

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	278	1371	1586
Section 2	522	2451	2964
Section 3	368	1633	1952
Section 4	359	1780	2049
Section 5	864	3888	4723
Section 6	0	0	0
Total	2391	11123	13274

Answer-to-Question- 1

1) Calculate any IHT due on the settlement of the Green Family Trust in 2015. Mr Green paid IHT due. State GCT and Deadline for payment due

Settlement Into trust	500,000		
AA 2008/09	-3000		
AA 2007/08	-3000		
Chargeable lifetime transfer	494,000		
Unused NRB	-65,000		
	429,000		
IHT 20/80 Paid by Donnee	107,250		
Gross chargeable transfer	601,250	(494,000+107,250)	

W1

$NRB\ 2009\ 2 \times 312,000 = 624,000$

$500,000 / 624,000 = 0.80$

$325,000 \times 0.2 = 65,000$

The deadline for reporting the transfer is the later of
 - 6 months from the end of the month of gift or
 - 30 April Following the year

31 Decemeber 2015 on the IHT100 form.

2) Capital Gain Tax due 2024/25

X plc			
-------	--	--	--

Proceeds	42,000		
Value 2015	-36,000		
Gain		6,000	
Y Plc			
Proceeds	11,000		
Value 2015	-18,000		
Loss		-7,000	
Z Plc			
Proceeds	45,000		
Value 2015	-32,000		
Gain		13,000	
Total Gain		12,000	
AA	1500/2	(750)	
		11,250	
CGT	20%	2,250	

The capital gain must be reported on the trusts tax return.
 The submission deadline for this tax return is 31 January 2026 if the return is being submitted electronically.
 Or 31 October 2025 if the return is being submitted by paper.
 The pay is due 31 January 2026.
 There are no payments on account for capital gains.
 The trustees must ensure that the trust registration is up to date.
 Thus may need to update the trust registration regarding the change is assets.

3) 10 Year Principle Charge.

Value of trust 1 June 2025		515,000	
Retained Income		80,000	
		595,000	
NRB	-325,000		
		270,000	
Notional 20%	270,000*20%	54,000	
Effective	54,000/595,000	9.076%	

Actual	$9.076\% * 30\%$	2.723%	
Principle charge	$595,000 * 2.723\%$	16,202	

Deadline for submission and tax is 6 months from the end of the month due.
Thus 31 Decemeber 2025.

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

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

Answer-to-Question- 2

1) HMRC are able to open an enquiry regarding submitting tax returns within 12 months of the amended return being submitted to HMRC.

HMRC have the right to make a formal enquiry into every tax return that is submitted to them.

Therefore, as the amended return was submitted in February 2024 and HMRC wrote to the trustees by February 2025, they are within the time limit to do so.

As HMRC has written to the trustees within the 12 month period, there enquiry is valid.

As HMRC has not previously looked into this return, and HMRC can only look into a tax return one, Again their enquiry is valid.

As the matters that HMRC have looked into only relate to the matters covered in the amendments, HMRC can make an enquiry.

2) HMRC penalty may be consider unfair as the error is not deliberate and concealed. The original amendment of the tax return was unprompted but HMRCs amendments were prompted.

However, 20% penalty is the minimum penalty for unprompted disclosure that was deliberate but not concealed.

An appeal could be filed with HMRC to lower the penalty rate under the reason that the error was not deliberate and concealed.

This appeal would have to be made within 30 days of HMRC issuing the penalty.

3)
An appeal could be filed with HMRC to disute that the repair costs were revenue rather than capital.

As a similar case has been to tribunal which supports the case at hand, it may be that HMRC has made an error.

This appeal would have to be made within 30 days of HMRC issuing the penalty.

During enquiry, the parties may jointly refer questions to the tribunal for their consideration and determination.

Once a decision has been made HMRC will issue a closure notice.

HMRC may only look into a tax return once.

If the tax payer is unhappy with HMRC decision they can challenge the decision by appealing for reasons such as having a different view to HMRC, legislation not being clear and if the tax payer believes HMRC has made a mistake.

The notice to appeal must be made in writing, within 30 days of assessment and must include the ground to appeal.

The tax payer can also ask the Tribunal to consider the appeal.

4) The firm should

- Communicate effectively with the client
- The complaint should be taken seriously
- The firm's objective should be to defuse the problem and fix any errors that have occurred as quickly as possible
- the complaint should be acknowledged promptly in writing
- The complaint should be investigated thoroughly, without any delay by an appropriate person.
- The client should not be told about the investigation and its details.
- If the investigation finds that the complaint is justified, any appropriate action should be taken.
- The complaint should be logged
- If the complaint is justified the firm should apologise to the client
- The firm should consider if this complaint could give rise to a claim of professional negligence against them, and may need to consider seeking legal advice or notify their professional insurers.

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

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

Answer-to-Question- 3

1) Income tax due

	NS	S	D	
Dividends			60,000	
ISA		NIL		
Interest		15,000		
Loan W1		(3,300)		
Taxable income		11,700	60,000	
TAX 20%/8.75%		2,340	5,250	
Total Tax	7590			

W1 1 May - 31 March 2025 = 11 Months 11*300

The loan interest taken out to pay IHT is allowable as its paid in the first year of death.

Capital Gain

Banana PLC			
Proceeds	230,000		
Value at death	210,000		
Gain		20,000	
Apple PLC			
Proceeds	45,000		
Value at death	60,000		
Loss		-15,000	
Ron's car			
Proceeds	15,000		
Value at death	-14,000		
		1,000	
Overall Gain		6,000	

Annual Allowance		-3000	
Chargable gain		3000	
Capital gain tax	20%	600	

#

w1. The executors have sold the apple plc shares within 12 months of death
Therefore, post mortum relief can apply to the loss on the sale of shares for Apple PLC.
However, the sale of all shares in last 12 month period must be aggregated, and as the sale of both Banana plc and Apple plc give rise to an overall gain, no relief can be given.

The capital gain tax must be reported to HMRC on the estates/executors tax return.
The return must be filled by the self assessment deadline date IE 31 January following the tax year. Thus, for the 2024/25 tax year 31 January 2026.

2)

Ron's Nephew has been left a specific legacy, the four paintings. He has also been left a fixed sum of money, ie the £12,000, this is a pecuniary legacy.

However, Ron would not be entitled to any income from the estate or from the legacy apart from his £12,000.

Ron's son and daughter have also been left a specific legacy, IE the quoted share portfolio. They would be entitled to any income that arises from these shares ie if any interest or dividends arise from them.

They would not be entitled to any further income from the estate.

Ron's wife has been left a residuary legacy, thus the remainder of Ron's estate has passed to her.

She would be entitled to any income that arises from the estate and the assets in the estate.

Ron

NET 12,000

Tax 3,000

20/80*12,000

Ron's Wife

Net 12,000
Tax 3,000

Son

Net 250,000
Tax 62,500

Daughter
Net 250,000
Tax 62,500

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

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

Answer-to-Question- 4

1) Calculate IHT Payable on Juliana's Lifetime transfer

29/06/2017				
Widgets LTD w1	94,500			
BPR	(94,500)			
02/10/2018				
Office	795,000			
BPR 50% W2	(397,500)			
	394,500			
AE 18/19 AND 17/18	-6000			
	388,500			
NRB	-325,000			
	63,500			
IHT 20/80	15,875	Due 30 April 2019.		
12/04/2019				
Farm Land	50,000			
APR	(30,000)			
	20,000			
AE	-3000			
NRB	0			
PET	17,000	No Lifetime IHT		

w1 Business property relief at 100% is available as Juliana has owned the shares for more than 2 years.

Related property

Value of transfer

$$30/60 * (3,000 * 63)$$

W2. Business property relief can apply to gifts of land and building by a donor where the assets are used by the donor's partnership or by company donor controls.

W3.

APR is available on the agricultural value of the land at 100% as the land is agricultural land, with the lease signed after 1 September 1995.

2) IHT on Juliana's death - 14 March 2023

Widgets Ltd w1	94,500		
AE 17/18	-3000		NRB
AE 16/17	-3000		325,000
	88,500		-88,500
NRB	-88,500		236,500
No IHT due			
02/10/2018			
Office			
Gross chargeable transfer (15875+388500)	404,375		
BPR Withdrawn w2	397,000		
	801,375		
NRB	236,500		
Chargeable	564,875		
IHT 40%	225,950		
Taper 4-5years 40%	(90,380)		
	135,570		
Less: Life time tax paid	-15,875		
	119,695		119695
12/04/2019			

Farmland	50,000		
APR	(15,000)		
	35,000		
AE 19/20	-3000		
	32,000		
Taper 3-4 20%	(6,400)		
	25,600		
IHT 40%	10,240		10240
Estate			
Main Home	600,000		
Shares Widgets plc	225,000		
Investment portfolio	130,000		
Painting	300,000		
	1,255,000		
NRB (USED)			
RNRB	(175,000)		
	1,080,000		
IHT 0.4	432,000		432,000
		Total tax as result of death	551,695

w1. BRP on the widget ltd shares will be withdrawn as it has now been listed on the stock exchange and Dana does not hold majority holding

w2. BPR has been withdrawn as the building is no relevant business property in the hands of the donee. Thus as the business has ceased and was rented out before the donors death. BPR is withdrawn

W3. 50% of APR was withdrawn as her nephew sold half the land and did not reinvent the proceeds, however, other half remains as it continues to be let out to farmer and used for agriculture purposes.

3)

Painting			
Proceeds	338,000		
Probate	(300,000)		

	38,000		
Annual Allowance	(3000)		
	35,000		
CGT 20%	7,000		

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

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

Answer-to-Question- 5

1)

The John Evans Discretionary trust would be charged income tax at the rates applicable to the trust. Therefore, on non-saving and savings income, the trust would be subject to tax at the rate of 45% and 39.35% for dividends income.

The trust/trustees are not entitled to the saving or dividend allowance and the trust does not receive a personal allowance.

Only expenses directly related to income of the trust would be allowable deductions, such as rental fees on a rental property.

Management expenses would be grossed up appropriately e.g. 100/91.25 if deducted from dividend income. Management expenses are deducted from dividends in priority and then saving income and then non saving income.

The trust must file a self assessment tax return each year 31 January following the tax year.

Any tax due must be paid 31 January following end of tax year along with the trust's 1st payment on account.

A second payment on account may be due the following 31 July.

The trust would also be subject to capital gains tax on any chargeable disposals.

The trust would be taxed 20% for non residential properties and 24% for residential properties.

The trust would be allowed an annual allowance of 1500 - this would be divided by the amount of trusts the settlor has set up.

The capital gains would need to be reported on the relevant tax year's tax return.

For non residential gains the due date would be 31 January following the tax year.

For sales of residential properties the trustees would also need to file a 60 day reporting return, due 60 days after the sale of the property.

The trust would be subject to a principle charge every 10 years from the creation of the trust. This is due 6 months from the end of the month of the 10 year charge.

It would also be subject to exit charges on any capital distributions from the trust. This is due 6 months from the end of the months of the capital distribution.

Any chargeable disposals from the trust, would be eligible for gift relief/hold over relief as the trust is a relevant property. Both parties must agree to this as this would mean the recipient would receive the assets at a smaller base cost and thus when they come to sell it will make a larger gain or smaller loss.

This would mean the trust would have no capital gains tax to pay.

Is the distributions to Joe of £5,000 were out of income. The income would be distributed to Joe with a tax credit and must be reported on his own self assessment tax return.

2)

Value of the trust	425,000		
NRB	-325,000		
	100,000		
IHT 40%	40,000		

Due date of payment is 6 months from the end of the month or the date that the IHT400 is submitted. ie 31 October 2022.

The trustees are liable to pay the tax but the executors can choose to pay the tax.

3) As the trust was set up by Joe for the benefit of Joe, the trust is a settlor interested trust.

If a settlor has an interest in a trust, the whole of the trust's income is taxable in the hands of the settlor,

The trust income is first taxed on the trustees and is reported through a trust tax return. The trust pays tax at rates applicable to the trust. IE 45% for non saving and saving income and 39.35% for dividends.

The settlor will then declare their income on their own self assessment tax return.

Any expenses incurred by the trustees are not deductible from the trusts income taxed on the settlor.

The trust income retains its character in the hands of the settlor and will be treated as forming the top slice of the settlors income.

The settlor will be able to use his personal allowance, saving allowance and dividend allowance.

The settlor will receive a tax credit for the tax paid by the trust.

If this tax credit results in a tax repayment, the settlor must pass this repayment on to the trustees of the trust.

For a settlor interest trust, for capital gains on chargeable disposals of the trust there are no attributions of gains to the settlor where the settlor has retained an interest in the trust.

This is because the trust is already taxed at 20% and 24% (higher rates) and thus no CGT is being avoided.

However, the trust is not allowed to claim gift relief . There is also claw back on gift relief if the trust becomes settlor interested within 6 years.

The gift into the trust is a chargeable lifetime transfer and as Joe still benefits from the property in the trust there may be a gift with reservation of benefit.

4)

Joese free estate			
-------------------	--	--	--

Main home	160,000		
Investment Portfolio	180,000		
Gramophone	32,000		
Trust	150,000		
Total	522,000		
NRB	-325,000		
	197,000		
		NO RNRB as not left main home to lineal desceandant	
IHT 0.4	78,8000		

The executors or personal representative of Joe's estate are liable to pay any IHT due.

The IHT would be due six months from the end of the months of death
IE 28 February 2025

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

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

Answer-to-Question- 6