



Chartered
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The Chartered Tax Adviser Examination

November 2019

Inheritance Tax, Trusts & Estates

Suggested solutions

1. JOHN & MAYA ROBERTS

To: John & Maya Roberts
From: Tax adviser
Date: 5 November 2019
Subject: Your Inheritance Tax position

Dear John and Maya,

Further to our meeting I have set out below a summary of the Inheritance Tax (IHT) position for you both and the options to mitigate this.

As John is UK domiciled, his worldwide estate is within the scope of IHT and this would include his share of joint assets. Maya is not UK domiciled thus only her UK estate is within the scope of IHT. Her assets in United Arab Emirates (UAE) would be excluded property.

The gift made to Maya in 2017 was a potentially exempt transfer (PET). This meant that no liability arose when John made the transfer but it would become chargeable if he should not survive seven years from the date of the gift. John would be able to deduct his annual exemption of £3,000 for each of 2017/18 and 2016/17 from the total value of the transfer.

Ordinarily, a transfer made to a spouse is 100% IHT exempt. However, where the transfer is from a UK domiciled spouse to a non-UK domiciled spouse, the exemption is capped at the same level as the nil-rate band (NRB), currently £325,000.

Accordingly, of the £800,000 gift made to Maya in 2017, £469,000 (£800,000 - £6,000 - £325,000) would become chargeable on John's death.

However, the first £325,000 of a person's chargeable estate is taxable at 0%. Consequently, only £144,000 (£469,000 - £325,000) of the gift made to Maya would result in an IHT charge on death but John would have no NRB available to set against his death estate.

John's death estate is calculated as follows:

Property (half share)	£1,000,000
Investments	<u>£4,500,000</u>
Total chargeable estate	<u>£5,500,000</u>
IHT at 40%	<u>£2,200,000</u>

In order to mitigate the tax payable on John's death, Maya could elect to be treated as UK domiciled for IHT purposes thereby providing access to the uncapped spousal exemption.

The election could be made during John's lifetime or within two years of his death and could be backdated for up to seven years prior to the date of the election (but not before the date of marriage).

If the election is made as at the date of his death, no IHT would be due on John's estate at death but the element of the PET not covered by the NRB would be taxable. The IHT would be a maximum of £57,600 however taper relief would be available, reducing the liability should John survive the gift by at least three years.

The other option would be to backdate the election to June 2017 so that no IHT would be due on John's death as both the PET and death transfers to Maya would be wholly covered by the spousal exemption. However, the election would extend the previously limited scope of IHT to Maya's worldwide assets and should Maya die whilst still treated as UK domiciled, the IHT due would be as follows (assuming asset values remain unchanged):

Property	£2,000,000
Investments	£4,500,000
UAE account	<u>£2,800,000</u>
Total chargeable estate	£9,300,000
Less NRB	(650,000)
Total subject to IHT	<u>£8,650,000</u>
IHT at 40%	<u>£3,460,000</u>

An increased NRB of £650,000 is available in this scenario because John's NRB would be unused at the time of his death.

However, if Maya should make the election at John's death, although the PET would be subject to IHT this would allow her to take steps now in order to shield her own assets from IHT. If she placed the contents of her UAE account into a trust from which she could benefit, this would protect the inheritance received from her father from IHT provided it remained in a foreign bank account or was invested in foreign situs assets. This would save IHT of £1,120,000 on the UAE bank account (£2,800,000 x 40%) and IHT would be payable on the PET of up to £57,600.

The election is irrevocable, but would cease to have effect should Maya become non UK resident for a period of four full consecutive tax years after the date of the election. As Maya is likely to return to UAE, her exposure to IHT should she die whilst non UK domiciled (assuming she fulfils the four year requirement) would then be restricted to the UK situs assets.

On returning to UAE, Maya could review her UK situs assets. If the UK property and UK investments were all sold, this would completely eradicate her potential exposure to IHT, although there may be some Capital Gains Tax consequences.

Consequently, it would seem that making the election as at John's date of death is the best option assuming Maya will subsequently fulfil the four year non residence requirement prior to her death.

Please contact me if you have any queries.

Kind regards

Tax Adviser

MARKING GUIDE

TOPIC	MARKS
UK Dom worldwide assets	0.5
PETs 7 years	0.5
Gift in 2017 likely chargeable	0.5
Annual exemption on gift	0.5
Non dom spouse exemption	0.5
IHT on PET	0.5
Calculate IHT on death	1
UK dom election	0.5
Lifetime or death within two years	0.5
Can backdate 7 years but not before married	0.5
Irrevocable unless leave UK 4 years	1
Impact of election on exemptions (not capped)	0.5
Maya's foreign assets in scope of IHT	0.5
No IHT on death estate	0.5
Tax if backdate v if elect on death	1
Supporting IHT calcs	2
Steps which can be taken before election to minimize IHT for Maya	1
<i>IHT if return to UAE</i>	
UK situs only	0.5
Ideas to minimize future exposure	1
Conclusion re whether should make election and when	1
PHS	0.5
TOTAL	15

2. HARVEY DISCRETIONARY TRUST

Income Tax liability 2018/19

	Non savings £	Savings £	Dividends £
Property income	22,000		
Bank Interest		14,000	
Dividends			23,000
Less: Annuity	<u>(10,000)</u>		
	<u>12,000</u>	<u>14,000</u>	23,000
Less expenses £2,500 x 100/92.5			<u>(2,702)</u>
Income after expenses	<u>12,000</u>	<u>14,000</u>	<u>20,298</u>
Income at standard rate			
£500 x 20%	100		
Annuity £10,000 x 20%	2,000		
TME £2,702 x 7.5%			202
Income at rate applicable to trusts			
£20,298 x 38.1%			<u>7,733</u>
£11,500 and £14,000 x 45%	<u>5,175</u>	<u>6,300</u>	
Tax liability	<u>7,275</u>	<u>6,300</u>	<u>7,935</u>
			£
Total Income Tax liability			21,510
Less payments on account			(6,000)
Add s496 liability			<u>9,744</u>
Income Tax			£25,254
Capital Gains Tax			8,720
Total income tax and CGT due 31 January 2020			<u>£33,974</u>
Tax Pool	£		
B/fwd	3,675		
£500 x 20%	100		
£11,500 x 45%	5,175		
£14,000 x 45%	6,300		
£20,298 x 38.1%	<u>7,733</u>		
	22,983		
Less tax credits claimed on distributions £40,000 x 45/55	<u>(32,727)</u>		
Balance	<u>(9,744)</u>		
S496 Liability	<u>9,744</u>		
Balance c/fwd	<u>0</u>		

Capital Gains Tax

Treasury stock exempt

House		£
Proceeds (net of costs)		175,000
Cost		<u>(85,000)</u>
		90,000
Total length of ownership (1 July 2004 – 31 March 2019)	177	
PPR (1 August 2004-31 August 2007= 37 + last 18 mths)	55	
PPR exempt gain: £90,000 x 55/177		(27,966)
Period property let (1 September 2007-31 March 2019 = 139 mths – 18 mths deemed PPR)	121	
Letting gain: £90,000 x 121/177	£61,525	
Lettings relief lower of : gain accruing over period of letting (£61,525) or £40,000 or PPR (£27,966)		(27,966)
Chargeable Capital Gain		£34,068
Less Annual Exemption (£5,850/2)		<u>(2,925)</u>
		<u>£31,143</u>
Capital Gains Tax at 28%		<u>£8,720</u>

£

R185- Lily

Net income distribution	10,000
Tax credit	8,181

£

R185- Hazel

Net income distribution	30,000
Tax credit	24,545

£

R185- Dick

Net income annuity	8,000
Tax credit	2,000

MARKING GUIDE

TOPIC	MARKS
Deduct annuity- non savings	0.5
Gross up expenses & deduct from dividends	1
Standard rate band	0.5
Apply correct tax rates	1
Tax on expenses	0.5
Tax on annuity	0.5
Total income tax due	1
Less payments on account	0.5
S496 liability	0.5
Tax payable and date	0.5
<i>Tax pool</i>	
Additions	1.5
Distributions	0.5
Capital gains tax	
Treasury stock exempt	0.5
Gain on property	0.5
Calculate PPR	1
Lettings relief	0.5
Annual exemption	0.5
Calculate the tax due (28%)	0.5
Subtotal	12
<i>R185's</i>	
R185 for Lily & Hazel	2
R185 for Dick (basic rate only)	1
Subtotal	3
TOTAL	15

3. FOX DISCRETIONARY TRUST

Your address

My address

5 November 2019

Dear Sirs

Further to our recent telephone call I have set out below the tax implications for both yourselves as trustees and Daniel if the shares in Rabbit Ltd are distributed to him.

Trustees Liability

As you will be aware, the Fox Discretionary Trust is an excluded property trust and therefore non UK situs assets in the trust are outside the scope of UK Inheritance tax (IHT). However, from 6 April 2017, where a UK residential property is owned by a non-UK resident close company the shares in the company will no longer qualify as excluded property to the extent that the company's value is derived from UK residential property. This means that on a distribution of the company's shares to Daniel an IHT exit charge will arise and if the company's shares remain in the trust at the date of the 10 year anniversary an IHT charge will arise.

I have calculated that if the shares are distributed to Daniel on 5 March 2020 (thus before the 10 year anniversary) the IHT exit charge would be £40,200. If the shares are distributed to Daniel on 5 May 2020 after the 10 year anniversary but within three months thereof there would be no IHT exit charge but the trustees would still suffer an IHT 10 year charge of £42,400. I would therefore recommend that the distribution was made before the 10 year charge date.

Daniel's liability

A distribution received by a UK resident and domiciled individual such as Daniel is subject to UK tax to the extent that there is accumulated income or undistributed gains (stockpiled gains) within the trust. A distribution in excess of the income and gains is carried forward and matched (and taxed) against the next available income and gains of the trust.

The UK anti-avoidance rules state that where a trust is set up with a UK tax avoidance motive a distribution to a UK resident beneficiary would first be matched with any undistributed accumulated income in the trust and taxed to income tax on the beneficiary. This is likely to be the case for this trust as the settlor was UK resident before the trust was set up.

Once the accumulated income in the trust has been exhausted then the remaining distribution is matched with realised gains in the stockpiled gains pool. Any distribution matched to the stockpiled gains pool is subject to Capital Gains Tax (CGT) for the beneficiary. The distribution is matched to gains on a last in first out basis. Once a capital gain has remained in the trust for more than one year there is a supplementary charge imposed which will increase the effective CGT rate for the beneficiary on the distribution by 10% of the standard CGT rate (up to a maximum of six years thus 60%) for each year the capital gain has remained in the trust. For example if the distribution is matched to capital gains realised three tax years before the distribution the effective CGT rate would be 13% $((10\% \times (3 \times 10\%) + 10\%))$ or 26% $(20\% \times (3 \times 10\%) + 20\%)$ depending upon whether the individual is a higher or lower rate taxpayer.

Based on the current income and gains in the trust there would be tax due in 2019/20 of £111,210. However as there is only sufficient income and gains in the trust to match £541,452 of the trust distribution at present the remaining £1,958,548 will be carried forward and matched against future income and gains of the trust.

I hope this is helpful but if you have any queries please contact me.

Yours faithfully

A Tax Adviser

Exit Charge on 5 March 2020

	£
Initial value of relevant property	0
Added relevant property	2,700,000
Nil rate band 2019/20	<u>(325,000)</u>
-	2,375,000
Notional IHT at 20%	475,000
Effective rate $\text{£}475,000/\text{£}2,700,000 \times 100$	17.592%
Complete quarters from date of creation to distribution- 39	
Complete quarters the property was no relevant property 27	
Actual rate: $17.592 \times 30\% \times (39-27)/40$	1.583%
Gross up rate $1.583/(100-1.583) \times 100$	1.608%
Exit charge: $\text{£}2,500,000 \times 1.608\%$	<u>40,200</u>

Ten year charge on 30 April 2020

	£
Current value of relevant property	2,500,000
Nil rate band 2019/20	<u>(325,000)</u>
-	2,175,000
Notional IHT at 20%	435,000
Effective rate $\text{£}435,000/\text{£}2,500,000 \times 100$	17.400%
Complete quarters that the property has been non relevant property	
30 April 2010- 30 January 2017- 27	
Actual rate: $17.40 \times 30\% \times (40-27)/40$	1.696%
Ten year charge: $\text{£}2,500,000 \times 1.696\%$	<u>42,400</u>

Distribution to Daniel- £2,500,000

	£	£
Gain on deemed disposal of shares on distribution		
Current value	2,500,000	
Base cost	<u>(2,100,000)</u>	
Stockpiled gain 2019/20	<u>400,000</u>	
Total stockpiled gains		
2016/17	30,576	
2017/18	43,876	
2019/20	<u>400,000</u>	
	<u>£474,452</u>	
Distribution matched to income:	£ 67,000	
Personal allowance	<u>£(11,850)</u>	
£34,500 x 20%		6,900
£20,650 x 40%		<u>8,260</u>
Total Income Tax		<u>£ 15,160</u>
Distribution matched to capital gains:	£474,452	
Less annual exemption	<u>(£11,700)</u>	
	£462,752	
Tax at 20% x £462,752	<u>£92,550</u>	
Total CGT charge		<u>£92,550</u>
Supplementary charge		
Matched to 2016/17 gains 30% charge	£ 30,576	
Matched to 2017/18 gains 20% charge	£ 43,876	
30,576/474,452 x 92,550	£5,964 x 30% = £1,789	
43,876/474,452 x 92,550	£8,558 x 20% = £1,711	
Summary		
Income Tax charge		15,160
Total CGT due		92,550
CGT supplementary charge		1,789
CGT supplementary charge		1,711
Total tax due 31 January 2021		<u>£111,210</u>
Total unmatched distribution		
£2,500,000- (£67,000-£474,452)	<u>£1,958,548</u>	

MARKING GUIDE

TOPIC	MARKS
PHS	1
Foreign assets outside scope IHT	0.5
Excluded property trust	0.5
Rule change in April 2017 re residential property	1
Recommendation re timing	1
Calculation of exit charge	
Nil rate band	0.5
Notional rate	0.5
Quarters	0.5
Adjust actual rate	0.5
Gross up rate	0.5
IHT	0.5
<u>Calculate ten year charge</u>	
Notional rate	0.5
Quarters	0.5
Adjust actual rate	0.5
IHT	0.5
Subtotal	9
<u>Daniel</u>	
Motive defence unlikely	0.5
Match distribution to income	0.5
Match remainder to capital gains	1
Explanation re supplementary charge	1
Excess capital distribution	1
<i>Calculation</i>	
Income tax	1
Capital gains	1.5
Supplementary charge rates	1
Apportion annual exemption	1.5
Calculate supplementary charge	1
Tax due & date	1
Subtotal	11
TOTAL	20

4. PETER ROBSON

To: Peter Robson
From: A tax adviser
Date: 4 November 2019
Subject: Inheritance Tax reliefs

Dear Peter

Following our conversation regarding your brother's estate I have set out below the possible reliefs and how these could reduce the Inheritance Tax (IHT) liability for you as an Executor and personally.

The IHT regime has a number of reliefs that apply where certain assets are sold within a specified time after death and have fallen in value from their value at probate. I will outline the reliefs that may apply to this estate, and then consider in more detail whether they will be beneficial.

Sale of Land relief

Where the executor sells land within three years of death a claim can be made to substitute the sale value for the death value (but not if such sales are made to certain related persons which is not the case here). The claim when made automatically applies to all land sold in the three years and this needs to be considered if more than one sale of land has occurred. Sales between the third and fourth year of death at a loss can be counted when working out the overall allowable loss. The claim must be made within four years of the end of the three year period post death. If the executors purchase any land in the period beginning on death and ending four months after the last sale, the loss claim is reduced. The executor should therefore carefully consider any purchases of land and its effect on the relief.

Sale of Quoted Investments Relief

This relief applies to shares or securities which are quoted at the date of death. If there are sales of such investments within 12 months of death then the overall loss (ignoring cost of sale) on sale of such investments reduces the value of the estate at death. As with sales of land, it should be noted that the claim is not made on a per investment basis but by reference to all such investments sold in the time period. Accordingly there could be a mixture of gains and losses in the overall figure and if there was an overall gain then the claim would not be beneficial. The claim must be made by the executor within four years from the end of the 12 month period.

Sale of an asset gifted during lifetime

Where the taxpayer gives away an asset during lifetime this is a potentially exempt transfer (PET) for IHT purposes which, becomes subject to IHT on death if made within seven years of death. Where an asset falls in value between the date of the gift and death, relief is available provided a claim is made by the donee within four years of death. Assets are valued for lifetime gifting on a loss to donor principle however please note that the fall in value relief will compare the market value at the date of gift with the sale proceeds, in some instances the loss to donor is greater than the market value.

Claims for relief

Land/Property

Based on the sale of the Devon property it would be possible to make a claim for the fall in value of the property and obtain relief. However I note that Jim's main home is also being marketed for sale. As sales of land within three years of death will be pooled when assessing the claim you should not make a claim until Jim's main home has been sold. Alternatively the sale of Jim's house could be deferred until after the three years have passed.

Quoted Shares

Only the GGB plc and Hill plc shares are qualifying shares sold within the relevant period. The Small Investment Ltd shares do not qualify as they are not listed on a recognised stock exchange and the Green plc shares were sold more than 12 months post death. The net fall in value is £15,000. Making the claim would result in an IHT repayment of £6,000 (£15,000 x 40%) to the estate.

Gift of Jim's shares to you

As stated above, the loss is calculated based on the difference between the market value of the shares on gift and sale. I have calculated in Appendix 1 that this will reduce the value of the PET £24,000 to £19,000. This will therefore result in a reduction of IHT for you of £2,000 (5,000 x 40%).

If you require any further assistance please let me know.

Kind regards

Tax Adviser

Appendix 1

Gift of shares in Jim's company

Value of PET		
Loss to donor principle	£	£
£180,000-£150,000		30,000
Less AE 17/18 & 16/17		<u>(6,000)</u>
PET		24,000
S131 Relief		
PET now chargeable		24,000
Less fall in value relief		
MV at date of gift	15,000	
Less sale proceeds	<u>(10,000)</u>	
S131 relief		<u>(5,000)</u>
Amount chargeable		<u>19,000</u>

MARKING GUIDE

TOPIC	MARKS
IHT on market value	0.5
Relief for falls in value possible	0.5
<i>Sale of land relief</i>	
Substitute sale value for death value	0.5
Applies to all land sold in 3 years from death if claim + time limit for claim	1
Consider carefully if more than one sale	0.5
If purchase any land loss can be reduced	0.5
<i>Sale of quoted investments relief</i>	
Must be quoted	0.5
Sales within 12 months of death + time limit	0.5
All sales pooled	0.5
Need to consider the overall position	0.5
<i>PET</i>	
Relief available for fall in value of a PET	0.5
Claim must be made within 4 years of death	0.5
Sale must be to an unconnected third party	0.5
Relief based on market value not loss to donor	0.5
Make a claim	
Wait re property until other property sold	1
<i>Shares</i>	
Small Investments not quoted	0.5
Green PLC- not within 12 months	0.5
Fall in value relief available on £15,000	0.5
Calculate IHT repayment	0.5
Due to Estate	0.5
Calculate IHT repayment on PET	0.5
Due to Peter	0.5
<i>Gift to Peter (Calc)</i>	
Value of shares, loss to donor	1
2 x AE	0.5
S131 relief- fall in value	1
PET chargeable	0.5
TOTAL	15

5. MR GREY

Our address

Your address

Date

Dear Mr Grey

Your Inheritance Tax (IHT) position

Further to our telephone conversation I have set out below details of how your liability to IHT would be calculated on death.

At the date of death your assets will be valued at their market value and this will be the value on which IHT is due. You will be entitled to a Nil Rate Band (NRB) of £325,000 however if you have made any gifts in the seven years before death the NRB will be used first against these gifts.

I note that on your wife's death she left all her assets to you. Therefore, assuming that she had made no chargeable gifts in the seven years prior to her death, you will also be to use her NRB which is transferrable meaning your total NRB is £650,000.

A Residence Nil Rate Band is also available where your residence is closely inherited. However this is restricted once your estate exceeds £2 million and so as things stand, it wouldn't be available to you.

I calculate that your IHT liability on death would be approximately £1,012,000 (see Appendix 1).

Your pension fund would not form part of your estate because the pension scheme providers have discretion over the payment of death benefits. Similarly the life policy proceeds would be paid to Amelie and would form part of her estate rather than yours.

Since shares in an unlisted trading company usually qualify for 100% Business Property Relief (BPR) relief if they have been held for two years, your shareholding in Large Building Contractors Ltd should qualify for 100% relief. However, the value of that shareholding attributable to any excepted assets in the company would not qualify for BPR and therefore you should keep the company cash balances to the level required for the day to day operation of the business. For this reason I would not recommend that you reduce your salary and leave the funds in the company. Cash reserves can however be held in the company provided that they are earmarked for a specific business purpose.

The shares in City Homes Ltd will not qualify for BPR as it is not a trading company. I note that you are intending to give 90% of your shares in City Homes Ltd to your daughter over the next few years. For IHT purposes the shares are valued on a "loss to donor" principle by comparing the value of your shares immediately before the gift with the value after. Therefore the value you have already given away will be the difference between a 100% holding and a 90% holding rather than the value of a standalone 10% holding. As you are intending to repeat this gift every year this planning would be caught by the "associated operations" rule. This enables HM Revenue and Customs to look at the transaction as a whole and where a transfer of value is made by associated operations carried out at different times it is treated as made at the time of the last gift. Therefore the loss to your estate will be based on the gift of a 90% shareholding made at the date of the last gift. I would therefore recommend that for IHT purposes you give the remaining 90% of the shares to your daughter as soon as possible.

I have set out below some further relief and options for reducing your estate during your lifetime.

Annual exemptions

The annual exemption is £3,000 and you can gift this amount free of IHT annually. If you do not use the allowance you can carry it forward (one year only) and use in the next tax year.

Small gifts exemption

You can make gifts of up to £250 IHT free to as many individuals as you choose each year, as long as you have not used another exemption on the same individual. This may be useful for making gifts to your grandchildren.

Marriage exemption

You could gift £2,500 per grandchild IHT free on or shortly before but in contemplation of their marriage.

Normal expenditure out of income

For you, this could be the most valuable of the lifetime exemptions as you have calculated that you have excess income of £9,150 per month.

The exemption applies where the taxpayer can show that a gift:

- formed part of the transferor's normal expenditure,
- was made out of income and
- left the transferor with enough income for them to maintain their normal standard of living.

You would need to be able to demonstrate a pattern for giving and the gifts should not be for a specific purpose. You could make gifts annually to your daughter or more frequently such as monthly. It would be sensible to document that the gifts are intended to be regular and that the initial gift is the first of a regular pattern. The payments should come from income (i.e. salary) and not from capital (i.e. investments) and you should keep records to show your expenditure and excess income.

This exemption could also fund a life assurance policy to cover your IHT on death.

Potentially Exempt Transfers (PETs)

If you make lifetime gifts to an individual of any of your assets (rather than income) such as the remaining City Homes Ltd shares these gifts will be PETs. A PET is a gift which is not immediately subject to IHT but it would become chargeable if you should die within seven years of the gift. Any PETs should be made as soon as possible to start the seven year clock running. Once you have survived three years from the date of the gift taper relief would gradually reduce the rate of IHT and hence IHT liability on the PET.

Charity

Any gifts to Charity made during lifetime or on death are exempt from IHT. I note that you already gift funds to a Charity which you have set up. If you were to gift 10% or more of your net estate, less the nil rate band, to any UK or EU registered charity on your death the IHT rate would be reduced from 40% to 36% for your estate.

If you have any queries do not hesitate to contact me.

Yours sincerely

Tax Adviser

Appendix 1

Approximate IHT liability on death	£	£
London Flat		2,500,000
Bank balance		60,000
Stocks and shares		430,000
City Homes Ltd shares		190,000
Large Building Contractors Ltd	3,500,000	
Less BPR	<u>(3,500,000)</u>	-
Chargeable Estate		3,180,000
Less NRB x 2		<u>(650,000)</u>
		2,530,000
Inheritance Tax x 40%		<u>£1,012,000</u>

MARKING GUIDE

TOPIC	MARKS
PHS	1
Nil rate band	0.5
TNRB	0.5
No RNRB	0.5
Calc	1
<i>BPR</i>	
100%	0.5
Unlisted trading co	0.5
2 year holding	0.5
Surplus cash/excepted estate	0.5
Do not reduce salary	0.5
Pension no IHT	0.5
Life policy no IHT	0.5
No BPR City Homes	0.5
<i>City Homes</i>	
Loss to donor	0.5
Associated operations	0.5
Look through transfer	0.5
Shares deemed transfer at date of last operation	0.5
Remain in estate	0.5
Give all now	0.5
<i>Reliefs</i>	
Annual exemption	1
Small gifts	1
<i>Normal expenditure out of income</i>	
Lots of excess income	0.5
Exemption from IHT	0.5
Forms part of normal expenditure	0.5
Gifts made out of income	0.5
Can maintain normal lifestyle	0.5
Needs to be a pattern	0.5
Sensible to document intention	0.5
Need to make the payments from income	0.5
Could make gifts to Amelie	0.5
Could use to fund life policy	0.5
PETS	1.5
Charity	1
TOTAL	20

6. CRAIG RED

Our address

Your address

Date

Dear Mr Red

Following our meeting I have set out below the Inheritance Tax (IHT) implications of your move to the UK.

Despite the fact that you regard yourself as domiciled in New Zealand, as you were born in the UK to a UK domiciled father, under new legislation which came into force on 6 April 2017, you will be regarded as a returning UK domicile whilst you are UK resident.

This means that from your second tax year of residence in 2020/21, you will be regarded as UK domiciled for UK IHT purposes which means that your worldwide assets will be within the scope of UK IHT.

For the remainder of the 2019/20 tax year you will not be UK domiciled and you will only be subject to IHT, in the event of your death, on any UK situs assets. Any foreign situs assets will be regarded as excluded property and outside the scope of UK IHT.

UK IHT is charged on the net value of all the assets in your estate (except any excluded property) and on any lifetime chargeable transfers and failed potentially exempt transfers (PET) made within seven years of your death. Only gifts within seven years of your death which you make after 6 April 2020 and whilst you are UK resident, would be included in your estate.

Inheritance Tax is charged at 40% on death but you would be entitled to a nil rate band of £325,000. In addition based on the value of your current assets you should qualify for the Residence Nil Rate Band (RNRB). This is an additional nil rate band which is available where your estate contains a qualifying residential interest i.e. your home in New Zealand and this residence is closely inherited. I note that your estate is left entirely to your two children and therefore would fall into the definition of closely inherited. The RNRB for 2019/20 is £150,000. This means that your total nil rate band would be £475,000 (£325,000 + £150,000) and your estate in excess of this would be taxable at 40%. IHT is payable six months from the end of the month in which death occurs.

Your trust

Your domicile status will also have tax implications for your trust whilst you are UK resident. For your first tax year of residence the trust will be regarded as an excluded property settlement and outside the scope of UK IHT to the extent that the trust does not contain any UK situs assets. However from 6 April 2020 the trust will be regarded as a relevant property trust. This means that on each ten year anniversary of the trust an IHT charge will arise at a rate of up to 6% on the net market value of the assets in the trust.

The first ten year charge will arise in December 2020. The charge will however reflect the fact that the trust has only been relevant property since April 2020. The IHT rate will be reduced to exclude the complete quarters when the property was not relevant property (37 quarters) which means that the rate will be 3/40ths of the full rate.

If any capital distributions are made from the trust after 5 April 2020 and whilst you are UK resident this may result in an IHT exit charge of up to 5.85%.

As you are also a beneficiary the trust will fall foul of the Gift with Reservation of Benefit (GWROB) rules. This means that in addition the value of the trust will be included in your estate for IHT purposes. This could be avoided however if you were excluded from benefit before 6 April 2020.

Leaving the UK

Once you leave the UK in five years' time you will no longer be regarded as UK domiciled. This means that your own and the trust's foreign assets will immediately fall outside the scope of UK IHT again.

I hope that this is helpful but if you have any queries please do not hesitate to contact me.

Yours sincerely

A Tax Adviser

MARKING GUIDE

TOPIC	MARKS
Explain re Returning UK dom	1
First tax year non dom	1
Foreign situs assets outside scope of IHT/UK chargeable	1
From second year all assets subject to IHT	1
IHT charged on net value of estate	0.5
PETS from 6 April 2020 and whilst UK resident	1
Nil rate band	0.5
IHT rate	0.5
RNRB qualifying conditions	1
Total nil rate band available	0.5
Due date	0.5
<i>Trust</i>	
Excluded property until April 2020	0.5
Relevant property from April 2020	0.5
Ten year charges explanation	1
Ten year charge in 2020	0.5
Rate apportioned for period not relevant property	0.5
Exit charge on capital distributions	0.5
Trust is a GWROB	1
Could be avoided if excluded from benefit	0.5
Consequences of leaving the UK	1
PHS	0.5
TOTAL	15