



Chartered  
Institute of  
Taxation  
Excellence in Taxation

# **The Chartered Tax Adviser Examination**

November 2020

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## **Inheritance Tax, Trusts & Estates**

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Suggested Solutions

## **ANSWER 1**

### **1) Tax liabilities**

**2018/19**

#### **Income Tax:**

The executors are chargeable to Income Tax at the basic rate of 20% for savings and non-savings income and 7.5% for dividends.

No interest arose on the pecuniary legacies as these were paid within the executors' year.

The income in respect of the specific legacy of the rental properties is attributed to the specific legatee (Shaun) each year until the properties are transferred to him.

The ISA income continues to be treated as such until the earlier of three years from date of death, the date that the portfolio is sold/transferred by the executors or cessation of the administration period.

<b>Source</b>	<b>Gross Income</b>	
Rents:		£
Oak Villa		5,500
Treetops		5,500
Beech House		8,000
Ash Cottage		1,200
Dividends (non-ISA)		2,200
Total		<u>22,400</u>
Income Tax:	£	£
@ 20%	20,200	4,040
@ 7.5%	2,200	165
	<u>22,400</u>	<u>4,205</u>
Deducted at source		(0)
Payable 31 January 2020		<u>£4,205</u>

(payments on account for 2019/20 are initially £2,102.50 each payable 31 January 2020 and 31 July 2020)

Distributable income (taxable):	£	£	£
	Total	Rent	Dividends
Gross	22,400	20,200	2,200
Income Tax	(4,205)	(4,040)	(165)
Attributable to Shaun (£11,000 x 80%)	(8,800)	(8,800)	
Estate admin expenses*	(800)		(800)
Available for distribution	<u>£8,595</u>	<u>£7,360</u>	<u>£1,235</u>

\*There is no prescribed order of set off, however estate administration expenses should be allocated in the most tax efficient manner. In the absence of the beneficiary's full income details these have been set against the dividend income in priority to savings and non-savings income.

### Capital Gains Tax (CGT):

The executors are entitled to the full annual exemption (AE) for the year of death and the following two tax years. They are chargeable to CGT at the higher rate of 20% (28% for residential property).

Transfers to legatees are deemed to take place at probate value and at the date of death and do not therefore constitute disposals for CGT purposes. There is therefore no CGT payable on the transfers to Shaun or Elizabeth.

#### Beech House

	£
Proceeds	220,000
Costs of Sale	(5,000)
Probate expenses*	(580)
Cost	<u>(185,000)</u>
Gain before AE	29,420
AE	<u>( 11,700)</u>
Chargeable gain	<u>£17,720</u>
CGT @ 20%	<u>£3,544</u>
payable 31 January 2020	

\*Under SP 2/04 i.e. £8,000 x 185/2,550 = £580.

### 2019/20

#### Income Tax:

Source		Gross Income
	£	£
Dividends (non-ISA)		<u>1,200</u>
Total		<u>1,200</u>
Income Tax:		£
1,200 @ 7.5%		<u>90</u>
		90
Deducted at source		<u>(0)</u>
		90
Less paid on account		<u>(2,103)</u>
Repayment due immediately		<u>£(2,013)</u>
Distributable income (taxable):	£	£
	Total	Dividends
Gross	1,200	1,200
Income Tax	(90)	(90)
Expenses	<u>(600)</u>	<u>(600)</u>
Available for distribution	<u>£510</u>	<u>£510</u>

**CGT:**Share portfolio

Only the non-ISA element is assessable to CGT.

	£
Proceeds	99,000
Probate expenses*	(314)
Cost	<u>(100,000)</u>
Allowable loss	<u>£(1,314)</u>

\*Under SP 2/04 i.e.  $£8,000 \times 100/2,550 = £314$

The Croft

The estate qualifies for principal private residence relief (PPR) on The Croft as Elizabeth occupied it both before and after the deceased's death and is entitled to at least 75% of the proceeds of its sale (s.225A TCGA 1992). The relief must be claimed by the executors.

	£
Proceeds	850,000
Costs of Sale	(15,000)
Probate expenses*	(1,976)
Cost	<u>(630,000)</u>
Gain before AE & PPR	203,024
PPR <sup>^</sup> 203,024 x 21/23	<u>(185,370)</u>
	17,654
Less loss on shares	( 1,314)
Less AE	<u>(12,000)</u>
Chargeable gain	<u>£4,340</u>
CGT @ 28%	<u>£1,215</u>
payable 31 January 2021	

\*Under SP 2/04 i.e.  $£8,000 \times 630/2,550 = £1,976$ .

<sup>^</sup>Occupied for three months. Final 18-month exemption applies. Total period of ownership 23 months.

**2) R185s:**Specific legatee (Shaun)

2018/19	Total	Non-Savings	Savings	Dividends
	£	£	£	£
Net income	8,800	8,800	-	-
Tax	2,200	2,200	-	-

Absolute residuary beneficiary (Elizabeth):

Elizabeth is deemed to receive taxable income in 2018/19 equal to the lower of her taxable income entitlement for that year (distributable income of £8,595) and the capital value of Ash Cottage (£215,000).

2018/19	Total	Non-Savings	Savings	Dividends
	£	£	£	£
Net income	8,595	7,360	-	1,235
Tax	1,940	1,840	-	100

Elizabeth is taxed for 2019/20 on the lower of her income entitlement for the year (distributable income of £510) and the balance of the unutilised capital value of Ash Cottage (£215,000 - £8,595 = £206,405).

<b>2019/20</b>	Total	Non-Savings	Savings	Dividends
	£	£	£	£
Net income	510	-	-	510
Tax	41	-	-	41

**MARKING GUIDE**

TOPIC	MARKS
<b>Income Tax:</b>	
Rents including specific legatee share until transferred	1
Dividends gross (non-ISA only)	1
Tax @ 20%/7.5% as appropriate	1
No interest on legacies (would otherwise have been deductible from distributable income as estate administration expenses)	1
Due dates of payment – balance 2018/19 plus POA 2019/20, refund 2019/20	1.5
Distributable “taxable” income – less tax, expenses, attributed income	1.5
<b>Capital Gains Tax:</b>	
Transfers to specific legatee, appropriation to residuary beneficiary take place at probate value and deemed at date of death – not a disposal for CGT	2
Sale proceeds net of any costs of sale & probate expenses SP 2/04	1
Deduct probate value	0.5
Full annual Exemption throughout (within 2 years of tax year of death)	1
CGT @ 20%/28% as appropriate, due dates	2
Shares - Non-ISA only	1
PPR: S.225A TCGA 1992 rules, partial PPR - calculation	2
Loss relief 2019/20	0.5
<b>Sub-Total</b>	<b>17</b>
<b>R185s:</b>	
Shaun – R185 2018/19 - attributed income	1
Elizabeth – R185 2018/19 & 2019/20, capital distribution = income	2
<b>Sub-Total</b>	<b>3</b>
<b>TOTAL</b>	<b>20</b>

## **ANSWER 2**

### **ESTATE OF SHARON JONES DECEASED**

#### **Timeline**

28 February 2016	Felix gifted property to Sharon
14 March 2018	Felix died
17 October 2020	Sharon died

<b>Felix - IHT Baseline</b>	<b>£</b>	<b>£</b>
Assets		2,500,000
Less:		
Gift to charity		<u>(300,000)</u>
Chargeable estate		2,200,000
Cumulative transfers at death:		
	400,000	
Failed PET of property		
Nil rate band – Note 1	<u>(325,000)</u>	<u>(0)</u>
Failed PET	<u>£75,000</u>	
Chargeable estate		£2,200,000
Add back charity donation		<u>300,000</u>
Baseline amount		<u>£2,500,000</u>
10% baseline		£250,000
Charity Legacy		£300,000

#### **Felix - IHT on death**

##### ***Lifetime gifts:***

(£400,000-£325,000) @ £30,000  
40% (Note 2)

Payable by Sharon on 30  
September 2018

**Death estate:**

£2,200,000 @ 36% £792,000

(Note 3)

Payable by Executors on 30  
September 2018

**Felix - Distribution of estate** £

Charity	
	300,000
Life interest trust	1,408,000
IHT	<u>792,000</u>
Distributable estate	<u>£2,500,000</u>

**Sharon - IHT on death** £

Assets and cash	1,500,000
Joint tenancy	750,000
Trust	<u>1,750,000</u>
Total estate	4,000,000
Nil rate band – Note 1	<u>(325,000)</u>
Taxable estate	<u>£3,675,000</u>

	£
IHT @ 40%	1,470,000

**Quick succession relief**

Trust (Note 4)	(304,128)
Property (Note 5)	<u>(5,550)</u>
	<u>1,160,322</u>

Estate rate	29.0081%
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Tax payable 30 April 2021:

	£		£
General (by executors)	1,500,000	@ 29.0081%	435,121
Trust (by trustees)	1,750,000	@ 29.0081%	507,641
Survivorship (by Georgia)	750,000	@ 29.0081%	<u>217,560</u>
			<u>£1,160,322</u>

<u>Distribution of free estate:</u>	£
Georgia	1,064,879
HMRC	<u>435,121</u>
	<u>£1,500,000</u>

<u>Distribution of Trust:</u>	£
Rosemary	1,242,359
HMRC	<u>507,641</u>
	<u>£1,750,000</u>

Note 1 Single nil rate band applicable. No residence nil rate band as estate exceeds abatement limit.

Note 2 No taper as less than three years from date of gift.

Note 3 Estate qualifies for reduced rate as charitable gift exceeds 10% of the baseline amount.

Note 4  $(\text{Net gift}/\text{Net gift} + \text{tax paid}) \times \text{tax paid} \times \text{relief \%} = (£1,408,000/£2,200,000) \times £792,000 \times 60\% = £304,128$

(More than two but less than three years between Felix's death and Sharon's death between = 60% relief)

Note 5 Even though the property was sold before Sharon's death QSR is still available.

$(\text{Net gift}/\text{Net gift} + \text{tax paid}) \times \text{tax paid} \times \text{relief \%} = ((£400,000 - £30,000)/£400,000) \times £30,000 \times 20\% = £5,550$

(More than four but less than five years between date of gift and Sharon's death = 20% relief)

**MARKING GUIDE**

<b>TOPIC</b>	<b>MARKS</b>
Felix cumulative transfers – failed PET, single NRB allocation	1
Tax @ 40%, no Taper	1
Tax payable by Sharon, due date	1
Felix - Calculation of taxable estate, less gift to charity, NRB fully utilised, no RNRB available	2
Charitable donation > 10%	1
Tax @ 36%	1
Tax payable by executors, due date	1
Distribution of estate	1
Sharon – Calculation of IHT due before QSR, single NRB, no RNRB, IHT 40%	2
QSR – settlement calculation	2
QSR – property calculation, QSR available despite property sale	2
Estate rate	1
Due date, payable by executors, trustees, Georgia	2
Distribution free estate/Settlement	2
<b>TOTAL</b>	<b>20</b>

### **ANSWER 3**

A Chartered Tax Adviser  
A Firm of Chartered Accountants  
UK

Mr E Healy as trustee of  
The Healy Grandchildren's' Settlement 1997  
A Street  
Anywhere  
UK

XX November 2020

Dear Evan

Further to your recent request for assistance in determining whether or not the trustees are required to submit a form IHT100 and how to calculate the principal charge arising if required I would advise you as follows:

#### "Excepted Settlement" Regulations SI 2008/606

The conditions for the settlement to be treated as an excepted settlement (no IHT100 required) are as follows:

<b>Conditions</b>	<b>Satisfied Y/N/?</b>
Settlor was UK domiciled at the date of settlement and at the ten year anniversary (TYA)	Y
The Trustees have been resident in the UK throughout the existence of the settlement	Y Note 1
There were no related settlements for Inheritance Tax (IHT) purposes	Y Note 2
The 80% test must be satisfied	? Note 3 Note 4

#### Note 1

For the purposes of the regulations trustees are regarded as resident if the general administration of the settlement is ordinarily carried out in the UK and the trustees (or a majority of them) are resident in the UK. As Gerald has always been UK resident, assuming either one of you or your sister has also been concurrently resident throughout the existence of the settlement this condition is satisfied.

#### Note 2

Your father made no other settlements on the same day.

#### Note 3

The capital value of the settlement on the TYA (not established) plus the value of chargeable lifetime transfers (CLTs) made by Gerald in the seven years prior to settlement creation (£nil) plus the value of any chargeable capital distributions in the previous ten years (£nil) should not exceed 80% of the nil rate band (NRB) at the TYA (£325,000 for 2017/18).

This means that the value of the shares on the TYA plus undistributed but un-accumulated income arising more than five years before the TYA, must not exceed £260,000.

#### Note 4

The Trustees will need a valuation of the shares as at 1 December 2017.

The trustees will also need to include the retained dividend and interest income after tax for the period 1 December 1997 to 30 November 2012. However, as all prior net income was

distributed to the beneficiaries on 1 December 2011 this will simply leave the income arising for 2011/12 i.e. the interest paid on 31 December 2011 and the dividend paid on 31 March 2012. This figure can be taken directly from the current account balance immediately after the tax was paid for 2011/12.

**Conclusion:**

Given that the shares were valued at £200,000 on 1 December 1997 and that you consider the company has grown significantly in value since then, it is unlikely that the share value at 1 December 2017 (plus any retained income at 30 November 2012) will be less than £260,000. I therefore set out the principal charge formula below.

Principal Charge Calculation (Pro-forma) – 1 December 2017

Assuming A = £400,000

		£	£	
Current value of relevant property at TYA - Note 4	A		400,000	Note 4
Initial value of relevant property in a related settlement	B		0	Note 2
	-----		-----	
Total (A+B)	C		400,000	
NRB at TYA	NB	325,000		Note 3
Less: Settlor's chargeable transfers (CLT) in seven years prior to settlement		(0)		Note 5
Distributions in last ten years		(0)		Note 6
	-----		-----	
NRB remaining	(D)		(325,000)	
Notional transfer (C –D)	E		75,000	
Notional Tax (E x 20%)	NT		15,000	
Effective rate (NT/C x 100)	ER		3.75%	
Actual rate ((ER x 30)% x (40-n)/40))	AR		1.097	Note 7
Principal charge (A x AR)	PC		4,388	
	-----		-----	

Note 5

Your father did not make any other CLTs within seven years of this transfer.

Note 6

No capital distributions have ever been made.

Note 7

Counting from the TYA preceding 1 December 2017 i.e. 1 December 2007 n = the number of complete quarters elapsed before the property became relevant property (on 6 April 2008), therefore n = 1.

### Administration

The due date for submission of form IHT100 and payment of the IHT was 30 June 2018 and thus the return and payment are already both overdue.

An initial penalty of £100 applies where form IHT100 is less than six months late after which a further penalty of £100 applies. These are together capped at the tax due.

HMRC can charge an additional penalty not exceeding £3,000 where form IHT100 is more than one year late.

Interest also runs from the due date to the date of payment. The current rate is 2.6%.

Please do not hesitate to contact me if you have any queries.

Yours sincerely

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**MARKING GUIDE**

TOPIC	MARKS
Presentation – letter format	0.5
<b>Excepted Settlements:</b>	
Implication – no IHT100 required	0.5
Rules x 4	2
Consideration of satisfaction – assumptions/conclusion (including residence/domicile & share valuation/undistributed and un-accumulated income > 5 years)	1.5
<b>Principal charge:</b>	
Elements: A - share valuation, undistributed and un-accumulated income > 5 years	1
Elements: B, C	1
Elements: NRB, CLTs, Dist, D, E	2
Elements: NT, ER	1
Elements: AR – abatement for pre-relevant property, PC	1.5
Sub-total	11
<b>Administration:</b>	
Due date submission and payment	0.5
Penalties:	
initial, 6 months £100 each – capped = tax	2
12 months – max £3,000, not capped, degree lateness, tax	1
Interest	0.5
Sub-total	4
<b>TOTAL</b>	<b>15</b>

## ANSWER 4

### **Draft Inheritance Tax (IHT) Computations on the death of Sue Brown**

#### **Lifetime transfers**

##### Gifts to friends

The annual gifts made on 6 April are covered by Sue's annual exemption (AE).

They are not covered by the normal expenditure out of income (NEOI) exemption as, although they are within her income means with no detriment to her standard of living, these are not regularly made to the same person(s).

##### Holiday allowance

The annual holiday allowance is covered by NEOI.

##### Holidays

The holidays themselves could be treated in the same way (NEOI) or alternatively as family maintenance, given her brother's financial situation. They are therefore exempt either way.

##### 2 February 2009 - Creation of a discretionary trust

##### 1 April 2013 – Gift to Edward

Both the trust creation and the gift to Edward falls outside the seven year cumulation period so do not attract an IHT charge by reason of Sue's death.

##### 1 April 2014 - The gift to the local tennis club

The gift is exempt as a gift to a community amateur sports club (CASC) assuming that it meets all of the conditions for registration at the date of death being:

Available to all of the community  
Organised on an amateur basis  
Main purpose the provision of sports facilities  
Location condition  
Management condition

##### 15 December 2015 - £150,000 Trust addition

This cannot be for Charlotte's maintenance as the trust is for both her and her future issue and potentially benefits her beyond her 18<sup>th</sup> birthday as well as others.

In calculating the IHT due by reason of Sue's death, it is necessary to take into account the initial chargeable transfer of value on trust creation six years earlier as follows:

*(i) Initial chargeable lifetime transfer (CLT) on trust creation on 2 February 2009:*

£320,000 – nil rate band (NRB) 2008/09 (£312,000) = £8,000 x 20/80 = £2,000.

Gross transfer of value = £322,000 (£320,000 + £2,000).

(ii) Subsequent addition on 15 December 2015:

IHT previously paid by the trustees:

	£	£
CLT		150,000
NRB 2015/16	325,000	
NRB utilised 2 February 2009	<u>(322,000)</u>	
Balance of NRB		<u>(3,000)</u>
Chargeable		<u>147,000</u>
IHT x 20/80		<u>£36,750</u>

Gross transfer of value = £186,750 (£150,000 + £36,750)

(iii) Additional IHT due by reason of Sue's death:

	£	£
CLT		186,750
NRB 2015/16	325,000	
NRB utilised	<u>(322,000)</u>	
Balance of NRB		<u>(3,000)</u>
Chargeable		<u>183,750</u>
IHT @ 40%		73,500
Less taper relief (40%) – Note 1		<u>(29,400)</u>
Total		44,100
Less previously paid by trustees (above)		<u>(36,750)</u>
Payable by trustees 30 April 2021		<u>£7,350</u>

Note 1

The transfer took place between four and five years before death.

Annual payment of accountancy fees

The annual payment of accountancy fees are exempt as NEOI.

31 August 2016 - Gift of £15,000 to political party X

The gift is exempt as it is to a qualifying political party - at the last general election preceding the transfer, one member of the party was elected and the party received at least 150,000 votes.

2 February 2020 - Gift of £200,000 to Charlotte on her 18<sup>th</sup> birthday:

	£	£
Failed PET		200,000
NRB b/f (£325,000 - £186,750)	138,250	
NRB utilised	<u>(138,250)</u>	
NRB c/f	-	<u>(138,250)</u>
Chargeable		<u>61,750</u>
IHT @ 40% payable by Charlotte 30 April 2021		<u>£24,700</u>



**The death estate:**

	£
Residence	1,000,000
Contents	100,000
Cash at bank	800,000
Intellectual Property (IP) Rights	1,000,000
Less BPR	(1,000,000)
Less liabilities	(25,000)
Chargeable free estate	<u>£1,875,000</u>

There is no NRB or residence nil rate band available as the NRB has already been utilised against lifetime transfers chargeable on death and the residence is not 'closely inherited' since Sue had no children.

The residue is exempt as it is a gift to a qualifying political party – the party continues to meet the criteria on death (see above).

A qualifying political party is not a charity for purposes of securing the reduced IHT rate of 36%.

BPR attaches to the specific gift of the IP rights to the trust reducing the value of the gift for IHT purposes to nil. The trust therefore receives the full value of the IP rights.

Single Grossing

Single grossing applies as there are tax-free legacies (Edward) and an exempt residue (Party X).

The IHT on the tax-free legacies to Edward are grossed up as follows:

$$\text{IHT} = \text{£}1,000,000 + \text{£}100,000 = \text{£}1,100,000 \times 40/60 = \text{£}733,333$$

The residue bears the IHT.

Distribution of estate:

	£
Discretionary Trust	1,000,000
Edward (£1,000,000 + £100,000)	1,100,000
"Party X" (£800,000 - £25,000 - £733,333)	41,667
HMRC – payable by executors (30 April 2021)	<u>733,333</u>
Total	<u>£2,875,000</u>

**MARKING GUIDE**

TOPIC	MARKS
<b>Additional tax on lifetime gifts:</b>	
Gifts out of AE not NEOI	0.5
Charlotte - NEOI (criteria stated)/maintenance of family	1.5
Creation of discretionary trust/Gift to Edward outside cumulation period	0.5
Gift to tennis club – CASC (criteria stated)	2
Addition to discretionary trust:	
Cumulation with earlier CLT within 7 years	0.5
Single grossing original CLT to arrive at previous gross transfer of value	1
Single grossing lifetime tax on CLT to arrive at current gross transfer of value	1
Additional tax due on death @ 40%, less TR, less lifetime tax paid, payable by trustees and due date	2
NEOI for accountancy fees	0.5
Gift “Party X” exempt as qualifying political party	0.5
Gift to Charlotte – IHT @ 40%, payable by charlotte, due date	1
<b>Death Estate</b>	
NRB fully utilised on lifetime gifts, no availability of RNRB	1
ID exempt residue, gift to political party, not a charity for 36% rate	0.5
S.39A (2) IHTA 1984 – BPR attaches to specific gift of IP to trust	0.5
Single grossing – tax free specific gift, exempt residue, calculation	1
Distribution of estate	0.5
IHT payable by executors and due date	0.5
<b>TOTAL</b>	<b>15</b>

## ANSWER 5

### 1) **Lifetime gifts**

The sale or gift of assets during lifetime will be a chargeable event for Capital Gains Tax (CGT) purposes, with a maximum CGT rate of 20% or 28% depending on the type of asset,

Assets still retained at death will benefit from the CGT tax free uplift, but will be potentially liable to Inheritance Tax (IHT) at 40%. Robert is unlikely to survive seven years and any outright lifetime gifts (PET's) made in that period will become chargeable on death. Therefore, gifts made now will be brought back into his estate calculations unless covered by lifetime exemptions or reliefs.

Robert wishes to give Daphne some cash or assets that can be liquidated to generate cash. As Robert holds only a small amount of cash the assets available to generate cash are his shareholdings in Red plc, White plc and Blue plc.

#### Blue plc

The shares in Blue plc were purchased under the Enterprise Investment Scheme. Any Income Tax relief, or deferred gains claimed will be clawed back if sold within three years. As these were purchased less than three years ago this is not a tax efficient option for Robert. Clawback will not apply on death.

#### Red plc

Red plc shares have lost value and will realise a capital loss that can be offset against other gains. Losses arising in the tax year of death may be carried back against capital gains of preceding three tax years, latest first, generating a potential repayment of tax. The losses can be offset against the gains after the deduction of the annual exemption, so that it is not wasted.

#### Loss arising for Red plc

	£
Market value	2,600
Cost	20,000
Loss arising	<u>£(17,400)</u>

#### Loss carry back

Assuming death occurs in 2020/21

	2016/17	2017/18	2018/19	2019/20
	£	£	£	£
Net gains	16,000	-	14,300	16,720
Less: Annual exempt amount	(11,100)	-	(11,700)	(12,000)
Chargeable gain	<u>4,900</u>	-	2,600	4,720
Loss re Red plc	N/A		(2,600)	(4,720)
Chargeable Gain after loss c/b	<u>£4,900</u>	-	£nil	£nil

### Loss allocation

	£	£
Loss arising		17,400
2019/20	4,720	
2018/19	<u>2,600</u>	<u>(7,320)</u>
Loss not used		<u>£10,080</u>

### White plc

Due to the potential £10,080 unused losses from Red plc, a gift (or proceeds of sale) of shares in White plc during 2020/21 can be made to crystallise a gain without giving rise to a CGT liability to the extent of that unused loss.

There is a net gain of £42 per share (£50 - £8). The unused loss allows for a gift/sale of up to 240 shares (£10,080/£42).

The gift of the shares/sale proceeds is also a gift for IHT purposes. Available lifetime exemptions for IHT are as follows:

	£
2020/21	3,000
2019/20	3,000
Marriage exemption	<u>5,000</u>
	<u>11,000</u>

A gift of 220 shares (or sale proceeds of the same) would be franked by the available IHT exemptions (£11,000/£50) and would not generate an IHT exposure on death. However, assuming little or no movement in the share price the IHT impact of a gift of the additional 20 shares made now during lifetime or on death will have the same IHT treatment as a failed PET or as part of the death estate. There will be no positive impact for CGT as the gain on a lifetime gift will be covered by the Red plc loss.

## 2) **Inheritance tax position assumed date of death in March 2021**

<b>Lifetime gifts</b>			<b>Gross</b>	<b>IHT</b>
		£	£	£
August 2017	House	300,000		
	Annual Exemption	2017/18	(3,000)	
		2016/17	<u>(3,000)</u>	
	PET	Now chargeable	294,000	Nil

May 2020	White plc	220 @ £50	11,000		
	Marriage exemption		(5,000)		
	Annual exemption	2020/21	(3,000)		
		2019/20	<u>(3,000)</u>	<u>Nil</u>	<u>Nil</u>
				294,000	Nil

**Estate at death**

	Cash		3,850		
	CGT debtor (£7320 @ 20%)		1,464		
	Shares	White plc			
		7780 @ £50	389,000		
		Blue plc 10,000 @ £1.20		12,000	
		BPR @ 100%			
			<u>(12,000)</u>		
	Total free estate			394,314	
	QIIP			<u>1,500,000</u>	
	Total taxable estate			<u>1,894,314</u>	
	Available nil rate band	(325,000 - 294,000)		<u>(31,000)</u>	
	Chargeable estate			<u>£1,863,314</u>	<u>£745,326</u>
	Payable by executors	394,314/1,894,314 x 745,326			<u>£155,145</u>
	Payable by trustees	1,500,000/1,894,314 x 745,326			<u>£590,181</u>

### Transferrable nil rate band

Not available as his wife's free estate, which was in excess of the NRB, all passed to Daphne using any available nil rate band at that time.

### Residence Nil Rate Band

There is no residence nil rate band available as there is no property in the estate on death and the GWROB rules will not apply to the life time gift (see below).

### Gift with reservation of benefit. (GWROB)

The general rule is that if the donor continues to benefit from an asset they have gifted, the gift could be caught by GWROB provisions.

Where there is an unforeseen change in the donor's circumstances, not known at the time of the gift, and the benefit provided by the donee to the donor represents reasonable provision for the care and maintenance of an elderly or infirm relative there is an exemption in relation to gifts of land (para. 6(1) (b) Sch. 20 FA 1986). Robert's diagnosis was an unforeseen change in circumstances and his executors should be instructed to claim the exemption if beneficial.

### Life interest trust

The successive life interest trust which commenced on the death of Robert's wife, is a qualifying interest in possession (QIIP). As such it is aggregated with his estate on death, with the IHT liability payable out of the trust funds by the trustees.

When Daphne succeeds to the life interest this will be a non-qualifying IIP and the trust will become a relevant property trust for IHT purposes. The trust's assets will not be aggregated with Daphne's estate on her death instead the trust will be subject to ongoing principal and exit charges.

The trustees will be responsible for any reporting requirements and payment of tax for the trust. Income tax and CGT under self-assessment and IHT via form IHT100.

As beneficiary of an IIP (life tenant) she will receive the income with a tax credit at the rate applicable to the income source and not the rate applicable to trusts

## **MARKING GUIDE**

<b>TOPIC</b>		<b>MARKS</b>
1.	Lifetime sale/gift disposal event CGT	1.0
	Death – CGT free uplift in value/IHT 40%. PETs will become chargeable (0.5 each)	1.5
	Blue PLC EIS – clawback	1.0
	Loss arising calc	1.0
	Loss c/back (0.5 each). Not to 2016/17 (0.5), after AE	2.0
	Loss not used	0.5
	White plc – Gain £42ps, Potential gift 240 shares (0.5 each)	1.0
	Annual exemption x 2, marriage exemption	1.0
	Optimum gift 220 shares. IHT saving more than CGT	1.0
	Sub-total	10.0
2.	IHT calculation	
	House annual exemptions – PET	1.0
	White plc – PET – points already given	
	Cash – Red plc proceeds	0.5
	Cash – CGT repayment	0.5
	White plc balance of shares held	0.5
	Blue plc – BPR	0.5
	No transferrable NRB, no RNRB	1.0
	Total free estate	0.5
	QIIP & narrative re aggregation with estate	1.0
	Split NRB & IHT liability per element of estate – payees	1.0
	Donor benefit – GWROB exemption narrative	1.5
	RPT Daphne – change from QIIP, aggregated in RW estate, not in D estate	1.5
	Trustees responsibility admin/payment	0.5
	Sub-total	10.0
<b>TOTAL</b>		<b>20</b>

## **ANSWER 6**

Email

From: taxmanager@planters.co.uk  
To: [contact@greentrees.co.uk](mailto:contact@greentrees.co.uk)  
Date: 30 November 2020  
Subject: Mr Ash RNRB and Downsizing

Further to your request for information on the Residence Nil Rate Band (RNRB) and how it may apply to Mr Ash's estate, the main points to consider are:

- Introduced for deaths on or after 6 April 2017 at £100,000 increasing by £25,000 per tax year to reach a maximum of £175,000 in 2020/21.
- Calculated with reference to the value of property that was at some point owned and used by the deceased as his residence.
- Relates only to the property within the death estate or the sale proceeds where the main home is sold on/after 8 July 2015 (downsizing addition (DA))
- The DA restores the relievable amount lost due to downsizing.
- No replacement property required for DA to apply at death.
- Personal representatives make claim (Form IHT435) for DA to apply and to nominate property to which it relates.
- The property (or estate) must be closely inherited, by the deceased's child, grandchild, other lineal descendant, or spouse (civil partner), widow, widower of a lineal descendant who has not remarried. Includes stepchildren, foster children and minor children where the deceased was appointed guardian.
- The property does not need to be actually passed to them and could be sold by the Executors/Administrators.
- The RNRB is tapered by £1 for every £2 of estate value over the £2 million (before reliefs i.e. APR/BPR). Mr Ash's estate is below this limit.

As Mr Ash's former property carried a higher value than the replacement property which is less than the RNRB at date of death so the lost relievable amount must be calculated. The DA is given against the estate in addition to the nil rate band (NRB) and RNRB on his replacement home at the date of death.

The DA is calculated as follows:

- i) Identify the former residential interest in respect of which the downsizing claim will be made (Mr Ash's previous property)
- ii) Determine the value of (i)
- iii) Determine the former RNRB allowance at date of the sale of the property
- iv) Determine the lost relievable amount by:
  - a) Expressing the value of the former qualifying residential interest as a percentage of the former allowance (max 100%)
  - b) Expressing the value of the qualifying residential interest on death as percentage of the deceased's allowance on death (max 100%)
  - c) Subtract (b) from (a) (min 0%)
  - d) Multiply (c) by the deceased's allowance on death to give the lost relievable amount.

The taxable estate after the NRB, RNRB and DA will be £275,000 as set out in the appendix below.

If you have any further questions, please do not hesitate to contact me.

Kind regards

## **Appendix**



	Tax year	£	£
Home sold	18/19		150,000
RNRB – Note 1	18/19		125,000
New home purchased	18/19		95,000
Value of home at date of death – Note 2	19/20		110,000
RNRB	19/20		150,000
RNRB allowed (73.33% x £150,000)			110,000
Lost relievable amount – Note 3 (26.67% x £150,000)			40,000
<b><i>Estate position:</i></b>			750,000
NRB (Note 4)		325,000	
RNRB		110,000	
DA		<u>40,000</u>	<u>(475,000)</u>
Taxable estate			<u><u>£275,000</u></u>

**Notes**

1 –  $(£150,000/£125,000) = \text{max}100\%$

2 –  $(£110,000/£150,000) = 73.33\%$

3 –  $(100\% - 73.33\%) = 26.67\%$

4 -No transferrable NRB or RNRB

## **MARKING GUIDE**

<b>TOPIC</b>	<b>MARKS</b>
RNRB general	1
Sale or disposal on or after 8 July 2015	0.5
Only one downsizing event per estate – nomination, claim form IHT435	1
Lost relievable amount – replaces RNRB lost due to downsizing, no requirement for replacement property	1
Closely inherited, definition	1
Taper threshold, calculation, doesn't apply to Mr Ash's estate	1.5
Formula – 4 steps	2
Calculation of taxable estate (assuming RNRB/DA apply)	2
<b>TOTAL</b>	<b>10</b>