

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	495	2180	2642
Section 2	555	2424	2914
Section 3	970	4335	5241
Section 4	594	2678	3238
Section 5	338	1579	1869
Section 6	16	71	87
Total	2968	13267	15991

Answer-to-Question- _1_

Busines Asset Disposal Relief BADR

BADR is avaiiable where:

There is a material disposal of business assets such as company directors and employees selling shares in their personal trading co.

The shares need to have been owned for two years.

These shares are as they were purchase in May 2018 and it is now 2025.

Conditions:

beneficiary must have an interest in posession in the trust - told they have had since the trusts creation in 2015.

For a period of at least two years ending in the 3 years before disposal the company must be a trading co, the beneficiary must **be an officer or employee** and must have at least 5% of the ordinary share capital be able to exercie at least 5% of the vote.

Florence meets the above condiitons. She is a part time employee and has been since 2018. She personally holds 7% of the shares which is more than the 5% required.

Nate however is not an officer or employee of the company and so he will not be eligible for BADR.

Relief is that the gains will be taxed at 10% rather than 20%

There is a lifetime limit of £1m per person.

The claim must be made jointly between the trustees and the beneficiaries.

Claim must be made before the first anniversary of the 31 Jan following the end of the tax year. in this instance 31 Jan 2027.

Investor relief

Can be made with respect to qualifying shares and will also be subject to 10% tax.

There is a lifetime limit of £10m.

Conditions:

Shares must be in a trading company and unlisted when issued - Magpie **LTD** appears to be both trading and unlisted

Shares must be ordinary shares and subscribed for cash on or after 17 March 2016 - Nate subscribed for 8% in 2018.

Cannot be a director or employee - Nate is neither although Florence would fall foul of this condition.

Shares held for 3 years - Held since 2018 well over 3 years.

Claim must be made by first anniversary of 31 Jan following tax year of disposal. in this instance 31 Jan 2027.

Consequences

If not clear from above, will use Florence and Nate's lifetime limits for BADR and Investor relief respectively.

Will be a joint claim with trustees so can object if not wanted.

2.

	Invest PLC	Growth PLC	Magpie Ltd
Proceeds	40,000	30,000	812,500
Cost	(22,000)	(45,000)	(250,000)
Gain/Loss	18,000	(15,000)	562,500
Gain on Invest		18,000	
Less loss on Growth in the year		(15,000)	
AEA 3000/2		(1,500)	
Taxable gain		1,500	
Tax at 20%	300		
Gain on Magpie		562,000	
Tax at 10%	56,200		
Total tax	56,500	payable by trustess on 31 Jann 2026	

Invest PLC gain of £18,000 will be taxed at 20% whereas Magpie as a result of BADR and IR will only be taxed at 10%. AEA and the loss on growth PLC are thefore given to Invest gains as this will give the best tax saving.

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

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

Answer-to-Question- 2

IIP exists for all beneficiaries on 4 June 2018.

1. There will be no capital gains tax charge on the cash. It is exempt from CGT.

	Resi Apartment 24%	quoted shares	Hamilton	Additional quoted shares
Proceeds 8 Oct 24	450,000	220,000	50,000	72,000
Cost+ Capital improvement costs 320+45	(365,000)	(150,000)	(65,000)	(64,000)
Gain	85,000	70,000	(15,000)	8,000
Quoted shares	78,000 @ 20%		15,600	
Resi apartment 85k - 15 hamilton loss	70,000	Less restricted AEA 1500/2 = 750 70k-750 x .24	16,620	
Total CGT			32,220	

When the trustees make the capital distribution on 8 Oct 24 it is treated as a disposal to the beneficiaries at MV - as set out above.

CGT is payable at 24% on the resi prop and 20% on the shares.

As this is also subject to an IHT charge as this will be an exit from an RPT. The trustees can claim gift relief under s260 which will defer the gains as calculated above.

This is a joint claim by trustees and beneficiaries.

Time limit is four years from the end of the year of disposal.

The effect is that there will be no CGT for the trustees to pay if the claim is made.

The beneficiaries base cost for the shares will be the values at 8 October less the deferred gains under s260.

The beneficiaries will make larger gains as a result when they eventually dispose of the assets.

I think the loss on Hamilton will be wasted if the gains on everything are deferred. It may be apportioned between the triplets $\pounds 15 \times \frac{1}{3} = \pounds 5,000$ loss each. - **come back to and check if time.**

2.

Capital gains should be reported to HMRC on the trusts annual self assessment return SA 900.

Due 31 Jan following end of tax year 24/25 = 31 Jan 2026.

The apartment is residential and so it will be subject to tax within 60 days of completion after a deemed disposal to Ethan.

3.

Principal charge on 20 May 2019

Current value at 20 May 2019	375+170+70+64+55		734,000
No related trusts	None settled same day		nil
Total			734,000
NRB		325,000	
CTs 7 years before creation	210k-6AEs for the two years prior	(204,000)	
less distributions in years 1-10	15 x 3	(45,000)	(76,000)
			658,000
NT @ 20%	131,600		
ER 131,600/734,000	17.929		

Actual Rate			
$17.929 \times .3 \times 40 / 40$	5.379%		
$734,000 \times 0.05379$	39,481		
<p>I think the addition of £60,000 should be reduced from the above total value and taxed at n/40</p> <p>Added 31 May 2018 to 20 May 2019 = 3 full quarters so 3/40.</p> <p>Running out of time to calculate.</p>			

This would have been payable 6 months from end of month of PC i.e. 30 November 2019

Exit charge

Current value at 20 May 2019	$375+170+70+64+55$		734,000
No related trusts	None settled same day		nil
Total			734,000
NRB		325,000	
CTs 7 years before creation	210k-6AEs for the two years prior	(204,000)	
less distributions in years 1-10	15×3	(45,000)	(76,000)
			658,000
NT 20%	131,600		
	17.929%		
Actual rate			

17.929 x .3 x 21/40	2.824%		
Exit including cash x 0.02824	23,100	450+220+50+72+2 6 = 818,000	

This would be payable by the trustees 6 months from end of month of exit i.e. 31 April 2025.

n = 20 May 2019 to 8 Oct 2024

5 years 5 months = $5 \times 4 + 1 = 21$

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

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

Answer-to-Question- _3_

1. Tax due in 24/25 from the 2017 gift

Gift			150,000
AE 17/18			(3,000)
AE 16/17			(3,000)
			144,000
This is a PET so no Life time tax it should also be subject to to A POAT charge.			

On death

Dies 20 Dec 24 look back 7 years - 20 Dec 2017

As the gift was made in March 2017 it is over 7 years old and a succesful PET. Therefore there is no addiitonal tax liability.

There should have been a Pre-owned asset income tax charge added to Mr Lee's retirns as a result of his gift to his newphew Jake.

The charge arises where:

the former owner benefits from an asset the previosuly owned - in this case cash from the sale of his holiday home in Devon.

and

The transfer is not a GWROB - Mr Lee never owned the caravan and so the GWROB rules cannot apply here.

The donor derives a benefit from the preowned asset (in this case the cash) as Mr Lee was able to regularly use the caravan.

Whilst Mr lee only gave £150k and the static caravean which cost £200k, partially funding the considereation is enough.

There is an exemption where the benefit derived is less than £5,000 per annum. However, I would assume based on the facts that the montly mv rental of the caravan being £1,000 and it was used regulary that this will have been exceeded.

There is an irrevocable election that could have been made:

Whereby no income tax will arise at the donor's notional income;
 Instaed they are treated as having made a GWROB.

Could avoid the charges by paying the market value rent of £1,000 per month when using the static caravan.

2.

A donor is caught by the Gift with reservation of benefit rules where he gives away an asset but contines to derive a benefit.

Whilst the GWROB is in place the asset is consider within the Donor's estate for IHT purposes.

Prepare two calcualtions and whichever yields highest tax rate is the one which HMRC will use.

20 November 2019

			£
Gift to Neice		840,000/2	420,000
AE 19/20			(3,000)
AE 18/19			(3,000)
			414,000
Whilst a GWROB it is still a PET and so no LT due.			

there will be a deemed release from the GWROB where the following occurs:

Pays market rent;
 Virtually excluded;
 donor occupies land with the donee and receives no benefit from the transfer.

Mr Lee could have avoided the IHT due earlier by either paying the £1000 per month he used the caravan or by being excluded from its use.

As it happens, the latter condition occurs when on 20 August 2021 the donee Mabel moves into the property and they jointly occupy till his death.

Value at Aug 2021	GWROB deemed to lapse	800,000/2	£400,000
Does not get the benefit of AEs when lapsing.			Nil
			400,000

On death, both of the above are within 7 years and so death tax needs to be calculated and the higher figure taken.

20 Nov 19 GWROB			414,000
NRB		325,000	
Within 7 years	144 for caravan	(144,000)	(181,000)
Total			233,000
IHT@ 40%	93,200		
Taper 60%	(55,920)	20 Nov 19 to 20 Dec 24 5-6 years 60%	
total	37,280		

vs

Deemed release 20 Aug 21			400,000
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NRB		325,000	
7 years		(144,000)	(181,000)
			219,000
IHT 40%	87,600		
Taper 20%	(17,520)	20 Aug 21 to 20 Dec 24 3-4 years 20%	
Total	70,080		

As 70,080 is higher than 37,280 this is the amount HMRC will charge to IHT.

His adult niece Mabel will be liable to pay this amount.

It will be due 6 months from the end of the month of death i.e. 31 June 2025.

Death estate

Liabilites can be deducted where contractually owing and funeral expenses are reasonable

Cash			14,000
Quoted shares			260,000
Chattels			17,500
Car			8,000
Total assets			299,500
Less liabilities of estate	Unsecured loan	(4,500)	
	Funeral cost (reasonable)	(3,000)	(7,500)
net value of estate			292,000
Exempt to charity			(14,000)
Chargable			278,000
NRB		325,000	
transfers in 7 years		(144,000)	(181,000)
			97,000
IHT 40%	38,800		

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The excutors will be liable to pay the £38,800 IHT charge. It is due 6 months from end of the month of death i.e. 31 June 2025

Or sooner if they want to apply for probate as the IHT will need to be paid.

3.

Client will need to amend there returns and add in the POAT charge that was due.

This will result in additional income tax due and interest and penalties will apply.

IF PRs have failed to exercise reasonable care and sumitted incorrect returns penalties can be as much as 100% plus interest from the date tax was due and until paymnet.

These are a scale from careless, deliberate and deliberate and concealed and will also be decided on whether prompted or unprompted.

In order to get a smaller penalty this is currently careless and unprompted and should be reported to HMRC ASAP.

4.

On discovery of the irregularity should establish all of the facts. As a large tax liability will need client's authority in order to dislclose to HMRC.

Should initially speak to client informarally and see how they would like to proceed. Most will ask for the issue to be amended and pay any shortfall.

If they do not, offer oral advice, set out the consequences of failing to correct.

Again if they do not then want to amend the issue and disclose fully set out the consequences in writing.

Failing this would have to advise you are no longer able to act for them in the matter - and others if appropriate.

Notify HMRC ceased to act.

Consider if HMRC need to be notified of previous statements provided that can no longer be relied upon and consider reporting to internal NCA/MLO.

Consider any response to a professional enquiry letter if recieved.

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

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

Answer-to-Question- _4_

From: Tax advisor
To: Richard Smythe
Date: 1 May 2025
Subject: Estate Queries

Dear Richard

Further to your e-mail of 1 May 2025, I can now advise as follows:

Redirection of estate assets by variation or disclaimer

A beneficiary under a will can disclaim a gift with the result being that it would pass to the remainder man - in this case Polly. As she is the one wanting to pass assets elsewhere she would need to make a variation.

A variation must:

Be in writting (usually a deed);
Be signed by the person making it (polly);
And be made within 2 years of death.

Executors must agree if it will result in more IHT being due. Unlikely here.

Polly is not recieving any consideration for the variation and so this will be acceptable.

Without special rules, Polly would inherit the assets she does not want and then make gifts to the person(s) she would like the assets to go to.

This would be a PET for IHT purposes which would have IHT consequences should she then die within 7 years.

There would also be a deemed disposal at Probate Value for CGT purpsoes potentially giving rise to CGT being payable at the date of the gift.

A variation effectively rewrites the will as if Adrian had made the gifts to the beneficiaries in the first place avoiding the PET and potential CGT liability entierly.

Background prior to Adnan's passing

NRB + Residence NRB

Adnan's first wife unnamed - died leaving all of her estate to Adnan.

This was an exempt transfer as it was spouse to spouse.

As a result, she did not use any of her NRB which will be available entirely for Adnan to benefit from. $325k \times 2 = £650$.

Additionally in 2002 the residence nil rate band did not exist and so he would also benefit from her uplifted RNRB of $£175k \times 2$.

The RNRB is available where the deceased's main residence passed to a lineal descendent. This does not appear to be satisfied as Nanny has not received the home either under Adrian's will or through the variation. As it stays with Polly who is the second wife it will be an exempt transfer.

Obtaining the 36% rate

Death estate

Painting	No mention of this being heritage property	Simon	150,000
Main home		Polly - exempt wife	850,000
Investment portfolio	1,200,000		
	(250k x 4)	Four adult children	1,000,000
	residue 200,000	To Polly exempt	200,000
Shares in Arc	330,000		
BPR w1	(330,000)		Nil
Total estate			2,200,000
Exempt transfers to wife	850k + 200		(1,350,000)
NRB x 2 as mentioned above			(650,000)

Baseline			700,000
Less donation to charity			(70,000)
Chargable estate			630,000
IHT @ 36 %	£226,800		

I hope the above clarifies the position.

Please let me know if you have any additional queries.

Kind regards

Tax Advisor

W1

Relevant business property - this is an unquoted trading company therefore eligible for 100% relief.

Owned for two years - there is no mention in the question so I assume owned for more than 2 years.

Sale - no mention of exchange of contracts/

Excepted - no mention of excepted assets.

Give BPR @ 100%

Baseline check:

Add back everyting = $700,000 \times 10\%$ to get IHT rate of $36\% = 70,000$

*** Sorry would need to add back the BPR releifed asset too which would be £330k.

This has messed up my figures and not enough time to amend but the BPR relived asset should be added to the baseline amount above as if it was part of the estate.

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

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

Answer-to-Question- 5

1. Calculate income tax 24/25

	NS	S	D
Rental income after expenses 12,000 - 1,650	10,350		
Bank interest		3,000	
Dividend income			26,000
UK chargeable event subject to IT	14,400		
Commerical investment property Aug - March = 13,800 x 9/12	10,350		
Gross up expenses 1825x100/91.25			(2,000)
Total	35,100	3,000	24,000
RATS			
NS 35,100	45%	15,795	
S 3,000	45%	1,350	
D 24,000	39.35%	9,444	
E 2,000	8.75%	175	
	Total	26,764	

Trust pool

			£
Bfwd		600	

Tax paid 24/25	26,764 - 175	26,589	
			27,189
Distribution to gilda	20,000 x 45/55	(16,364)	
Distribution to Hugp	20,000 x 45/55	(16,364)	(32,728)
Shortfall to be made up by trustees			5,539
Balance brought forward			Nil

Not asked to prepare R185s.

Repair to garden fence - part of the rental and is a repair of existing fence. Therefore decutable against rental income. Assumed like for like

Newporch - this is not a replacement. It is **new** and therefore will be considered a capital improvement. It is not a replacement.

Legal fees commercial property - This will be considered a capital cost fo the acquisition of the property. This will be added to the costs of sale when calculating gains on a future disposal.

Accountancy fees - treated as trustee expeneses and grossed up. They are trustees costs for the year in preparing the return.

2. Payments on account due

There are no payments on account for CGT.

			£
Total 24/25 liability	26,764 + 5,539	Due 31 Jan 2026	32,303

25/26 1st POA	26,764/2	Due 31 jan 2026	13,382
25/26 2nd POA	26,764/2	Due 31 July 2026	13,382
25/26 Balancing payment	25/26 tax liability - 26,764 paid by POAs	Due 31 Jan 2027	

3. Income tax payable by Gilda

	NS		
Employment income	13,500		
Gross from R185 20k + 16,363	36,363		
Total	49,863		
PA	(12,570)		
	37,293		
First 37,700 @ 20% = 37,293 x .2	7,458	Tax due	
Less tax already paid by trustees	(16,363)		
Repayable	(8,905)		

R185

	NET		Tax
NS 35,100 /2	17,550	45/55	14,359
S 3000/2	1,500	45/55	1,227
D 40k- 35100-3000/2	950	45/55	777
	20,000		16,363

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

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

Answer-to-Question- _6_

There is no question 6 on the paper. Am I missing something was expecting 6 questions?