Institution **CIOT - CTA**
Course **APS IHT Trusts and Estates**

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Count(s)	Word(s)	Char(s)	Char(s) (WS)
Section 1	**4881**	**21691**	**26386**
Total	**4881**	**21691**	**26386**

Report

To: Jean Macfarlane

From: Chartered Tax Advisers

Date: 30 April 2026

Subject: Advice on giving up lease and moving in with James or Emma and recommendations on potential gifts and Will

This report has been drafted for Jean Macfarlane (Jean) following her email dated 29 April 2026 with attachments and information held within our client file.

This report has been drafted based on the law and legislation in place as at 30 April 2026.

This report has been drafted for Jean based on the information that she provided us with and should not be relied upon by any other individual.

This report covers the implications of Jean moving in with either Emma Macfarlane (Emma) or James Macfarlane (James), the potential gift of 3A Turney Road to James and whether any changes should be made to your Will.

Executive Summary

Based on the current valuations of Jean's assets, her estate will be subject to an Inheritance Tax liability of £360,400 on her death.

Jean should move in with James once her lease comes to an end in July 2026. By moving in with James instead of Emma, Jean would avoid an annual pre-owned assets tax charge of £19,200. If Jean moved in with Emma, then the pre-owned assets tax charge would significantly reduce her estate.

If Jean were to pay the pre-owned assets tax charge then she may need to sell assets within her estate to assist with paying the charge as well as her care fees. This could result in a Capital Gains Tax liability.

The gift of £30,000 to James to renovate the ground floor of his property would be a potentially exempt transfer. After deducting the annual gift allowances available, the potentially exempt transfer would be £24,000.

On the basis, that Jean survives for the next 2 years, the value of the potentially exempt transfer will fall within her available nil rate band of £325,000 on her death. This would mean that there would not be an Inheritance Tax liability for James on Jean's death.

Jean should amend her Will so that 3A Turney Road is left as a legacy to James. This means that 3A Turney Road would be charged to IHT on her death but the property will qualify for Business Property Relief at a rate of 50%.

Retaining 3A Turney Road within Jean's estate instead of gifting it to James during her lifetime, will result in an Inheritance Tax saving of £49,476.

James will receive 3A Turney Road at probate value on Jean's death which will give him a higher base cost when he comes to sell the property. This will reduce the Capital Gains Tax liability when he comes to sell the property.

Capital Gains Tax of £102,000 will be saved by retaining 3A Turney Road within Jean's estate and leaving it to James via her Will.

Jean should amend her Will to leave her residuary estate on a qualifying interest in possession trust to her grandchildren in equal shares. The Trust can still give them a right to capital at age 25 but this will not result in an Inheritance Tax exit charge as their share of the Trust is already deemed to form part of their estate.

By leaving her estate on a life interest trust for her grandchildren, Jean's estate will qualify for the downsizing addition which will result in additional relief of £350,000 on her death. The downsizing addition is available as Jean is leaving an outright interest in her estate to her grandchildren on her death. This interest can be quantified.

By amending her Will to leave her estate to her grandchildren on a life interest trust, Jean will save IHT of £142,400.

Jean should contact her Solicitor to amend her Will as soon as possible. We are unable to assist with this as the writing of a Will is a reserved legal activity.

Section A: Current Exposure to Inheritance Tax on Jean's death

Jean's estate will be liable to Inheritance Tax (IHT) on her death at a rate of 40%. Based on the current valuations of Jean's assets, her estate is worth £1,921,000.

She had made a gift of £500,000 to Emma on 3 August 2020. This was a potentially exempt transfer (PET) so there was no IHT payable on the gift. If Jean survives for 7 years from the date of the PET, then this will not be subject to an IHT charge on her death.

Jean would need to survive until 3 August 2027, in order for there to be no IHT due on the gift to Emma as at her date of death. On the basis that Jean should survive for the next two years, the gift to Emma should not be chargeable to IHT on her death.

If Jean were to die within 7 years from the PET to Emma, then taper relief would be available to reduce the IHT payable on Jean's death. Taper relief is available once 3 years have passed from the date of the gift at a rate of 20%. It increases by 20% each year until 7 years has passed and the gift falls out of charge.

As Jean should survive for 7 years fromn the date of the gift to Emma, she will have her full nil rate band (NRB) of £325,000 to offset against her estate. She is not avale to claim any unused NRB from her husband, Colin Macfarlane's (Colin), estate as his NRB was used on his death to leave assets to his children.

Jean does not own a property within her estate, as she sold her main residence in March 2019 in order to move into a flat with care support. Where a property, that has been used as he deceased's main residence, is held within an estate and is left to lineal descendants, the estate can claim the Residential Nil Rate Band (RNRB).

However, as Jean did own a main residence in April 2015, but had to sell this and move into rented accomodation with care support, the downsizing addition may be available.

Jean is leaving her estate to her lineal descendants via her Will, being her grandchildren. However, as the estate is left to her grandchildren on a Discretionary Trust, they have no automatic right to the assets on Jean's death.

Jean's estate includes a 60% shareholding in Castle Galleries Ltd. These are shares in an unquoted trading company which Jean has held since the Company was incorporated

which was in 2000. She has therefore owned the shares for over 2 years, so Business Property Relief (BPR) will be available on her death.

BPR is available as Jean has unquoted trading company shares within her estate which she has held for 2 years. Jean will receive BPR at a rate of 100% on the value of the Castle Galleries Ltd shares so there will be no IHT payable on the shares within her estate.

Jean will also be able to claim BPR on 3A Turney Road. BPR is available as Jean has a controlling holding in Castle Galleries Ltd as she owns 60% of the ordinary share capital and she is letting the Company use the premises for exhibitions and selling artwork.

As Jean is allowing Castle Galleries Ltd to use 3A Turney Road since 2004, she will be able to claim BPR at a rate of 50% of the value on her death. The value chargeable to IHT on her death would be £275,000 (£550,000 x 50%).

Jean's chargeable estate after BPR is £1,226,000. The full NRB of £325,000 can be offset against this amount to leave a taxable estate of £901,000. This will result in IHT of £360,400 (Appendix 1) being payable on Jean's death.

This is based on the current valuations so is subject to change. The IHT position on Jean's death will be calculated based on the value of the assets at her date of death.

Section B: Tax implications of Jean moving in with Emma or James

Jean is thinking of moving in with either Emma or James as she is finding it difficult to manage full time in her flat.

Section B.1: Tax implications of Jean moving in with Emma

Jean gifted £750,000 to Emma on 8 April 2017 to help her purchase her first house. This gift was a PET for IHT purposes and as Jean has survived 7 years from the date of this gift, there will be no IHT to pay on the gift as at Jean's death.

Jean gifted a further £500,000 to Emma on 3 August 2020 which Emma used to purchase her current property, together with the sale proceeds from her original property. This PET may become chargeable to IHT if Jean does not survive until 3 August 2027.

If Jean moves in with Emma once her lease elapses in July 2026, Jean will be subject to a Pre-Owned Asset Tax (POAT) charge. The POAT charge is an income tax charge which will be based on the annual rental value of Emma's property.

As Jean provided Emma with cash of £500,000, which Emma used towards the purchase of her property, Jean will be deemed to benefit from assets she has given away during her lifetime.

If 7 years had passed between the date that Jean made the gift to Emma and Jean moving in then the POAT charge would not be levied. The cash that Jean gifted to Emma on 8 April 2017 was used towards the purchase of Emma's current property but as 7 years have passed since the date of the gift, the POAT charge will not be levied on this gift.

The POAT charge will be based on the annual rental value of Emma's property. Based on the information provided, the annual rental value of Emma's property is £144,000 ((£6,000 x 2) x 12 months).

However as Jean did not provide the full consideration for Emma's property, when it was purchased, the POAT charge will be reduced to £48,000 (£144,000 x 500,000/1,500,000).

This reflects the proportion of the cash that Jean gifted to Emma for the purchase of her current property.

As Jean is a higher rate taxpayer, the annual rental value would be taxed at her maginal rate of tax of 40%, which would result in an income tax charge of £19,200 (£48,000 x 40%).

This charge may be higher if the POAT charge takes your annual income above £100,000 as your personal allowance would then be tapered by £1 for every £2 above £100,000. If your income reaches over £125,140, then the POAT may be partly charged at 45%.

Jean could reduce her POAT charge by paying rent to Emma, however this would result in Emma needing to report the rental income on her personal tax return and paying income tax on the rental profit.

Alternatively, Jean could pay rent to Emma to cover any expenses that Emma incurs on the property. This would reduce Jean's POAT charge and would mean that Emma would not need to report any rental income as the income is covered by expenses in full.

The POAT charge would reduce the value of Emma's estate, but it could result in her having to sell her investment portfolio to fund the annual charge as well as her care fees. If she has to sell her investments, then this would result in a Capital Gains Tax (CGT) liability as her investments are standing at a gain.

- However, as Jean is moving in due to ill health, the POAT charge should not apply due to Jean moving in so Emma can assist with her care.

Section B.2: Tax implications of Jean moving in with James

The gift of £750,000 to James on 8 April 2017 to help him purchase his first house was a PET for IHT purposes and as Jean has survived 7 years from the date of this gift, there will be no IHT to pay on the gift as at Jean's death.

If Jean were to move in with James, then there would be no POAT charge as more than 7 years have elapsed since Jean gifted the cash to James for his first property. Jean has not made any further gifts to James since 2017 so there is no issue of there being a POAT charge.

James' property requires renovations for a new en-suite bathroom and some other ground floor renovations. The payment of £30,000 towards these renovations would be a PET by Jean.

Jean will benefit from the renovations whilst she is living with James but James will be able to benefit from the renovations after Jean's death.

Jean would be able to use her annual gift allowance for 2026/27 of £3,000 to offset against the PET. She would also be able to offset her annual gift allowance for 2025/26 of £3,000 on the basis that this has not been used on any other gifts.

This would result in a PET of £24,000 (£30,000 - £6,000). This would fall within Jean's NRB on her death so there would be no IHT payable by James on the failed PET.

Recommendation

Jean should move in with James in order to avoid a POAT charge of £19,200 each year. The POAT charge would significantly reduce her estate and may result in her having to

sell assets in order to pay her care fees.

The gift of £30,000 to James to renovate the ground floor of his property would be a PET. After deducting the annual gift allowances available, Jean would make a PET of £24,000.

On the basis, that Jean survives for the next 2 years, the value of the PET will fall within her NRB on her death. This means that James would not have an IHT liability on the failed PET when Jean dies.

Section C: Gifting 3A Turney Road to James

In order to equalise the gifts made to Emma and James, Jean would like to gift 3A Turney Road, Tunbridge Wells, TN3 4AH (3A Turney Road) to James.

Section C.1: Gift of 3A Turney Road to James during lifetime

A gift of 3A Turney Road to James during Jean's lifetime would be a PET so there would not be an IHT liability on the gift. However as Jean's life expectancy is expected to be around 2 years, the PET would become liable to IHT on her death.

Inheritance Tax Implications

A lifetime gift of 3A Turney Road by Jean is a PET. However, as Jean lets 3A Turney Road to Castle Galleries Ltd, she would be able to claim BPR at a rate of 50% on the gift.

BPR is available as Jean is the majority shareholder in Castle Galleries Ltd as she owns 60% of the ordinary share capital.

The PET will become chargeable on Jean's death as 7 years will not have elapsed since the gift of 3a Turney Road was made to James.

The BPR that was available on the PET during Jean's lifetime will be withdrawn on her death as 3A Turney Road does not qualify for BPR in it's own right.

BPR was only available to Jean as she was the majority shareholder of Castle Galleries Ltd and let the property to Castle Galleries Ltd free of charge. 3A Turney Road does not qualify for BPR on it's own as it is not relevant business property in James' hands.

Relevant business property includes a business or a share in a partnership, unquoted trading shares, quoted trading shares which gave the individual control of the company or land, buildings or plant and machinery used by a business in which the owner has a controlling holding. A controlling holding is more than 50%.

The BPR available on the PET would therefore be withdrawn as 3A Turney Road is not used by a business in which James holds the controlling holding. The value of the PET after BPR has been withdrawn would be £550,000. This is on the basis that Jean has used her annual gift allowance against the PET of £30,000 to James.

The full NRB would not be available to offset against the gift on the basis that the PET of £24,000 was made to James towards the renovations. This would reduce the available NRB to £301,000. This would result in an IHT liability of £99,600 (Appendix 2) on Jean's death.

There would be no taper relief available as is unlikely to survive for 3 years from the date of the gift. The IHT due on the failed PET would be payable by James.

Capital Gains Tax Implications

The gift of 3A Turney Road to James will also be a disposal for CGT purposes.

As James is Jean's son, the gift of 3A Turney Road to James will be a gift to a connected person. This means that the gift will be deemed to have been made at market value.

The sale proceeds for CGT purposes will therefore be £550,000. The base cost of 3A Turney Road is £125,000 which results in a gain of £425,000. As Jean uses her CGT annual exempt amount each year on quoted share disposals, this is not available to offset against the gain.

The gain will be taxed to CGT at 24% as Jean is a higher rate taxpayer. The CGT liability on the gift will therefore be £102,000 (Appendix 3). This would need to be reported on Jean's tax return for 2026/27 which needs to be submitted to HMRC by 31 January 2028. The CGT would also need to be paid by this date.

Alternatively, Jean and James could make a claim for gift relief on the gift of 3A Turney Road to James. Gift relief is available as Jean is gifting an asset which is used by her personal trading company in which she has the controlling holding.

Castle Galleries Ltd is Jean's personal trading company as she owns 60% of the ordinary shares and has the controlling holding.

If gift relief is claimed, then this would defer the gain made on the disposal of 3A Turney Road. Jean would not have a CGT liability on the gift but James would be deemed to receive 3A Turney Road at Jean's base cost of £125,000. This would result in a larger gain for James when he comes to sell 3A Turney Road.

The claim for gift relief would need to be made within 4 years from the end of the tax year of the gift. If the gift is made in the 2026/27 tax year, then the claim for relief would need to be made by 5 April 2031.

This is a joint claim so would need to be made by Jean and James.

There would be no Stamp Duty Land Tax due on the gift as Jean is making the gift to James for no consideration.

Section C.2: Gift of 3A Turney Road to James on Jean's death

Instead of gifting 3A Turney Road to James during her lifetime, Jean could instead leave the property to him on her death.

Inheritance Tax Implications

If Jean were to retain 3A Turney Road within her estate then it would be subject to an IHT charge on her death. However as Jean has the controlling shareholding in Castle Galleries Ltd, she would qualify for BPR at a rate of 50% of the value of 3A Turney Road on her death.

Jean could leave 3A Turney Road as a tax-free legacy on her death. This would mean that James would receive 3A Turney Road at it's current market value. The IHT due on 3A Turney Road would be payable from the residuary estate.

If all the recommendations are made, then the estate rate of IHT on Jean's death would be 18.227% (218,000/1,196,000 x 100). The estate rate is calculated based on the IHT

payable divided by the gross value of the estate after BPR has been applied.

The IHT due on 3A Turney Road would therefore be £50,124 (£275,000 x 18.227%). This would result in an IHT saving of £49,476 (£99,600 - £50,124) by leaving 3A Turney Road to James on Jean's death instead of during her lifetime.

Capital Gains Tax Implications

The value of 3A Turney Road would be uplifted to probate value as at Jean's death. As death is not an occasion of charge for CGT purposes, there is no CGT liability on Jean's death.

James would receive 3A Turney Road at probate value of £550,000. This would be his base cost for the property when he sells it.

James would have a higher base cost when he comes to sell the property which would result in a lower CGT liability for him when he sells the property.

Recommendation

Jean should amend her Will so that 3A Turney Road is left as a legacy to James. By leaving 3A Turney Road as a legacy to James, the property will qualify for BPR at a rate of 50% on Jean's death which will reduce the IHT payable by £49,476.

James will also receive the property at a higher base cost which will reduce the CGT liability when he comes to sell the property. This will save a CGT liability of £102,000, which would have been the CGT liability if Jean had gifted 3A Turney Road to James during her lifetime.

Jean should contact her Solicitor to amend her Will as soon as possible. We are unable to assist with this as the writing of a Will is a reserved legal activity.

Section D: Review of Will

Jean's Will currently leaves her estate on a discretionary trust for her grandchildren in equal shares. The Trust is a discretionary trust as the beneficiaries are not enitled to income or capital unless they attain the age of 25.

The Trustees do have discretion to appoint the income and capital to the beneficiaries before they attain the age of 25.

Jean has four grandchildren who are Luna De Simone (Luna), Marco De Simone (Marco), Cordelia Macfarlane (Cordelia) and Evelyn Denton (Evelyn). Cordelia is 18 and Marco turns 18 in March 2009 so he is likely to have attained majority prior to Jean's death.

Luna and Evelyn are both currently 14 so will still be minors as at Jean's death.

As the Trust is a discretionary trust, it will be liable to principal charges on every 10th anniversary of the Trust and will be subject to exit charge when capital is distributed from the Trust. Based on the current ages of the grandchildren, they should all have attained the age of 25 prior to the first 10 year anniversary of the Trust.

The exit charge will be calculated based on the initial value of the assets that enter the Trust, which will be 1B Meadow Hill Road, the bank accounts and Jean's stocks and shares. The BPR available on the 60 shares in Castle Galleries Ltd will not be available to

offset against the initial value of the Trust.

The maximum rate of IHT on an exit charge from a Trust is at a rate of 6%. This is reduced based on the number of complete quarters that have passed between the creation of the Trust and the date of exit. A complete quarter is a period of 3 months.

The income received by the Trust will be taxed at the rate applicable to Trusts, which is 45% for non-savings and savings income and 39.35% on dividend income. The tax paid would form a tax pool and any income distributions made would be come with a 45% tax credit attached.

The beneficiaries may be able to reclaim this tax credit on the basis that they are likely to be basic rate taxpayers as they are likely to be at school, college or university.

One of the assets within the Trust will be 1B Meadow Hill Road which is a property. Where land is held within a discretionary trust, it falls into the Crowe v Appleby principle.

This principle states that an undivided share of land does not vest with a beneficiary until all beneficiaries become entitled. This means that the grandchildren would not be deemed to receive 1B Meadow Road until Evelyn attains the age of 25.

At that time, all the beneficiaries would be subject to a potential CGT liability on the appointment of the land from the Trust. Gift relief can be claimed when assets are appointed from a discretionary trust, however as Luna, Marco and Cordelia would have all been deemed to receive their share of the Trust on their 25th birthday, they will be unable to claim gift relief on the CGT liability when Evelyn attains 25.

This could be avoided by the Trustees appointing the entire Trust out to the grandchildren

at the same time, such as when Cordelia attains the age of 25.

Alternatively, Jean could amend her Will and leave her residuary estate on a life interest trust for her grandchildren in equal shares. This would be a qualifying interest in possession (QIIP) for Cordelia, Luna, Marco and Evelyn. The Trust will be a QIIP as the grandchildren receive their life interest in the Trust on Jean's death.

By leaving the assets on a QIIP, the grandchildren would all be entitled to a 25% share of the income generated by the Trust. The Trust would be taxed at basic rate which is 20% for non-savings and savings income and 8.75% on dividend income.

The Trust could state that the capital of each beneficiaries share is appointed to them on their 25th birthday. When each grandchild attains the age of 25, they would receive their share of the assets. There would not be an IHT charge on the appointment as the assets are already deemed to form part of their estate as they have a life interest.

By leaving the estate on a life interest trust for her grandchildren, Jean's estate will also be able to claim the downsizing addition.

The downsizing addition is available as Jean had to sell her main residence to assist with care costs and her estate is left on a life interest trust to her lineal descendants being her grandchildren. The downsizing addition compares the RNRB that Jean would have received if she had still owned her main residence at her death to the RNRB that she receives on her death.

Jean would have been entitled to a full RNRB of £125,000 in March 2019 when she sold her property. She would have also been entitled to a transferrable RNRB from Colin's estate. The RNRB was not in existence as at Colin's death so would not have been

utilised. Jean is therefore entitled to a full RNRB and transferrable RNRB on her death.

Jean is therefore entitled to 100% of the RNRB on her death as her whole estate is being left to her lineal descendants. The IHT due on Jean's estate on he basis that the recommendations in this report are made would be £218,000 (Appendix 4). This is an IHT saving of £142,400 (£360,400 - £218,000)

Recommendation

Jean should amend her Will to leave her residuary estate on a qualifying interest in possession trust to her grandchildren in equal shares. The Trust can still give them a right to capital at age 25 but this will not result in an IHT exit charge as their share of the Trust is already deemed to form part of their estate.

By leaving her estate on a life interest trust for her grandchildren, Jean will save IHT of £142,400.

Appendices

Appendix 1 - Jean's current Inheritance Tax exposure on her death

			£	£
3A Turney Road, Tunbridge Wells, TN3 4AH			550,000	
Less: BPR at 50%			(275,000)	
				275,000

1B Meadow Hill Road				250,000
UK Current Account				23,000
UK Savings Account				178,000
60 Ordinary Shares in Castle Galleries Ltd			420,000	
Less: BPR at 100%			(420,000)	
				0
Stocks & Shares Portfolio				430,000
Stocks and Shares ISA				70,000
Total Estate				1,226,000
Less: Downsizing addition			(0)	
Less: NRB			(325,000)	
				(325,000)
Taxable Estate				901,000
IHT at 40%				360,400

Appendix 2 - IHT on gift of 3A Turney Road to James on Jean's death

			£	£
Market Value				550,000
Less: Annual Allowance 2026/27 (assumed used on PET of £30,000)				(0)
Less: Annual Allowance 2025/26				(0)

(assumed used on PET of £30,000)				
PET				550,000
Less: BPR at 50% (withdrawn)				0
PET				550,000
Less: NRB			325,000	
Less: Chargebale lifetime transfers made in prior 7 years			(24,000)	
				(301,000)
Taxable PET				249,000
249,000 x 40%				99,600

Appendix 3 - CGT liability on gift of 3A Turney Road to James

			£	£
Market Value				550,000
Less: Base Cost				(125,000)
Gain				425,000
Less: Annual Exempt Amount (used in full each year)				0
Taxable Gain				425,000
CGT at 24%				102,000

Appendix 4 - IHT exposure on Jean's death if Will amended to leave a life interest in her residuary estate to her grandchildren

			£	£
3A Turney Road			550,000	

Less: BPR at 50%			(275,000)	
				275,000
1B Meadow Hill Road				250,000
UK Current Account				23,000
UK Savings Account (178,000 - 30,000)				148,000
60 Ordinary £1 shares in Castle Galleries Ltd			420,000	
Less: BPR at 100%			(420,000)	
				0
Stocks and shares portfolio				430,000
Stocks and shares ISA				70,000
				1,196,000
Less: Downsizing addition (175,000 x 200%)			(350,000)	
Less: NRB			(325,000)	
Less: Chargeable lifetime transfers in 7 years prior to death			(24,000)	
				(651,000)
Taxable Estate				545,000
545,000 x 40%				218,000