The Chartered Institute of Taxation

Advanced Technical

Taxation of Individuals

May 2023

Suggested solutions

ANSWER 1

	Workings	Non-savings income	Interest income	Dividend income
Employment income		194,420		
Car allowance	1	-		
UK bank interest			150	
UK dividends				4,750
Offshore income gain	2	54,000		
S131 ITA 2007 capital loss set against income	10	(33,600)		
Net income		214,820	150	4,750
Less: personal allowance	3	-	-	-
Taxable income		214,820	150	4,750
Income tax:				
Tax on non-savings income				
Basic rate band £53,013 at 20%	4			10,603
Higher rate band £112,300 at 40%				44,920
Additional rate band £49,507 at 45%				22,278
Tax on savings income				
Additional rate £150 at 45%	5			68
Tax on dividend income				
Dividend allowance £2,000 at 0%				0
Additional rate £2,750 at 39.35%	6			1,082
Plus: HICBC	7			2,636
Plus: Excess pension charge	8			0
Income tax liability				81,585
Less: tax deducted at source				(77,768)
Income tax liability (2022/23)				3,817
EIS income tax relief clawback (2019/20)	9			600
Chargeable gains:				
Deferred gain brought into charge (EIS deferral)				50,000
Gain on SEIS shares – exempt	12			-
Annual exempt amount				(12,300)
Taxable gain				37,700
Capital gains tax liability:				
Additional rate band £37,700 @ 20%	11			7,540

Workings:

1. The car allowance is taxable as regular non-savings income because it is received in cash, however the figure has been included in the P60 figure. It does not matter that the allowance is not spent on a car.

2. The gain realised on the offshore fund is an offshore income gain because the fund did not have reporting status in the UK. The gain is subject to income tax. (£126,000 - £72,000 = £54,000)

3. Personal allowance is reduced to nil because Simone's adjusted net income is significantly greater than £100,000

4. Rate bands extended by gift aid donations:

   Basic rate band £37,700 + (12,250 * 100/80) = £53,013

   Higher rate band £150,000 + (12,250 * 100/80) = £165,313

5. As an additional rate taxpayer, no savings allowance is available.

6. VCT dividends are not taxable.

7. High income child benefit charge applicable as income is over £50,000. Simone's adjusted net income is higher than her husband's, so the charge falls on her.

   Adjusted net income = £214,820 + 150 + 4,750 – (12,250*100/80) = £204,408

   Child benefit charge = (£21.80 + (£14.45 * 2)) * 52 = £2,636

8. Pension allowance excess charge needs to be considered to determine whether the employer contributions exceed Simone's available annual allowance.

   Annual allowance is not tapered because threshold income is over £200,000 but adjusted income is below £240,000:

   Threshold income = 214,820 + 150 + 4,750 = 219,720

   Adjusted income = 214,820 + 150 + 4,750 + 11,665 = 231,385

   Allowance available is therefore £40,000

   No tax charge as employer contributions = 11,665 i.e. lower than available allowance

9. EIS income tax clawback
   Income tax relief claimed in 2019/20 = £50,000 @ 30% = £15,000
   Shares disposed of at a loss, therefore clawback restricted to proceeds multiplied by relief rate, ie £2,000 @ 30% = £600
   Collected by HMRC via an assessment in year of relief claimed (2019/20)

10. Disposal of EIS shares on liquidation
    Proceeds received £2,000 - Subscription price £50,000 = Loss £48,000
    Loss restricted by income tax relief retained (£14,400), so allowable loss = £33,600
    CGT loss, but more beneficial to claim s131 ITA2007 and use against current year income

11. Deferred gain of £50,000 brought back into charge, subject to CGT at 2022/23 rates

12. SEIS income tax relief not affected as shares held for more than 3 years.
    Capital gain realised on disposal of SEIS shares
    Proceeds 89,000 – base cost 10,000 = capital gain 79,000
    However exempt from CGT as held for more than 3 years
    Gain on which SEIS reinvestment relief previously claimed is unaffected and remains exempt

MARKING GUIDE

TOPIC	**MARKS**
Salary & car allowance	1
Taxable dividends (VCT dividends not taxable)	1
Offshore income gain	1
Restricted personal allowance	0.5
Taxable income	1
Basic rate/higher rate bands	1
Savings & dividend allowances	1
High income child benefit charge	1
Calculation of income tax liability & deduction of PAYE	1
Pension allowance excess charge	1
Calculation of threshold income	1
Calculation of adjusted income	1
EIS income tax relief clawback – restricted as sold at a loss	1
Disposal of EIS shares – loss restricted by income tax relief retained	1
Allowable capital loss but s.131 ITA2007 claim more beneficial	1
Deferred gain brought back into charge, taxed at current rates	1
SEIS no impact on income tax relief as owned for >3 years	1
Capital gain on SEIS shares but fully exempt	1
No impact on SEIS reinvestment relief (gain of £10,000)	1
Annual exempt amount	0.5
Calculate CGT liability	1
TOTAL	**20**

ANSWER 2

Sarah will arrive in the UK on 1 August 2023 and will spend more than 183 days in the UK during the 2023/24 tax year. She will therefore be UK resident under the 1st Automatic Test of the Statutory Residence Test.

As she intends to return to France, she will remain non UK domiciled and will be taxable on her worldwide income and gains subject to a claim for the remittance basis.

She will arrive in the UK part way through the tax year so split year treatment may apply. The effect of this is to divide the tax year into a "non-resident" and "resident" period.

As Sarah is coming to the UK, we must consider cases 4-8 when establishing her split year date.

Case 4

Case 4 seeks to establish the date on which Sarah's only home is in the UK. For this case to be relevant she must:
- Be UK resident in the tax year
- Be non-UK resident in the previous tax year
- Not meet the sufficient ties test prior to the date she meets the only home test.
- At some point in the year meet the "only home test", i.e. her only home is in the UK, having not met it at the start of the year.

Sarah meets the criteria above.

Her wife and daughter begin to have a home in the UK on 1 May 2023 however at that point Sarah is still residing in their French home. She does not relinquish her French home until 1 July 2023 at which point her only potential home is in the UK.

However, whether or not a person has started to have a UK home depends on:
1. whether a place is capable of being used as a home (which is the case for the property rented by Nicole on 1 May 2023), and;
2. whether the individual actually uses the property as their home.

As Sarah will not use the property prior to her arrival, it will not qualify as a "home" until she starts to use it as such on 1 September.

Sarah has 2 sufficient ties prior to this date, being her UK resident family and available accommodation (their London home). She is able to spend 60 days in the UK prior to 1 September 2023 without becoming resident. Sarah will not exceed the threshold.

1 September 2023 is her split year date under Case 4.

Case 5

For Case 5 to apply, Sarah must meet points 1-3 above, start to work full time in the UK and meet the 3rd automatic UK test over any period of 365 days. She will meet this test provided she works full time in the UK for a year following her arrival.

Sarah will start work on 1 September 2023 and prior to this she has 2 "sufficient ties" as above. Prior to 1 September she is allowed to spend 60 days in the UK without becoming resident.

Sarah's split year date for Case 5 will be 1 September 2023.

Case 6

This case is not relevant to Sarah as she was not a UK resident in 1 or more of the previous 4 tax years.

Case 7

This case is not relevant as she is not the partner of someone who is ceasing full time work overseas.

Case 8

This case is relevant as Sarah starts to have a UK home during the tax year.

Sarah could potentially meet the criteria for this case, as she is:

- UK resident
- Non-UK resident in the prior tax year
- Will be UK resident throughout the following tax year (based on what we know of her 5 year lease and her employment plans)
- Did not have a UK home at the beginning of the tax year, but started to during the tax year and will continue to have a UK home for the remainder of the tax year and the one following
- Does not exceed the day count under the sufficient ties test

Sarah's split year date under Case 8 is 1 September 2023.

Where a taxpayer meets the criteria for cases 4, 5 and 8, the earliest date applies. Sarah's split year date is therefore 1 September 2023.

Split year treatment will therefore apply such that she is only taxed on UK source income between 6 April and 1 September 2023. In order for the treatment to apply there is no requirement for Sarah to remain UK resident throughout the following tax year.

Tax treatment after she ceases to be resident in France

From 1 September 2023, Sarah is taxable in the UK on her worldwide income and gains, subject to any claim for the remittance basis.

Her employment income will be wholly taxable in the UK as this is where she performs her duties.

If Sarah is happy to leave her rental income overseas it may be beneficial to claim the remittance basis, which would shelter the income from UK tax provided it remains offshore. Sarah can do this in the first 7 tax years of UK residence without incurring the remittance basis charge, the only impact being the loss of her personal allowance (which as a senior executive she may have lost in any case if she earns in excess of £125,140) and her CGT annual exempt amount. This would be the preferable position if the French income tax is lower than the UK income tax charged on this source of income.

If she remains taxable on the arising basis, she will pay UK tax on her share of the French rental profits and should be able to claim a foreign tax credit for any French tax paid on the same income.

MARKING GUIDE

TOPIC	**MARKS**
1st Automatic test - Sarah meets this condition therefore UK resident in 2023/24 tax year	1
Retains French domicile	1
Default position is taxed on worldwide income and gains subject to a claim for remittance basis	1
Consider Case 4 and conclude relevant	1
Establish when UK property becomes a home	2
Establish correct date for Case 4 - 1 September 23 (“only home”)	1
Consider Case 5 and conclude relevant	1
- Begins full time work for 365 day period	0.5
- Not resident in previous tax year	0.5
- Meets conditions of 3rd automatic UK test	0.5
- Consider sufficient ties and conclude family and accommodation tie	0.5
- Conclude sufficient tie day count not met in period prior to 1 September	0.5
Establish correct date for Case 5 - 1 September 23 (“begins full time work”)	0.5
Considers Case 6 and conclude not relevant	0.5
Considers Case 7 and conclude not relevant	0.5
Considers Case 8 and conclude potentially relevant	1
Explain general UK income tax consequences of split year	1
No requirement to be UK resident throughout following tax year	1
Explain consequences as they apply to Sarah’s employment income	1
Tax treatment from 1 September – possible remittance basis claim for rental income	1
No remittance basis charge for seven years	1
Effects of remittance basis claim and whether beneficial	2
TOTAL	**20**

ANSWER 3

Principal Private Residence relief (PRR) can partially or fully exempt a gain made on the sale of an individual's main residence. The amount of relief available is calculated as the individual's period of occupation as a proportion of the total period of ownership, i.e. any gain left taxable relates to periods of non-occupation in which the property would not be considered the individual's main residence.

The formula for calculating relief is: capital gain * period of occupation / period of ownership.

Relief is allowed for deemed periods of occupation as well as periods of actual occupation.

Actual occupation refers to the owner being physically present in the property and using it as their own home. Deemed periods of occupation refer to periods in which the owner is physically absent from the property, but is treated as living there for PRR purposes.

The last 9 months prior to sale are always treated as deemed occupation as long as the individual has occupied the property as their main home at some point during ownership.

Other deemed periods of occupation (which only qualify if both preceded and followed by a period of actual occupation) include:

1. A maximum of 4 years where the owner was absent from the property due to working elsewhere either as an employee or self-employed.
2. An unlimited period of time in which the owner is abroad by reason of his employment.
3. A maximum of 3 years where the owner was absent from the property for any other reason.

A period of absence at the start of ownership, e.g. for renovation works, can also qualify for PPR relief provided it does not exceed 24 months, the property was not another person's residence and it becomes the owner's only or main residence on moving in.

John's circumstances:

John's total ownership period of the property will be 1 June 2012 to 31 May 2023, ie 132 months.

	Actual (months)	Deemed (months)	Reason for deemed
1 June 2012 – 1 Aug 2012		2	Renovation works
1 Aug 2012 – 28 Feb 2013	7		
1 Mar 2013 – 28 Feb 2014		12	Overseas for reason of employment
1 Mar 2014 – 31 Mar 2014	1		
1 Apr 2014 – 31 Dec 2017		45	Overseas for reason of employment
1 Jan 2018 – 31 Aug 2020		32	Any other reason
1 Sep 2020 – 31 May 2023	33		Last 9 months would qualify as deemed too
Total	41	91	

Calculation:

	Workings	**£**
Proceeds	1	369,000
Less: Cost	2	(235,000)
Capital gain		134,000
Less: Principal Private Residence Relief	3	(131,107)
Annual exempt amount	4	(3,045)
Chargeable gain		NIL
Capital Gains Tax:		NIL

Workings:

W1.

Proceeds are market value because brother is connected person. £820,000 * 50% = £410,000. Reduced by 10% as a ‘tenanted deduction’ = £369,000.

Because the property is jointly owned, HMRC will accept that the value of John’s share is less than 50% of the total property value.

W2.

Base cost is probate value £470,000 * 50% = £235,000

W3.

Principal Private Residence Relief: see table above.

PRR relief will apply to the full period of ownership. However, relief is restricted in the period 1 February 2021 – 31 August 2022 as one room in the property (15%) is used exclusively for John’s sole trade business. Relief in the last 9 months is not however affected by this business restriction.

15% of property gain = £20,100 No relief on this portion of gain for 19 months out of total 132 months

20,100 * 19/132 = £2,893

Total relief available = 134,000 – 2,893 = £131,107

W4.

Calculation assumes John’s annual exempt amount is available. If not, the gain would be subject to capital gains tax at 18% or 28% because the gain relates to UK residential property.

John’s reporting obligations:

John is not required to file a CGT return with HMRC because he has not realised a capital gains tax liability on the disposal.

If John had already used his annual exempt amount on other residential property gains, he would be required to file a CGT return within 60 days of completion of the sale, on an estimated basis if necessary, and to pay the CGT to HMRC by the same date.

MARKING GUIDE

TOPIC	MARKS
Calculation of liability:	
Proceeds less base cost = gain	1
Proceeds = market value as connected persons – tenanted deduction	1
Base cost = probate value	1
Calculation of PRR	3
Annual exempt amount, no CGT payable	1
Availability of PPR:	
Basis of availability	1
Identify periods of actual occupation	2
Restriction for room used exclusively for business	1
Identify periods of deemed occupation	3
Reporting obligations:	
No reporting necessary (or, if assumed no AEA available, CGT return by 60 day filing deadline payment due same date)	1
TOTAL	**15**

ANSWER 4

Furnished Holiday Lets Qualification

If the letting of furnished holiday lets (FHLs) meets HMRC's conditions, it can be treated as a trade for certain tax purposes and receive preferential tax treatment.

Accommodation must be located in UK or EEA, have sufficient furniture available to guests, be let on a commercial basis and meet the required occupancy conditions to qualify.

The occupancy conditions are:

> Available for at least 210 days in each tax year, and;
>
> Let for at least 105 days in each tax year, and;
>
> Lettings in excess of 31 consecutive days must not account for more than 155 days in the tax year.

The benefits of qualification include the following:

> Rental profits will qualify as "relevant earnings" for pension purposes
>
> Disposals of FHLs can qualify for business asset disposal relief, rollover relief and gift relief if disposed of by way of gift or for below market value
>
> Finance costs are deductible in full from rental profits for Income Tax purposes
>
> Capital allowances are available on items purchased for the property
>
> The letting income does not have to be split equally between spouses per ITA 2007 s.836D

Willow Cottage, Yew Cottage, Elm Cottage

Willow Cottage and Elm Cottage meet the HMRC criteria so will qualify as FHLs.

Going forward as Megan has signed a 3-year lease, Yew Cottage will not qualify and will be treated as a residential let property from 2023/24. It will no longer receive the preferential tax treatment and Megan will need to consider whether any balancing adjustment should be made for capital allowances on the change of use.

For 2022/23, Yew Cottage does not meet the letting condition when considered in isolation. However Megan is able to make an averaging election such that she can rely on the average day count across her UK FHL business to meet the conditions. The average can be based on any combination or all of Megan's UK FHL's.

She can therefore include Willow, Elm and also Riverside House in her calculation as follows; (170 + 55 + 150 + 300)/4 = 168 days.

The election must be made within 1 year of the 31 January following the tax year end i.e. by 31 January 2025. This is still beneficial for 2022/23 despite the property becoming non qualifying going forward as it ensures a qualifying year for roll over and gift relief.

Riverside House

This house is being sold in summer 2023 and provided it meets the qualifying criteria for the twelve months up to the date of sale it should qualify as a FHL.

Cannes apartment

As the apartment is in the EEA, it can qualify as a FHL provided it meets the necessary criteria, which it does in this case. As Megan uses the apartment personally for 2 weeks each year, she should restrict ongoing expenses such as the service charge by 2/52 and costs such as utilities by the usage. This will reduce the loss available to her or may even create a profit.

As the apartment is in the EEA, she would only be able to offset any loss against other FHL qualifying properties in the EEA or carry it forward to be set against future profits from the same EEA FHL business. This loss therefore may only be of use to her if the property becomes profitable or she acquired another let.

Whistler Lodge

As the lodge is situated outside the UK and EEA, the FHL rules do not apply. Any rental losses could be set off against profits from the Cannes apartment but would not be available for offset against the income from Megan's UK properties.

Capital Gains Tax considerations

	£
Gain Yew Cottage	150,000
Gain Whistler Lodge (note 1)	4,800
	154,800
Less annual exempt amount (note 2)	(12,300)
Net gain	142,500
Tax at 10% (note 3)	14,250

Note 1

Disposal proceeds ($390,000/1.6763) £232,655

Acquisition cost ($400,000/1.7555) £227,855

Gain £4,800

Note 2

Annual exempt amount allocated to Whistler Lodge in priority as this would not qualify for BADR.

Note 3

BADR the property must qualify as a FHL at the date of disposal and for the previous two years.

Provided letting are as Megan expects and meet criteria for two years prior to sale this should qualify, assuming Megan has not used her lifetime limit.

The disposal must qualify as a disposal of a 'whole or part of the business'. As Megan operates a number of FHL properties, careful consideration will need to be given to this. As the property is in a different geographical location, advertised separately and managed separately the facts should dictate that the Yew Cottage lettings amounted to a separate, distinct and clearly identifiable parts of the overall FHL activity, allowing the BADR claim.

MARKING GUIDE

TOPIC	**MARKS**
FHL benefits and qualification:	
Accommodation location, furnishings and commerciality	**0.5**
Occupancy rules for FHL	**1.5**
FHL benefits (1/2 mark each)	**3**
Yew cottage non-qualification going forward and consequences	**1**
Averaging election and time limit for Yew Cottage	**1**
Application to Riverside House	**0.5**
Cannes Apartment qualifies as an FHL as meets conditions and is in EEA	**0.5**
Restrict expenses to take into account personal use	**0.5**
Loss only available for offset against other FHLs in EEA	**1**
Whistler Lodge does not qualify for FHL treatment due to location	**0.5**
Capital gains tax:	
Calculation of gain on Whistler Lodge	**1**
Consideration of BADR and 2 year qualification	**1**
Consideration of whether disposal of whole or part a business	**2**
Allocation of annual exemption	**0.5**
Rate of tax	**0.5**
TOTAL	**15**

ANSWER 5

The provision of the car will give rise to a taxable benefit in kind for Bella.

The benefit in kind will be calculated as a percentage of the vehicle's revised list price. The revised list price will be the manufacturer's list price for the vehicle, including VAT and delivery charges, plus the cost of any accessories provided with the car.

The percentage that needs to be applied to the revised list price is determined by the rates published by HMRC.

For a hybrid vehicle the percentage is based on both the CO2 emissions and the vehicle's electric mileage range.

As the vehicle will not be available for the full tax year, the resulting benefit in kind figure should be pro-rated by 9/12.

As Bella's monthly contributions are towards the cost of insurance, rather than for the private use of the car, no deduction is available for these.

Bella's use of the staff car park will not give rise to a benefit in kind as long as the car park is at or near her place of work.

The provision of electricity by her employer will not give rise to a benefit in kind either. Electricity is not within the definition of "fuel" so the fuel benefit charge cannot apply. There is no further benefit charge as s239(4) ITEPA 2003 specifically excludes a benefit connected with a taxable car.

Bronze Panda Ltd will need to calculate the benefit arising for the tax year and divide this figure by the number of remaining salary payments to be made to Bella. This is likely to be nine payments. One-ninth of the benefit in kind figure will be added to her salary for each pay period and subject to Income Tax via PAYE.

No National Insurance liability arises for Bella.

It is clear that the shares in Bronze Panda Ltd are being given to Bella as an award for service. This will fall within the employment related securities rules.

The default position is that Bella will be subject to tax on the restricted market value of the shares at the date of the award.

The way that the tax is collected, depends on whether the shares are Readily Convertible Assets (RCAs).

The shares in this case will not be classed as RCAs for the following reasons:

1) Bronze Panda Ltd is not a listed company,
2) There are no trading arrangements in place or likely to come into existence in July,
3) The company is not under the control of another company.

As the shares are not RCAs, there is no requirement for Bronze Panda Ltd to put the taxable amount through their payroll. Instead they must notify Bella of the relevant amount and she will need to include this on her self assessment tax return. The tax will be due by 31 January 2025.

There is no National Insurance due.

When the restriction is lifted, a further tax charge will arise based on the unrestricted market value of the shares in July 2026 multiplied by the percentage of the initial unrestricted market value of the shares that was neither taxed nor paid for when the shares were acquired.

Bella should be advised to consider making an election under s.431 ITEPA 2003.

The effect of this election would be that the shares are treated as being unrestricted at the date of acquisition. This would increase Bella's taxable income from £885 per share to £1,250 per share. If the election is made, no further income tax is due when the restriction is lifted.

As Bronze Panda Ltd is a fast-growing company, it is likely that Bella's shares will have increased in value by July 2026, therefore the overall tax payable across both events would likely be much higher if no election is made.

If Bella sells the shares, her base cost will be the amount that has been subject to Income Tax. With the election in place, this would be £1,250 per share. Without an election, this would be £885 per share plus any additional amount that is taxed when the disposal restriction is lifted.

Capital Gains Tax rates are lower than Income Tax rates, so it makes sense to try and reduce the Income Tax charge rather than the Capital Gains Tax charge.

If Bella decides to make the election, it must be signed by both her & her employer within 14 days of the award of the shares. The election is irrevocable. The election does not need to be submitted to HMRC, but Bella should keep the document for her records.

There is a risk to making the election as there is no guarantee that the shares will increase in value as hoped. Capital Gains Tax rates could also be increased in a future Budget.

MARKING GUIDE

TOPIC	MARKS
Explain how the list price figures is calculated	1
Percentage for hybrid vehicle determined by CO2 emissions & electric range	½
Benefit in kind needs to be pro-rated	½
No deduction for contributions towards insurance cost	½
No benefit in kind for staff car park	½
No benefit in kind for electricity provided by employer	1
Procedure for collecting the tax when benefit is payrolled	1
No National Insurance for Bella	½
Share award is within employment related securities regime	½
Default position is tax on restricted market value	½
Tax collection method is dependent on whether the shares are RCAs	½
Reasons why the shares are not RCAs	1
Declare relevant amount for shares on self assessment tax return	½
No National Insurance as not RCAs	½
Charge arising when the restriction is lifted	1
Advise Bella to consider s.431 election	1
Effect of election on Income Tax	1
Discussion of impact of Bronze Panda's likely growth	½
Method of making the election	1
Discussion of advantages & risks of election	1½
TOTAL	**15**

ANSWER 6

		£ Other Gains	£ Residential Property
Crystallised Gain from May 2012	W1	1,800	
Kendle Drive- Flat	W2		148,500
Kendle Drive - Office	W2	235,241	
Less:			
Irrecoverable Loan to Trader	W3		(15,000)
Annual Exempt Amount			(12,300)
Loss b/fwd			(2,153)
Taxable		237,041	119,047

	£
Tax on flat:	
£3,481 (W4) x 18%	627
£114,741 x 28%	32,358
Tax on Other Assets:	
£237,041 x 20%	47,408
Total	**80,393**

Workings

W1

£1,800 relating to the gain from the sale of Archie's previous shop was rolled over when this amount was reinvested into a depreciating asset (the fixed electric kiln).

A gain that has been deferred in this way crystallises on the earliest of:

1) The date the depreciating asset is sold

2) The date the depreciating assets stops being used in the trade

3) Ten years after the date of acquisition

As the kiln was acquired in May 2012, the gain will crystalise in May 2022. The frozen gain cannot be rolled over into any of the assets purchased during 2022/23 as all of the purchases took place after May 2022.

W2

Sale of 26 Kendle Drive

	£
Proceeds	875,000
Cost	(281,000)
Net Gain	594,000

25% of the net gain relates to the flat. £594,000 x 25% = £148,500.

The remaining gain of £445,500 relates to the office. Archie can make a claim for rollover relief under s. 152 TCGA 1992 in relation to the sale of the office. He has purchased qualifying business assets within the period starting 12 months before the date of sale and ending 36 months after.

2/3 of the office was used by Archie throughout his period of ownership, which equates to proceeds of £656,250 x 2/3 = £437,500.

The remaining 1/3 of the office building was utilised as follows:

01/06/1996 to 31/05/2001	Let to third party	60 months
01/06/2021 to 31/05/2022	Occupied by Archie's business	252 months
Total Ownership Period		312 months

Therefore, the proceeds for this 1/3 that are available to rollover will be ((656,250 – 437,500) * (252/312) = £176,683.

The total proceeds available to rollover are therefore £437,500 + £176,683 = £614,183

The full proceeds have not been reinvested, so a proportion of the gain will remain chargeable as follows:

		£
Proceeds		614,183
Invested:	Shop	(214,000)
	New Office (327,000 x 50%)	(163,500)
	Fixed Machinery (See note)	(30,000)
Chargeable Gain		206,683

Although Archie has not yet purchased the fixed production line machinery, he can make a provisional claim for rollover relief under s. 153A TCGA 1992. This is because he intends to acquire a new qualifying asset.

As part of the office has not been used in Archie's business throughout his period of ownership. The gain relating to the period of non-business use cannot be rolled over.

This gain is 60/312 x (445,500 x 1/3) = £28,558.

The total taxable gain is therefore £235,241.

W3

A capital loss arises if the following conditions are met:

i) money is lent to a trader for use in their business,

ii) the loan is not a debt on a security, and

iii) the loan becomes irrecoverable.

A debt on a security is a debt that is capable of being held as an investment. This would usually mean that it carries a commercial rate of return and is marketable.

As the second loan was made when the business was already failing, HM Revenue and Customs are unlikely to accept that there was a realistic chance of Archie recovering the funds when the loan was made. Therefore, no loss relief is available on the additional £5,000 loan.

W4

Basic rate band

	£	£
Taxable Profits		47,689
Personal Allowance	12,570	
Basic Rate Band	37,700	
Pension (£60 x 12) x (100/80)	900	
		51,170
Balance of Basic Rate Band:		3,481

Note:

There are no 2022/23 capital gains tax implications of Archie’s purchase of shares in Elijah’s company.

MARKING GUIDE

TOPIC	MARKS
Claim losses b/fwd	½
Claim irrecoverable loan to trader as a capital loss	½
Claim annual exempt amount	½
Claim all of the above against the residential property gain	½
Rates of tax for residential property gain	1
Rate of tax for gains on other assets	½
Explain why deferred gain is chargeable in 2022/23	1½
Calculate gain on the building sale	½
Apportion the gain between the office and the flat	½
Explain why the gain on the office can be rolled over	1
Apportion the office gain into period of business & non-business use	1
Calculate the total gain that is available to be rolled over	½
Calculate the chargeable proportion of the gain	1½
Explain that a provisional claim can be made in respect of the proposed machinery purchase	1
Explain the conditions for a capital loss to arise on an irrecoverable loan to a trader	1½
Explain why the second loan is unlikely to qualify	1
Calculate the available basic rate band	1
Note that there are no 2022/23 capital gains tax implications of the share purchase	½
TOTAL	**15**