

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	491	2174	2549
Section 2	399	1864	2260
Section 3	332	1553	1789
Section 4	460	2142	2423
Section 5	559	2546	3044
Section 6	0	0	0
Total	2241	10279	12065

Answer-to-Question- _1_

1. IHT on the settlement of into the Green Family Trust in 2015.

		£	£
Gift to trust in Jan 2009	500,000 / 2		250,000
Less: AE	2008/09		(3,000)
Less: AE	2007/08		(3,000)
Chargeable Lifetime Transfer			244,000
Nil band at date of gift		312,000	
Less: CLT in previous 7 years		(Nil)	
Less: Nil Band remaining			(312,000)
Taxable			Nil

		£	£
Gift to trust June 2015			500,000
Less: AE	2015/16		(3,000)
Less: AE	2014/15		(3,000)
Chargeable Lifetime Transfer			494,000
Nil Rate Band at gift		312,000	
Less: CLTs in previous 7 years		(244,000)	
Less: Nil Band remaining			(68,000)
Taxable			426,000
IHT Payable	@ 20/80 - Paid by Donor		106,500
Gross Chargeable Transfer	494,000 + 106,500		600,500

7 years prior to this gift is June 2008.

The due date for lifetime IHT payments is the later of 6 months from the end of the month of gift or 30 April the following tax year. As this gift was made 1 June 2015, the tax was due to be paid 30 April 2016.

The deadline to report the chargeable lifetime transfer is 12 months from the end of the month in which the transfer was made. For Mr Green he must submit the IHT100 to HMRC by 30 June 2016.

2. The CGT due in 2024/25 on the disposals made.

	Proceeds £	Less:Base Cost £	Gain/(Loss)£
X plc	42,000	(36,000)	6,000
Y plc	11,000	(18,000)	(7,000)
Z plc	45,000	(32,000)	13,000
		<i>Total Gain</i>	<i>12,000</i>

		£	£
Gain			19,000
Less: Current year losses			(7,000)
Less: Annual Exemption	N1		(750)
Less: b/fwd losses			Nil
Taxable Gains			11,250
CGT	@ 20%		2,250

N1 - The annual exempt amount is divided by 2 because Mr Green has set up 2 UK trusts since June 1978.

As the disposals were made during the 2024/25 tax year, this will need to be reported on the trusts 24/25 tax return. This is due to be submitted the 31 January 2026 and the CGT will be due to be paid 31 January 2026.

The anti-avoidance rule is to prevent settlors setting up a number of trusts and claiming the annual exempt amount for each. This is divided by the number of UK trusts the settlor has settled after 6 June 1978.

3. 10-year anniversary charge - 1 June 2025

		£	£
Current Value of the Trust			515,000
Initial value of related trust			Nil
			515,000
Nil band at principal charge		325,000	
Less: Settlers CTs in 7 years prior to creation		(244,000)	
Less: Distributions		Nil	
Nil Band remaining			(81,000)
Chargeable			434,000
Notional IHT	$434,000 \times 20\%$		86,800
Effective Rate	$86,800/515,000 \times 100$		16.854%
Actual Rate	$16.854\% \times 30\% \times 40/40$		5.056%
Principal Charge	$515,000 \times 5.056\%$		26,038.40

The IHT payable on the principal charge is 6 months from the end of the month, this will be 31 December 2025.

The principal charge will need to be reported to HMRC 12 months from the end of the month of transfer, this will be 30 June 2026.

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

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

Answer-to-Question- 2

1. HMRC have the right to check that the correct amount of tax has been paid and at the right time. They have every right to enquire into every tax return. HMRC will first use an informal approach to obtain information to check if the correct tax has been paid. If not successful they will issue an 'information notice' to provide information. HMRC have 12 months after the day on which the return is delivered to issue a formal enquire notice. For Yin Family Settlement this would have been 2 February 2025 as they made an amendment.

2. The penalty imposed from HMRC is the 20% which is the penalty for unprompted disclosure that was deliberate but not concealed. As the trustees made an amendment for the discovery of an error in repairs and interest, it should not be seen that they were deliberate in submitted an incorrect return. If anything it should be taken as a careless action due to unrelisation of some of the expenses potentially being capital. To mitigate the penalty the trustees can write to HMRC to explain they what they thought they had done was correct they were not deliberately trying to submit an incorrect return. HMRC will hopefully respond as evaluate that the trustees had more of a careless action and will reduce the penalty percentage to 0%.

3. The trustees can write to HMRC with the artical of the recent HMRC tribunal so show that their arguement of the repair costs is correct in hope that HMRC will agree with them and they will not longer have to pay any penalties or interest. However, if rejected by HMRC they will have more interest to pay on the penalties as this could result in a delay of payment as they are going back and forth with HMRC. As this also will be in the form of letters, the delay of sending between will be long so the interest will continue to increase.

4. Exto LLP should first acknowledge the complaint from the trustees promptly and in writing. They should investigate the complaint with no delay and by a person with suddicient experience, sneority and competence. The trustees should be made aware of the investigation. If the complaint is found to be true or in part, appropriate steps should be taken. Exto LLP should consider whether their professional indemnity insurers need to be contacted.

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

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

Answer-to-Question- 3

1. CGT and income tax due

<u>Income Tax</u>	Non-savings £	Savings £	Dividends £
Interest from Cash ISA		Exempt	
Interest from cash account		15,000	
Dividend from shares			60,000
Less: Deductible payments N1		(3,300)	
Taxable		11,700	60,000
Tax			
Savings @ 20%			2,340
Dividends @ 8.75%			5,250
Tax payable			7,590

	Proceeds £	Less: probate £	Gain/(Loss)
Shares in Banana plc	230,000	(210,000)	20,000
Shares in Apple plc	45,000	(60,000)	(15,000)
Ron's car	15,000	(14,000)	1,000
		Total Gain	6,000

<u>Capital Gains Tax</u>		£	£
Gain			21,000
Less: Losses in the year			(15,000)
Less: Losses b/fwd			Nil
Less: AEA			(3,000)
Taxable gains			3,000
CGT @ 20%			600

The income tax and capital gains tax is reportable and payable on 31 January 2026 under the normal self-assessment rules

N1 - Deductible payment - interest on loan = 300 x 11 months = £3,300

2. Legacies received by each beneficiary

Ron's nephew was entitled to a specific legatee including a pecuniary legacy - receives £12,000 cash and 4 paintings. As the paintings do not produce income, the nephew is not entitled to income. However, as 12 months has passed, he will be entitled to interest from the executors on the £12,000 cash

Ron's son and daughter were both entitled to specific legatees - as they each received a specific asset of 50% of the remaining quoted shares. They will be entitled to the income on the shares as the shares are a producing asset.

Ron's son R185		Net £	Tax £
Estate Income		27,375	2,625

Ron's daughter R185		Net £	Tax £
Estate Income		27,375	2,625

Ron's wife had a residuary legatee - entitled to the residue of the estate and will be entitled to the income from the estate apart from the dividend income as Ron's son and daughter are entitled to this

	Non-savings £	Savings £	Dividends £
Income 2024/25		11,700	60,000
Less: Specific Legacy			(60,000)
		11,700	Nil
Tax @ 20%			2,340

	Non-savings £	Savings £	Dividends £
Net	-	9,360	-
Tax	-	2,340	-

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



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

Answer-to-Question- 4

1. IHT Payable on lifetime transfers

		£	£
Gift to daughter June 2017	N1		318,000
Less: BPR @ 100%	At gift of gift, unlisted trading company		(318,000)
PET			Nil
Gift to trust Oct 2018			795,000
Less: BPR : 50%	At time of gift, building used by a partnership of which Juliana is a member		(397,500)
Less: AE	2018/19		(3,000)
Less: AE	2017/18		(3,000)
CLT			391,500
Less: Nil rate band			(325,000)
Chargeable to IHT			66,500
IHT	@ 20/80		16,625
Gross chargeable transfer			408,125
Gift to nephew April 2019			50,000
Less: APR @ 100%	Agricultural Value		(30,000)
Less: AE	2019/20		(3,000)
Less: AE	2018/19		Nil
PET			17,000

N1 - Transfer value for gift of shares in June 2017

			£
Shares before transfer	60% holding	6,000 shares x £63 each	378,000
Shares after transfer	30% holding	3,000 shares x £20 each	(60,000)
Loss to Donor	Value transferred to Dana		318,000

2. IHT payable on death

Juliana died 14 March 2023, need to look back last 7 year, this is 14 March 2016

		£	£
PET to daughter June 2017			Nil
Add: BPR withdrawn	Now listed and does not hold 51%+		318,000
Chargeable to IHT			318,000
Less: Nil Rate Band on death			(325,000)
Taxable			Nil
Gift to trust Oct 2018			408,125
Add: BPR withdrawn	No longer in partnership		397,500
Chargeable to IHT			805,625
Nil Rate Band at death		325,000	
Less: Transfers 7 year prior		(318,000)	
Less: Nil rate band remaining			(7,000)
Taxable			798,625
IHT	@ 40%		319,450
Less: Taper relief	4-5 years = 40%		(127,780)
Less: Lifetime tax paid			(16,625)
Extra Tax due by trustees			175,045

PET to nephew in April 2019			17,000
Add: APR withdrawn	30,000 / 2		15,000
Chargeable to IHT			32,000
Nil rate band on death		325,000	
Less: Transfers in last 7 years		(325,000)	
Less: Nil rate band remaining			Nil
Taxable			32,000
IHT @ 40%			12,800
Less: Taper relief	3-4 years = 20%		(2,560)
Tax payable by nephew			10,240

IHT on death estate

		£	£
Death Estate			1,255,000
Less: Heritable Property	Exempt for IHT		(300,000)
Chargeable estate			955,000
Nil rate band on death		325,000	
Less: Transfers in last 7 years		(325,000)	
Less: Nil rate band remaining			Nil
Less: Residence nil rate band	As gifting to daughter		(175,000)
Taxable			780,000
IHT payable	@ 40%		312,000

3. CGT and IHT on painting

CGT on the painting

		£	£
Proceeds		338,000	
Less: Probate value		(300,000)	
Gain			8,000

Less: AA			(3,000)
Taxble gain			5,000
CGT @ 20%	Higher rate taxpayer		1,000

The sale of the painitn g has given rise to a recapture charge

		£	£
Chargeable estate			955,000
Add chargeable amount	338,000 - 1,000		337,000
			1,292,000
Less: Nil rate band			Nil
Less: residence nil rate band			(175,000)
Taxable			1,117,000
IHT @ 40%			446,800
Less: IHT paid on death estate			(312,000)
IHT to pay			134,800

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

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

Answer-to-Question- 5

1. The Evans Family Discretionary Trust will be classed as a disabled persons trust as the trust was set up for Joes benefit and because he recieves personal independence payments. It would have been charged to income tax and capital gains tax on the self assesment tax return each tax year for the £6,000 interest and £10,000 capital gains. It would have the same relief as if directly to a disabled person with a blind persons allowance of £3,070.

The income tax and capital gains tax has special treatment and follows the same as for relevant minors trusts. This means instead of paying the usual discretionary trust rates, the trustees can benefit from the personal allowance, the basic rate band and any unused savings and dividend allowances. Regarding the CGT, the trustees can use the beneficiarys CGT exempt amount which for trusts is usually half of the individual amount. They will also have the lower tax rates of 10% and 18% rather than 20% and 24%.

The relief for this must be claimed as it does not apply automatically. It is to be made year by year via the trustees self-assessment return.

Regarding inheritance tax on the £5,000 distributions to Joe, these are not subject to exit charges due to the trust assets no being relevant property. This means that the trust is also not subject to principal charges.

2. IHT in respect of Deidres death.

		£	£
Gift to disabled trust July 2016			390,000
Less: AE	2016/17		(3,000)
Less: AE	2015/16		(3,000)
PET			384,000

		£	£
PET July 16			384,000
Less: Nil rate band			(325,000)
Taxable			59,000

IHT @ 40%			23,600
Less: Taper relief	5-6 years = 60%		(14,160)
IHT Payable			9,440

This is payable by the executors of Deidres estate and is due 6 months of the end of the month of death. This is the 31st October 2022.

3. Regarding the IHT in respect of the Novo Discretionary trust the initial gift into his self settlement trust is neither a PET or CLT, it is just included in Joe's estate for IHT on death. There are no relevant property charges.

However, the income tax and capital gains tax no longer have the special rules as the settlor can benefit from the trust. Where the settlor does benefit from the trust they have created, the income of the trust is treated as belonging to the settlor for income tax purposes. The trustees pay the tax but then the settlor discloses the trust income on his self-assessment return. If the settlor receives a repayment in respect of the tax this is repaid to the trust.

4. IHT in respect of Joe's death 18 August 2024

		£	£
Death estate	372,000 + 150,000	522,000	
Inherited April 22		460,000	
Chargeable estate			982,000
Nil band at death		325,000	
Less: Transfers in last 7 years		(Nil)	
Less: Nil rate band remaining			(325,000)
Taxable			657,000
IHT @ 40%			282,800
Less: QSR	2 - 3 years = 60%		(157,680)
IHT payable			113,120

No residence nil rate band for the main home as it is not being passed to one of his children it is going to his nephew.

Joe is entitled for quick succession relief on his death estate because he inherited

amounts from his mom soon before his own death.
The executors of Joes estate will be liable to pay the IHT due.

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

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

Answer-to-Question- 6