



Chartered Institute of Taxation

Excellence in Taxation

(am) 03052017 Date of Examination

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| <input type="checkbox"/> Taxation of Owner-Managed Businesses | <input type="checkbox"/> Taxation of Individuals |
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Advisory

You must ensure that the Advisory Papers chosen are not the same as the corresponding Awareness Modules you have sat or will be sitting.

- For those candidates on the Indirect Tax Route you must sit the VAT on UK Domestic Transactions, IPT & SDLT Advisory Paper.
- For those candidates on the Indirect Tax Route you must sit the VAT on Cross-Border Transactions & Customs Duties Advisory Paper.

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QUESTION NUMBER

1

Trevor Kerr

	NSI	SI	DI
2014/15 Income Tax			
Interest			
$400 \times 100/80$		500	
Rents	1,300		
Dividends			
$800 \times 100/30$			1,000
Tax @ 20%	(260)	(100)	
@ 10%			(100)
Net income	1,040	400	900
less admin expenses		(100)	(800)
Distributable income	1,040	300	-
IT due 2014/15	260		
	100		
	100		
	<u>460</u>		
less at source			
$500 \times 20\%$	(100)		
$1,000 \times 10\%$	(100)		
Total due	260		

Due 31 January 2016

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Note

- Admin expenses deduct from dividend income in priority to savings income
- These expenses do not reduce executor's liability but reduce distributable income.

2014/15 CGT

There are no CGT disposals for 2014/15
for executors to report \Rightarrow
no CGT liability for 14/15.

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2015/16 Income Tax			
	NSI	SI	DI
Interest			
$160 \times 100/80$		200	
Rents	7,800		
Dividends			
$1,800 \times 100/80$			2,000
Tax @ 20%	(1,560)	(40)	
@ 10%			(200)
Net income	6,240	160	1,800
Less admin expenses	(40)	(160)	(1,800)
Distributable income	6,200	-	-
15/16 IT due		$1,560 + 40 + 200 = 1,800$	
less at source			
$200 \times 20\%$			(40)
$2000 \times 10\%$			(200)
IT due			1,560
Due by 31 January 2017			

- Admin expenses deduct from dividend income in priority to savings and non savings income
- These expenses deductible from FOR EXAMINER USE ONLY

2015/16 CGT

1) Appropriation to vicary 31/7/2015
of property is not a disposal
of CGT purposes as it is
fulfilment of legacy under terms
of the will

2) Sale of shares

Proceeds	135,000
Cost = probate value	(120,000)
less cost of probate (w)	<u>(860)</u>
Gain	14,040
AE 2015/16 (w1)	<u>(11,100)</u>
Taxable gain	2,940
CGT @ 28%	£823

Due 31 January 2017

(w) SP 2104 estate valued £865,000

↳ allowed cost is 0.8% of probate value of
assets sold

$$120,000 \times 0.8\% = \text{£}860$$

(w1) Executors entitled to CGT annual
exemption in year of death and following
2 tax years ie also in 15/16

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2016/17	Income	Tax
	NSI	SI DI
Interest		1,340
Rent	2,600	□
Tax @20%	(520)	(268)
Net income	2,080	1,072
less expenses		(800)
Distributable income	2,080	272
IT due	$520 + 268 = 788$	
Due by	31 January 2018	

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2016/17 CGT

~~There are no disposals~~ →~~no CGT~~

Disposal of property 18/12/2016

Proceeds	650,000
Cost	(580,000)
Agents' fees	(8,125)
Legal costs	(3,150)
Probate cost (w)	<u>(4,640)</u>
Gain	54,085
PPR (w1)	

CGT due by 31 Jan 2018

(w) Estate £365,000 → probate cost

0.8% of PV of sold asset

$$580,000 \times 0.8\% = 4,640$$

(w1) Beneficiary Vicky entitled ≥ 75% of proceeds

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②

R185

2015/16 2014/15	NSI	SI	DI
Distributable income	1,040	300	-
Vicky $\frac{3}{4}$	780	225	
Tom $\frac{1}{4}$	260	75	

~~Vicky~~

- ~~- received capital distribution \Rightarrow treat as income in hands of beneficiary in 15/16~~
- ~~- capital distribution exceeded Vicky's income share so restrict to income arising in 2015/16~~

R185	Net	Tax
NSI	780	185
SI	260	65

Tom and Vicky

- received no distributions () during administration) in 15/16 \Rightarrow no income to report on the R185 forms for 2014/15

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R185	2015/16	NSI	SI	DI
Distributable		6,200	—	—
income				
Vicky 3/4		4,650		
Tom 1/4		1,550		
Vicky				
- received capital distribution in 15/16 →				
treat as income in her hands for 15/16				
- as distribution exceeded the share of				
arising income for Vicky →				
restrict income to level of income arising				
R185	15/16	Net	Tax	
NSI		4,650	1,162	
Tom				
- received no distribution in 15/16 →				
no income to report on his R185				

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R185 2016/17	NSI	SI
Distributable		
income	2,080	272
Vicky 3/4	1,560	204
Tom 1/4	520	68

Year when administration period ended so Tom regarded to receive all income undistributed in previous yrs and income from 16/17

Tom R185	Net	Tax
NSI 260 + 1,550 + 520	2,330	582
SI 75 + 68	143	36
DI -		

Vicky	Net	Tax
NSI 780 + 1,560	2,340	585
SI 225 + 204	429	107

Despite the fact that balance paid out on 30/4/17, as administration ended 15/2/17, that balance paid out on 30/4/17 as paid in 2016/17

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Notes regarding concept of domicile

Concept of domicile

- Important for inheritance tax purposes
- Individual who is UK domiciled subject to IHT on worldwide assets.
- Individual who is not UK domiciled is subject to IHT on UK situs assets (foreign assets are excluded property)

Domicile of origin

- Individual has a domicile of origin, acquired at birth, from one's father.

Domicile of dependency

- Until one reaches the age of 16, when one's father changes domicile, one's domicile changes as well

Domicile of choice

- It is possible to lose domicile of origin and acquire domicile of choice if an individual forms an intention to permanently and

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indefinitely live in another country.
This needs to be accompanied by physical presence in that country and severing ties with an old country

Deemed domicile

- under UK IHT rules, for IHT purposes only one can be deemed UK domiciled under 2 circumstances:

- a) Individual has been UK resident for 17 out of 20 tax years
- b) After losing UK domicile, an individual is regarded to remain UK domiciled for 3 years after losing UK domicile.

- Non domiciled spouse can also elect to be treated as UK domiciled for IHT purposes only

- Election is irrevocable but it will lapse when electing spouse has been non UK resident for 4 consecutive tax years

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- election can be made during the lifetime of spouse or within 2 yrs of death of the UIC domiciled spouse
- election can be backdated (but not before 6/4/2013 or date of marriage if later)
- election gives access to unlimited spousal exemption

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- 1) Individual with UK domicile of origin, emigrating
- He will lose his domicile if there is intention to live permanently and indefinitely in another country
 - He will need to be physically present in another country and sever ties with UK i.e. sell his properties, move his family abroad, establish his social / economic life abroad
 - If he dies within 3 yrs of losing UK domicile, he will still be considered UK domiciled at death and his worldwide estate would be subject to IHT
 - If dies after > 3 yrs of losing UK domicile \rightarrow he will only be subject to UK IHT on UK situs assets

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3) Trust

- set up by non UK domiciled settlor with non UK assets will be non UK domiciled
- Trust will not become UK domiciled even if settlor will later become UK domiciled
- Non UK assets are excluded property and protected from UK IHT.
- These assets will not be subject to IHT exit charges or principal charges
- If the excluded property trust later has UK assets → these assets will be relevant property and hence subject to IHT charges in UK

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- If trust is set up by a settlor who is UK domiciled, the trust's domicile will follow that of settlor's i.e. trust is UK domiciled
- Assets in the trust, UK situs and non UK assets, subject to UK IHT charges as they are relevant property
- offshore trusts can be used by non UK domiciled individuals to restrict their exposure to UK IHT
- Before an individual becomes UK domiciled (eg under the 17 out of 20 residency rule or before a non dom spouse makes an election), he may wish to transfer the UK assets into an offshore trust. These assets would be excluded property and not ~~subject~~ within the individual's estate

- 2) Individual emigrated to Australia temporarily resident in France
- The individual's domicile of ~~choice~~ origin (UK) was displaced
 - He lives temporarily in France which indicates he does not have an intention to form permanent and indefinite presence there. France would not be his domicile of choice
 - He would have had Australian domicile of choice if he wished to live there permanently and indefinitely and he cut all his UK ties. He requires to be present in Australia for the domicile of choice to be established. He does no longer wish to live in Australia so his domicile would revert to UK domicile

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Rosemary Jones

Lifetime gifts

1) 3/4/14	Gift to Ruth	300,000
	AE 2018/14 + 2012/13	(6,000)
	PET (no lifetime tax)	284,000
2) 2/3/2015	Gift to John 2 Ltbl	60,000
	unlisted shares (AIM)	
	held > 2yrs + no holding	
	qualify for BPR	
	BPR 100%	(60,000)
	PET	NIL
3) 6/6/2015	Gift to John 4 Ltbl	100,000
	unquoted shares, holding	
	held > 2yrs \Rightarrow	
	BPR @ 100%	(100,000)
	PET	NIL
4) 3/3/2015	Gift to trust	
	cash	50,000
	Shares 100% BPR	—
	AE 2015/16 + 2014/15	(6,000)
	CLT	44,000

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NRB @ gift	325,000
CLTs 7 yrs	
before 31/8/15	-
	(325,000)
No IHT on CLT as within NRB	
5) 10/12/15 sale of a house by X Ltd	
to John at undervalue	
X Ltd is a close company \rightarrow controlled	
by Rosemary (has 100%)	
Transfer of value by Rosemary s94	
Transfer of value	
<u>250,000</u> - 200,000	50,000
AE 2015/16 + 2014/15	-
used up	
CLT	50,000
NRB @ gift	325,000
CLTs 7 yrs before	
10/12/15	(44,000)
	(281,000)
NO IHT on CLT as covered by NRB	

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6) 20/12/2015 Gift to Max w/val 100,000
 unquoted trading co
 shs held by RJ > 2 yrs
 BPR @ 100% (100,000)
 PET NIL

Deam tax on lifetime gifts

1) PET 31/1/2014 IHT ^{chargeable} on deam
 as PET is failed \rightarrow made less than
 7 yrs before deam.

PET 294,000

NRB @ deam 325,000

CLTs 7 yrs before

31/1/14 - (325,000)

IHT not due as PET covered by NRB

2) 21/3/2015 PET NIL

BPR will be withdrawn because
 at deam they are no longer
 qualifying (they became quoted
 shares)

Withdrawn BPR = PET 60,000

AE 2014/15 (13/14 used) (3,000)

PET chargeable on deam as
 within 7 yrs before deam

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PET	57,000
NRB @ death	325,000
CLTs 7 yrs pre	
213115	(284,000)
	(31,000)
Taxable	26,000
IHT @ 40%	10,400
less taper relief	
213115 - 813117	
2-3 yrs 0%	
IHT payable	10,400
by donee = John	

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3) 6/6/15 PET

NIL

BPR will be withdrawn in 50% as

John sold 1/2 of shares.

He reinvested proceeds but this does not change my position:

- he did not reinvest full proceeds and
- my reinvestment was not in another asset qualifying for BPR but into agricultural land (potentially for APR)

Withdrawn BPR	$100,000 \times 50\%$	50,000
---------------	-----------------------	--------

AE 2015/16 (14/15 used)		(3,000)
-------------------------	--	---------

PET (chargeable on death)		47,000
---------------------------	--	--------

as within 7 yrs before death

NRB @ death	325,000	
-------------	---------	--

CLTs 7yr before

6/6/15	(284,000)	
--------	-----------	--

	(57,000)	
--	----------	--

Remaining NRB		-
---------------	--	---

Taxable		47,000
---------	--	--------

HT @ 40%		18,800
----------	--	--------

Taper relief

6/6/15 - 8/3/17

less than 3yrs NA

HT payable by

donee = John

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4) 9/13/15 gift to trust		
Cash		50,000
BPR on shs withdrawn as trustees do not hold shs on death and did not reinvest all proceeds		
Shares		200,000
AG 15/16 + 14/15 used		-
CLT		250,000
NRB remaining		-
Taxable		250,000
IHT @ 40%		100,000
less taper relief NA < 3 yrs from death		-
less lifetime tax		-
IHT payable by trustees		100,000

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5) CLT 10/12/15		50,000
NRB on death	325,000	
CU's 7 yrs before		
10/12/15	(284,000)	
	(57,000)	
	(47,000)	
	(50,000)	-
Taxable		50,000
IMT @ 40%		20,000
Taper relief NA		-
Lifetime tax		-
IMT payable		
by X Ltd		20,000

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6.) 20/12/15 Pet

NIL

BPR not withdrawn

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Deam estate

- NO NRB to transfer from spouse as RJ never married
- NO RNRB as deam pre 6/4/2017

Notes regarding assets

1) Second property

- value	350,000
less tenanted discount (assume 10%)	<u>(35,000)</u>
	315,000

2) Painhing

- RL's estate increased in past 5yrs
- Rosemary's estate increased

$$\text{by: } 20,000 - 6,000 = 14,000$$

- 3yrs 2m \Rightarrow QSR 40%

$$6,000 \times \frac{14,000}{20,000} \times 40\% = 1,680$$

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3) Agricultural land 100,000

Not used for agricultural purposes, not farmed

↳ no APR

↳ no BPR as not used in farming business

4) Garden centre business

run as sole trader for > 2 yrs

will qualify for BPR @ 100%

5) X Ltd

unquoted company, owned > 2 yrs

but it is not trading as 75%

of income from letting business

↳ not qualifying for BPR

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Deam estate		
House		700,000
Cash		50,000
Second property (note 1)		[1315,000]
Painting		20,000
Agricultural land (note 3)		100,000
Garden centre business	250,000	
BPR 100% (note 4)	(250,000)	—
X Ltd (note 5)		300,000
		<hr/>
		1,485,000
NRB remaining on deam		—
Taxable		1,485,000
IHT @ 40%		584,000
less QSR (note 2)		(1,680)
IHT payable		582,320
Tax is borne by Jennifer		

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Rebecca Smith

Tax Adviser

Address

Address

3 May 2017

Dear Rebecca

I am sorry to hear about your illness and I understand that you wish to understand your tax position in respect of the gifts made to your children in 2010.

Gift to son in 2010 (cottage in Wales)

This gift was a potentially exempt transfer i.e. there was no IHT exposure at the time the gift was made.

The transfer will be fully exempt now and not chargeable on your death as you survived at least 7 yrs from the date of the gift (this lapsed in April 2017).

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However, you have unlimited use of the property which means that the gift with reservation rules will apply.

The property will be within your death estate at the value of the property on your death (assume £320,000).

You can escape this and the property will be excluded from your death estate if you pay your son full market value rent (£800 pm)

Gifts to Mandy and Karen (September 2010)

The gifts were also PETS. As 7 yrs have not yet lapsed since the gifts, if you die before September 2017, PETS will be chargeable on your death. Any IHT due will be payable by Mandy and Karen.

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The gift with reservation rules will not apply to the Sept 2010 gifts as you ~~have~~ ~~not~~ have gifted cash which your daughters used to purchase new properties.

There is a potential exposure to the pre-owned assets rules in this case.

In case of ~~Mandy's~~ ^{Karen's} property, you derive a benefit which is not within the de minimis rule. but I think it can be argued that your temporary stays ~~at~~ at Mandy's property are for domestic reasons (school holidays to look after Karen's children)

In Mandy's case, you stay ~~at~~ at her property for less than one month a year and hence it can be argued that you are exempt.

If HMRC argue against, your daughters' properties will not be in your estate but under the POAT rules you will be

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subject to income tax charge based on the rental value of the properties.

You may elect for GWR rules to apply instead but given the properties values and your short life expectancy, the alternative of potential IT charges is more beneficial.

Living with Karen when you are undergoing treatment will be exempt because it will be a temporary stay for convalescing after medical treatment

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Stan

②

Memorandum

To: Tax Partner

From: Tax Adviser

Subject: Conditional Exemption

Date: 3 May 2017

Conditional Exemption

- relates to heritage property
- Property must be of historic / artistic / scientific interest. This is decided by HMRC
- The person seeking exemption is required to give undertakings to maintain the property, not to transport it out of the UK, to grant access to the public to view the property etc.

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The property can be passed on death or in lifetime to new owner and to maintain the exemption, the new owner should give new undertakings

- The exemption will be lost if the asset is sold and new undertakings are not given
- The undertakings are not followed
- If exemption is withdrawn, IHT charge will be imposed

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① Draft IHT computations for
meehing

Transfer of NRB from wife on her
deam

- entire estate to Harold on wife's
deam \Rightarrow 100% of her NRB unused
- if claim is made by Harold's
executors, 100% of NRB transferred
to him
- Harold's NRB potentially:

His own NRB	325,000
100% x 325,000	325,000
Total	650,000

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Lifetime gifts		
1)	1/4/2011 Gift to child Stan	150,000
	AE 2010/11 + 2009/10	(6,000)
	PET (no lifetime IHT)	144,000
2)	31/7/2011 Gift to Molly	150,000
	AE 2011/12 (10/11 used)	(3,000)
	PET (no lifetime IHT)	147,000
3)	15/8/2012 Gift to trust	800,000
	AE 2012/13 + 2011/12 (used)	(3,000)
	CLT	487,000
	NRB @ gift	325,000
	CLTs 7 yrs	-
	before 15/8/12	(325,000)
	Taxable	472,000
	IHT @ 20% (trustees)	94,400
	Cross chargeable	
	lifetime transfer	787,600

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- 4) Harold paying accountancy fee for the trust each year
- Harold has surplus income of around £30,000
 - Paying fees since 2012 so there is a pattern of gifting
 - It is paid from surplus income (assumed) and should leave Harold with sufficient income to maintain his normal standard of living \Rightarrow gifts exempt as normal expenditure out of income

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5) 1/1/2014 Gift to Heamer	150,000
Marriage exemption	(5,000)
AE 2013/14 + 2012/13 (used)	(3,000)
PET (no lifetime HT)	142,000
6) 31/12/2016 Gift to S, M, H	
10,000 x 3	30,000
AE 2016/17 + 2015/16	(6,000)
PET	24,000
No pattern of gifting to S, M, H	
So assume no exemption under	
normal expenditure out of income	

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DOD 1/3/17 \Rightarrow 1/3/10

Death tax on lifetime gifts

1) 1/4/11 PET chargeable on death as
less than 7 yrs before death

PET 144,000

NRB @ death 650,000

NO IHT on death as PET within NRB

2) 31/7/11 PET chargeable on death
as less than 7 yrs before death

PET 147,000

NRB @ death 650,000

CLTs 7yrs before

31/7/11 (144,000) (506,000)

NO IHT \Rightarrow PET within NRB

3) 15/8/12 CLT

within 7 yrs of death \Rightarrow

additional tax on death 787,000

NRB 650,000

CLTs 7yrs before

15/8/12 (144,000)

(147,000)

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Remaining NRB	(358,000)
Taxable	438,000
HT @ 40%	175,200
less taper relief	
15/1/12 - 1/3/17	
4-5 yrs 40%	(70,080)
less lifetime tax	(94,400)
HT payable (trustees)	10,720
5) PET 1/1/14 chargeable on death	142,000
NRB 650,000 -	
144,000 - 147,000 -	
787,000	-
Taxable	142,000
HT @ 40%	56,800
taper relief	
1/1/14 - 1/3/17	
3-4 yrs 20%	(11,360)
HT payable	45,440
by Heamer	

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6) 31/12/16 PET

24,000

NO URB left

Taxable

24,000

IHT @ 40%

9,600

No taper relief

as less than 3 yrs

between gift and

death

IHT payable by Stan, Molly,

Heather

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Deam estate of Harold

Residence 700,000

Painhing 500,000

Exemption (500,000)

[REDACTED]

—

Cash 500,000

1,200,000

NRB remaining

NIL

NO RNRB (deam

before 6/4/17)

Taxable

1,200,000

IHT @ 40%

480,000

payable by

executors

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Simon Bauer
Address

Tax Adviser
Address

Dear Simon

You are currently a life tenant of an IPDI trust. As it was created on death, this is a qualifying interest in possession trust.

As QIIP, assets will form part of your death estate (£700,000). Your brother will not have QIIP on your death.

If you create a trust, this is transfer of value for IHT purposes.

If you set up a trust for yourself when you are of sound mind,

This will be a settlor interested

trust. The assets of the trust will remain in your death estate under the gift with reservation rules.

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However, as your mental capacity may decrease, you can self settle property on a trust for yourself. per

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