

The Chartered Institute of Taxation

Advanced Technical

Taxation of Individuals

November 2025

Suggested answers

Answer 1

Apple Cottage

The sale of the property on 31 March 2025 will give rise to a capital gain in 2024/25, which will be split between Sarah and Tim on a 50:50 basis. They will each pay Capital Gains Tax on their share of the gain.

This is a part disposal of the land that was originally purchased as one plot. The deductible acquisition cost is usually calculated using the formula $\text{Cost} \times A/A+B$.

A = gross disposal proceeds

B = value of the part retained

Alternatively, as the two properties are recognised as separate assets, SP D1 can apply with the cost apportioned on a just and reasonable basis. The taxpayer can use the most beneficial option.

- 1) $\text{Cost} \times A/A+B = 760,000 \times 1,200,000 / (1,200,000 + 475,000) = \text{£}544,478$ (Apple) and $\text{£}215,522$ (Pear)
- 2) Apportioned acquisition price and costs based on values at acquisition

	Total	Apple	Pear
Purchase price	£760,000	£745,000	£15,000

In both scenarios, the enhancement expenditure of £220,000 specifically incurred on Pear Cottage should all be deducted in calculating the gain on that property in addition to the base cost calculated.

HMRC may allow other methods for apportioning costs between the two transactions as long as the rationale is reasonable.

As Apple Cottage was used as Sarah and Tim's main home, Private Residence Relief would exempt part of the gain. The use across the entire ownership period must be assessed. Periods of actual occupation or deemed occupation qualify for relief.

	Occupied	Deemed occupied	Not qualifying
	in months		
30/09/2001 – 31/10/2013	145		
1/11/2013 – 30/06/2024			128
1/07/2024 – 31/03/2025		9	

Relief = net gain \times 154/282

As private residence relief will apply to the gain on Apple Cottage it will be beneficial to use the part disposal method for the calculation as this gives the highest base cost to Pear Cottage which does not qualify for any relief. The apportionment method would push a greater proportion of the gain and resulting tax charge into the later tax year, which gives a cashflow benefit but would result in a much higher overall tax liability. Therefore, Sarah and Tim should use the part disposal method.

Chargeable gains (both properties)

Apple Cottage	Cost x A/A+B 100% share
	£
Sale proceeds	1,200,000
Less: Sale costs	(18,000)
Net proceeds	1,182,000
Less: Acquisition price/costs	(544,478)
Net gain	637,522
Less: PPR relief (gain x 154/282)	(348,150)
Taxable gain	289,372
Pear Cottage	Cost x A/A+B 100% share
	£
Sale proceeds	475,000
Less: Sale costs	(7,150)
Net proceeds	467,850
Less: Acquisition price/costs	(215,522)
Net proceeds	252,328
Less: Cost of development	(220,000)
Net gain/(loss)	32,328
Total gains	321,700

The gains/losses are apportioned 50:50 to Sarah and Tim:

Apple Cottage = £289,372 gain x 50% = £144,686 gain each in 2024/25

Pear Cottage = £32,328 gain x 50% = £16,164 gain each in 2025/26

Pear Cottage: anti-avoidance

Anti-avoidance rules in Part 9A ITA 2007 ("Transactions in UK land") can apply to certain transactions where profits are generated from trading in or developing UK land or property. The rules are aimed at UK land transactions that effectively turn trading (income) transactions into capital transactions, thus avoiding income tax.

If one or more of the following conditions are met, the capital gain realised on a disposal of UK land or property is charged to Income Tax and class 4 NIC instead of CGT:

A: Land is acquired with the main purpose, or one of the main purposes, of realising a profit or gain from its disposal

B: Property deriving its value from land is acquired with the main purpose, or one of the main purposes, of realising a profit or gain from disposing of the land

C: Land is held as trading stock

D: Land is developed with the main purpose, or one of the main purposes, of realising a profit from disposing of the developed land.

In Sarah and Tim's circumstances:

- Pear Cottage might meet condition D as it was developed and then sold with the aim of making a profit, but it was not initially acquired or developed with this aim. The land was bought to be part of their main home, then the intention of development was to generate rental income.

- As Sarah and Tim plan to buy another property to renovate and sell, they should be aware that profits could be subject to Income Tax and class 4 NIC under the Transactions in UK land provisions or potentially as trading income, if they continue to do similar projects in future.

In practice, HMRC would look at the fact pattern of each property disposal. Whether the conditions are met is a question of fact. There is no formal HMRC clearance procedure, so Sarah and Tim must self-assess and report each disposal as they consider correct. If there is genuine uncertainty, they can apply to HMRC under a non-statutory clearance procedure. HMRC will advise on the tax treatment based on details provided and the correct treatment can be agreed before the tax return filing deadline. This avoids risk of incorrect return or underpayment of tax.

As Pear Cottage was not acquired or developed with the aim of being sold for a profit, there should not be any uncertainty and capital gains treatment should apply.

Tax liabilities

Sarah and Tim will each have a CGT liability as follows:

2024/25	£
Gain on Apple Cottage	144,686
Less: Annual exempt Amount	(3,000)
Taxable gain	141,686
CGT at 24%	34,005
2025/26	
Gain on Pear Cottage	16,164
Less: Annual exempt Amount	(3,000)
Taxable gain	13,164
CGT at 24%	3,159

Reporting

Sarah and Tim should have each filed a CGT return by 30 May 2025 to report their share of the capital gain realised on Apple Cottage and they should have also paid their respective tax liabilities by the same date (unless they had filed their Self Assessment returns before 30 May 2025, in which case the tax liabilities are payable by 31 January 2026).

They will need to file another CGT return each to report the disposal of Pear Cottage and pay the tax due within 60 days of the sale.

Both disposals will then need to be reported on Sarah and Tim's 2024/25 and 2025/26 Self Assessment tax returns, with a credit for the CGT already paid on each disposal.

MARKING GUIDE

TOPIC	MARKS
Sale of Apple Cottage on 31 March 2025, subject to CGT	1
Anti-avoidance doesn't apply as it's their primary residence under s.517M ITA 2007.	0.5
Calculation of capital gains for both Apple Cottage and Pear Cottage, using part disposal method	3
Consideration of apportionment method	1
Calculation of PRR for period of use as main home	2
Consideration of Transaction in UK Land anti-avoidance legislation Part 9A ITA 2007	
<ul style="list-style-type: none"> Explanation of purpose of legislation, i.e. to catch transactions turning income into capital 	1
<ul style="list-style-type: none"> Explanation of tax implication where rules apply – income tax and class 4 NIC 	1
Apply to Sarah & Tim circumstances	4
<ul style="list-style-type: none"> Property development may meet condition D But land not initially acquired to make a sale at a profit, nor was the development of the property – it was to create an investment property to produce rental income. TiL rules don't apply to Pear Cottage TiL or potentially trading rules likely to apply to future project(s) 	
No statutory clearance procedure available	1
Sarah & Tim must report in correct manner on tax return	1
If genuine uncertainty, can apply to HMRC under non-statutory clearance procedure	0.5
Calculation of tax liabilities	1.5
CGT return by 30 May 2025 for Apple Cottage disposal, tax payable by same date	1
Or on SA return if submitted before 30 May 2025, tax payable by 31 January 2026	0.5
CGT return for Pear Cottage within 60 days of sale	0.5
Both disposals to be reported on Self Assessment returns for 2024/25 and 2025/26	0.5
TOTAL	20

Answer 2

The investment in Birdie Foods Limited may be eligible for tax relief under the Seed Enterprise Investment Scheme or the Enterprise Investment Scheme.

Seed Enterprise Investment Scheme (SEIS)

Birdie Foods Limited commenced trade in March 2022 and so it is not possible to claim for relief under the SEIS scheme because the trade must be a new trade which must not be more than three years old s.257 ITA 2007.

Enterprise Investment Scheme (EIS)

To qualify for tax relief under EIS, the following conditions must be satisfied:

- Risk to capital
- Qualifying investor
- Qualifying company
- Relevant shares

The conditions are considered below:

Risk to capital s.157A ITA 2007

- There must be no guaranteed return for Emma's investment.

The risk to capital condition is satisfied.

Qualifying investor s.163 – s.170 ITA 2007

- The investor must not be an existing shareholder (subject to some exceptions).
- Emma must not be connected with the company two years before, and for three years after the issue to benefit from income tax relief. Emma could still be eligible for capital gains tax relief if she was connected with the company.

An investor is connected if they or an associate is an employee of the company. Since Emma is not currently employed by the company, and as Laura does not qualify as an associate of Emma, Emma is not connected.

However, an investor is also connected if they hold more than 30% of the ordinary shares in the company or can exercise more than 30% of the voting rights. Emma will hold 25% of the ordinary shares and so again Emma is not connected.

- Directors excluded from connection

Emma will become a director when the new shares are issued, she was not connected prior to this point and so will still be eligible for relief provided the payment for services is reasonable for the work done. It appears that this will be the case.

- No linked loans

If Emma obtains a loan to subscribe for £60,000 shares and the loan is conditional upon Emma making the EIS investment, then it is unlikely that the shares will qualify for EIS relief. This might be the case if the EIS investment was used as security for the loan.

Relief is available if the loan is available on the same terms in the absence of the share purchase.

Qualifying company s.173 – s.192 ITA 2007

A qualifying company must satisfy the following conditions:

- Have a permanent establishment in the UK.
- Be in good financial health.
- Be a trading company.
- Be unquoted when the new shares are issued.
- Not be under the control of another company.
- The assets must not exceed £15 million before and £16 million after the issue.
- Does not have more than 250 full time equivalent employees (500 if a knowledge intensive company).
- Does not carry out an excluded trade.
- Has not raised more than £5 million (£12 million if a knowledge intensive company) in the previous 12 months through relevant investments.
- Has carried out the trade for at least four months prior to raising the funds.
- Plans to invest as soon as possible and so is within two years of the date of issue.
- The issue takes place within seven years of the first commercial sale.
- There are no pre-arranged exit routes.

The qualifying company conditions are all satisfied.

Relevant shares s.158 – s.174 ITA 2007

The new shares must meet the following conditions:

- The investment is a new subscription for shares.

The shares must be fully paid up when they are issued. If Emma waits until her ISA matures before investing the remaining £60,000 then these shares would not be eligible for relief and so this finance option should be rejected.

- The shares are to be issued for genuine commercial reasons and not for tax avoidance.
- The shares will be ordinary shares with no preferential rights.
- The shares must raise funds for a qualifying business activity.

The qualifying business activity requirement means that the funds should be used to promote growth of the company. Funds that are to be used to replace existing equipment are unlikely to satisfy this requirement and so £40,000 of the investment will not qualify for EIS relief.

Finance

To qualify for relief Emma would need to either access the funds in her ISA such that she has the cash available for investment on 1 December or proceed with an application for the loan on the assumption that loan was not conditional on the investment in shares.

The benefit of the EIS relief is likely to be greater than any penalty or lost interest for early withdrawal from the ISA.

Ordinarily there is income tax relief on the interest on a loan to invest in a close company however this is not available if EIS relief is claimed.

Conclusion

The £40,000 funds used to replace existing equipment does not appear to satisfy the 'funds must be used to promote growth' condition for EIS relief.

The remaining £60,000 will qualify for EIS relief if the shares are fully paid up on issue and linked loan finance is not used to fund this investment.

MARKING GUIDE

TOPIC	Marks
SEIS or EIS (or Investor relief)	0.5
More than 3 years so not SEIS	0.5
EIS	
Risk to capital	0.5
Qualifying investor	
Not an existing shareholder	0.5
Not connected – employee including associates	0.5
Not connected – 30% including associates	0.5
Director excluded from connection	0.5
No linked loans	0.5
Qualifying company	
Permanent establishment in UK	0.5
Good financial health	0.5
Trading company	0.5
Unquoted	0.5
Not under control	0.5
Asset condition	0.5
Employee condition	0.5
Excluded trades	0.5
Four months trading	0.5
Reinvestment of funds 2 years/7 years	0.5
No pre-arranged exit routes	0.5
Relevant shares	
Subscription for new shares	0.5
Fully paid up shares – so not finance option number 3	0.5
Commercial and not tax avoidance	0.5
Ordinary shares	0.5
For business activity	0.5
Reinvestment in existing plant	0.5
Finance	
Interest deduction loan to invest in a close company/not available if EIS	1.0
EIS relief better than penalty for early withdrawal	0.5
Conclusion	
£40,000 not eligible	0.5
£60,000 eligible if access fund from ISA before maturity	0.5
TOTAL	15.0

Answer 3

Termination package

The termination package of £200,000 is comprised of a payment in lieu of earnings and a compensation payment for loss of office ss. 401-416 ITEPA 2003.

Payment in lieu of earnings

Part of the lump sum paid on termination is a post-employment notice period payment (PENP).

PENP income is treated as employment income and is subject to Income Tax and Class 1 NICs.

Mo's employment contract will terminate on 14 November 2025, his employment contract provides for a three month notice period and so contractually part of the termination package is PENP pay for the three-month period following 14 November.

Mo's monthly salary and basic pay excluding taxable benefits is £12,000.

PENP is therefore calculated as:

$$12,000 \times 3/1 = £36,000$$

This will be treated as employment income.

Compensation for loss of office

The remaining payment of £164,000 (£200,000 - £36,000) will be treated as a genuine termination payment.

This would not be the case if there were any contractual obligation for the payment or indeed if there was a reasonable expectation that the payment would be made.

HMRC may wish to inspect the employment contract to satisfy themselves that the payment is a genuine termination payment.

The first £30,000 of a genuine termination payment is exempt from Income Tax and Class 1 NICs s.401 ITEPA 2003.

As Mo will return to work in 2026 it is unlikely that the payment will be treated as an Employer Financed Retirement Benefit Scheme. Such a payment would not benefit from the £30,000 exemption.

Calculation of additional income tax and national insurance

2025/26

		Taxable income	Exempt income
		£	£
Termination package			
PENP		36,000	
Ex gratia		134,000	30,000
		<hr/>	<hr/>
		170,000	30,000
Additional income tax	See working A		
		79,696	
Additional NIC 2%	£36,000 x 2%	720	

Working A for additional income tax

	Before			After		
	£		£			£
Total income *	97,500			267,500		
PA	(12,570)			0	(>£125,140)	
Taxable income	<u>84,930</u>			<u>267,500</u>		
Income tax	37,700	20%	7,540	37,700	20%	7,540
**	9,000	20%	1,800	9,000	20%	1,800
	<u>38,230</u>	40%	15,292	87,440	40%	34,976
	<u>84,930</u>			133,360	45%	<u>60,012</u>
			<u>24,632</u>	267,500		<u>104,328</u>
Increase in income tax	£104,328 - £24,632 = £79,696					

*7.5 x (£12,000 + £1,000) = £97,500

**7.5 x £12,000 x 0.08 x 100/80 = £9,000

Pension investment

The maximum pension input for a registered money purchase scheme is comprised of the employee and employer contributions in the tax year s.228 FA 2004.

The pension input must be from relevant earnings (which includes employment income) and is subject to the annual allowance cap.

The annual allowance cap is however tapered, in respect of high-income individuals, such as Mo, who have threshold income in excess of £200k in the tax year.

A subsequent reduction in the annual allowance will be necessary if the adjusted income is in excess of £260k in the tax year.

The **threshold income for 2025/26** is calculated as follows:

	£	£
Employment income	7.5 x (£12,000 + £1,000)	97,500
April 2025 – November 2025 = 7.5 months		
Termination payment		170,000
Occupational pension contributions		<u>0</u>
Net income		267,500
Less Personal pension contributions (gross)	100%/80% x 8% x 7.5 x £12,000	<u>(9,000)</u>
Threshold income		<u>258,500</u>
Threshold limit		200,000

The **adjusted income for 2025/26** is calculated as

	£
Net income	267,500
Add contributions paid by employer (10% x 7.5 x £12,000)	<u>9,000</u>
Adjusted income	<u>276,500</u>

The **tapered annual allowance for 2025/26** is calculated as

	£
Adjusted income	276,500
Limit	<u>260,000</u>
Excess income	16,500
Restriction (£16,500 x ½)	8,250
Tapered annual allowance	
2024/25	60,000
Restriction	<u>8,250</u>
Revised annual allowance	<u>51,750</u>

For 2023/24 and earlier years the combined employer and employee contribution equals 20% (10% + 10%) x £144,000 (12 x £12,000) which equals £28,800.

The maximum tax efficient contribution can be increased by any unused relief in the previous three years on a FIFO basis.

	Annual allowance £	Actual contribution (employer + employee) £	Remaining allowance £
2025/26	51,750	18,000	33,750
2022/23	40,000	28,800	11,200
2023/24	60,000	28,800	31,200
2024/25	60,000	28,800	<u>31,200</u>
Maximum tax efficient contribution in 2025/26			<u>107,350</u>

As Mo's threshold income did not exceed £200,000 between 2022/23 and 2024/25 there is no abatement of the earlier annual allowances.

As this is a personal pension, Mo will make contributions net of the basic rate tax direct to the pension fund.

Mo's maximum tax efficient payment is therefore 80% x £107,350 = £85,880.

As an additional rate taxpayer, Mo will receive additional tax relief through the extension of the basic and higher rate bands by the gross value of the current year gross contribution. Similarly the annual allowance may be partially or fully reinstated reflecting the increased personal contribution. A final, revised calculation can be completed once Mo decides how much to contribute in 2025/26.

The net of tax termination payment provides sufficient cash to invest the maximum tax efficient amount, £85,880 in his pension in 2025/26.

MARKING GUIDE

TOPIC	MARKS
Requirement 1	
Termination package - identify as payment in lieu of earnings and compensation payment	0.5
Identify PENP	0.5
Subject to income tax AND NIC	0.5
Calculation of PENP (3 months x basic pay)	1
Balance as termination payment	0.5
Provided not contractual or expected and not due to redundancy	1
HMRC need to be satisfied/inspect employment contract	0.5
Unlikely to be treated as EFRBS	0.5
£30,000 exempt from income tax AND NI	0.5
Calculation of IT and NIC	1.5
Total	7
Requirement 2	
Maximum pension input employee plus employer contributions	0.5
Must be relevant earnings	0.5
Annual allowance	0.5
Threshold income for 2025/26	1
Adjusted income for 2025/26	1
Annual allowance for 2025/26	0.5
Contributions for earlier years	1
Annual allowance for earlier years	1
Current then FIFO	0.5
Maximum contribution	0.5
Payment net of 20% tax	0.5
Conclusion on maximum additional contribution	0.5
Total	8
TOTAL	15

Answer 4

	£	
Employment Income:		
Salary	53,817	
Interest free loan (W1)	213	
Pension (W2)	38,824	
Property Income (W3)	<u>4,625</u>	
	97,479	
Personal allowance	(12,570)	No restriction as income is below £100,000
Taxable income	<u>84,909</u>	

Tax liability:

	£
37,700 x 20%	7,540
47,209 x 40%	<u>18,883</u>
	26,423

Working One
Interest Free Loan

Average method:

		£
1 October 2024	Opening balance	25,000
	Repayments	<u>(12,000)</u>
5 April 2025	Closing balance	13,000

$((25,000 + 13,000)/2) \times 2.25\% = 427$

Outstanding for 6 complete tax months.

$427 \times 6/12 = £213$

Strict method:

					£
1 October to 31 January	4 months	25,000 x 2.25%	= 562	x 4/12	187
1 February to 28 February	1 month	15,000 x 2.25%	= 337	x 1/12	28
1 March to 31 March	1 month	14,000 x 2.25%	= 315	x 1/12	<u>26</u>
					241

Maise will not benefit from electing for the strict method. HMRC are unlikely to apply this basis either as the difference is not significant.

Working Two
Overseas Pension

The lump sum will be taxable in the UK as she was UK resident when she received it.

The pension is a non-UK employer funded retirement benefits scheme.

As all of Maisie's reckonable service prior to 5 April 2017 was foreign service, the value of the lump sum rights at that date can be deducted from the amount received, which will reduce it to £51,766 (58,531-6,765).

A deduction can be made in respect of a lump sum payable under an "overseas pension scheme" where an amount would not be liable to Income Tax if it was paid under a registered pension scheme. Assuming that the payment meets the definition of an overseas pension scheme, a further 25% can be deducted, reducing the taxable amount to £38,824.

Working Three
Rent

Maisie's first day of UK residence for tax purposes will be 24 June 2024 (Note One)

Her profit from the villa for UK tax purposes will be as follows:

	£
Rent received	
625 x 10	6,250
Less property allowance (higher than the £425 repairs)	<u>(1,000)</u>
	5,250

The above has been calculated using the cash basis. Maisie would benefit from electing to use the accruals basis, this would mean that her profit would be as follows:

	£
Rent	
1 July to 31 March	
625 x 9	5,625
	<u>5,625</u>
Less:	
Insurance	
July to March	
9/12 x 360	(282)
Repairs	(270)
	<u>5,073</u>

Again Maisie would be better off claiming the property allowance, giving her net rent of £4,625

Note One

Maisie spent more than 183 days in the UK during 2024/25 so she is UK resident. She may qualify for split year treatment. There are three split year cases to be considered; Cases 4, 5 and 8. Case 6 relates to an individual ceasing full time work overseas. This case cannot be used in Maisie's case as she was not UK resident for 1 or more of the 4 tax years prior to 2023/24, having been out of the UK since 2016. She wasn't working full time abroad prior to her return either.

Case 4 and 8 are similar. Case 4 applies to individuals who start to have their only home in the UK during a tax year. Case 8 applies to individuals who start to have a home in the UK during a tax year.

For both cases, an individual must meet the following conditions:

- 1) they must be a UK resident for the tax year in question
- 2) they must have been non-UK resident for the previous tax year
- 3) they must not meet the sufficient ties test (STT) for the part of the tax year before the point when they start to have a UK home or their only home in the UK

Maisie did not spend any days in the UK, so she meets condition 3 above.

For Case 4, the following additional condition must be met:

- 1) the individual must not meet the only home test at the start of the tax year but start to meet it at some point during the year and continue to do so until the end of that year

An individual will meet the only home test if they have only one home and that home is in the UK or if they have more than one home, all of those homes are in the UK.

For Case 8, the following additional conditions must be met:

- 1) the individual must be UK resident for the following tax year (which must not be a split year)
- 2) the individual must not have had a home in the UK at the start of the tax year but start to have a UK home during the year and continue to have a UK home for the rest of that year and all of the following year

Unless Maisie changes her current plans, she will meet these conditions. Under both cases, the UK part of the year will start on 6 July 2024, the date that Maisie and Lily moved into their rented property.

Case 5 applies to individuals who are starting full time work in the UK and meet the conditions set out in the third automatic UK test over a period of 365 days. These conditions are as follows:

- 1) The individual works full-time in the UK for any period of 365 days, with no significant break from UK work
- 2) all or part of the 365 day period falls within the tax year
- 3) more than 75% of the total number of days in the 365 day period when the individual did more than 3 hours work are days when they did more than 3 hours work in the UK
- 4) at least 1 day which is both in the 365 day period and in the tax year is a day on which the individual does more than 3 hours work in the UK

Maisie will meet these conditions.

To qualify for split year treatment under case 5, the following conditions must be met by the individual::

- 1) they must be UK resident for the year
- 2) they must have been non-UK resident for the previous tax year
- 3) they must not meet the sufficient ties test for the part of the tax year before the point when they first meet the third automatic UK test

Under case 5 the UK part of the year will start on 24 June 2024.

The case with the earliest start date takes priority so Maisie will be UK resident from 24 June 2024.

MARKING GUIDE

TOPIC	MARKS
Include total salary in taxable income	$\frac{1}{2}$
Deduct full personal allowance & explain why Deduct correct personal allowance & explain why	$\frac{1}{2}$
Calculate Maisie's tax liability	$\frac{1}{2}$
Calculate loan benefit using average method	1
Consider if Maisie would benefit from electing for the strict method to apply	$1\frac{1}{2}$
Overseas pension lump sum is fully taxable in the UK	1
Deduction for April 2017 value and explanation	$1\frac{1}{2}$
Consider whether 25% deduction applies & calculate taxable amount accordingly	2
Calculate the villa profit using the cash basis	1
Consider if Maisie would benefit from electing for the accruals basis to apply	2
Explain why Maisie is a UK resident for 2024/25	$\frac{1}{2}$
Explain why Case 6 is not relevant	$\frac{1}{2}$
State the conditions for split year cases 4 and 8 that are the same	$\frac{1}{2}$
State the additional conditions for case 4	1
State the additional conditions for case 8	1
Apply split year cases 4 and 8 to Maisie	1
Outline the conditions for split year case 5	2
State the conditions for the third automatic UK test	1
Apply split year case 5 to Maisie	$\frac{1}{2}$
Earliest start date takes priority	$\frac{1}{2}$
TOTAL	20

ANSWER 5

Value Shifting

The issue of shares in Trust Ltd to Helen will dilute and reduce the value of Linda's shareholding.

As Linda controls Trust Ltd and has exercised her control to issue shares to Helen, Linda will be treated as making a deemed part disposal of her shares for CGT purposes under the "Value Shifting" provisions at s29 TCGA 1992.

Linda and Helen are "connected persons" for CGT purposes so the disposal will be deemed to take place at market value.

The deemed disposal proceeds will be the market value passing into Helen's newly issued shares:

Market value of Helen's shares:	500 x £1,400 = £700,000
Less subscription price paid:	500 x £1 = <u>(£500)</u>
	<u>£699,500</u>

The base cost used to determine the capital gain will be calculated under the part disposal rules using the formula:

$$\text{Original Cost} \times (A / A + B)$$

where A is the deemed proceeds and B is the value of Linda's remaining shares. This will be calculated as:

$$£1,000 \times (£699,500 / £699,500 + (£1,800 \times 1,000)) = £280.$$

Linda's capital gain on a deemed disposal will therefore be:

Deemed Proceeds	£699,500
Less Base Cost	<u>(£280)</u>
Chargeable Gain	£699,220

Gift Relief

A claim for "gift relief" could potentially be made under s165 TCGA 1992.

For the purposes of s165, shares are business assets provided they are in an unquoted trading company.

A trading company is defined at s165A (3) TCGA 1992 as "...a company carrying on trading activities whose activities do not include to a substantial extent activities other than trading activities".

HMRC have historically viewed substantial to mean more than 20% of a company's activities being non-trading activities and have used the "20% test" against three core areas of a company's activities, namely;

1. Income from trading vs non-trading activities.
2. The asset base of the company.
3. Time spent and expenses incurred by the company's officers and employees in undertaking its activities.

Trust Ltd is a management consultancy company which is a trading activity.

However, it also holds an investment property which it lets to a third party. The value of the investment property makes up 50% of the company's net asset base (£700,000 / £1,400,000). The rents generated by the investment property represent 17% of total turnover (£100,000 / £600,000).

Time spent by Linda on the factory is minimal, at around 3 business days each year, and the expenses incurred on the factory are negligible in the context of the company's other activities. The lease is a full repairing lease, minimising the time and money the company could be expected to spend on the property.

Using HMRC's "20%" approach, the company would meet the first and third test but not the second. Further thought must therefore be given to the approach taken.

In the 2021 case of *Assem Allam v HMRC*, the Upper Tribunal disagreed with HMRC's strict numerical 20% approach and recommended a more holistic approach .

Trust Ltd is mainly a consultancy company as that is where the overwhelming majority of the company's human capital is employed. When all factors are considered, the investment property represents a relatively passive investment which has no discernible impact on the company's day to day activities.

The company should therefore be considered a trading company for the purposes of s165A.

However, as the company holds the factory as an investment a gift relief claim would be restricted by the fraction:

Gain eligible for gift relief = CBA/CA x Gain

Where CBA is the market value of a company's chargeable business assets and CA is the market value of a company's chargeable assets. A chargeable asset is an asset that, if sold at a gain, would result in a chargeable gain liable to corporation tax.

The s165 claim would therefore be:

$$£500,000 / (£500,000 + £700,00) \times £699,220 = £291,342$$

If a s165 claim was made, Helen's base cost for her shares would be:

Acquisition cost under market value rule:	£700,000
Less Linda's held over gain	<u>(£291,342)</u>
Base Cost	£408,658

A s165 claim must be made jointly between both Linda and Helen as donor and donee.

The time limit for making a s165 claim is 4 years from the end of the tax year in which the disposal occurs, which in this case would require a claim before 5 April 2029.

Business Asset Disposal Relief (BADR)

As Trust Ltd is a trading company, Linda could make a claim for BADR on either the full gain of £699,500 if she did not wish to make a s165 claim or on the element of the gain that was not covered by gift relief of £291,342. This is because, for a continuous 2 year period ending at the date of the deemed disposal Linda has met the conditions laid out at s169I (6) TCGA, as

- Trust Ltd has been Linda's personal company and;
- she has been an officer of the company.

A BADR claim would result in Linda's gain on the deemed disposal being taxed at a flat rate of 10%.

A claim for BADR must be made by the first anniversary of the 31 January following the end of the tax year of the deemed disposal, ie 31 January 2027.

Employment Related Securities (ERS)

Helen is an employee of Trust Ltd and has acquired shares in the company so the ERS legislation could apply in which case Helen would be liable to income tax on £699,500. There would not be a liability to national insurance provided there were no arrangements in place for Helen to sell her shares as the shares are not readily convertible assets.

There is an exception from the ERS legislation for shares acquired in the normal course of family, domestic or personal relationships rather than by reason of employment. As Linda and Helen are mother and daughter and the shares are issued as part of Linda's desire to hand over the business rather than as a reward for services the exception should apply and no income tax charge under the ERS legislation should arise.

MARKING GUIDE

TOPIC	MARKS
Identify s29 value shifting	1 ½
Connected persons / market value rule	1
Deemed proceeds - value passing into shares	1
Base cost – $A / (A + B)$	1
A = deemed proceeds. B = remaining shares	1
Calculation of capital gain	1/2
Identify potential s165 claim	1
S165 – trading company requirement	1/2
Analysis of company's activities:	
Turnover	1
Asset base	1
Officer & employee time and expenses	1
Holistic approach – Assem Allam v HMRC	1
Conclusion	1
Identify restriction for non-business assets	1
Calculate gain eligible for gift relief	1
Effect of s165 claim on Helen's base cost	½
State s165 is joint election	½
State time limit for making claim	½
Potential BADR claim	1
BADR conditions	1
Identify ERS issues	1
ERS exception in normal course of family relationships	1
TOTAL	20

ANSWER 6

£400,000 Gift to Son

There are no immediate tax consequences of the gift of £400,000 cash.

However, the gift of £400,000 by Mr Singh to his son following the sale of The Lodge has been used to acquire assets from which Mr Singh can benefit. The Pre-Owned Assets (POA) rules will therefore apply in the first instance to impose an income tax charge on Mr Singh.

The benefit is calculated with reference to the annual market value rent of the property, apportioned where a donor has not had the use of an asset for a full tax year. The 2024/25 POA charge on The Croft will be $£14,400 \times 8/12 = £9,600$.

The income tax due on the POA charge will be $£9,600 \times 40\% = £3,840$.

The POA charge is taxed as non-savings income and should be declared on Mr Singh's self-assessment tax return.

Mr Singh could make an election under FA 2004, Sch 15, para 21 to prevent an income tax charge under the POA rules and instead be treated as having made a gift with reservation of benefit under the IHT rules. The election must be made no later than 31 January following the end of the tax year in which an individual first becomes liable to the POA charge and must be made on an asset-by-asset basis.

£1,000 Gift to Charity

Mr Singh received concert tickets after making the donation to charity.

For tax relief to be obtained on a donation, neither the donor nor anyone connected with them can receive any benefit in consequence of making the gift. However, this rule does not apply where the value of benefits fall within certain limits. These are:

- A benefit worth 25% of the total gift, where the gift is £100 or less
- A benefit worth £25 plus 5% of the excess value of the gift, where the gift is more than £100

Mr Singh received a benefit worth £120. The maximum benefit Mr Singh could have received for the donation to qualify for tax relief is $-(£900 \times 5\%) + £25 = £70$.

The charity will therefore be unable to claim Gift Aid on the donation and Mr Singh will not be able to claim higher rate tax relief on his tax return.

Gift of Shares in ABC plc

Tax relief for a gift of shares quoted on a recognised stock exchange is obtained by deducting the value of the gift in a taxpayer's income tax computation in the year the gift is made.

Mr Singh will be entitled to a deduction based on the market value of the shares at the date of the gift - $1,000 \times £4.90 = £4,900$.

Mr Singh's income in 2024/25 totals £69,600, made up of £50,000 pension income, £10,000 property income and a POAT charge of £9,600.

The deduction of the market value of the shares will therefore give rise to tax relief at the higher rate of £4,900 x 40% = £1,960

Gifts of assets to charities are treated as taking place on a no gain and no loss basis for capital gains tax purposes.

MARKING GUIDE

TOPIC	MARKS
State no immediate tax implications of gift of cash	½
Identify Pre-Owned Assets charge applies	½
Calculation of Pre-Owned Assets charge	1
Calculation of tax on Pre-Owned Assets charge	½
State how Pre-Owned Assets charge is taxed	½
Identify option to elect for gift to be treated under GROB rules	1
Identify benefit received	1
State donor benefit limits	½
Calculate Mr Singh's benefit limit and state consequences	1
Identify tax relief on gift of shares given as deduction	1
Calculate deduction	½
Calculate tax relief on gift	1
State no gain no loss treatment for CGT purposes on gift of shares to charity	1
TOTAL	10