



# **The Chartered Tax Adviser Examination**

November 2017

---

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

---

Suggested solutions

1.

Tom Farmer  
Address

Tax firm  
Address

Date

Dear Tom

### **Your Inheritance Tax (“IHT”) position**

Following our meeting I have set out below the IHT liabilities which are likely to arise as a result of your death. I have also included some advice regarding the proposed gift of the farmhouse to James.

APR is available on the agricultural value of land and buildings occupied for the purpose of agriculture. Rates of APR are 50% or 100% depending upon the type and use of asset. If the land or buildings is worth more than the agricultural value that excess does not qualify for APR. Cottages and farmhouses occupied for agricultural purpose and of character appropriate to the land also qualify for APR. If a farmhouse is not occupied by a person farming the land, APR is not available.

BPR is available at 100% for working farmers on other assets such as machinery, animals and growing crops. BPR is also available to working farmers, again at 100%, on the value of land above the agricultural value where it is used in the business (but this relief is not extended to the farmhouse). Where both APR and BPR is available on the same asset, APR is given in priority to BPR.

I have set out below the implications of each of your farming assets assuming you will continue to farm the land up to your death.

#### **Farmhouse**

Currently, the farmhouse will not qualify for APR as it is not occupied by the person farming the land. If this could be re-occupied by you or a farm manager then APR may be available on the agricultural value if the qualifying conditions are met at the time of your death.

#### **Your home**

Your current home does meet the ownership and occupation requirement and APR will be available at 100%. The value of the house is not excessive compared to the land attached to it and should meet the character appropriate test. APR will be restricted to the agricultural value of the house and should that agricultural value be considered to be less than the current market valuation of £200,000 IHT may be due on the difference. I have assumed for the purpose of these calculations that the agricultural and market value are the same.

#### **Investment property**

As there is no business undertaking by you in relation to the furnished holiday let which is not connected to the farming business it is therefore an investment asset and neither APR or BPR will be due on the property.

#### **Farm land**

APR at 100% will be due on farmland assuming it is still owned and farmed by you or a third party (for the requisite period) at the date of your death but only to the extent of the agricultural value of £1.2

million. In the former case alone, as the land has been used for your trade BPR at 100% should be available for the remaining value of the land of £300,000.

### **Grazing land**

APR is not available on land used to graze horses as this is not an agricultural activity. BPR would also not be available as you are not operating a business which includes this land. The position could be improved by incorporating the land back into the farm or letting the land to a farmer to be occupied for the purposes of agriculture. APR may then be available depending upon the use and the time investment made by you in maintaining the land.

### **Woodlands**

The woodlands are neither part of the farm nor occupied for the purpose of agriculture and therefore will not qualify for APR. Until the business is operated with a view to producing commercial timber, BPR will also not be available. However, Woodlands Relief may be available but this is a deferral relief rather than an exemption. It means that the value of the timber (but not the land on which it stands) can be left outside your estate for IHT purposes until the timber is sold or otherwise disposed of. The use of Woodlands Relief should be avoided if possible as it means that the value subject to IHT will be the value at the date the timber is felled which may be considerably more than its value at the date of death. I would recommend that the business of producing commercial timber be commenced as soon as possible in order that it may qualify for the BPR exemption.

### **Outbuildings**

The outbuildings are used for agricultural purposes and APR at 100% will apply to the agricultural value with any excess value subject to BPR. The farming machinery is used for the purpose of the farming business and should qualify for 100% BPR.

Based on the information above I have calculated that the IHT due on death would be approximately £300,000. This would reduce to £160,000 if you gifted the farmhouse to James and survived that gift by seven years.

If you are not farming the land at your death APR would not be due on the agricultural value of your home, the outbuildings, or potentially the farm land unless it was farmed by a third party in qualifying circumstances. You should take advice in the future if you are considering this option.

### **Gift to James**

The proposed lifetime gift of the farmhouse to James would be a chargeable event for Capital Gains Tax ("CGT") purposes. As you and James are connected parties the disposal would be deemed to have taken place at the market value of the farmhouse. Relief would be available for the period when you occupied the property as your main residence and for the last 18 months of ownership. As the property will increase in value once the renovation is complete you should consider gifting the property to James now to reduce the capital gain realised.

The gift would also be a Potentially Exempt Transfer for IHT purposes and the gift will fall outside of your estate once you have survived seven years from the date of the gift.

If you have any queries please contact me.

Yours sincerely

Tax Adviser

## Calculation

Asset		Woodlands relief	BPR	APR	Chargeable
	£		£	£	£
Farmhouse	350,000				350,000
Tom's house	200,000			(200,000)	0
Furnished holiday let	100,000				100,000
Land	1,500,000		(300,000)	(1,200,000)	0
Grazing land	175,000				175,000
Woodlands	600,000	(150,000)			450,000
Outbuildings	40,000			(40,000)	0
Machinery	200,000		(200,000)		0
<b>Total</b>					<b><u>1,075,000</u></b>
Less NRB					<b><u>(325,000)</u></b>
					<b><u>750,000</u></b>
IHT @ 40%					<b><u>£300,000</u></b>

## MARKING GRID

TOPIC	MARKS
Presentation	1
Brief description APR/BPR	1
APR in priority to BPR	½
Rates for APR/BPR	½
Farmhouse not qualify for relief	1
Tom's home, qualifies as meets character appropriate test	1
If Agricultural value lower then only APR on this	½
Furnished holiday let not qualify APR or BPR	1
Farmland APR and BPR on remainder	1
No APR on grazing land	1
Suggest steps to mitigate i.e. incorporate back into farm etc.	½
Woodlands no APR or BPR	1
Woodlands relief available on value of wood but not the land	1
Deferral relief only	½
Suggest mitigate e.g. commence commercial production	½
Outbuildings APR	1
Machinery BPR	1
Comment re position if not farming on death	1
Calculations	2
Gift to James, chargeable event	½
Connected persons so market value	½
Main residence relief main be available for the time he occupied the property	½
Timing of the gift	1
PET for IHT purposes	½
<b>TOTAL</b>	<b><u>20</u></b>

2.

<b>2016/17 Tax Calculation</b>	<b>Interest</b>	<b>Dividends</b>	<b>Tax</b>
	<b>£</b>	<b>£</b>	<b>£</b>
Discretionary element:	23,500	46,500	
Less expenses (1,625 x 100/92.5)		(1,757)	
Income after expenses	23,500	44,743	
Basic rate band			
£1,000 x 20%			200
£22,500 x 45%			10,125
£44,743 x 38.1%			17,047
£1,757 x 7.5%			131
<b>Tax due 31 January 2018</b>			<b><u>£27,503</u></b>

Trustees expenses apportioned  $\frac{3}{4} + (\frac{1}{4} \text{ of } \frac{1}{4}) = £1,625$

<b>2016/17 Tax Calculation</b>	<b>Interest</b>	<b>Dividends</b>	<b>Tax</b>
	<b>£</b>	<b>£</b>	<b>£</b>
IIP element:	5,500	10,500	
£5,500 x 20%			1,100
£10,500 x 7.5%			<u>787</u>
<b>Tax due 31 January 2018</b>			<b><u>£1,887</u></b>

### Capital gains

Rothwell shares

Proceeds 167,000

Cost (John's original cost  
3,000/15,000 x £135,000) (27,000)

Gain £140,000

Wow plc shares	
Proceeds	8,000
Less cost	<u>(2,000)</u>
Gain	<u>£6,000</u>
Treasury stock is exempt from Capital Gains Tax	
Total Capital Gains Tax	
Rothwell Bank Ltd	140,000
Wow plc	6,000
Less annual exemption	<u>(5,550)</u>
Total	<u>140,450</u>
Tax at 20%	<u>£28,090</u>

<b>Total income and capital gains tax</b>	£
Income tax on discretionary element	27,503
Income tax on IIP element	1,887
Capital gains tax	28,090
Less payments on account	<u>(20,000)</u>
Total due 31 January 2018	<u>£37,480</u>
Payments on account of	£14,695
Due 31 January & 31 July 2018	

2) R185 Anastasia

Source	Net £	Tax £
Interest	4,400	1,100
Dividends*	9,338	757

\* less trustees expenses of £375

3)

IHT rate based on initial gift into trust

	£	£
Initial gift		820,000
Less nil rate band		<u>(325,000)</u>
		<u>495,000</u>
495,000 x 20%	99,000	
99,000/820,000	12.073%	
12.073% x 30% x 28/40	2.535%	
<u>2.535</u>	= 2.600%	
100-2.535		
£20,000 x 2.600%	<u>£520</u>	
Tax due 30 November 2016		



## MARKING GUIDE

TOPIC	MARKS
<b>Discretionary Calc</b>	
Any reasonable apportionment of trust expenses	1
Apply basic rate band	$\frac{1}{2}$
Apply correct tax rates	2
Correct tax	1
<b>IIP Calc</b>	
Correct tax rates	1
Correct tax	1
<b>Capital gains tax</b>	
Rothwell gain	1
Wow gain	1
Treasure stock exempt	1
Annual exemption	$\frac{1}{2}$
Total CGT	$\frac{1}{2}$
Total tax due after payments on account	1
Due date	1
Payments on account and due date	$\frac{1}{2}$
R185	2
<b>Exit charge</b>	
Apply NRB	$\frac{1}{2}$
Net chargeable amount	$\frac{1}{2}$
Calculation of correct rate	1
Grossing up calculation	1
Apply quarters	1
Tax due date	1
<b>TOTAL</b>	<b><u>20</u></b>

3.

### **Memo**

To: Audit Partner  
From: Tax Manager  
RE: Deed of Variation  
Date: November 2017

Following our conversation, I have set out below the requirements of a deed of variation (DOV) and the Income Tax, Capital Gains Tax ("CGT") and Inheritance Tax ("IHT") implications.

#### **Basic requirements**

- 1) The variation must be made in writing.
- 2) It must be signed by Charles as the original beneficiary. As the IHT will not increase there is no requirement for the executors to sign the DOV.
- 3) It must be made within two years of death.
- 4) Various statements must be included if the DOV is to be effective for IHT and CGT purposes (see below).
- 5) It should not be made for consideration in money or money's worth.

#### **Inheritance Tax**

In order for the DOV to be effective for IHT purposes, the instrument must contain a statement that Charles intends s142 (1) Inheritance Tax Act 1984 to apply. Provided this is done the DOV will take effect as if the disposition was made by Charles' cousin (the deceased) not Charles and the former would be regarded as having settled the shares onto the Trust.

#### **Capital Gains Tax**

S62 TCGA 1992 includes a similar provision to s142 IHTA 1984 for CGT purposes so if Charles elects that the provision should apply the disposition is will be treated as having been made by the deceased and the variation will not be treated as a disposal by Charles. The trustees will be deemed to acquire the shares at their probate value.

If this election is not made Charles will be deemed to have disposed of the shares at the date of the DOV and will realise a capital gain based on the difference between the probate value and the current market value. If the current value exceeds the probate value the election should be made.

S62 TCGA 1992 does not apply for all CGT purposes and Charles will be treated as a settlor of the trust to the extent of the value that relates to the shares. As Charles is capable of benefitting from the trust it will be regarded as a settlor interested but even so future capital gains realised by the trustees will be taxable on them rather than Charles.

#### **Income Tax**

Charles will be regarded as a settlor of the trust in respect of the shares and as he is capable of benefitting from the trust it will be regarded as a settlor interested. Irrespective of actual income distributions Charles will be ultimately taxable on the trust income relating to the shares with no deduction for trust expenses.

The trustees will file a tax return and pay tax on any future dividend income. They will report that income and tax credit on form R185 and provide this to Charles to enable him report the income on his tax return.

Charles has a right to reimbursement from the trustees for any additional tax suffered on the income in excess of the tax credit. Similarly, if Charles receives a tax repayment because the tax credit on the trust income exceeds his liability, this repayment will belong to the trustees and should be repaid to them. Similarly if his liability on his other assets reduces as a result of the tax credit reimbursement to the trustees is required.

A Tax Adviser

### MARKING GUIDE

TOPIC	MARKS
Variation must be in writing	½
Signed by all persons party to the original disposition	½
Must be within 2 years of death	½
Include relevant statements if to be effective for CGT & IHT	½
Variation should not be for consideration	½
<b>IHT</b>	
S142 election disposition treated as if made by Charles' cousin	1
Shares not form part of Charles estate	1
<b>CGT</b>	
If S62 election no disposal by Charles	1
If no election Charles deemed dispose of shares at market value (not advise unless they are at a loss)	½
Trustees base cost is probate value	½
Charles treated as a settlor for capital gains tax purposes	½
Gains taxable on trustees (not Charles)	½
<b>Income Tax</b>	
Charles settlor for income tax purposes	½
Income deriving from shares taxable on him	½
Trustees file tax return and provide him with R185	½
Charles right to reimbursement of any additional tax/any repayment received belongs to trustees	½
Presentation	½
<b>TOTAL</b>	<b>10</b>

4.

**14 February 2006 - Albert's death**

The assets forming part of the creation of the Qualifying Interest in Possession trust for Betty's benefit would not have been subject to 40% IHT as part of Albert's death estate due to the availability of 100% spouse exemption.

**30 March 2009 - Betty's death**

On the death of the qualifying life tenant Betty, the capital value of the settled property is valued as part of her estate and subject to IHT at 40%.

	£	£	£
<i>Free estate</i>		419,000	419,000
<i>Settled property</i>			
Moonshine Ltd shares		368,000	
Less: BPR (see note below)		<u>(368,000)</u>	0
Cash		132,750	<u>132,750</u>
			551,750
Nil-rate band remaining:			
Less: NRB in March 2009		312,000	
Less: Betty's GCTs within 7 years		<u>(203,000)</u>	
			<u>(109,000)</u>
			<u>442,750</u>
Tax at 40%	<u>177,100</u>		

Tax apportioned as follows:

<i>Free estate</i>		
419,000/551,750 x £177,100	134,490	
<i>Settled property</i>		
132,750/551,750 x £177,100	42,610	

Note: 100% Business Property Relief is available on the value of the unquoted trading company Moonshine Ltd shares held in trust as they have met the two year ownership requirement.

The trustees must pay the IHT due on the settled property of £42,610 which is due for payment six months after the end of the month of Betty's death thus by 30 September 2009.

The IHT due on Betty's free estate of £134,490 is due for payment six months after the end of the month of death i.e. by 30 September 2009 or on earlier submission of the IHT account.

**27 September 2013 - Capital appointment**

Complete quarters from commencement to exit = 17 (30/3/09 – 27/9/13)

	£	£	£
<i>Value at set-up in March 2009</i>			
Moonshine Ltd shares (ignoring BPR)			368,000
Cash			132,750
Less: IHT paid by trustees on 30/9/09			<u>(42,610)</u>
			458,140
NRB at exit in September 2013		325,000	
Less: Betty's GCTs within 7 years		<u>(203,000)</u>	
			<u>(122,000)</u>
			<u>336,140</u>
Tax at 20%	67,228		
Effective rate 67,228/458,140 x 100%	14.674%		
Rate of IHT 14,674% x 30% x 17/40	1.871%		

The amount of transfer is:

	£	£	£
Moonshine Ltd shares		175,000	
Less: 100% BPR		<u>(175,000)</u>	
			0
Cash			<u>32,000</u>
Transfer			<u>32,000</u>
IHT payable by trustees:			
$1.871/(100-1.871) \times \text{£}32,000$	<u>610</u>		

The discretionary trustees have agreed to pay the tax of £610 which is due for payment on 30 April 2014. This is because the event took place before 6 April 2014 and thus the old payment rules apply.

#### 14 February 2016 - Principal charge

Complete quarters from commencement to becoming a RPT = 12 (14/2/06 – 30/3/09)

	£	£	£
<i>Current value of trust property</i>			
Moonshine Ltd shares		412,500	
Less: 100% BPR		<u>(412,500)</u>	
			0
Cash			<u>98,750</u>
Value attracting the ten year charge			98,750
NRB at 10 year charge in February 2016		325,000	
Less: GCTs within 7 years of set-up		<u>(203,000)</u>	
Less: distributions since commencement		<u>(32,610)</u>	
			<u>(89,390)</u>
			<u>9,360</u>
Tax at 20%	1,872		
Effective rate $1,872/98,750 \times 100\%$	1.896%		
Rate of IHT $1.896\% \times 30\% \times (40-12)/40$	0.398%		

The ten year charge is:  
 $\text{£}98,750 \times 0.398\% = \text{£}393$

The discretionary trustees must pay the tax of £393 which is due for payment six months from the end of the month of ten year anniversary i.e. by 31 August 2016.

#### 5 May 2016 – Capital appointment

Complete quarters from principal charge date to exit = 0 (14/2/16 – 5/5/16)

Exit charges do not apply when the distribution occurs within three months of a ten year anniversary and therefore no tax is payable by the trustees on this occasion.

## MARKING GUIDE

TOPIC	MARKS
<b>Albert's death:</b> No tax as QIIP created on death for spouse	1
<b>Betty's death:</b> Valued of settled property included in death estate BPR on shares Correct NRB for 08/09 Betty's previous GCT included Tax at 40% Tax apportioned between Executors and Trustees Date tax due	1 0.5 1 1 0.5 1 0.5
<b>Exit to Charlie:</b> Number of quarters to exit Correct commencement date Initial value as at correct date (ignoring BPR) NRB at exit Betty's previous GCT included Rate of IHT Amount of transfer (including BPR) Tax grossed up as paid by trustees Date tax due	0.5 0.5 1.5 0.5 1 1 1 1 1 0.5
<b>10 year charge:</b> Current value (including BPR) Previous distributions included Rate of IHT Amount of transfer (including BPR) Date tax due	1 1 1 1 0.5
<b>Exit to Danny:</b> Number of quarters to exit No tax to pay as exit charge disapplied	0.5 1
<b>TOTAL</b>	<b>20</b>

5.

ABC Company Ltd  
A Building  
London  
UK1 1EN

1 The Street  
Hometown  
UK9 1SC

November 2017

Dear Mr Owen

Further to our recent meeting I now enclose a summary of the Capital Gains Tax ("CGT") and Income Tax ("IT") implications of the actions taken by the Trustees of the two family trusts.

*The Owen Company Trust ("OCT")*

The initial 2002 transfer into trust of Panda Productions Ltd shares would have been a disposal at market value for CGT purposes. However, as holdover relief was claimed, the gain was not subject to immediate CGT but instead reduced the base cost of the shares going forward. Effectively, the trustees would have acquired the shares at your grandfather's base cost i.e. the £50 nominal share capital.

When your parents (the trustees) emigrated to Canada in 2014/15 and became non-UK resident, this was sufficient to move the residency of the OCT also. When a trust ceases to be UK resident, the trustees are treated as having sold all the trust assets for their market value at the relevant time and immediately reacquiring them. Consequently, although no consideration changed hands, the trustees have triggered a CGT liability calculated as follows:

1 October 2014 – 2014/15	£	£	£
Market value of shares on emigration			1,200,000
Less: base cost to trustees			
Market value in June 2002		645,000	
Less: heldover gain		<u>(644,950)</u>	<u>(50)</u>
			1,199,950
Less: CGT annual exemption limit (see note below)			<u>(2,750)</u>
			<u>1,197,200</u>
CGT at 28% payable by 31 January 2016		<u>335,216</u>	

Note:

1. Trustees are entitled to half the CGT annual exemption available to individuals thus £5,500 for 2014/15. However, this figure is divided again by the number of trusts created by the same settlor subject to a maximum of five trusts. Your grandfather settled a total of two trusts including that created on death.
2. Your parents as Trustees had an obligation to notify HM Revenue and Customs of a chargeable event giving rise to a tax liability. Their failure to do so and pay the resulting liability means that they are likely to have incurred interest and penalties. This position should be rectified as soon as possible and I would be happy to advise them on this matter.

From 1 October 2014, the OCT was no longer UK resident as a result of the trustees being no longer UK resident. This means that for tax purposes from 6 April 2015, the trustees are only subject to UK IT on UK source income and outside the scope of CGT (provided not in relation to UK residential property). Consequently, when the Panda Productions Ltd shares were sold to an independent purchaser in January 2016, there was no immediate charge to CGT.

Where a UK resident beneficiary, such as yourself, receives a benefit from a non-UK resident trust, an IT charge may apply to the extent that it is matched with undistributed trust income. Secondly, trust gains may be attributed to you, as a UK resident beneficiary, if you receive a 'capital payment'. Where a benefit is caught under the IT anti-avoidance provisions, the same benefit cannot also be caught by

the CGT anti-avoidance provisions. Worldwide trust gains are matched with all capital payments made in the same year and thereafter on a last in, first out basis. If there is a delay of more than one whole tax year between the trust gain being realised and the capital payment being made, a beneficiary will suffer a supplementary charge equal to 10% of the CGT rate for each year the capital gain remains unmatched up to a maximum of six years (i.e. a maximum charge of 60%). The trust gain in January 2016 is calculated as follows:

<i>January 2016 – 2015/16</i>	£
Sale proceeds	1,300,000
Less: uplifted MV from date of emigration	<u>(1,200,000)</u>
	<u>100,000</u>

The £500,000 recently distributed to you in the current tax year 2017/18 is a capital payment for tax purposes. The £500,000 is firstly matched with the undistributed trust income of £38,000 in priority to the trust gain of £100,000. Consequently tax charges arise on you in 2017/18 as follows:

<i>October 2017 – 2017/18</i>	£	£
Matched trust income		<u>38,000</u>
IT at 45% (see below)	17,100	
Matched trust gain		100,000
Less: annual exemption 2017/18 (see below)		<u>(11,100)</u>
		<u>88,900</u>
CGT at 20%	17,780	
Supplementary charge £17,780 x 20%	<u>3,556</u>	
Total tax payable by 31 January 2019	<u>38,436</u>	

Notes:

1. I understand you are an additional rate taxpayer and therefore not entitled to a personal allowance.
2. Where a beneficiary is to be taxed on a capital payment matched with trust gains, the trust gains are treated as the lowest slice of gains for that year so that the annual exemption is applied in priority to any personal gains.

This information should be included on your tax return for 2017/18. Any future trust income and gains will be matched with the excess capital payment carried forward of £362,000.

*The Owen Property Will Trust (“OPWT”)*

The trustees of the OPWT acquired the residential property at probate value on your grandfather’s death in 2007. The appointment of the property to you in due course will be a deemed disposal at market value for the OPWT trustees, resulting in a capital loss for them of £79,000. However, on the basis that the OPWT trustees are intending to wind up the trust, they will not have any future capital gains against which to offset this loss.

I understand that you intend to keep the property as an investment and let it out to an unconnected third party tenant. You will acquire the property at the current market value of £315,000 but the unused capital loss incurred by the trustees of £79,000 can be transferred to you and carried forward indefinitely until such time you sell the property. However, you will only be able to use this loss against a gain arising on the sale of the property and not against any other asset.

I hope this note has answered your queries but if there is anything further I can assist with, please do not hesitate to contact me.

Kind regards



## MARKING GUIDE

TOPIC	MARKS
<b>Presentation and higher skills:</b>	1
<b>The OCT:</b>	
<i>2002 disposal</i>	
Transfer to trust disposal at MV for CGT	0.5
Base cost for trustees going forward	0.5
<i>2014 emigration</i>	
Trust becoming non-UK resident if both trustees NR	1
Deemed disposal at MV	0.5
CGT AE restricted (half for trustees and number of trusts)	1
Correct tax	0.5
Date tax due	0.5
<i>Tax implications of NR</i>	
Income tax UK source only	0.5
Trust gains not assessable on trustees	0.5
<i>2016 disposal</i>	
Trust NR so no charge to CGT	0.5
Beneficiary charge	0.5
IT on benefit matched with undistributed income	1
Trust gains attributed if capital payment	1
IT anti-avoidance takes priority	0.5
Matching rules (same tax year, LIFO)	1
Supplementary charge (if delay of >1year)	1
<i>Max 2017/18 capital payment</i>	
Undistributed income taxed at 45%	0.5
No personal allowance as additional rate taxpayer	0.5
Trust gain 15/16 matched	0.5
CGT AE for Max (in priority to personal gains)	1
Correct tax	0.5
Correct supplementary charge	0.5
Date tax due	0.5
Excess capital payment c/f	0.5
<b>The OPWT:</b>	
Trustees acquire at probate value	0.5
Transfer deemed disposal at MV	1
Use of capital loss (transferrable to Max)	1
Base cost for Max current MV	0.5
<b>Future disposal:</b>	
Loss can only be offset against gain on this property	0.5
<b>TOTAL</b>	<b>20</b>

6.

**Chargeable lifetime transfers**

<i>September 2010</i>	£
Gift to discretionary trust	250,000
Less: annual exemption 10/11 only	<u>(3,000)</u>
Gross chargeable transfer	247,000
Less: nil-rate band at the time of gift	<u>(325,000)</u>
	<u>Nil</u>

No lifetime tax was payable on the gift of £250,000 into trust as it was covered by the annual exemption for 10/11 (09/10 exemption used against PET below) and nil-rate band at the time of the gift.

**Lifetime transfers becoming chargeable as a result of death within seven years**

<i>February 2010</i>	£	£
Gift to daughter Frances		315,000
Less: annual exemptions 09/10 and 08/09		<u>(6,000)</u>
		309,000
Less: nil-rate band (see working below)		<u>(309,000)</u>
		<u>Nil</u>

No additional tax is payable by Frances on Emily's death as the failed PET is covered by the annual exemptions and nil-rate band.

<i>September 2010</i>	£	£
Gift to discretionary trust - GCT		247,000
Less: nil-rate band remaining (see working below)		<u>(146,000)</u>
		<u>101,000</u>
Tax at 40%	40,400	
Less: taper relief 5-6 years at 60%	<u>(24,240)</u>	
Tax payable by 28 February 2017	<u>16,160</u>	

The persons liable for this tax are the discretionary trustees.

**Available nil-rate band workings**

	£	
Harrison's available nil-rate band 97/98	215,000	
Less: utilised on death	<u>(161,250)</u>	
	<u>53,750</u>	
Amount remaining as a percentage: 53,750/215,000 x 100%		25%
Gordon's available nil-rate band 04/05	263,000	
Less: utilised on death	<u>(223,550)</u>	
	<u>39,450</u>	
Amount remaining as a percentage: 39,450/263,000 x 100%		15%

Emily's available nil-rate band therefore £325,000 x 140% = £455,000

	£
Available nil-rate band	455,000
Less: used against February 2010 gift	<u>(309,000)</u>
	146,000
Less: used against September 2010 CLT	<u>(146,000)</u>
Balance remaining	<u>Nil</u>

### ***Death estate calculation***

As the specific legacy is to be made tax-free and the residue is wholly exempt, single grossing is required. Furthermore, as more than 10% of the net chargeable estate is passing to charity, the 36% reduced rate applies to the death estate as follows:

	£	£	£
Tax-free legacy to Frances			286,000
Tax at 36/64		160,875	
Less: Quick succession relief			
£52,800 x 404,200/457,000 x 80%		<u>(37,360)</u>	
		<u>123,515</u>	

The persons liable for this tax are the Executors. The due date for both the tax payable by the discretionary Trustees and the tax payable by the Executors is six months after the end of the month of death thus by 28 February 2017 or for the executors alone on delivery of the Inheritance Tax return if earlier.

### ***Division of the estate:***

	£
Legacy to Frances	286,000
Residue to charity	208,235
Tax to HMRC	<u>123,515</u>
	<u>617,750</u>

## MARKING GUIDE

TOPIC	MARKS
<b>Calculation of available nil-rate band:</b>	
Unused portion of Harrison's	0.5
Unused portion of Gordon's	0.5
Emily's available nil-rate band	0.5
<b>Chargeable lifetime transfer:</b>	
<i>September 2010</i>	
Annual exemption 10/11 only	0.5
No tax	0.5
<b>PETs becoming chargeable:</b>	
<i>February 2010</i>	
Annual exemptions 09/10 and 08/09	1
No tax	0.5
<b>Additional tax on CLT:</b>	
<i>September 2010</i>	
Nil-rate band remaining	0.5
Taper relief 5-6 years at 60%	0.5
Persons liable	0.5
Correct tax	0.5
<b>Death estate calculation:</b>	
Single grossing	0.5
Reduced rate	0.5
Quick succession relief	0.5
Persons liable	0.5
Date tax due	0.5
Correct tax	0.5
<b>Division of the estate:</b>	
Amount to HMRC	0.5
Amount to charity	0.5
<b>TOTAL</b>	<b>10</b>