The Chartered Tax Adviser Examination

November 2017

Taxation of Individuals

Advisory Paper

Suggested Solutions

Question 1

Briefing notes for meeting

Normally a non-UK resident individual is not subject to Capital Gains Tax (CGT) in the UK, even when the assets are situated in the UK.

The exceptions to this are where the asset is used for the purposes of a trade exercised through a branch in the UK and, since April 2015, where the asset being disposed of is UK residential property.

This charge on the disposal of residential property applies only to the increase in value after 5 April 2015 and the gain is generally calculated on the difference between the disposal value and the market value at 5 April 2015.

The taxpayer can choose to calculate this on a time apportionment basis, if it reduces the overall gain chargeable, or to pay tax on the whole of the gain taxed on normal principles.

In addition to the charges on non-UK residents, there is a provision which applies to individuals who become temporarily non-resident who sell assets whilst non-resident.

If the conditions are met, the gains are taxed in the year that residence is reassumed.

These provisions apply when:

- The period of non-residence is 5 years or less; and
- The period of non-residence follows a period where the individual was resident for at least 4 out of the 7 tax years immediately preceding the year of departure.

It does not apply to assets that were both bought and sold during the period of non-residence.

If the asset is residential property which has already been taxed on the person when non-resident, the additional gain would be taxed if the person is caught by the temporary non-residence rules.

In this case Ben is potentially caught by these provisions as he meets the conditions but Amanda is not because she has not been resident 4 out of the 7 years preceding the year of departure.

<u>Assets sold</u>

1. *Shareholding held by Ben*

The gain on the shares is £450,000 being the sale proceeds of £750,000 less the original cost of £300,000.

This will be subject to CGT in 2016/17 under the temporary non-residence rules.

On the basis of the information provided, Ben would qualify for Entrepreneurs' Relief on the sale of these shares.

However, he is out of time to claim the relief as the time limit for any claim is the first anniversary of the 31 January following the year of the qualifying business disposal. This would have been 31 January 2016.

2. *Antique painting owned by Ben*

The painting is a chattel but because it is not a wasting asset it is not exempt from CGT.

It would still be exempt from tax if the proceeds do not exceed £6,000 but this is not the case.

It can potentially qualify for a reduced gain as the gain is restricted to 5/3 x (gross proceeds less £6,000).

	£
Disposal value	8,200
Cost	(3,126)
Net gain	£5,074
Gain restricted to 5/3 x (8,200 – 6,000)	£3,666

3. Shareholding held by Amanda

This is not taxable in the UK as she does not meet the basic requirements for the temporary non-residence provisions to apply.

4. House owned by Amanda

The gain on this property is taxable on Amanda in 2016/17 despite arising in the period of non-residence in 2016/17 as it is residential property.

The gain is the lesser of two calculations, rebasing or time apportionment, with the possibility of choosing the standard calculation if that is beneficial.

Rebased

	£
Disposal value	340,000
April 2015 value	(320,000)
Net gain	£20,000

Time apportioned

	£
Disposal value	340,000
Cost	(190,000)
Net gain	150,000
Apportioned 13/66	£29,545

Apportionment based on total period being 66 months and period of ownership post April 2015 being 13 months.

The standard gain without time apportionment would be £150,000 (£340,000 - £190,000) so the best option is to use the rebased figure.

Since Amanda is not caught by the temporary non-residence rules, there would be no additional gain to consider when she returns to the UK.

5. Overseas property

This is not taxable in the UK because this property was bought and sold whilst Ben and Amanda were not resident although any gain would have been covered by principal private residence relief in any case.

Summary

Ben is taxable on the following gains in 2016/17:

Shares	£450,000
Antique painting	£3,666

Gains are treated as the top slice of income and since Ben is paying income tax at higher rates, these gains will be taxable at 20%.

The annual exemption is available.

The tax to pay is as follows:

	£
Total gains	453,666
Annual exemption	(11,100)
Chargeable gains	£442,566
Tax @ 20%	£88,513

This will be payable on 31 January 2018.

Amanda is taxable on the following gains in 2016/17:

Residential property £20,000

The annual exemption is available and all of the residual gain will fall within the basic rate band due to Amanda's level of income so will be taxed at 18% as this is residential property.

The tax to pay is as follows:

	£
Total gains	20,000
Annual exemption	(11,100)
Chargeable gains	£8,900
Tax @ 18%	£1,602

The tax on the residential property should have been identified with a return being submitted and tax paid within 30 days of the transaction, being 4 June 2016. However, provided Amanda was within self-assessment at that time she could have chosen to pay the tax by 31 January 2018 although the return should still have been submitted within 30 days.

Please do not hesitate to contact me if I can be of any further assistance.

Yours sincerely

Mr Tax Adviser

MARKING GUIDE

TOPIC	MARKS
No CGT on NR even on UK assets	½
Exceptions	½
Residential property rules post April 2015	½
Can use time apportionment as alternative	½
Temporary non-residence	½
Taxed when become resident	½
Conditions	½
Not if bought and sold whilst NR	½
Interaction between NRCGT and TNR rules	½
Ben and Amanda position	1
SHAREHOLDING – Ben	
Gain	½
Taxed	½
ER due	½
Out of time	1
PAINTING	
Not within chattels exemption	½
Not exempt as sale more than £6,000	½
Tapering may apply	½
Calculation	1
SHAREHOLDING – Amanda	
Not taxable	½
HOUSE	
Taxable anyway	1
Rebased calculation	1
Time apportionment calculation	1
Use rebased	½
No additional gain under TNR rules	½
FOREIGN PROPERTY – not taxable	½
BEN	
Gains and rate	1
Annual exemption	½
Tax	1
AMANDA	
Gain and tax	1
Payable	1
TOTAL	**20**

Question 2

Bean Counter Ltd
1 Surrey Way
London

Mr A Nightingale
150 Courthouse Street
London

November 2017

Dear Andrew

I am responding to your request for information about changes in your tax position.

Property purchase

The annual tax on enveloped dwellings (ATED) is designed to limit the attractiveness of holding UK residential property through corporate structures and it affects any non-natural person who holds such a property. A non-natural person includes a company and so the Utopian company may be affected.

It only applies to properties that are worth in excess of a minimum value which is now set at £500,000.

If the company is caught, there is a flat rate charge dependent on the value**.** For 2017/18 a property worth £1.5 million would be liable to a charge of £7,000. This would be reduced if the property is not held for the entire year when it would be pro-rated. If the property is to be purchased on 1 December 2017 the charge would be £2,333 (£7,000 x 4/12).

The charge is not levied where one of a number of reliefs applies.

One relief applies when there is a property rental business. However, this relief is only available if it is let to a third party on a commercial basis and is not occupied by the shareholders or anyone connected with them. It will therefore not apply if the family of the shareholders will be using the property and there is no third party letting. On the basis of the current facts, no relief would be available as there is to be no third party letting.

The charge applies from 1 April to 31 March each year. A return has to be made either by 30 April if the charge applies for the whole year or within 30 days of the charge being due; the tax is also payable at this time. In this case, the charge would apply from 1 December 2017 and the return would be due by 31 December 2017.

Furnished property portfolio

Landlords of residential property cannot claim capital allowances on the capital costs of furnishing the property. Since they can only claim a deduction against profits for revenue items under general principles, they can be significantly out of pocket if they have to incur capital costs.

However, following the abolition of the wear and tear allowance, there is a new relief called "replacement of domestic items relief" which gives some tax relief for certain capital expenses.

The conditions are:

- There is a property business which includes a dwelling
- Domestic items are replaced
- The expenditure is capital in nature and incurred wholly and exclusively for the rental business
- Capital allowances are not due
- It is not a furnished holiday letting business
- The asset is substantially the same as the asset it replaced

If these conditions are met, then there is a deduction for the cost of the replacement. Partial relief may be available if there is an improvement element but the improvement element is not allowable.

A domestic item is an item for domestic use such as furniture, furnishings, household appliances and kitchenware but not anything which is a fixture.

An item is treated as capital in nature in the first place if it is the replacement of an entirety rather than a repair or if it is an improvement to the asset.

The costs of redecoration and repair work will be allowable as normal revenue expenditure. The carpets, curtains, furniture and white goods will be relievable under the replacement of domestic items relief assuming that there is no element of improvement.

using the figures provided:

	Note		New (£)
Rent			43,056
Replacement of domestic items relief	1		(2,000)
Utilities etc. (695 + 3,056)			(3,751)
Repair and redecoration			(700)
Net profit			£36,605

Note:

1. Relief is calculated as £500 (cost of carpets and curtains) plus £500 (cost of white goods) plus £1,000 (cost of furniture)

There is a new requirement to retain records of costs incurred.

Please do not hesitate to contact me if you need any further information.

Yours sincerely

Mr Tax Adviser

MARKING GUIDE

TOPIC	**MARKS**
ATED	
Residenial property	½
Held by nonn natural person	½
£500,000 minimum value	½
Flat rate charge dependent on value	½
Charge for value of property here	½
Pro-rata charge calculated for current year	½
Reliefs are available	½
Types of relief available	½
Property investment precluded if occupied by connected parties	½
Not available now on basis of facts	1/2
Return	1
REPLACEMENT RELIEF	
No capital allowances due to specific legislation	½
Limited relief for capital expenses	½
Replacement relief introduced	½
Conditions	2
Cost of replacement allowed	½
Partial relief if improvement element	½
Definition of domestic item	½
Capital definition	1/2
Normal repairs/expenses not changed	½
Calculation of 2016/17 figures	1
Marks for identifying correct amounts allowed	1
PHS	1
TOTAL	**15**

Question 3

ABC Chartered Accountants
1 High Street
Anytown

Mr F Smith
2 The Avenue
Anytown

7 November 2017

Dear Frank

HM Revenue & Customs Enquiry

Thank you for meeting with me today. I set out below what we discussed and my proposed course of action to deal with the enquiry.

You have checked through your records and identified a £10,000 error in your rental income. I advise that you do a full check on all the records relating to your tax affairs for this year so that you are confident that this is the only error in your tax return. Failure to notify all errors in your tax return at this stage will result in much higher penalties if further inaccuracies are discovered later.

We will then write to HM Revenue & Customs (HMRC) and advise them of our findings, along with explanations as to how the errors arose. If the error is confirmed as £10,000, then I calculate that this will result in further tax of £5,800 being payable (please see appendix 1). If you have made payments on account for 2016/17, then these will also increase by £2,900 each.

The due date for this additional tax was 31 January 2017, so you will also be liable to interest on this figure from 31 January 2017 to the date that the tax is paid. You will have 30 days to make payment of the tax once the amount is agreed and if you are late, a 5% late payment penalty will be added.

It is likely that HMRC will seek to charge a penalty for an incorrect return. As they found the error, this will be classified as a "prompted disclosure", which results in a higher penalty than if you had spotted the error and corrected it yourself.

Behaviour and associated penalties are divided into three categories as follows:

Careless	15% - 30% of additional tax due
Deliberate but not concealed	35% - 70% of additional tax due
Deliberate and concealed	50% - 100% of additional tax due

If you did not take "reasonable care" when preparing your return, but you did not intentionally under-report the income, your error may be held to be "careless". You are expected to keep proper records which will enable you to prepare a complete and accurate return. If you deliberately under-reported, or that you not only deliberately under-reported the income but also tried to conceal it by paying it into a separate account so it was hidden, then you may be liable to the higher penalty levels.

If you are able to argue that you had a reasonable excuse for the error, we could appeal against the penalty. A reasonable excuse is "an unexpected or unusual event that is either unforeseeable or beyond the person's control and which prevents the person from complying when they otherwise would have done". HMRC have a limited view of what constitutes a reasonable excuse, but if you believe that there were any unusual circumstances which should be taken into account, please let me know.

You have explained to me that the error arose because you forgot that some rent was paid into a separate account. If this explanation is accepted, I would expect this to be viewed as a careless error. This will result in a penalty in the range £870 to £1,740.

The “quality” of the disclosure you make will be taken into consideration. You should therefore ensure that you provide full and accurate information to HMRC promptly to keep the penalty to a minimum.

Once the penalty has been decided, if it is held that the error arose due to careless behaviour, we may be able to have the penalty suspended by setting certain conditions which you would have to comply with. This would mean that you would only have to pay the penalty if you breach any of the set conditions.

I trust that this clarifies the situation for you. Please contact me as soon as possible to agree the next step.

Yours sincerely
Tax manager

Appendix
Additional tax due for 2015/16

Income as previously reported		£
Employment income		85,000
Rental income		14,000

		99,000
Less: personal allowance		10,600

Taxable income		88,400
		=====
Tax due at 20%	31,785	6,357
Tax due at 40%	56,615	22,646

Total tax due		29,003
		=====
Amended tax calculation		
Employment income		85,000
Rental income		24,000

		109,000
Personal allowance	£10,600 – (£9,000/2)	6,100

		102,900
		======
Tax due at 20%	31,785	6,357
Tax due at 40%	71,115	28,446

Total tax due		34,803
		=====
Additional tax due	£34,803 – £29,003	5,800

MARKING GUIDE

TOPIC	MARKS
Presentation & higher skills	1
Full disclosure required of all errors	1
Calculate restriction of personal allowance	1
Calculate additional tax now due	1
Increase to POAs	1
Interest due from 31 Jan 2017	1
Additional tax payable within 30 days of issue of notice	½
Late payment penalty if not paid within 30 days of issue of notice	1/2
Prompted disclosure	1
Behaviour categories – different penalty rates	1
Calculation of likely penalty/discuss likely penalty %	1
Careless versus deliberate	1
Reasonable excuse	1
Penalty affected by quality of disclosure	1
Possible suspension of penalty	1
Conditions to ensure future returns are accurate	1
TOTAL	**15**

Question 4

Training notes – The General Anti-Abuse Rule (GAAR)

When Governments introduce legislation there is sometimes the possibility that it will be used to produce outcomes that were not intended. Further legislation is therefore required to ensure unintended tax advantages are not obtained and these are known as targeted anti-avoidance rules (TAARs).

However, TAARs can only deal with circumstances that the Government is aware of, or can foresee and therefore to avoid the need to constantly introduce more legislation, Finance Act 2013 introduced the General Anti-Abuse Rule (GAAR). The GAAR can only apply to tax arrangements that are abusive.

The aim of the legislation is to deter both taxpayers and promoters from entering into, or promoting, abusive tax planning schemes.

The GAAR is not intended to impact on standard tax planning.

The legislation includes a list of indicators that would suggest the arrangements are abusive or non-abusive. Examples of non-abusive arrangements would be actions in line with accepted standard practice.

The GAAR legislation includes a number of safeguards to protect the taxpayer.

It is up to HM Revenue & Customs (HMRC) to prove that a particular arrangement is abusive. When a case is identified, it will be referred to the specific GAAR team within HMRC and reviewed by a panel. HMRC are required to apply a double reasonableness test when considering whether the GAAR should apply. This requires HMRC to be able to show that the arrangements entered into 'cannot reasonably be regarded as a reasonable course of action'.

If it is decided it does apply, HMRC are required to substitute an alternative in place of the event that actually took place on a just and reasonable basis. This will not necessarily be the event that results in the highest tax liability.

Taxpayers need to take GAAR into account when completing self-assessment returns, there is no clearance procedure.

For arrangements entered into from 15 September 2016, if a taxpayer submits a return which is subsequently subject to a counteraction adjustment, a penalty of 60% of counteracted tax is payable, 30 days.

MARKING GUIDE

TOPIC	MARKS
Use of targeted anti-avoidance legislation	1
GAAR introduced in Finance Act 2013 applies to abusive tax planning schemes	1
To deter taxpayers and promoters	½
Not intended to impact on standard tax planning	1
Legislation includes list of indicators and example of at least 1	1
HMRC must prove arrangement is abusive	½
Cases referred to review panel	½
Double reasonableness test	½
Courts or Tribunals can take into account relevant information as to the purpose of the legislation	½
Substitution of alternative	1
Not necessarily largest tax liability	½
Taxpayers need to consider when completing self-assessment tax return	1
Penalty of up to 60% of counteracted penalty	1
TOTAL	10

Question 5

Simon

	Working			NSI	SI	DI
		£		£	£	£
Gross salary				135,000		
Car allowance				6,000		
Commission				35,000		
Childcare vouchers	1			0		
Club membership	2			450		
Medical insurance				750		
Loan	3			180		
Round sum allowance				1,000		
Photographic equipment	4			600		

				178,980		
Less:						
Expenses				(950)		
Mileage	5			(3,200)		
Professional subscriptions	6			(500)		
Bank interest					2,000	
Dividend income	7					10,000
				-----------	--------	---------
Total		186,330		174,330	2,000	10,000
		======		======	=====	=====
Tax due						
On non-savings income:						
At basic rate	8	53,000	20%	10,600		
At higher rate		118,000	40%	47,200		
At additional rate		3,330	45%	1,499		
On savings income						
At additional rate		2,000	45%	900		
On dividend income						
Dividend allowance		5,000	0%	0		
At additional rate		5,000	38.1%	1,905		
Annual allowance excess tax charge	9	28,165	45%	12,674		
		---------		----------		
		214,495		74,778		
		======				
VCT Relief	10			(3,000)		

				71,778		
Deducted at source				(58,000)		
Add - Underpayment of tax from 2014/15				1,500		

Total tax due				£15,278		
				=====		

The tax is payable by 31 January 2018.

Simon can elect for the annual allowance excess tax charge to be paid from the pension scheme as the total charge exceeds £2,000. Elect by 31 July 2018.

Workings

1 For an additional rate taxpayer, childcare vouchers of up to £25 per week provided by an employer are exempt from income tax.

2 The golf club membership will normally be a taxable benefit because Simon does not need to be a member of the club to perform his duties of employment (Brown v Bullock) and he could also benefit from the membership outside of work, even if he chooses not to. If it can be shown that the only reason for membership of the golf club is for the purposes is for the purposes of the employment, then it may just be possible to claim an exemption (Elwood v Utitz)

3 Interest free loan

		£
Loan advanced		15,000
Repaid in year	6 x 1,000	(6,000)
Balance at 5 April 2017		9,000
Interest at 3% p.a. of average loan	(15,000 + 9,000)/2 x 3% x 6/12	£180
		====

4 Photographic Equipment

		£
Value when first made available		1,000
Taxable benefit in 2015/16	20% of value	(200)
Taxable benefit from 6/4/16 – 5/7/16	3/12 x 20% x £1,000	(50)
Amount paid by Simon		(200)

Taxable benefit on transfer of asset		550
		====
Total taxable benefit for 2016/17		600
		===

5 Mileage

ITEPA mileage rates	£
10,000 miles at 45p per mile	4,500
2,000 miles at 25p per mile	500

	5,000
Reimbursed by Jay Ltd – 12,000 miles at 15p per mile	(1,800)

Further relief due on	3,200
	=====

6 Professional subscriptions on HM Revenue and Customs' list 3 are deductible from taxable income.

7 Dividend Income

		£
Dividends from UK companies		9,000
Taxable dividends from VCT	£5,000 x 50,000/250,000	1,000
Total taxable dividends		10,000

8 Basic rate band extension

		£
Basic rate band		32,000
Gift aid donations	800/80% x 100%	1,000
Pension contributions	16,000/80% x 100%	20,000

		53,000
		======

9 Pension annual allowance excess tax charge

Threshold income	£
Total income as above	186,330
Less: personal pension contributions	(20,000)

In excess of £110,000	166,330
	======

Adjusted income:		£
Total income as above		186,330
Employer pension contributions		20,000

		£206,330
		======
Tapered annual allowance:		
Pension annual allowance		40,000
Less: income adjustment	(206,330 – 150,000)/2	(28,165)

		£11,835
		======
Excess charge:		
Simon’s contributions (gross)		20,000
Employer contributions		20,000
Total contributions		40,000
Less: tapered annual allowance		(11,835)
Excess		£28,165
		======

10 VCT relief

£10,000 at 30%	£3,000

MARKING GUIDE

TOPIC	**MARKS**
Childcare vouchers not taxable	1
Golf club taxable (Brown v Bullock)	1
Unless Elwood v Utitz could apply	1
Calculate loan benefit	1
Round sum allowance including deduction of business expenses	1
Photographic equipment use of asset BIK	½
Photographic equipment transfer of asset BIK	½
Calculate mileage deduction	1
Professional subscription deductible	1
Calculation of taxable VCT dividend	1
Correct total taxable income	1
Basic rate band extension	1
No personal allowance as fully restricted	½
Threshold income exceeds £110,000	½
Total adjusted income for pension calculation	1
Excess pension contributions	1
Annual allowance excess tax charge	1
Correct tax on NSI	1
Correct tax on SI	1
Correct tax on dividends	1
Deduct correct VCT relief	1
Can elect for pension scheme to pay excess tax charge	1
TOTAL	**20**

Question 6

Briefing note to tax manager re Mr Balt and potential remittance basis claims for 2016/17 and 2017/18

1) *Remittance basis*

Individuals who are UK resident but not UK domiciled are able to make a claim under s 809B ITA 2007 to be assessed on the remittance basis of taxation. This is an annual claim that relates to a single tax year.

If a claim is made, the individual will only be assessed on foreign income when it is brought into the UK.

If a claim is not made, they will be assessed on their income and gains on an arising basis.

If a claim is made, the individual will lose their personal allowance and annual exemption. In addition, a remittance basis charge of £30,000 is payable once an individual has been resident for any part of 7 out of the previous 9 tax years. This rises to £60,000 once resident for any part of 12 of the previous 14 tax years and to £90k for 17 out of 20 years. If the charge is paid directly to HMRC this will not be treated as a taxable remittance.

If the total unremitted income and gains for a year are less than £2,000, the remittance basis applies automatically under s809D ITA 2007 and no claim is required. The individual will not lose their personal allowance or annual exemption.

When an individual is assessed on the remittance basis of taxation, it is necessary to identify the source of the funds being remitted into the UK. When funds are transferred into the UK from an account containing multiple sources, there are strict rules set out in s809Q ITA 2007. However, all funds will be taxed at the non-savings income rates.

Similarly, where funds are transferred between offshore accounts, there is a strict rule that the transfer is a proportion of each source of funds within the account (s809R ITA 2007)

As Mr Balt has been resident in the UK for the previous 13 tax years and has over £2,000 of unremitted income and gains, if he is assessed on the remittance basis for 2016/17 he will be subject to the remittance basis charge of £60,000.

Mr Balt will need to nominate a source of income or capital gains to allocate the remittance charge to. If this nominated amount is ever remitted into the UK, all Mr Balt's offshore accounts will be treated as a single mixed fund.

As Mr Balt has brought funds into the UK from an account containing multiple sources of income and capital (Account 1), it will be treated as a mixed fund.

The transfer of funds into the joint account will be treated as a proportion of each source within the account based on the proportion of the total funds in the account as at the date of transfer.

The remittance into the UK following that transfer will be treated as being in the following order:

- UK employment income
- Bank interest
- Dividends

Therefore the amounts Mr Balt will be treated as remitting into the UK during 2016/17 will be as follows:

	Total	Capital	Earlier years' income	Current year employment income	Interest	Dividends
	£	£	£	£	£	£
As at 19 December 2016	788,320	250,000	20,000	18,000	320	500,000
Transfer to joint account 20 December	(225,000)	(71,354)	(5,708)	(5,138)	(91)	(142,709)
Balance	563,320	178,646	14,292	12,862	229	357,291
Remittance 22 December	(20,000)			(12,862)	(229)	(6,909)

Mr Balt will be taxable in 2017/18 on the deemed remittance of the proceeds from the sale of his overseas property during 2016/17 as the remittance basis continues to apply to income and gains that arose during that year even if remitted in a year when the arising basis is used.

2) *Taxable income & gains*

Mr Balt is taxable in the UK on his total employment income as it arises and so it will only be the overseas interest and dividends that are taxed under the remittance basis. Making a claim will mean he loses his personal allowance and capital gains annual exemption. As his income exceeds £122,000, he will lose his personal allowance for 2016/17 if taxed on the arising basis.

Mr Balt will be assessed on the interest remitted of £229 and the net dividend before foreign tax of £6,909. The foreign tax credit available will be £363 and the gross taxable amount will be £7,272.

Provided Mr Balt does not intend to bring any further funds from 2016/17 into the UK it will be beneficial to claim the remittance basis of taxation for 2016/17 due to the £500,000 dividend received in the year. The tax liability on the unremitted dividends if Mr Balt was assessed on the arising basis would exceed the £60,000 remittance basis charge

When preparing the 2016/17 tax return, as this will be the first year Mr Balt claims the remittance basis, he will need to consider whether to make a foreign capital losses election.

If he does not make the election future losses on foreign assets will not be available even if they arise in a year where he is taxed on the arising basis. If an election is made, all losses (both UK and overseas) will be offset against gains in the following order:

i) Overseas gains remitted to the UK during the year;

ii) Overseas gains not remitted to the UK;

iii) UK gains.

Mr Balt will need to consider what future gains and losses may arise as the election is irrevocable but based on the disposals during 2017/18, an election would be appropriate.

Making the election would result in a loss of £20,000 being available to carry forward: £20,000 gain less £40,000 loss.

The annual exemption cannot be used against the remitted gain if a foreign capital losses election is made.

If he does not make the election, the £40,000 loss will be wasted and the £20,000 gain would remain taxable, although this would be partly offset by the annual exemption.

For 2017/18, as Mr Balt's income and capital gains have reduced significantly it will not be necessary to claim the remittance basis for the year.

MARKING GUIDE

TOPIC	MARKS
UK resident and not domiciled individuals can elect for remittance basis	0.5
Remittance basis charge payable if resident for at least 7 of previous 9 tax years	0.5
RBC can be paid to HMRC directly from an offshore account without triggering a taxable remittance	1
Applies automatically if unremitted income and gains less than £2,000	0.5
If no claim is made assessed on the arising basis	0.5
Remitted income taxed as non-savings income	0.5
Specific rules for mixed fund accounts	1
Transfer to joint account proportion of all funds in account at that date	1
Remittance basis charge payable of £60,000	0.5
Nominate income or gains to set remittance basis charge against	0.5
Single mixed fund including all accounts if nominated funds remitted	0.5
Setting out order of funds remitted into UK – employment income, interest then dividends	1
Split of funds in Mr Balt's account as at 19 December	1
Amounts transferred to joint account	0.5
Amount of employment income and interest remitted on 22 December	0.5
Amount of dividends remitted on 22 December	1
Proceeds from overseas property sale deemed to be remitted in 2017/18	1
Employment income taxable on arising basis	1
Would lose personal allowance on arising basis due to level of income	0.5
Taxable interest of £229	0.5
Taxable gross dividend of £7,272	0.5
Remittance basis claim beneficial for Mr Balt	0.5
Capital loss election needs to be considered for 2016/17	1
Order of offsetting of UK and overseas losses if election made	1
Loss of election for foreign losses in future years if election not made even where arising basis used	0.5
£20,000 carried forward from 2017/18 if election made or £20,0000 gain for 2017/18 before annual exemption if election made	0.5
Annual exemption cannot be offset against property gain	1
Remittance basis claim not required for 2017/18	1
TOTAL	**20**