

CIOT - ATT

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

Part/Module: **Part 1**

Answer-to-Question-\_1\_

1. As HMRC issues the tax return on 2 Decemer 2022, the trustees must file the return the later of 31 January or 3 months adter the notice was issued. In this case this is 2 March 2023. Payment will be due 31 January 2023.

2. As the tax return was filed late. There is a £100 penalty for late filing. The return was not more than 3 months late so this is the extent of the late filing penalties.

With regard to payment payment was due 31 January 2023. Therefore the following interest is due:

$$1,000 \times 0.06 \times (21/365) = \text{£}3.45$$
$$1,000 \times 0.065 \times (20/365) = \text{£}3.56$$
$$1,000 \times 0.0675 \times (17/365) = \text{£}3.14$$

Rates and dates taken from HMRC website.

Therefore the total panalties and interest arising is  
£110,15

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-----ANSWER-1-ABOVE-----  
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-----ANSWER-2-BELOW-----  
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Answer-to-Question-\_2\_

Gift to Anita: As Anita used all of the cash to purchase the painting, this is considered as providing consideration for the asset. Therefore the POAC is as follows:

$$75,000 \times 2\% = 1,500$$

Daisy gift to daughter:

This is a pre-owned asset as the donor is able to benefit from the consideration that was provided As this is a property the income tax charge is the annual rent which is therefore £24,000

Shiela git to Rosie:

The income tax charge is only for the amount that the gift was worth.

$$35,000 \times 2\% = 700$$

Cosmo:

This is a gift with reservation of benefit.

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-----ANSWER-2-ABOVE-----  
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 -----ANSWER-3-BELOW-----  
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Answer-to-Question-\_3\_

lifetime tax:

PET	£	£	
studio	400,000		
less BPR (50%)	(200,000)		
		200,000	
less nil band		(325,000)	
		nil	
Cash to upside		350,000	
nil band	325,000		
less transfers 7 years prior	nil	(325,000)	
		25,000	
IHT @ 20/80		6250	

Death Tax

Annual exemptions used at the start of each tax year so cannot be utilised in below caluclation.

	£	£	
Studio	(400,000)		
less BPR	(200,000)		
		200,000	
less nil band		(325,000)	

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		nil	
Cash to company		350,000	
nil band	325,000		
less chargeable transfers 7 years prior	(200,000)		
		(125,000)	
		225,000	
IHT @ 40%		90,000	
less lifetime tax paid		(6,250)	
IHT due		83,750	

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-----ANSWER-3-ABOVE-----  
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 -----ANSWER-4-BELOW-----  
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Answer-to-Question-\_4\_

As Ivo is UK domiciled he is chargeable to IHT on his worldwide assets

	£	£	
Main residence		510,000	
Holiday home		200,000	
chattels and cash		150,000	
CGT due (allowable liability)		(15,000)	
less reasonable funeral expenses		(9,000)	
probate costs (not allowable as on UK assets)		nil	
probate costs for utopia property (max 5% of value of property)		(10,000)	
		826,000	
less nil band		(325,000)	
less RNRB			
		491,000	
IHT @ 40%		196,400	
less DTR (lower of 50,000 and 200,000x40%)		(50,000)	

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IHT due		146,400	

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-----ANSWER-4-ABOVE-----  
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-----ANSWER-5-BELOW-----  
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Answer-to-Question-\_5\_

1. The RNRB will not be available as the property will not form part of her estate.
2. The full RNRB will be available if left to a life interest trust provided a lineal descendant is a beneficiary. Not available if left to a discretionary trust
- 3, Downsizing rules will apply allowing the full RNRB to be available

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-----ANSWER-5-ABOVE-----  
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-----ANSWER-6-BELOW-----  
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Answer-to-Question-\_6\_

1. As this will be considered careless action and HMRC issues an enquiry, the appropriate penalty will be between 30% and 15%. These are the maximum and minimum values for careless action with prompted disclosure.
2. Only under careless action could a penalty be suspended. The penalty can be suspended for 2 years.
3. The member must take into account client confidentiality and if any information has been discussed under client privileged circumstances. The member must always ask for permission from the client before providing any information in relation to HMRC enquiry.

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-----ANSWER-6-ABOVE-----  
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-----ANSWER-7-BELOW-----  
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Answer-to-Question-\_7\_

As Iwi died on a Sunday which is a non-business day, we can take the more favourable values from the preceding and following business day. In this case the following day is more favourable.

The shares are valued at the lower of:

Quarter up:

$$550 - 514 = 36$$

$$36 / 4 = 9$$

$$514 + 9 = 523$$

Average of bargains:

$$(549 + 517) / 2 = 533$$

Therefore quarter up method is lower

$$523 \times 30,000 = \text{£}156,900$$

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-----ANSWER-7-ABOVE-----  
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 -----ANSWER-8-BELOW-----  
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Answer-to-Question-\_8\_

As the sale of assets to the settlor were at market value, there is no IHT due and therefore the gains cannot be deferred.

Assumed that the trust does not own 50% of the quoted shares and therefore BPR not available.

	Sculpture	Painting	Shares
Proceeds	30,000	70,000	46,000
cost	(25,000)	(85,000)	(18,000)
gain/(loss)	5,000	(15,000)	28,000
Gains	33,000		
less losses	(15,000)		
chargable gain	18,000		
less AE (12,300/2)	(6,150)		
	11,850		
CGT @ 20%	2,370		

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

As you have advised the client on the consequences of not disclosing the income and they continue to refuse, this is considered tax evasion.

As a member of the ATT, the following should be undertaken:

make sure you have maintained suitable record of the verbal and written conversations of you advising the client to disclose the tax.

Raise this issue with your companies Money Laundering Reporting Office.

Cease to act for the client and provide written notification to both the client and HMRC of your intentions of doing so. You cannot give HMRC the reason you are ceasing to act as this will be a breach of confidentiality.

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-----ANSWER-9-ABOVE-----  
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-----ANSWER-10-BELOW-----  
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Answer-to-Question-\_10\_

1. Rosa will have acquired an Italian domicile of origin as her father was domiciled in Italy at the time of her birth.

Until the age of 16 she will maintain a domicile of dependance which is that of her father. As her family always intended to return to Italy, this will have remained an Italian domicile.

Now that Rosa is over the age of 16, she can establish a domicile of choice elsewhere if she cuts all sufficient ties from Italy. However, she will remain Italian domiciled as she intends to return to Italy.

However, she will be deemed domicile in the UK for IHT purposes if she has been resident for 15 of the previous 20 tax years. Therefore, after moving to the UK in 2006, she will become deemed domicile in the 16th tax year (2022/23)

2. The trust will remain non-UK domiciled. Therefore it is outside of the scope of UK IHT, despite Rosa being UK deemed domicile when she died.

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-----ANSWER-10-ABOVE-----  
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-----ANSWER-11-BELOW-----  
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Answer-to-Question-\_11\_

1. Disclaim the gift
2. Make a deed of variaion and nominate a person for the gift to be passes on to. This dead must be made in writing and signed by James. The claim must be made within 2 years of death and be sent to HMRC within 6 months of the claim being made.

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-----ANSWER-11-ABOVE-----  
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-----ANSWER-12-BELOW-----  
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Answer-to-Question-12

	Painting	Statue	
Gain	30,000	40,000	
less losses	(30,000)	N/A	
	nil	40,000	

Capital losses must first be set against any gains arising to the trustees between the 6 April and the date of appointment. Any losses which have not been set against pre-entitlement gains will then be treated as losses made by the beneficiary. The beneficiary will only be able to use losses against gains on the disposal of that same asset.

Therefore, the net gains before AEA are £40,000.

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-----ANSWER-12-ABOVE-----  
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Paper: **ATT Paper 5 IHT Trusts and Estates**

Part/Module: **Part 2**



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-----ANSWER-13-BELOW-----  
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Answer-to-Question-\_13\_

1. A deed of variation that redirects assets from Kumar to his daughter Riya could give rise to a CGT liability on Kumar.

Kumar will receive the asset at the probate value (market value at death.) If the value of these assets is higher on the date of the deed of variation then a gain will arise valued at the increase between the 2 dates. This is because he is deemed to have disposed of the asset at the market value on the deed of variation.

A S.62 statement can be included which effectively rewrites the will so that no gain arises and Riya will receive the gift at probate value.

For income tax purposes, any income arising from the assets while the estate is in administration will be chargeable to the estate. This income will then be distributed accordingly. If any income has arisen from the assets after the estate has been administered and the deed of variation, this will be deemed to be income in the hands of Kumar. However, once the assets have been transferred to Riya, all income arising will be taxable on her.

2.

2021/22 -

Kumar R185:

$$24,000 \times 10/12 = 20,000$$

$$20,000 \times 100/80 = 25,000$$

$$25,000 - 20,000 = 5,000$$

	Net	Tax	
Estate income	20,000	5,000	

Riya R185:

2021/22:

$$24,000 \times 2/12 = 4,000$$

$$4,000 \times 100/80 = 5,000$$

$$5,000 - 4,000 = 1,000$$

2022/23:

$$16,000 \times 100/80 = 20,000$$

$$20,000 - 16,000 = 4,000$$

	Net	Tax	
2021/22 estate income	4,000	1,000	
2022/23 estate income	16,000	4,000	

3. They would be taxable on her father.

NOTE: I HAD TO MOVE DIVIDERS AS I TYPED THE ABOVE IN THE Q14 BOX. PLEASE CHECK ANSWERS IN CORRECT BOX (sorry!)

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 -----ANSWER-13-ABOVE-----  
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-----ANSWER-14-BELOW-----  
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Answer-to-Question-\_14\_

1.

Assumed Rachel's spouse if UK domiciled and no spousal limit applies.

No RNRB available as property not passed to lineal descendants.

Assumed funeral expenses have been deemed to be reasonable.

	£	£	
Main residence	710,000		
less spouse exemption	(710,000)	nil	
Rental property	440,000		
less mortgage secured against property	(100,000)		
less spouse exemption	(340,000)	nil	
Shares in RL Property LTD	1,800,000		
Less BPR (nil as the company deals in property)	nil	1,800,000	
war medals (exempt)		nil	
Quoted shares (no BPR available as <50%)		450,000	IHT can be paid via instalments

cash		218,000	
Personal chattels	4,000		
less Spouse exemption	(4,000)	nil	
less unsecured personal loan		(40,000)	
Less income tax liability		(32,000)	
less funeral expenses		(5,000)	
Taxable estate		2,391,000	
Less nil band		(325,000)	
taxable		2,066,000	
IHT @ 40%		826,400	

Tax payable by executors on the death estate is due the earlier of 6 months from the end of the month of death or on the delivery of the IHT return. As the DOD is 5 May 2022 and they are not submitting the IHT400 until May 2023, the payment will have been due 30 November 2022.

The only asset where the instalment option is available is the quoted shares. The first instalment will be payable with the rest of the liability on 30 November 2022. This will be 1/10 of the liability arising from the shares. For the following 9 years (10 in total) annual instalments will be due. The executors can pay the liability at any point prior to this period.

2. As the payment was due on the 30 November 2022. Interest will start to accrue from 1 December 2022.

The rates (according to HMRC website) are as follows:

date	days		
1 December 2022 - 6 January 2023	5.5%		

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	6%		
	6.5%		
	6.75%		

Ran out of time to do the actual calculation.

Need to time apportion days on interest based on the days it is applicable to each rate.

Instalments are not charged interest until they are late.

3. If the assets available for the instalment option are sold, the IHT will become immediately payable rather than by instalments

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-----ANSWER-14-ABOVE-----  
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-----ANSWER-15-BELOW-----  
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Answer-to-Question-\_15\_

1. A trust for a bereaved minor is created on the death of a parent under the rules of intestacy.

A trust must give the minor absolute interest in capital and income of the trust at the age of 18.

An 18-25 trust cannot be created in this situation as there was no will.

Trusts for bereaved minors can apply for an amount of the trust income to benefit someone other than the bereaved minor, up to an annual limit of the lower of £3,000 or 3% of the trust property. This is so that trust management expenses can be paid without disqualifying the trust.

2.

	Non-savings	interest	div
Rental income	16,800		
Bank interest		1,300	
UK dividends			8,200
less tax (20%/20%/8.25%)	(3,360)	(260)	(677)
net income	13,440	1,040	7,523

Tax pool:

	£	
b/f	4,700	
Add tax paid by trustees (3,360+260+677)	4,297	
less tax credit claimed by beneficiaries	(16,364)	

(20,000 x 45/55)		
Shortfall in tax pool	(7,367)	
tax pool c/f	nil	

Tax liability - 4297  
 Add shortfall in tax pool - 7,367  
  
 tax due - 11,664

Rupert R185:

$20,000 \times 100/80 = 25,000$   
 $25,000 - 20,000 = 5,000$

	Net	Tax	
trust income	20,000	5,000	

3. On the basis that Rupert has no other income. He is likely to have a small tax liability arising from the income distribution. He will have his personal allowances available and can claim the tax credit from the tax already paid by the trustees. This will reduce the liability but will not reduce it to nil.

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 -----ANSWER-15-ABOVE-----  
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-----ANSWER-16-BELOW-----  
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Answer-to-Question-\_16\_  
1.

	£	£	
Initial value of trust		550,000	
Initial value of related trust (not created same day so not related)		nil	
Nil band	325,000		
less CT 7 years prior (N1)	(175,000)	(150,000)	
		400,000	
Notional IHT (400,000x20%)		80,000	
Effective rate (80,000/550,000 x 100)		14.545%	
Actual rate (ERx30%x24/40)		2.618%	
Loss to trust		425,000	
exit charge (loss to trustxAR)		11,127	

N1: The settled property into the trust is a CLT, the gift to the daughter is a PET so is not considered in this



calculation.

2.

	£		
Proceeds (MV)	425,000		
less cost (MV when settled)	(300,000)		
gain	125,000		
Less AE (divided by 2 as 2 settlements by settlor)	(3,075)		
Chargable gain	121,925		
CGT@28%	34,139		

S.260 relief is available where a gift is a chargeable transfer for IHT purposes. This would mean that the gain qualifies for gift relief and can be deferred. This would therefore reduce the base cost of Jake and increase his gain when he comes to sell the property.

A s.260 relief claim will restrict PRR in the future.

3.

I would have to consider whether the work would be a conflict of interest. This conflict of interest may arise as I would be advising on the affairs of the trust and also the beneficiary.

If both parties are happy with the work to be undertaken this should be outlined in the letter of engagement and any correspondence kept on record.

4.

The trustees have a duty to regulate the enjoyment of the trust property by the nominated persons, i.e. beneficiaries.

Allowing the property to fall into disrepair is a violation of trust and the beneficiaries could consider legal action against the trustees.

The beneficiaries will be able to legally 'fire' the trustees from the trust and may also be able to sue for the damage to the property.