

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>586</b>	<b>2648</b>	<b>3171</b>
Section 2	<b>713</b>	<b>3242</b>	<b>3858</b>
Section 3	<b>787</b>	<b>3633</b>	<b>4337</b>
Section 4	<b>746</b>	<b>3334</b>	<b>4035</b>
Section 5	<b>432</b>	<b>2132</b>	<b>2498</b>
Section 6	<b>0</b>	<b>0</b>	<b>0</b>
Total	<b>3264</b>	<b>14989</b>	<b>17899</b>

Answer-to-Question- \_1\_

1)

1)

Magpie shares disposal:

Florence

Florence can claim business asset disposal relief on the disposal of her shares on the basis that she it is a 'material disposal' of business assets and she is a part time employee of the 'personal trading company'(still qualifies for the relief).

This because the following conditions are met:

She owns 7% of the shares which means that she owns more than the stipulated 5% ordinary share capital and is able to exercise at least 5% of the voting rights.

In addition, she is entitled to at least 5% of the proceeds of the disposal (730,000) of the whokly of the ordinary share capital of the company.

She is alos a beneficiary with an interest in possession in the trust and for a period of at least two year ending in the thrwee years before disposal the company is a trading company, and she is part time employeed.

Furthermore, as the claim would use some of her lfietimne BADR limit, she does have enough of her lfietime limit reaminign to cover the capital gain.

The trustees and the beneficiary must make the claim for relief jointly.

BADR relief is given at 10% and the gains are treated as using any unused basic rate band in priority to other gains.

BADR is available because the gains do not exceed the lifetime limit of £1m. The claim will need to be made on or before the first anniversary of the 31 January following the tax year of disposal i.e. by 31 Jan 2026.

Nate

Nate can claim holdover relief under s.260 TCGA 1992 on the basis that he has sold the shares in Magpie Ltd and reinvested the proceeds to buy a new private residence.

This relief is available because it is a chargeable transfer for IHT purposes, although it is not necessary for any IHT to be payable.

A claim must be made to HMRC (usually with the trust tax return). A joint claim must be made by the trustees and the recipient of the asset.

The time limit for making the claim is four years from the end of the tax year of disposal i.e. by Jan 2028.

When a claim for holdover relief is made, the gain arising on the asset is rolled over and reduces the base cost of the asset in the hands of the beneficiary which is likely to lead to a larger gain being triggered on a future disposal of the same asset.

The trustees and settlors are connected persons.

As the trustees do not have connection to Invest Plc or Growth PLC they are taxed at normal CGT rates.

2)

W1: shares in Invest PLC

Proceeds			40,000
Less: cost			(22,000)
Gain			18,000

W2: Shares in growth PLC

Proceeds			30,000
Less: cost			(45,000)
Capital loss			(15,000)

W3: Shares in Magpie Ltd

Proceeds			812,500
Less: cost			(250,000)
Gain			562,500
Less: gift relief			(562,500)

Chargeable gain			Nil
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MV at gift			812,500
Less: gift relief			(526,500)
Base cost of shres for trustees			<u>562,500</u>

W4: CGT Payable

			Shares in Magpie Ltd (BADR)	shares in Invest PLC	
Gains arising in 2024/25			562,500	18,000	
Less: current year capital loss from growth plc				(15,000)	
Less: AE				(1,500)	
Taxable gains			562,500	1,500	
<b>CGT</b>					
CGT @ 10%					56,250
cgt @ 20%	1,500 x 20% (formattin g of tables messed up)				300
Total liability					56,550

The loss and AE is set off against gains taxable at the highest rate in prioroty as this is

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the most benneficial way.

The trustees get an annual exemption of 1,500

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

1)  
 trust wound up on 8 October 2024 = MV  
 Trusted created on 20 May 2009 - cost of acquisition vlaue.

W1: Residential apartment (24%)

Proceeds = MV			450,000
Less: cost			(320,000)
Less: enhacment expenditure			(45,000)
Gain			85,000

W2l share portfolio

Sales proceeds			220,000
Less: cost			(150,000)
Gain			70,000

W3 - Hamilton Foods

Sales proceeds			50,000
Less: cost			(65,000)
Capital loss			(15,000)

W3 - additional investment in quoted share portfolio

Sales proceeds			72,000
Less: cost (use 20 May 2019 value)			(64,000)
Gain			8,000

W4 - cash is not subject to CGT so excluded all together.

		Additional investment in share portoflio		Share portfolio	Residential apartment
Chargeable gain		8,000		70,000	85,000
Less: current year loss					(15,000)
Less: AE (trustees)					(1,500)
Taxable gains		8,000		70,000	68,500
CGT:					
78,000 @ 20%					15,600
68,500 @ 24%					16,440
Total CGT for 2024/25					32,040

The loss and AE is set off against gains taxable at the highest rate in (residential property) as this is the most benneficial way.

On the winding up of the turst, the trustees could have claimed gift releif on the basis that the trust has been wound up and there is a transfer of assets, which is a chargeable



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lifetime transfer for IHT purposes.

The trustees would claim this under s.260 TCGA 1992.

The holdover relief is available due to the fact the residential apartment is distributed to Ethan and this is a chargeable transfer for IHT purposes.

When the claim for holdover relief is made, the gain arising on the asset is rolled over and reduces the base cost of the asset in the hands of the beneficiary which is likely to lead to a larger gain being triggered on a future disposal of the same asset.

Moreover, if a claim for holdover relief is made in respect of the property used as a main residence by Ethan, this would prevent him from claiming PRR on the future disposal of the property.

A claim must be made to HMRC (usually with trust tax return). A joint claim must be made by the trustees and the recipient of the asset.

The time limit for making a claim is four years from the end of the tax year of disposal i.e. by 8 October 2028.

The trustees are not charged tax on the gain but it is held over i.e. deferred).

Ethan acquires the asset at market value less the held over gain. He will make a larger gain, or smaller loss when he eventually disposes of the asset.

2)

The trustees must notify their chargeability to HMRC within 6 months from the end of the tax year in which they are first chargeable.

A trustees tax return (form SA 900) will need to be filed for each tax year that the trust is in existence.

The filing deadline is either 31 October following the end of the tax year for a paper return, or 31 January following the end of the tax year for an electronic return.

Both types of return may be filed 3 months after the date of issue if this is later than the statutory deadline.

The trustees will need to pay CGT on the 31 January following the tax year in which the trust was wound up.

Given that the trust is wound up, the trustees must notify HMRC within 90 days.

3)

trust created 20 May 2009 = use value on 20 May 2019

Value of trust				
Residential apartment				375,000
Quoted share portfolio				170,000
Holding in Hamilton Foods			70,000	
Less: BPR @100%			(70,000)	
				Nil
Additional investments				64,000
Cash				55,000
Less: distributions in prev 10 years	15,000 x 3			(45,000)
Current value of trust				<u>619,000</u>
Nil rate band 24/25			325,000	
Less: CTs in 7 years before trust created			(210,000)	
NRB remaining				(115,000)
				504,000

Notionla tax @ 20%				100,800
Effective rate	$100,800 / 619,000 \times 100$			16.284%
Actual rate	$16.284\% \times 30\%$			4.885%
Principal charge	$619,000 \times 4.885\%$			30,238

The trustees are resposnble for calculating the IHT due on the principal charge.

This will be due within six months from the end of the tax year in which are wound up i.  
 e. by 31 March 2025.

The donors paid the IHT on the disutrbrtion which would have been at an IHT rate of  
 20/80.

Form IHT 100 is used to pay the IHT.

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

1)

Mr Lee has sold his holiday home and gifted it to his nephew Jake. Given that Jake used the funds to purchase a caravan and this was made available for Mr Lee to use regualry until he died. As such, he will be deemed to recieve 'notional income' under the pre-owned asset rules.

The pre-owned assets rules impose an income tax charge on benefits recieved by the former owned of the property.

An income tax charge is imposed where:

The transfer is not a gift with reservation bennefit

The former owner (Mr Lee) benefits from the proceeds of an asset he has previosuly owned.

As the carvan cost exceeded the gift made we used the cost of the carvan in the claculation.

The official rate for 2024/25 used is HRMC's rate of interest which is 2.25%

this is calculated as:

Notional interest payable for the period:

200,000 x 2.25 (official rate of interest for 2024/25)			4,500
Less: payments made by Jake			(1,000)
Notional income			3,500

The caravan will need to be revalued every five years after the start of the tax year in which the caravan first becomes subject to the pre-owned assets tax regime. In this case, revaluation will be on 6 April 2029.

Given that Mr Lee is caught by the POAT (pre owned asset) rules, he can make an election that:

no income tax charge will arise, but instead they are treated as having a gift with reservation of benefit (and the caravan he forms part of his estate for IHT), so it is an IHT charge instead of an income tax one. Once made, this election cannot be withdrawn.

The election should be made no later than 31 January following the tax year in which Mr Lee first becomes liable to POAT charge.

2)

notes for prep - never been married so no transfer of NRB

Include 200,00 if GWROB? question not stated that this has actually happened don't include.

Value of property on death 800,000

Died December 2024

Gift of property in 2019 to niece

Gift			840,000
Less AE 2019/20			(3,000)
Less: AE b/f 2018/19			(3,000)
PET (not chargeable in life)			834,000

Additional tax on death - become chargeable as Mr Lee did not survive for 7 years

PET (now chargeable)			834,000
Nil band 24/25		325,000	

Less: CT's in prev 7 years		nil	
NRB remaining			(325,000)
Taxable			509,000
IHT @ 40%			203,600
Less: taper relief @ betwene 4-5 years @ 40%			(81,440)
IHT due on death			122,160

#### Death estate

Property (main residence)				880,000
Cash				14,000
Share portfolio				260,000
Car				8,000
				928,000
Less: liabilities				
Loan				(4,500)
Funreal costs				(3,000)
Net value of estate				920,500
Less: exempt legacies (charity)				(14,000)
Chargeable estate				906,500
Nil abnd at death			325,000	
Less: CT's in prev 7 years			Nil	
NRB reamining				(325,000)
Taxable estate				581,500
IHT @ 40% (paid by				232,600

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executors)				

The loan is unsecured so deducted from genreal assets

No RNRB as he gifted residence during lifetime he did not leave the property.

The due date for IHT is 6 months from the end of the month of death i.e. 30 June 2025 and delivery of form IHT 400 is to HMRC.

The executors are liable for the tax.

3)

The executors can make a correction of the IHT form within 12 months of the normal filing date i.e. form IHT 400 is due 12 months from the end of the month of death which is by 20 Decmeber 2025.

If the forms are not corrected penalties may be charged on either the late submission of an IHT return, or on the submission of an incorrect IHT return, whether the inaccuracy is careless or deliberate.

As they have submmtied the forms without inclusion of any of the lfietime gifts this is likely to be careless action whereby the maximum penalty is 30%, the minimum penalty with unpromoted siclosure is 0%, and the min penalty with prompted disclosure is 15%.

I dont think penalties would be subject to the deliberate regime as the exectuors might not of known to include the lifetime gfits.

4)

If my firm discovers the mistake it would be nessacry to asses the nature of the mistake i. e. was it careless and deliberate, or just careless.

I should then inform the client of the error in writing explaining the nature of the error (failing to include lifetime gifts) highlghit the potential consequenes and offer to rectify the error.

I should then amend the return (if client is satsified with the above) to disclose to HMRC.

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Altenrtively, I would write a disegengaement letter if the client does not comply with the rectificaition methods.

Finally, I should ensure I document everythign and keep clear and written records of the error and amended return.

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

To: Richard Smythe  
From: ATT tax advisor  
Subject: redirection of will and 36% base rate

The purpose of this email is to highlight how legacies left in a will could be redirected and explain how the 36% IHT rate can be obtained.

1)

For the prupsoe of redirecting cetain assets and potential disclaimer of gits a deed of variation can be used in addition to a disclaimer.

A deed of variation enables a benneficiary who does not want to accेत a gift pass it to a nominated person.

A disclaimer is different and this allows an individual who does not want to accept a gift to make a formal disclaimer of it which means that the gift would pass to the person entitled to the resiudue of the estate as thought the legacy has simply failed.

In order for a deed of varation to be valid it must be:

The inhertiance can be redirected using a deed of varaition:

This needs to be in writing, signed by the benneficiary, and made within 2 years of the deceased i.e. by 2 November 2026.

A deed of varation can havfe the effect of re-writing the will for IHT putposes and applies from the date of death i.e. 2 November 2024/

The exeuctors must consent to the varation if it results in more IHT payable.

A deed of varation cannot apply retrospectitavly for income tax purposes, it is effective from the date it is made.

A redirection of any assets by virtue of a deed of varation will be treated as a disposal by the original benneficiairy at market value at the date of the deed for CGt purposes.

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However, if the original beneficiary includes a statement in the deed under s.62 TCGA 1992 intending the provision to apply, the new beneficiary will be deemed to have received the asset directly under the terms of the new will.

Nancy

As Nancy does not want to accept the painting and wants it to go to Simon she can use a deed of variation because she is specifying an individual on who she would like it to go to.

The transfer of value is disregarded for IHT purposes and therefore Nancy will not have made a PET on the basis that the will has been re-written for IHT purposes.

Polly

For Polly, she would not need to make any deed of variation or disclaimer on the basis that the shares in ARC Ltd are from an unquoted trading company. This means that BPR relief is given at 100% in Adnan's death estate and therefore do not form part of his estate. In order for this to happen, the donor must have owned the property for at least two years.

In relation to the investment portfolio, Polly can use a deed of variation on the basis that she is 'redirecting the assets' and therefore she can do this by re-writing the will for IHT purposes. The variation must be sent to HMRC within 6 months of it being made.

Ultimately, if an individual does not want to accept the gift, they make a formal disclaimer of it and this then passes to the person entitled to the residue of the estate.

A deed of variation enables Polly to specify which individuals she would like to receive the applicable gifts.

A deed of variation also overwrites the issues if a PET is made and the donor dies within 7 years as this is disregarded for IHT purposes.

2)

Polly can comply with Adnan's request by making a charitable legacy which is where you leave 10% or more of the net estate to UK registered charities and benefit from the reduced rate of IHT of 36%, instead of being charged the full rate of 40%.

The baseline amount is the value of your estate which is chargeable to IHT after deducting all available reliefs, exemptions, and the nil rate band, but not the RNRB and the amount of the charitable gift itself.

Paintaining				150,000
Main home				850,000
Investment portfolio				1,200,000
Shares in ARC Ltd			300,000	
Less: BPR @ 100%			(300,000)	
				Nil
Total assets				2,200,000
Check to see if 36%				
Total assets before charitable gift				2,200,000
Less: available nil rate band				(325,000)
Baselien amount				1,875,000
@ 10%				187,500

Polly should donate 187,500 and above in order to meet the baseline amount and therefore obtain the 36% IHT rate.

I look forward to hearing from you and responding to your queries.

Kidn regards

ATT tax avdisor

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

1)

		Non-savings	Interest	Dividends
Net rental income from residential property	12,000 - 1,650	10,350		
Interest			3,000	
Rental income from commercial property		13,800		
Dividend income				26,000
Less:				
Accountayc fees for tax return		(1,825)		
		22,325	3,000	26,000
22,325 @ 45%				10,046
3,000 @ 45%				1,350
26,000 @39.35%				10,231
				<u>21,627</u>
Tax pool b/f				600
Less: tax pool credit				21,627
Less: tax on income distrubution	20,000 x 2 x 45/55			(32,727)
Tax pool deficit				(11,100)

Add tax pool deficit				11,100
Total tax payable	21,627 + 11,100			32,727

For the residential property, the repair to the garden fence is allowable because it is incurred wholly and exclusively for the purpose of the trade.

The new porch is not deductible on the basis that this does not class as repair and maintenance expenditure and it is capital in nature.

The legal fees for the commercial property are not deductible in an income tax computation, instead they are selling costs relating to CGT.

The chargeable event gains is charged to income tax.

The tax on this receipt enters the tax pool and is restricted to 25% of the chargeable income (being the 45% trust rate less disallowable basic tax rate).

The accountancy fees are allowed to be deducted from non-savings income given that they are incurred for the income tax return and therefore it is an income tax purpose allowable deduction.

The tax rates applicable are subject to RAT (rates applicable to trust) on the basis that it is a discretionary trust created by Matilda.

There is relief given to trust management expenses at IIP rates of 8.75%/20% deeming to have come from dividend income in priority but there are no expenses reported.

Gilda and Hugo are beneficiaries who have received a distribution of 20,000 each. Therefore, this is received as a 45% tax credit, and a running total of tax paid / credits on distributions is continued to ensure the tax pool is maintained.

Non-savings income at discretionary trusts rate is 45% in addition to interest income. The dividend income is 39.35%

2)

The tax payments for payments on account for 2025/26 are as follows:

1st payment on account of income tax is due 31 Jan 2026  
 2nd payment on account of income tax is due 31 July 2026

The 2025/26 tax reutrtn would be due 31 Jan 2027.

3)

		Non savings	Interest	Dividends
Employment income		13,500		
Estate distrubution - non-savings	(20,000 x 45/55)	16,363		
		29,863		
Less: personal allowance		(12,570)		
Taxable income		17,293		
25,930 @ 20%				17,293
Tax liability for the year				17,293
Less: tax credit on income	(16,636 @ 45%)			(7,486)
Incoime tax payable for year				9,807

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