THE ADVANCED DIPLOMA IN INTERNATIONAL TAXATION

December 2023

MODULE 2.09 – UNITED KINGDOM OPTION

SUGGESTED SOLUTIONS

PART A

Question 1

Part 1

To: Finance Director, Bottle Cap Group
From: Tax Adviser

Overview of Anti-Hybrid Mismatch Rules

The legislation was introduced in the UK and is based on the Organisation for Economic Co-operation and Development (OECD) recommendations in relation to Action 2 of the Base Erosion Profit Shifting (BEPS) project. The legislation aims to neutralise the tax mismatch created under these arrangements by altering the tax treatment of either the deduction or the receipt, depending on the circumstances. The rules are designed to work whether both the countries affected by a cross-border arrangement have introduced rules based on the OECD recommendations, or just the UK.

The rules apply to payments made by entities subject to UK corporation tax and can cover a wide range of scenarios, including debt instruments, hybrid entities, and hybrid transfers.

There are two main types of hybrid mismatches:

- Deduction/Non-Inclusion Mismatches - Where a payment is deductible in one jurisdiction but not included in taxable income in the other.

- Double Deduction Mismatches - Where a payment is deductible in both jurisdictions.

The UK's hybrid mismatch rules also include mismatches involving permanent establishments, and rules that counter hybrid mismatches where a hybrid entity is in a territory with no corporate income tax. Hybrid mismatch outcomes can arise from hybrid financial instruments and hybrid entities, and from arrangements involving permanent establishments. They can also arise from hybrid transfers and dual resident companies.

There are counteractions, which arise from the anti-hybrid rules and will depend on whether the company is a payer or payee within the charge to UK corporation tax for the period. Where the mismatch relates to payer, the deduction for UK corporation tax purposes is restricted by the amount equal to the mismatch. Whereas, a payee can treat the relevant amount of the mismatch as income of the payee in the counteraction period in relation to the mismatch.

Part 2

Option A

As the dividend is taxable by Cupful Inc in the US however the dividend payment is not deductible for corporation tax purposes in the UK.. This transaction results in an inclusion/ non-deduction and the anti-hybrid rules need to be considered. As a result of there being no deduction in the UK, there should be no impact on the payments by the anti-hybrid mismatch rules.

Option B

As Cap Limited is treated as a transparent entity in the US, it is effectively a look through entity in the UK.

There are five conditions which need to be met where the payer, being Cap Limited, is a 'hybrid payer':

1) There is a payment or quasi payment under, or in connection with, an arrangement. This condition is met, as there is a loan being provided between the entities.

2) The payer is a hybrid entity. Cap Limited would be deemed to be a hybrid entity, because HMRC defines a hybrid entity as an entity that is regarded as a person for tax purposes under the law of any territory, and any of the income or profits of the entity are treated by any territory wholly or partly as the income or profits of a different person, or the entity is not regarded as a separate person for tax purposes under the law of a different territory. As Cap Limited is treated as transparent in the US, Caps Inc and Cap Limited would not be regarded as separate for tax purposes in the US.

3) Either the hybrid payer or a payee is within the charge to UK corporation tax, as Cup Limited is subject to UK corporation tax this condition is met.

4) It is reasonable to suppose that there would be a hybrid payer deduction/non-inclusion mismatch if it were not countered by this legislation or equivalent legislation outside the UK. Therefore this condition is met.

5) The hybrid payer and a payee are in the same Group – again this condition is met.

The interest income would not be treated as taxable in Caps Inc, therefore a restriction under the anti-hybrid mismatch rules would apply in respect of the interest payment in Cap Limited. The counteraction that will occur in Cap Limited, will be that the interest payment will be limited to the quantum of the anti-hybrid mismatch.

<u>Option C</u>

As the interest received by Deckel GmBh would be treated as taxable in the Germany, the payment being made by Cap Limited would not be a non-inclusion and deduction transaction. However, as the loan is being passed via Deckel GmBh, the imported mismatch rules could apply, resulting in a restriction under the anti-hybrid mismatch rules in Cap Limited.

Question 2

Part 1

An individual's UK tax residence is determined by the Statutory Residence Test. This is split into three parts: the automatic overseas tests, the automatic UK tests, and the sufficient ties tests which must be applied in order. The tests that apply depend on whether the individual is a 'leaver' (UK tax resident in at least one of the prior three UK tax years) or an 'arriver' (UK tax non-resident in all of the prior three tax years). We will apply these tests to Alisha and Neil's situations.

Alisha

Alisha is an 'arriver' and we can therefore disregard the first automatic overseas test. The second test states that she would be non-resident if she spent fewer than 46 days in the UK during the year. As she spent 100 days in the UK during 2023/24, this test is not met.

The third overseas test (full time work abroad) requires Alisha to have spent fewer than 91 days in the UK during the tax year which is again, not met.

We therefore consider the automatic residence tests. The first tests states that Alisha would be resident if she spent more than 183 days in the UK during the year which is not met.

The second UK test is the home test which states that she will be resident if we can find a 91-day consecutive period, only 30 of which need to fall in the tax year in question, where Alisha has a UK home and is present in it for at least 30 days during the tax year and either:

- Does not have an overseas home; or
- Has an overseas home but is present in it for fewer than 30 days in the tax year.

The legislation is not conclusive on what constitutes a 'home' and, for the purpose of the SRT, HMRC consider that a person's home is a place that a reasonable onlooker with knowledge of the material facts would regard as that person's home. As such, the UK rental apartment may not be considered as a home due to its temporary nature however Alisha retains access to an overseas home throughout the year and spends at least 30 days in it during 2023/24 so will not meet the home test.

The third UK test is the full-time work in the UK test. This requires there to be a 365-day consecutive period, only one day of which needs to fall in the tax year, where the individual exercises at least 75% of their working time in the UK with no significant breaks. As Alisha only spends 100 days in the UK, this will not be met.

We must therefore consider the sufficient ties tests. The ties are their application to Alisha are as follows:

- Work tie: Met if the individual has at least 40 UK workdays during the year which is the case.

- 90-day tie: Met if the individual has spent at least 90 days in either of the previous two tax years which is not met.

- Accommodation tie: Met if the individual has UK accommodation available to them for a continuous period of 91 days or more during the year and they spend at least 1 night in that accommodation which is the case.

- Family tie: Met if the individual's spouse, partner living together as a spouse, or child under 18 are UK tax resident. Alisha has a child under the age of 18 but only spends 4 weeks with them in the UK during the year. Therefore, as Alisha spends fewer than 61 days with the child in the UK during the year, this will not be a tie.

Alisha therefore has 2 ties and 100 days of UK presence. She would require at least 3 ties or at least 120 days of presence to be UK tax resident and is therefore non-resident for 2023/24.

Neil

Neil will also be an arriver and we can therefore disregard the first automatic overseas test. The second test states that he would be non-resident if he spent fewer than 46 days in the UK during the year. As he arrived in the UK on 1 January 2024, he will spend more than 46 days in the UK and therefore this test is not met.

The third overseas test (full time work abroad) requires Neil to have spent fewer than 91 days in the UK during the tax year which is met however he would also have to exercise fewer than 31 UK workdays which is not met.

We therefore consider the automatic residence tests. The first tests states that Neil would be resident if he spent more than 183 days in the UK during the year which is not met.

The second UK test is the home test which states that he will be resident if we can find a 91-day consecutive period, only 30 of which need to fall in the tax year in question, where Neil has a UK home and is present in it for at least 30 days during the tax year and either:

- Does not have an overseas home; or
- Has an overseas home but is present in it for fewer than 30 days in the tax year.

From 31 January 2024 onwards, we can find such a period and therefore Neil will be UK tax resident under the second UK test.

As Neil arrives in the UK during the tax year and is UK tax resident, we can consider the split year legislation to determine whether the tax year can be split into a period of UK tax residence and non-residence. There are 5 cases that can apply to individuals coming to the UK:

- Case 4: starting to have a home in the UK only
- Case 5: starting full time work in the UK
- Case 6: ceasing full time work overseas
- Case 7: The partner of someone ceasing full time work overseas
- Case 8: Starting to have a home in the UK.

Cases 6 and 7 can be disregarded as Neil was not previously UK tax resident (a requirement of case 6) and is single (a requirement of case 7).

Cases 4 and 8 will effectively yield the same result as there was no period during which Neil had multiple homes.

Neil will meet the conditions for Case 5 from his first UK workday (17 January 2024) which are as follows:

- Non-resident in 2022/23
- Starts to work in the UK and meets the conditions of the third UK test
- Doesn’t meet the sufficient ties test in the overseas part of the tax year.

Neil will also meet the conditions for Case 8 from when his UK home is available to him (31 January 2024) which are as follows:

- Non-resident in 2022/23
- Expected to be UK resident in 2024/25
- Starts to have a UK home during 2023/24 and continues to do so for the rest of 2023/24 and all of 2024/25
- Doesn’t meet the sufficient ties test in the overseas part of the tax year.

Neil will split the 2023/24 tax year from the earlier of meeting Cases 5 and 8 and will therefore become UK tax resident from 17 January 2024.

PART B

Question 3

To: Michaela
From: Tax Adviser

Dear Micheala

Further to our recent meeting, we have outlined below an overview of the UK's Controlled Foreign Company ('CFC') and outlining the impact on Quantum Innovations Limited and its UK disclosures.

The CFC rules are designed to prevent UK companies from artificially diverting profits to low-tax jurisdictions to avoid UK tax. The rules apply when a UK resident company holds a controlling interest in a foreign subsidiary, typically defined as owning 25% or more of the voting rights.

There are certain entity level exemptions that may apply to prevent profits from being attributed to the UK parent company under the CFC charge. These include:

- Low profits exemption: If the CFC's accounting profits are less than £500,000, the CFC charge does not apply.

- Excluded territories exemption: if the CFC is located in a territory that has a comprehensive double taxation agreement with the UK or is a member of the European Economic Area, and the CFC is not involved in certain types of activities, the CFC charge does not apply.

- Low margin exemption: this exemption applies if the CFC's accounting profits are (or the profit margin is) no more than 10% of its relevant operating expenditure. It includes relatively low value added functions that are undertaken outside the UK such as back office functions, local marketing and distribution operations, toll manufacturing, or call or data- processing centres.

- Tax exemption: this exemption applies where the local tax amount is greater than 75% of the corresponding UK tax (after deducting any withholding taxes suffered).

- Exempt period: this provides an entity-level exemption for CFCs that have come under UK control for the first time. The period of exemption is temporary, usually 12 months.

The CFC charge gateway needs to be considered where none of the above exemptions apply. There are five gateways which include profits attributable to UK activities (Chapter 4), non-trading finance profits (Chapter 5), trading finance profits (Chapter 6), captive insurance business (Chapter 7) and solo consolidation (Chapter 8).

As Quantum Innovations Limited wholly owns its overseas subsidiaries, it is subject to the CFC rules. All subsidiaries have been operating for more than 12 months so the exempt period exemption will not apply.

We understand that all the sales in Bermuda are intercompany to Quantum Leap Limited, andbecause there are only profits of £250,000 realised in Bermuda, the low profits exemption should apply as this is less that the annual limit of £500,000.

Long Leap Limited has profits of £2,750,000 therefore does not meet the low profits exemption, it also has margins of 60% which are over the low margins exemption of 10%. The tax rate is 9%, which is less than 75% of the UK's tax rate, meaning that the tax exemption does not apply either. Based on the information provided, it appears that there is little substance in UAE and there are only two employees. As a result, the CFC charge is likely to apply subject to considering the CFC gateways.

As Long Leap Limited does not meet any exemptions, it needs to consider the CFC charge gateway. The gateway operates to filter out CFC profits which will be liable to the CFC charge. Only CFC assumed taxable total profits which pass through the CFC charge gateway are liable to the CFC charge. If the conditions for a particular gateway are not met, then the CFC will have no chargeable profits arising from that chapter. As there is limited involvement by Long Leap Limited in the UAE, the gateway substance tests are likely not met, therefore we would envisage a CFC charge applying.

Evolve Quantum Limited provides administration services to Quantum Innovations Limited and only makes margin of 1%, which is below the 10% margin, therefore the low margin exemption should apply.

Advanced Quantum Limited should meet the tax exemption because the tax rate of 23% in France is more than 75% of the UK's main tax rate of 19%.

Broadly, the calculation of the CFC is based on the profits of Long Leap Limited as if they were subject to UK corporation tax. There is allowance for any UK tax reliefs that would be applicable, as if the company was a UK entity, such as capital allowances. Any dividend income and chargeable gains are excluded from the calculation. There is also no relief available from group relief or carried forward losses. The taxable profits are then subject to UK corporation tax, at a rate of 19%. The CFC charge based on profits of £2,750,000 would be £522,500, which would be declare on Quantum Innovations Limited tax return.

Question 4

An individual with working time in the UK will have UK sourced income which will be UK taxable in the first instance irrespective of their tax residence position. However, UK tax relief may be available under the double tax treaty that the UK has with the overseas country if the conditions of the treaty are met, namely:

- The individual is treaty resident in the overseas location; and
- The individual remains employed and paid by the overseas company; and
- The individual is not ‘economically employed’ in the UK.

Economic employment is a consideration of the facts and circumstances to determine whether the host entity in the UK bears the risk and reward of the individual’s duties in the UK. A recharge of costs from the overseas entity to the UK entity is a factor in determining economic employment however it is not conclusive.

The UK have a concession to the concept called the ’60 day rule’. This states that an individual will not be economically employed in the UK if they spend fewer than 60 days in the UK (any day on which the individual is present in the UK) during ‘linked periods’. Linked periods are defined as any periods during which the individual’s duties in the UK are connected and the individual can expect to be required to return to the UK for a connected purpose. Linked periods can therefore span multiple tax years and HMRC have not defined a maximum period over which linked periods can relate.

We will now apply this to the employees in question.

Ava

As Ava will be working in the UK for fewer than 60 days in isolation, she will meet the conditions of the 60 day rule and will not be economically employed in the UK. As Ava remains employed and paid by the Raritanian company, she will meet the conditions for treaty exemption and will not be taxable in the UK.

Billy

Billy will spend more than 60 days in the UK and so the 60 day rule cannot be utilised however, as his work in the UK will be for training, he will not be economically employed in the UK and therefore treaty exemption will be available. Billy’s duties do not benefit the UK entity and he is not delivering any substantive work on their behalf.

Ciara

Ciara will be present in the UK for more than 60 days and will be performing the duties of an individual who would’ve been employed by the UK entity. As such, her duties are integrated into the UK entity and she will be economically employed in the UK. This specific example is discussed in paragraphs 8.20 and 8.21 of the OECD commentary on Article 15 of the model double taxation agreements. Her UK workdays will therefore be UK taxable and a UK payroll obligation will exist from her first UK workday.

Daniel

Statutory directors of UK entities are deemed to be economically employed in the UK and cannot benefit from the 60 day rule. As such, Daniel’s UK workdays will not be eligible for treaty relief and a UK tax and payroll obligation will exist from his first UK workday.

PART C

Question 5

The Digital Services Tax (DST) applies to groups engaged in digital service activities. If the revenues derived from these activities exceed specific annual thresholds, the group is required to file DST returns and may be subject to DST payments.

For DST purposes, digital service activities encompass social media services, internet search engines, and online marketplaces.

The annual revenue threshold is £500 million in global revenue from digital services activities, with £25 million of these revenues attributable to UK users (referred to as UK digital services revenues).

An annual allowance is available for the initial £25 million of UK digital services revenues.

DST is typically assessed at a rate of 2% on UK digital services revenues that surpass the annual allowance.

The online marketplace definition includes both:

- the service enables users to sell particular things to other users, or to advertise or otherwise offer to other users particular things for sale, and

- the main purpose, or one of the main purposes, of the service is to facilitate the sale by users of particular things.

Castlezone is an online marketplace, which is within the scope of DST, because it provides a service for the sellers to advertise their items to customers.

Whilst Castlezone had more than £25million of UK revenues in the previous year, the group's worldwide turnover did not exceed £500 million, therefore it would not be subject to the DST charge.

Based on the current forecasts, Castlezone breeches both thresholds in the current year, therefore will be subject to DST at a rate of 2% on the UK based revenues. This is calculated to be £460,000, being 2% of the UK revenues of £48 million less the £25million annual allowance.

Castlezone needs to notify HMRC within 90 days of the accounting period end to confirm they are within the charge to DST.

The DST return needs to be submitted to HMRC within 12 months of the accounting period.

Question 6

A permanent establishment is created where an overseas company has:

- a fixed place of business through which its business is carried on; or
- an agent in the exercises authority to do business on its behalf.

A fixed place of business specifically includes: a place of management; a branch; an office; a factory; a workshop; an installation or structure for the exploration of natural resources; a mine, an oil or gas well, a quarry or any other place of extraction of natural resources; a building site or construction or installation project. In addition, where no fixed PE may arise, a PE could arise where the company engages with a dependent agent which has and habitually exercises an authority to do business on behalf of the company.

There are specific exclusions in respect of preparatory or auxiliary activities, which include:

- The use of facilities for the purpose of storage, display or delivery of goods or merchandise belonging to the company;

- The maintenance of a stock of goods or merchandise belonging to the company for the purpose of storage, display or delivery;

- The maintenance of a stock of goods or merchandise belonging to the company for the purpose of processing by another person; and

- Purchasing goods or merchandising, or collecting information, for the company.

As the sales directors are employed by Popcorn Kernels Limited, they are treated as dependent agents for the purposes of PE rules. As a result of their dependent agent status and the ability to conclude contracts habitually for Popcorn Kernels Limited, a PE would be created in Ireland.

The new lease being agreed in January 2024, would be deemed as a fixed place of business in respect of the PE rules. However, as a PE has been created in January 2023 by the employment of the sales directors, there would be no additional PE requirements.

Under s18A CTA 2009, UK tax resident companies can make an election to exclude the profits and losses of their overseas branches when calculating their UK tax liability.

The UK company is then no longer able to claim double tax relief in respect of any corporation tax paid in relation to the branch overseas.

In order to claim a branch exemption, Popcorn Kernels Limited need to make an election to HMRC. Elections are made on a company basis, so only Popcorn Kernels Limited would be electing, not any other companies within the Group. When an election has been made, it applies to all future accounting periods starting after the date of the election. It also applies to all overseas branches of Popcorn Kernels Limited, including any branches set up subsequently. Once the branch election has been made, it is irrevocable.

As the election should be made before the end of the accounting period, the branch election is not available for FY23.

Question 7

Part 1

Corporate Interest Restriction

The UK corporate interest restriction rules limit the extent to which a company can deduct interest expenses for tax purposes, where the net interest expense within the group exceeds £2 million per year. These rules apply to both UK and non-UK resident companies. The primary objective of these rules is to prevent profit shifting and base erosion by limiting excessive interest deductions that may be used to reduce taxable profits.

Under these rules, interest expenses are subject to a restriction based on a fixed ratio of net interest expense to tax-EBITDA (Earnings Before Interest, Taxes, Depreciation, and Amortization). This fixed ratio is set at 30% but may be adjusted depending on certain group characteristics or elections made by the company.

Companies are also permitted to use a "Group Ratio Rule" which allows a deduction of interest based on the net interest expense to EBITDA ratio of the worldwide group to which they belong. This provides some flexibility for multinational groups with diverse financing arrangements.

There are also provisions for "Public Benefit Infrastructure Projects" and certain types of "Qualifying Infrastructure Companies" which may be exempt from the interest restriction rules.

Based on Global Green Limited's new loans will exceed the £2 million de minimis, therefore a corporate interest restriction will apply. There are two main calculations which will determine the restriction, where the de minimis has been exceeded, the 'fixed ratio method' or the 'group ratio method'.

Fixed ratio method

The fixed ratio method is calculated using the lower of:

- 30% of the company's or group's UK taxable profits before interest, taxes, capital allowances and some other tax reliefs; and
- the company's or group's worldwide net interest expense.

Group ratio method

The group ratio method is calculated by the lower of:

- the ratio of the company's or group's worldwide net interest expense owed to unrelated parties, to the company's or group's overall profit before tax, interest, depreciation and amortisation multiplied by the company's or group's taxable UK profits before interest and capital allowances; and
- the company's or group's worldwide net interest expense owed to unrelated parties.

Any unused interest deduction can be carried forward and used in subsequent periods, using the interest allowance mechanism. Global Green Limited will need to nominate a group reporting company to HMRC and file CIR returns annually.

Withholding tax

The UK withholding tax on interest for corporate entities is a tax that is withheld at source on interest payments made by UK-based entities to non-UK resident corporate entities. This tax is designed to ensure that a portion of the interest income generated in the UK is retained by the government.

The standard rate of UK withholding tax on interest for corporate entities is 20%. However, this rate can be reduced or eliminated under double taxation treaties that the UK has negotiated with various countries.

The payments made to the UK bank are not subject to withholding tax, as the bank is UK based.

As Global Green Limited is making payments to an overseas lender, withholding tax at a rate of 20% will apply when the interest payment is made each year.

Based on the Double Tax Treaty, there are provisions which allow the withholding tax to on the payment can be reduced to zero.

As the overseas lender is registered with HMRC under the Double Tax Treaty Passport Scheme, Global Green Limited should tell HMRC about the loan using the DTTP2 form. The DTTP2 form needs to be submitted to HMRC within 30 days of the loan agreement. This allows Global Green Limited to pay the interest to the lender without the requirement to withhold and pay the tax to HMRC.

Question 8

As a non-resident individual, Emma will be subject to UK tax on her UK sourced income and UK residential property gains. UK sourced income includes UK bank interest, dividends from UK companies, rental income from UK properties etc. As such, Emma's French bank interest will not be within the scope of UK taxation and does not require further consideration when determining her UK tax liability.

Emma's income from her stocks and shares ISA is also exempt from UK tax by virtue of being within the ISA wrapper which retains its status despite her being non-resident.

Emma's UK taxable rental income is calculated as her gross rental proceeds less any allowable costs (management fees and utilities). The new hot tub is a capital cost and is therefore not deductible for income tax purposes. As such, her UK taxable rental profit for the year is £22,000.

As such, Emma's UK taxable income is calculated in the first instance as follows:

	Non-savings income	Savings income	Dividend income
Rental profit	£22,000		
UK bank interest		£15,000	
UK dividend income			£20,000
Less: Personal Allowance	(£12,570)		
Net Taxable	£9,430	£15,000	£20,000
Tax £9,430 @ 20%	£1,886		
PSA £500 @ 0%		£0	
Tax £14,500 @ 20%		£2,900	
DA £1,000 @ 0%			£0
Tax 13,270 @ 33.75%			£4,479
Tax £5,730 @ 39.35%			£2,255

Total UK tax is therefore £11,520.

As a full-year non-resident, Emma may elect for her income to be taxed under the S811 Disregarded Income rules. This limits her UK taxation to the tax withheld at source on her savings and investment income (bank interest and dividends in the above scenario) plus the UK tax due on her non-savings income without the deduction of the personal allowance.

As such, her UK tax liability under these rules is calculated as follows:

	Non-savings income	Savings income	Dividend income
Rental profit	£22,000		
UK bank interest		£15,000	
UK dividend income			£20,000
Less: Personal Allowance	-		
Net Taxable	£22,000	£15,000	£20,000
Tax £22,000 @ 20%	£4,400		
Tax withheld at source		£0	£0

It is therefore in Emma's interest to be taxed under the disregarded income rules.

Question 9

To: John
From: Tax Advice LLP
Subject: Inheritance Tax Queries

The liability to inheritance tax is initially determined by the domicile position of the transferor (Helen). As Helen was UK domiciled, her worldwide assets will form part of her death estate for inheritance tax purposes.

We must also consider gifts that Helen made during her lifetime. Transfers of value made within the lifetime of the transferor are potentially exempt transfers (PETs) and are exempt if the transferor's death is more than seven years after the date of transfer. Transfers within seven years form part of the death estate and therefore Helen's death estate consists of the following:

- 50% share of the UK family home held with John: £600,000
- Publicly listed shareholding: £400,000
- Cash: £500,000
- Bank Loan: (£100,000)
- PET to John: £100,000
- Total: £1,500,000

Typically, transfers between spouses are exempt from IHT however this exemption is restricted to £325,000 of assets where the transferor is UK domiciled and the transferee is non-UK domiciled. In the absence of any election, the IHT liability on Helen's death estate would be as follows:

- Total estate: £1,500,000
- Charitable donation (£400,000)
- Spouse exemption (£325,000)
- Nil rate band (£325,000)
- Taxable £400,000
- IHT @ 36% £144,000

Gifts to a UK or EEA registered charity are exempt transfers and are therefore excluded from the IHT calculation.

As more than 10% of the value of the estate is given to charity, the IHT rate of 36% should be used rather than 40%. The IHT is payable by the executors of the estate and then taken from the value of the assets transferred to John.

As you intend to donate all of your estate to charity on your death, it is very likely that there will be no IHT payable when you die irrespective of the value of your estate. As mentioned above, transfers between spouses are typically exempt from IHT where both parties are UK domiciled and you can make an election to be UK domiciled for IHT purposes. As no election was made during the lifetime of you and Helen, a death election can be made in writing to HMRC within two years of Helen's death. The election is irrevocable and applies for IHT only so will not impact your eligibility for the remittance basis for income tax purposes.

You must specify the date that the election is to be applicable from. This can be up to 7 years before the election itself but cannot be before the start date of your marriage. You should therefore consider dating this election for 4 years ago such that the PET made by Helen during her lifetime is eligible for the spousal exemption.