900	600	350
Total income tax payable			2,850

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

-----ANSWER-4-BELOW-----  
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Answer-to-Question- 4

Is specific authorisation required from the client to disclose the error to HMRC? If so, the client must be asked and if the client is unwilling to give authorisation and this is disclosed in writing, then we must write to the client explaining the consequences of non-disclosure and it will likely now be seen as deliberate.

If the client still refuses to authorise disclosure then we must cease to act, notify HMRC and the firms money laundering officer.

The penalty for deliberate and concealed action could be up to 100% of the tax due.

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-----ANSWER-4-ABOVE-----  
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-----ANSWER-5-BELOW-----

Answer-to-Question- 5

Tenancy started in 2010, therefore not pre-1995 and therefore APR not at 50%.  
 Transfer occurred in March, we are not told whether the April gift is before 6th April,  
 therefore I have assumed that he makes the gift on the 1st of April each tax year and has  
 therefore not used it in 23/24.

	£	£	£
Market value of transferred land = (£15,000 x 50)		750,000	
Less: Agricultural value x 100% = (£7,000 x 50)	(350,000)		
Less: 23/24 Annual Exemption	(3,000)		
Less: 22/23 Annual Exemption b/f	NIL (Used)		
		(353,000)	
Chargeable Transfer		397,000	
NIL Band at date of gift	325,000		
Less: NIL band used in prior 7 years	(50,000)		
		(275,000)	
		122,000	
IHT @ 20%		24,400	

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

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

Answer-to-Question- 6

- 1) Camile has provided the cash for the acquisition of a property. As she stays there regularly with her husband, this suggests that she benefits from the property. However, this is irrelevant as it is her spouse that she has gifted the cash to and therefore the cash transfr is exempt under the spousal exemption rules.
- 2) The art is staying in Rita's house, it could therefore be argued that she is benefitting from iit.
- 3) Anthony is using the cash gifted to him by his father to purchase a both which they will both use regularly. However, he received this cash over 6 years ago, therefore in 1 years time the gift will become exempt from inheritance tax, assuming his father does not die within a year. They plan on using it after he retires within the next year, therefore to avoid these rules they would ideally wait until the 7 years has passed.

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

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

Answer-to-Question- 7

IHT 400 is used for all death estates, except excepted estates.

1st estate - Deceased made less than £250,000 in chargeable transfers in 7 years before death, estate was worth less than £250,000 at date of death. However, the assets in the estate were not subject to a gift with reservation. We do not know however if the contents were foreign property but we can assume this. Therefore it is considered a low value estate and an IHT 400 therefore does not need to be submitted.

Executors will only need to supply limited info for an excepted estate such as deceased's full name and date of death, limited details of the estate, and a declaration that the estate is excepted.

Diego had never been domiciled in the UK and his UK assets in the estate were worth less than £150,000. However, the property in the estate was a UK residential property and this therefore means that it does not qualify as an excepted estate for UK inheritance tax purposes. A full IHT 400 form will need to be submitted for Diego's estate.

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



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Initial value is therefore £485,000 as the IHT due on transfer was paid by Mitchell. The gross chargeable lifetime transfer was £479,000 + £30,800 = £509,800 as it is the Net chargeable lifetime transfer + tax paid

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-----ANSWER-8-ABOVE-----  
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-----ANSWER-9-BELOW-----  
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Answer-to-Question- 9

Alys emigrated within 6 years of the gift therefore the deferred gain will be charged on Alys at the date of her emigration which was May 2023. The gift relief claim rules work by clawing back the deferred gain if the donee emigrates within 6 tax years. Alys is the one liable to the capital gains tax that arises. She emigrated in the 23/24 tax year and therefore the capital gains will have deemed to have happened at the date of emigration, May 2023, she will be charged capital gains tax on the 23/24 tax year and therefore tax will be due no later than 31 January 2025.

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-----ANSWER-9-ABOVE-----  
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-----ANSWER-10-BELOW-----  
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Answer-to-Question- 10

If Alan died before Ronald then the legacy may fail

If Ronald doesn't own the item on death - this could certainly be the case as his will was made in 2012,

If Alan killed Ronald then he will be barred from Ronalds estate and the legacy will therefore fail,

If Alan gives up this gift then the legacy will fail

If the will was poorly drafted or unclear then the legacy could fail

A will does not expire but he could have drafted another will since 2012 meaning the old will would be irrelevant, or the will could simply become outdated.

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-----ANSWER-10-ABOVE-----  
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-----ANSWER-11-BELOW-----

Answer-to-Question- 11

$$£66,500 / £190,000 = 35\%$$

DTR is lower of foreign tax suffered and UK tax on Utopia property

$$\text{Estate rate} = £190,000 / £740,000 = 25.676\%$$

$$£190,000 \times 25.676\% = £48,784$$

	£	£	£
Value at death		740,000	
NIL Band at death	325,000		
NIL Band used in 7 years prior to death	NIL		
NIL Band available		(325,000)	
Taxable		415,000	
IHT @ 40%		166,000	
IHT already paid		(48,784)	
IHT Due		117,216	

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



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

Answer-to-Question- 13

Free of tax annuities expressed as net amount, therefore needs to be grossed up for basic rate.

	£ Net	£ Tax	£ Gross
Annuity	6,000	1,500	7,500
	£	£	£
Self-Employment income	8,900		
Annuity	7,500		
Less: Personal Allowance	(12,570)		
Taxable:	3,830		
3,830 @ 20%	766		
Less: Tax Paid	(1,500)		
Tax repayable	734		

However, proportion of repayment related to annuity is £734 x (£7,500/16,400) = £335.67 needs to be repaid to the trustees

Therefore he will actually have a repayment of £398 after he has repaid the proportion to the trustees.

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

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Section 14	<b>461</b>	<b>2140</b>	<b>2511</b>
Section 15	<b>376</b>	<b>1681</b>	<b>2047</b>
Section 16	<b>466</b>	<b>2279</b>	<b>2678</b>
Section 17	<b>594</b>	<b>2661</b>	<b>3218</b>

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-----ANSWER-14-BELOW-----  
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Answer-to-Question- 14

1)

Interest in possession trusts are fully charged at the basic rate of income tax . However, as Rod remarried on 1 January 2023, this means that the trust became a discretionary trust at this time. This means that from 1 January 2023, the income tax due on the trust was the rates applicable to trusts of 45%/45%/39.35%.

Due to Rod's remarriage, the income tax due on the trust is significantly higher than if he had stayed unmarried.

IIP Ttrusts cannot take a deduction for trust management expenditure, however discretionary trusts can.

2022/23 Up to 1 January 2023	Income £	Tax Rate %	Tax £
Dividend Income 9 months	11,250	20%	2,250
Interest from fixed rate bonds 9 months	9,000	8.75%	788
Total Tax payable			3,038
No relief for trust management expenses			

	NS £	I £	D £
1 January 2023 - 5 April 2023			
Dividend Income 3 months			3,750
Interest from fixed rate bonds 3 months		3,000	
Less: Expenses (£1,500/4) x 100/91.25			(411)
Standard rate: £1,000 @ 20%		200	
RATs:			
£2,000 @ 45%		900	
£3,750 @ 39.35%			1,314
£411 @ 8.75%			36
Tax payable 1 Jan - 5 Apr		1,100	1,350
Total tax payable for 2022/23: £3,038 + £1,100 + £1,350			5,488

2023/24	NS £	I £	D £
Dividend Income			40,000
Interest from fixed rate bonds		10,000	
Total Trust Income		10,000	40,000
Less: Expenses (£1,500 x 100/91.25)			(1,644)
Tax:			

Standard rate:			
£1,000 @ 20%		200	
Rates applicable to trusts RAT:			
(10,000 - £1,000)@ 45%		4,050	
(40,000 - £1,644)@ 39.35%			15,093
£1,644 @ 8.75%			144
Tax payablr		4,050	15,237
Total tax payable by trustees for 2023/24			19,287

### Capital Gains Tax Due

Sale of Investment Portfolio			
Proceeds:		32,000	
Base cost	(24,000)		
Gain:		8,000	
Annual Exempt Amount	(3,000)		
Taxable Gain		5,000	
Capital Gains Tax @ 20%		1,000	

2)

Penalties for not registering the trust are not automatic and can be waived if HMRC are satisfied the trustees took reasonable steps to comply with the regularions.

Penalties can be charged for failing to register, these are:

£100 for registering up to 3 months late, £200 for registration 3-6 months late and £300 or 5% of the tax liability for the year if registration is made more than 6 months late.

Therefore a penalty of 5% of the tax liability for the year or £300 will be applied.

The trust should have registered with HMRC within 90 days of becoming liable. The trustees will be liable to the penalties as it is their responsibility to make sure that the trust is registered and any tax is paid.

It is unlikely they will avoid penalties altogether, but in order to mitigate them they must have a "reasonable excuse" as to why they did not register on the trust registration service or complete annual TRS Returns.

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-----ANSWER-14-ABOVE-----  
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-----ANSWER-15-BELOW-----  
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Answer-to-Question- 15

1)

There are no minimum shares in an unlisted trading company for BPR to apply, therefore if the ownership conditions are satisfied, which they are, BPR will apply to these shares.

BPR would apply to the 25% shareholding that Rex still held from his original subscription on death

BPR would apply to Rex on the shares he inherited from his wife on her death, this is because they qualified for BPR at the date of his wife's death and this is within the successive transfers rules. Her holding is also aggregated with his holding under the successions provisions rules.

Therefore at death, the shares in his estate are a 75% shareholding, 25% from his original subscription and 50% from his wife's estate, all which qualifies for BPR due to the reasons stated above.

2)

At the time of the transfer, Rex had held the shares for over 2 years, as these are shares in an unlisted trading company, BPR would have been claimed at 100% on the transfer. As Jack owned the shares at the date of Rex's death on 4 May 2023, only selling them a year after in September 2024, the BPR claimed on the transfer of these shares would not be clawed back as the property was retained until the death of the donor. Therefore at both the time of transfer to Jack and the time of death, BPR would be available.

3)

At transfer, Jack owned 100% of the shares in Austin LTD.

25% of these were transferred to him back in 2020, 4 years prior to the transfer to the discretionary trust, therefore these shares would qualify for BPR as there is no minimum ownership and he has owned them for over 2 years.

Jack inherited the remaining 75% on his father's death in 2023, this is less than 2 years before the transfer to a discretionary trust was made. However, under the successive transfers rules, this 75% also qualifies for BPR as the earlier transfer qualified for BPR

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(when the shares were transferred to Jack on Rex's death), it also meets the criteria of the other rule which is that one of the transfers was made on death, this is the case as Rex transferred them to Jack on death.

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-----ANSWER-15-ABOVE-----  
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-----ANSWER-16-BELOW-----

Answer-to-Question- 16

1) We must authorise the estate for self-assessment and become their agents. Even though we acted for Lacy whilst she was alive, the agent authority is automatically cancelled on death and therefore we would have to register the estate for self-assessment.

We may also have to draft a new letter of engagement for the estate as the previous one applied to Lacy herself. This may include a new scope such as inheritance tax too.

2)

Contribution to grandchildren's school fees are not seen as maintenance of family and is therefore treated as a transfer of value for IHT purposes. This is because this would only apply to the next descendant, e.g. son or daughter.

Reasonable funeral expenses are deductible from the estate for inheritance tax, the £2,500 is certainly seen as reasonable. Treated as a liability.

Cat rescue registered charity £160,000 < 10% of 2,152,250

But £230,000 > 10% of £2,152,250

UK Listed shares don't qualify for BPR

When settling £150,000 into discretionary trust, annual exemptions not available for 2018/19 or 2017/18 as she used them at the start of each tax year.

	£	£	£
Assets at death:			
Main residence		920,000	
Listed Share Portfolio		475,000	
Rental Property Portfolio		660,250	
Cash		82,000	
Chattels and Personal Affects		15,000	
Total Assets		2,152,250	

Less: Legacy to Local Cat Rescue	(160,000)		
Less: Gift to Elephant Sanctuary	(70,000)		
		(230,000)	
Less: Spousal Exemption		(475,000)	
		1,447,250	
Less: Funeral Costs	(2,250)		
Chargeable Estate		1,445,000	

NIL Rate Band at death	325,000		
Less: NIL Rate Band used 7 years prior to death	(150,000)		
Available NIL Rate Band		(175,000)	
Taxable Estate		1,270,000	
IHT @ 36%		457,200	
IHT @ 40% (DOES NOT APPLY)		508,000 (DOES NOT APPLY)	
Baseline Amount:			
Gross Estate		2,152,250	
Less: Spouse Exemption		(475,000)	
		1,677,250	
Less: Available NIL Rate Band		(175,000)	
'Baseline Amount'		1,502,250	
Baseline Amount x 10%		150,225	

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Therefore IHT @ 36% applies as £150,225 < £160,000			
IHT @ 36%		457,200	

3)

An executor must make sure all property owned by the person who has died is secured as quickly as possible after death. It may also be their responsibility to arrange the funeral either by using instructions left to him or otherwise. They must also pay any bills owed by the estate and work out the inheritance tax due and pay it, usually by contacting a tax advisor.

If Bob does not want to be an executor then they are able to formally renounce it by signing a legal document and filing it at the probate registry. He can contact a lawyer to draft a deed of renunciation and as a result of this Bob will be terminated from being an executor and no longer be able to or required to act as an executor of the estate. This can only be done before any action is taken in dealing with the estate.

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-----ANSWER-16-ABOVE-----  
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-----ANSWER-17-BELOW-----  
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Answer-to-Question- 17

1)

The trust gives capital at the age of 25, therefore it is an 18-25 trust. As capital is distributed to Isabella on 1 May 2023, before she turns 18, there is no exit charge on the distribution. Only capital distributed between the ages of 18 to 25 is subject to exit charges. This type of trust is also not subject to principal charges.

£7,000 distributed not within £3,000 annual limit.

Harry was 18 at the date of the gift and therefore between 18-25 and therefore an exit charge will apply. We take n as the later of when the trust was created and when the beneficiary turned 18. Therefore we use 8 November 2023. There is less than 1 quarter between this date and when the capital payment was made. This therefore means that once again, no exit charge will apply.

Quarters between 9 January 2016 to 1 August 2024 =  $(8 \times 4) + 2 = 34$

Quarters between 5 August 2018 to 1 August 2024 = 27 We use this amount as we use the later date of when the 10yr anniversary of the trust was and when Darcey turned 18

Couldnt' use tland in the distriutions as I am unsure if the land was the only thing in the trust and it was not given a specific value

	£	£	£
Initial Value of trust property (at 10 years)		1,100,000	
NIL Band at date of exit charge	325,000		
Less: Settlor's chargeable transfers in 7 years before creation of trust	NIL		
Less: Yr 1-10 distributions	NIL		



It is an appointment of asset to beneficiary and the gain may be able to be deferred. The deferred gain will be rolled over and will reduce the base cost of the asset in the hands of the beneficiary. Gift relief claims do however require the consent of the beneficiary and claims should be made no later than four years from the end of the tax year of the appointment.

if a gift relief claim is not made however, then the capital gains tax due on the land will be payable by the executors of the trust. The beneficiaries will receive the shares at the market value on transfer and use that as their cost if they eventually decide to sell.

Capital gains tax will be due at 20% as it is land rather than a residential property.

3)

There will be no exit charges due if the land is distributed before the beneficiaries 18th birthday, however this deadline has passed as all grandchildren are now over 18. Exit charges arise on the beneficiary becoming absolutely entitled after age 18, the death of the beneficiary after age 18 and trust assets being paid or applied for the benefit of the beneficiary after age 18. Rather than distributing the beneficiaries share in its entirety it could make use of the annual £3,000 each year. At present Harry and Isabella will receive the land in the same year meaning the annual limit will not be available for both.