

The Chartered Institute of Taxation

Advanced Technical

Inheritance Tax, Trusts & Estates

May 2022

Suggested solutions

ANSWER 1

1) Inheritance Tax calculation

	£
Free Estate	
Shares in listed companies	175,000
The Cottage (half share)	625,000
Cash in bank accounts	60,000
ISAs	80,000
Artwork	140,000
Inheritance	<u>300,000</u>
	1,380,000
Settled Estate	
Shares in listed companies	175,000
The Cottage (half share)	625,000
Cash in bank accounts	<u>50,000</u>
	850,000
Total	2,230,000
Less charitable gift	(200,000)
Nil rate band x 2	(650,000)
Residence nil rate band (see note)	<u>(235,000)</u>
Taxable Estate	<u>£1,145,000</u>
Tax at 36%	<u>£ 412,200</u>

Payable by Executors: £1,180,000/£2,030,000 x £412,200= £239,604

Payable by Trustees: £850,000/£2,030,000 x £412,200= £172,596

Notes:

1. Pension pot doesn't form part of Joe's estate. Annuity has no guarantee and no value on death.
2. Full transferable nil rate band available (IIP to Joe covered by spousal exemption).

RNRB:

Total RNRB plus b/f allowance	£350,000
Less restriction ½ x £2,230,000- £2,000,000	<u>(£115,000)</u>
RNRB available	<u>£ 235,000</u>

Charitable gift:

Baseline amount

	Free estate £	Settled estate £
Chargeable estate	1,380,000	850,000
Less gift	<u>(200,000)</u>	
	1,180,000	850,000
Less NRB	<u>(377,833)</u>	<u>(272,167)</u>
Add legacy	<u>200,000</u>	
Baseline	<u>1,002,167</u>	<u>577,833</u>
X 10%	100,216	57,783

Legacy exceeds the baseline for both components and therefore election can be made to apply the 36% rate to both elements.

- 2) A Deed of Variation (DOV) can be used where a beneficiary (Joe) does not want to accept the bequest but instead chooses to pass it to a nominated person.
- 1) The variation must be made by Deed in writing.
 - 2) Must be signed by Joe as the original beneficiary.
 - 3) Must be made within two years of Bill's death.
 - 4) Various statements must be included if the DOV is to be effective for IHT and CGT purposes (see below).
 - 5) Should not be made for consideration in money or money's worth.

IHT

In order for the DOV to be effective for IHT purposes, the instrument must contain a statement that Joe intends s142 (1) Inheritance Tax Act 1984 to apply. If done the DOV will take effect as if the disposition was made by Bill (the deceased) and not form part of Joe's estate.

CGT

S62 TCGA 1992 includes a similar provision for CGT purposes so if Joe elects that the provision should apply the disposition will be treated as having been made by the deceased and the variation will not be a disposal by Joe.

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

Disclaimer

Where a bequest is disclaimed by the original beneficiary the asset passes to the person entitled to the residue i.e. Rose. This is not possible once the beneficiary has received benefit from the property. The DOV would be a better option for Joe, as he would like the inheritance to go to his children and grandchildren which would not be possible with a disclaimer.

- 3) Further options for reducing Joe's estate during his lifetime are:

Annual exemptions

Joe can gift £3,000 free of IHT each tax year. Unused allowances can be carried forward (one year only) and used in the next tax year.

Small gifts exemption

Joe can make unlimited gifts of up to £250 per individual IHT free annually, provided he hasn't used another exemption on the same individual. This may be useful for making gifts to Joe's grandchildren.

Marriage exemption

Joe can gift £2,500 per grandchild IHT free on/in contemplation of their marriage.

Normal expenditure out of income

The exemption applies where a gift:

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

A pattern of giving should be established. It should be documented that the initial gift is the first of a regular pattern. The payments should come from income (i.e. dividends/annuity) and Joe should keep records of expenditure and excess income.

Potentially Exempt Transfers (PETs)

A gift of an asset to an individual will be a PET. A PET is not immediately subject to IHT but would become chargeable should Joe die within seven years of the gift. Any PETs should be made as soon as possible to start the seven year clock running. Once Joe has survived three years from the date of the gift, taper relief would gradually reduce the rate of IHT on the PET. PETs within seven years of death will use Joe's nil rate band in priority to the death estate.

MARKING GUIDE

TOPIC	MARKS
1) IHT Comp	
IIP Trust in estate	0.5
NRB x 2	1.0
RNRB	1.0
Charity baseline calc	1.5
Tax at 36%	0.5
Trust/Exec tax	0.5
Pension & Annuity not in Estate	0.5
Sub- total	6.0
2) DOV	
In writing	0.5
Signed all parties	0.5
Within 2 years of death	0.5
Include relevant statements to be effective for CGT and IHT	0.5
Not for consideration	0.5
S142 election treated as disposition by Bill	0.5
Inheritance does not form part of Joe's estate	0.5
S62 election no disposal by Joe	0.5
Disclaimer- no control over recipient	0.5
Not possible if receive benefit	0.5
Suggest which option is best	1.0
Sub-total	6.0
3) Other steps	
Annual exemption	0.5
Small gifts	0.5
Marriage	0.5
Normal expenditure out of income:	
- Forms part of normal expenditure made out of income, can maintain normal lifestyle	1.0
- Needs to be a pattern/ Sensible to document intention	0.5
PETs	0.5
Sub-total	3.0
TOTAL	15

ANSWER 2

1)

Estate	£	£
Home		2,000,000
Contents		200,000
Office	800,000	
Less: mortgage (Note 3)	<u>(500,000)</u>	
	300,000	
Less BPR 50%	<u>(150,000)</u>	
		150,000
Trading company shares	300,000	
Less: BPR 100%	<u>(300,000)</u>	
		-
Painting		140,000
Cash		30,000
Investments		<u>120,000</u>
Total Estate before deductions		2,640,000
Less:		
Credit card and funeral expenses		<u>(9,000)</u>
Chargeable Estate before NRB		2,631,000
Less:		
Nil rate band x 2 (Note 1)		<u>(650,000)</u>
		<u>1,981,000</u>
Tax at 40%		792,400
Less QSR (Note 4)		<u>(29,228)</u>
Total tax due		<u>£763,172</u>

Tax due 30 June 2022

Notes

1. Transferable nil rate band available as all assets left to Margaret on death of her husband.
2. No residence nil rate band available as both individuals had estates on which tapering would reduce this to nil (RNRB Net value = Estate £2,640,000 plus BPR £450,000).
3. Under s.162B IHTA 1984 the mortgage would be deductible against the business property rather than her home.
4. QSR Painting (UK gift and therefore regarded as tax free):

$$\text{£}(45,000 \times 60\% \times \frac{125,000}{170,000}) = \text{£}19,853$$

5. QSR Spanish property (non-UK property and therefore regarded as tax bearing):

$$\text{£}(75,000 \times 20\% \times \frac{(200,000 - 75,000)}{200,000}) = \text{£}9,375$$

2)

Daisy and Lily are “relevant minors” being children under the age of 18 years and both their parents have died. The trust comes to an end once the children reach 18 years and would therefore qualify as a Bereaved Minor’s Trust (BMT). The trustees of a BMT are subject to special tax treatment rather than the usual standard rate band and 38.1% and 45% income tax rates provided certain claims and elections are made as follows:

1. Vulnerable Person Election- this is a joint election between the trustees and the children’s legal guardian to confirm that the trust is a qualifying trust and that the children are vulnerable beneficiaries. This election should be made by 31 January following the 31 January after the end of the 2021/22 tax year and will remain in place until (in this case) the trust is wound up.
2. Claim for Special Tax Treatment- the Income Tax and Capital Gains Tax treatment below only applies if this relief is claimed by the trustees annually on the Trust self-assessment tax return. The trustees must calculate the tax due using the usual tax rates for discretionary trustees, then calculate the tax due using the special tax treatment described below and make a claim for the difference.

The tax treatment of the Trust using the special tax treatment is as follows:

Income Tax

Although the trust is a discretionary trust the Income Tax liability of the trustees is calculated as if the income accrued to the two children. Therefore the children’s personal allowances, basic and higher rate bands and savings or dividend allowances are available for use by the trustees when calculating the tax due.

An income distribution from the trust would carry the normal 45% credit and therefore the trustees will need to maintain a tax pool to record the tax paid. If the trustees make distributions and the tax credit exceeds the tax pool further tax will be payable by the trustees. If the beneficiaries’ marginal tax rate is less than 45% they will be able to reclaim the additional tax paid.

Capital Gains Tax (CGT)

The CGT liability of the trustees is restricted to the amount payable if the children had disposed of the assets personally. Therefore, their CGT annual exemption is available (double the annual exemption normally available to trustees) and the basic CGT rate is 10% or 18% rather than the 20% or 28% usually applicable to trustees.

Inheritance Tax (IHT)

A BMT is not subject to the relevant property regime and therefore no ten year charges or exit charges are levied on the trust assets during its existence or on winding up.

MARKING GUIDE

TOPIC	MARKS
1)	
BPR 50%	0.5
Deduct loan	1.0
BPR 100%	0.5
Deduct liabilities	0.5
NRB x 2	0.5
No RNRB	0.5
Tax at 40%	0.5
QSR x 2 (1 mark each)	2.0
Total tax due	0.5
Tax due date	0.5
Sub-total	7.0
2)	
Qualify as BMT	1
Income tax rates	1
Tax credit on distribution	0.5
Must keep a tax pool	0.5
Capital Gains Tax rate	1
Inheritance Tax advantages	1
Vulnerable Person Election	1
Deadline for making the election	0.5
Special Tax Treatment claim	0.5
Claim made annually	0.5
Calculation of the relief	0.5
Sub-total	8.0
TOTAL	15

ANSWER 3

1)

The trust is not UK resident because all the trustees are Guernsey resident. However, the trust does receive income from UK property and must therefore be registered with the Trust Registration Service and is required to file UK self-assessment tax returns.

The trust is discretionary and therefore the rental profits of Meadowview will be taxable at 20% on the first £1,000 of profits and at 45% on the excess. Tax returns are required to be filed by 31 January following the end of the tax year. As no Trust tax returns have been filed historically, a disclosure will need to be made to HMRC in respect of all relevant earlier years in order to pay the income tax due. Interest and penalties will also be payable for the tax years from 2015/16-2020/21 where the trustees have failed to notify chargeability.

From 6 April 2019, the scope of UK Capital Gains Tax was extended to include UK commercial property held by non-UK residents. If Meadowview is sold in the current tax year, the trustees will have 30 days from completion to report the sale and pay any Capital Gains Tax arising on the sale. The tax rate is 20% and the trustees are entitled to half the standard annual Capital Gains Tax exemption available for individuals to reduce the chargeable gain. The capital gain on the property can be calculated in two different ways:

1. The default method: The property's cost basis is rebased to its 5 April 2019 value.
2. The retrospective method: The gain is calculated using the original cost and deducting this from the sale proceeds. The whole gain is chargeable.

The default method will apply unless the Trustees elect to use one of the alternative methods.

Any capital gains not subject to UK Capital Gains Tax will form part of the Trust's s.87 TCGA 1992 stockpiled gains pool.

As the trust is settlor interested, UK source trust income arising is also taxable on Donald under s.624 ITTOIA 2005 with a credit given for the tax paid by the trustees. The transfer of assets abroad provisions in s.720 ITA 2007 mean that the rental income received from the residential property held in Rice Ltd will also be taxable on Donald at rates up to 45% unless a motive defence exists. This would seem unlikely as the trust was set up to protect his assets from UK tax.

Donald will also have to disclose to HMRC the historic income which is attributable to him and can claim the appropriate tax credit. He will not be taxable on any trust capital gain arising on the sale of Meadowview provided this remains a protected settlement.

There are a number of UK tax filings outstanding and therefore Donald and the trustees should make a disclosure and pay the outstanding tax to HMRC as soon as possible to mitigate the interest which is accruing.

2)

The trustees currently hold a UK situs asset (Meadowview) directly. If the trustees do not sell the property and it is still held at the date of the ten year anniversary charge in February 2026 the trustees would be subject to an Inheritance Tax charge at up to 6% of the market value of this and any other UK situs assets. Inheritance Tax is due six months from the end of the month in which the charge arises.

If the UK property is sold the trustees should consider replacing this with non-UK situs assets in order to avoid future Inheritance Tax charges on this element.

In addition, changes in April 2017 mean that the value of Rice Ltd will also be subject to the Inheritance Tax charge to the extent that its value is attributable to UK residential property. The charge will be apportioned as the property has not been relevant property for the full ten years.

The UK situs property held in the trust and in Rice Ltd will be caught by the gift with reservation of benefit (GWROB) rules and will be subject to Inheritance Tax as part of Donald's estate on death unless disposed of more than seven years prior to death. Credit will be available for any Inheritance Tax payable by the trustees during his lifetime.

The Inheritance Tax liabilities for Donald and the trustees could be eliminated if both Meadowview and the UK residential property in Rice Ltd were sold and replaced with non-UK situs assets.

If the trustees continue to invest in UK situs assets Donald's own Inheritance Tax position could be improved if he was excluded from benefitting from the trust.

MARKING GUIDE

TOPIC	MARKS
1)	
Trust not UK resident	0.5
Register with TRS	0.5
Need to file UK tax returns	0.5
Tax rates on rental profits	0.5
Tax return due dates	0.5
Need to make a disclosure	0.5
Interest and penalties may be due	0.5
CGT extended to commercial property	1.0
Meadowview sale taxable at 20%	1.0
Two methods of calculating the gain	1.5
Reporting & payment window	1.0
Settlor taxable under S624 trust income	1.0
Settlor will also need to make a disclosure	0.5
S720 TOAA may also catch underlying co	0.5
Settlor taxable on UK res property rental profits	1.0
Motive defence & conclude unlikely to apply	1.0
Not taxable on any capital gains provided trust remains protected.	1.0
Sub-total	13
2)	
Meadowview is UK situs and subject to IHT ten year charges unless sold	0.5
IHT up to 6%	0.5
Next charge Feb 2026	0.5
IHT due date	0.5
If sold should consider replacing with non-UK asset	0.5
Rice Ltd not excluded property to the extent value attributable UK residential property	1.0
Relevant property since April 2017	0.5
Ten year charge would be apportioned	0.5
Settlor IHT GWROB	0.5
Rice Ltd included in his Estate to extent UK res prop	0.5
Credit available for IHT paid by trustees	0.5
Trustees should also consider selling property in Rice Ltd	0.5
Donald's IHT position could be improved by excluding him from benefitting	0.5
Sub-total	7
TOTAL	20

ANSWER 4

1) Property

Peter's cash gift to Sally was used to purchase 90% of a property that he lives in, and therefore he benefits from that gift.

As the gift was not the property itself, it is not a gift with reservation of benefit (GWROB). It is caught by the Pre-owned Asset Tax (POAT) tracing provisions (contribution condition) as he directly provided 90% of the consideration for a property from which he benefits.

Peter is liable for Income Tax (IT) on the benefit received (notional income), being the annual rent the owner might be expected to obtain from a commercial letting to an unconnected party.

Peter provided 90% of cost of the property and therefore will be liable for IT on 90% of the notional income.

The POAT charge will not apply if Peter pays at least 90% of the rental value of the property, under a formal agreement. Sally will be liable to IT on that rent received from Peter.

Alternatively, Peter can make an election for that 90% share of the property to be treated as a GWROB. It will be deemed within Peter's estate on death. If Peter dies within seven years of the gift, the failed PET and the property share will be included in the estate giving rise to a potential double tax charge. Double charges relief will be given under SI 1987/1130. HMRC will calculate the liability separately on the failed PET and the GWROB and assess whichever gives the higher tax liability.

By making the election no annual IT charge is payable.

The election must be made no later than 31 January following the end of the tax year in which Peter first became liable to a POAT charge. HMRC do have the discretion to accept late elections.

If the election is made, the estate will include a qualifying residential interest (QRI) for RNRB purposes as s8J(6) IHTA 1984 extends the term "inherited" to property within GWROB rules where the recipient is a lineal descendent. As 90% of the value of Primrose Cottage is less than the one sold in 2020, a downsizing addition calculation for the lost relievable amount is required.

2) Inheritance Tax (IHT)

Lifetime gifts

23 October 2020: Distribution of proceeds from Trust

The distribution of cash (capital) from the qualifying interest in possession (QIIP) trust to the three children is deemed a potentially exempt transfer (PET) by Peter, as his right to the life interest was terminated when the trust ceased.

12 November 2020: Gift of £207,000 cash to Sally - PET

Annual exemptions of £3,000 are available for 2019/20 and 2020/21. As a claim to set these against the deemed PET is out of time, these are allocated against this later cash gift to Sally.

Nil rate band (NRB)

No transferrable NRB from Gladys as already used against the discretionary trust comprising the estate residue.

Allocation of Peter's NRB

Lifetime gifts (NRB applied in date order)	£	£	£
NRB available		325,000	
23 October 2020:			
Deemed gift of proceeds (life tenancy)		<u>(210,000)</u>	
Chargeable			Nil
NRB balance		<u>115,000</u>	
12 November 2020:			
Cash gift to Sally (N1)	207,000		
AE x 2	<u>(6,000)</u>		
NRB		201,000	
Chargeable		<u>(115,000)</u>	86,000
IHT @ 40% payable by Sally			<u>£34,400</u>

Note

N1 – If election made, failed PET liability likely to fall away. Double charge relief.

Residence nil rate band (RNRB)

The RNRB from Gladys is transferable to Peter's estate, as she died before 6 April 2017 when the relief was introduced.

If the election is not made, Peter will not have a QRI in his estate. As his home was sold after 8 July 2015 and proceeds gifted to his lineal descendants, downsizing addition may apply. The remaining 50% of the home was owned by a Trust in which Peter had a QIIP. The trust's 50% share will be deemed within his estate. As Peter's children are beneficiaries the trust's 50% share also benefits from the downsizing addition.

	Tax year		£
Home sold	20/21	100% (50% Peter, 50% QIIP)	420,000
RNRB	20/21	Including brought forward allowance (Maximum 100%)	350,000
No purchase	20/21		
Value at assumed date of death	22/23	Value of former QRI not replaced	420,000
RNRB	22/23		350,000
RNRB allowed		100%	350,000

Annuity slice

Proportion of discretionary trust included in Peter's estate, representing the deemed value of his entitlement to income.

Value of trust		£720,000
Average income		£30,000
Annuity	£10,000 x 100/80 gross up	£12,500
Annuity Slice	£720,000 x £12,500/£30,000	£300,000

Estimated Estate calculation

	£
Cash	100,000
ISA	143,000
Life policies	130,000
Annuity slice	<u>300,000</u>
Total	673,000
Less	
NRB	nil
RNRB/TRNRB	<u>(350,000)</u>
Net estate	<u>323,000</u>
Potential IHT liability @ 40%	<u>129,200</u>

MARKING GUIDE

TOPIC		MARKS
1)	Identifying POAT arising from cash gift to Sally	0.5
	Not a GWROB	0.5
	Charge based on 90% of rental value in respect of amount of contribution to purchase costs	1.0
	Offset of rent paid under a formal lease	0.5
	Sally liable to IT on rent	0.5
	Election POAT to be regarded as GWROB	0.5
	Remaining in estate on death	0.5
	Double charges relief. Higher liability charged	1.0
	Time limit for election, discretion late elections. No SA returns	0.5
	QRI, RNRB can be claimed. S8J(6) IHTA 1984.	1.0
	Downsizing. Lost relievable amount. 90%	0.5
	Sub-total	7.0
2)	Lifetime gifts – deemed gifting share of life interest (PET).	0.5
	Gift of cash for house (PET)	0.5
	Use of annual exemptions. Release to trustees out of time	0.5
	No Transferable nil rate band	0.5
	Allocation of NRB against PET	0.5
	Liability arising on PET, payable by Sally	0.5
	RNRB. Death before 6 April 2017. Whole of spouse share available. No QRI	0.5
	Sale after 8 July 2015. Gifted to lineal descendants	0.5
	100% value of property available for RNRB as life tenant	0.5
	Downsizing addition still available even though property not replaced. Children beneficiaries	0.5
	Calculation of RNRB allowed, restated for current allowance	1.0
	Calculation of annuity slice	1.0
	Estimated estate calculation	1.0
	Sub-total	8.0
TOTAL		15.0

ANSWER 5

Estate of the Late Mr George Silver – Period of administration

George was UK domiciled but non-UK resident at the time of his death. One executor is UK resident the other is non-UK resident. For Income Tax purposes, the residence of the estate is determined by the residence of the executors but where the executors are of mixed residence the estate residence is determined by the UK residence and/or domicile of the testator (s834 ITA 2007). George was not UK resident but was UK domiciled so the estate is a UK resident estate and the executors must account for Income Tax on the estate income.

For Capital Gains Tax (CGT) purposes, the residence of the estate is determined solely by the residence of the executors (s62(3) TCGA 1992) who in turn take their residence from the testator. As George was not UK resident at the date of his death his executors only need to account for CGT arising in the estate in limited circumstances. From 6 April 2015, these circumstances include the disposal of UK situs residential property. The executors are therefore required to report the disposal of the cottage in Dorset on a Non-Resident's Capital Gains (NRCG) return and are liable for the NRCG thereon.

Income Tax

	2020/21		
	Non savings	Int.	Div.
UK	£	£	£
Property Income	11,250		
Expenses	(1,800)		
Interest		3,000	
Dividends			5,000
Foreign			
Property Income	9,200		
Expenses	(1,200)		
Dividends			
Total	<u>17,450</u>	<u>3,000</u>	<u>5,000</u>
Interest on IHT loan	(1,500)		
Taxable income	<u>15,950</u>	<u>3,000</u>	<u>5,000</u>
Tax @ 20%	3,190	600	
Tax @ 7.5%			375
Income Tax due	<u>3,190</u>	<u>600</u>	<u>375</u>
Total tax	<u><u>4,165</u></u>		
Income	15,950	3,000	5,000
Less tax	(3,190)	(600)	(375)
Available for distribution	<u>12,760</u>	<u>2,400</u>	<u>4,625</u>

	2021/22			2022/23		
	Non savings £	Int. £	Div. £	Non savings £	Int. £	Div. £
UK						
Property Income	9,000			750		
Expenses	(1,800)			(150)		
Interest		2,500			100	
Dividends			3,500			100
Foreign						
Property Income	7,200			600		
Expenses (N2)	(1,200)			(600)		
Total	13,200	2,500	3,500	600	100	100
Interest on IHT loan (N1)						
Taxable	13,200	2,500	3,500	600	100	100
Tax @ 20%	2,640	500		120	20	
Tax @ 7.5%			262			7
Income Tax due	2,640	500	262	120	20	7
Total tax	<u>3,402</u>			<u>147</u>		
Income	13,200	2,500	3,500	600	100	100
Less tax	(2,640)	(500)	(262)	(120)	(20)	(7)
Less admin expenses (N3)	(2,500)			(350)		
Available for distribution	8,060	2,000	3,238	130	80	93

Notes

N1 - Interest on IHT loan not allowable as >12 months

N2 – Loss restricted to same source income. No offset against other income.

N3 – Losses not offset relievable as administration expenses against income

CGT

Disposal of shares

There is no liability to CGT on the disposal of the shares as George was non-resident at the date of his death.

UK Residential Property

	2022/23	£	£
Proceeds			345,000
Cost	Probate value	275,000	
	Rear access	15,000	
	Probate costs (N4)	1,222	(291,222)
			53,778
	Annual exemption (N5)		-
			<u>53,778</u>
	Tax @ 28%		<u>£15,058</u>

Notes

N4 – SP2/04 allowance = £8,000 x £275,000/£1,800,000 =£1,222

N5 – No annual exemption as not within year of death and following two years.

R185 for Julie 2022/23		Net	Tax
		£	£
Non-savings		10,475.00	2,618.75
Savings		2,240.00	560.00
Dividends	UK	3,977.50	322.50

As George was non-resident at the date of his death the disposal of the UK property must be reported on a NRCG UK property account within 30 days of the date of completion and the tax calculated paid on or before that date.

If the return is not filed, or the tax paid, within 30 days interest and penalties may arise.

The estate is subject to self-assessment as the criteria for informal reporting of tax due has not been met. The total tax liability is greater than £10,000. If they have not already done so, the Executors should register the estate with HMRC Estate Registration Service, and file returns for each tax year covered by the period of administration.

Interest will be charged on payments not received by their due date.

Information Note

The time limit for submitting the CGT return for completions on or after 27 October 2021 was extended from 30 days to 60 days. However, due to the legislation timeframe for the exam the model answer states 30 days and uses 2021/22 rates.

MARKING GUIDE

TOPIC		MARKS
1)	Estate UK resident – Mixed executors, UK domicile testator	1.0
	Worldwide income	0.5
	Capital gains Non resident s62(3)	1.0
	NRCGT return UK situs residential property	1.0
	Split into tax years, split income types (3 years)	1.5
	Offset rental expenses against income	0.5
	Offset IHT interest against non-savings income	0.5
	Only allowable within 12 months	0.5
	Total taxable income (3 years)	1.5
	Correct tax rates applied	0.5
	Amounts available for distribution (deduction of IHT interest not allowed)	2.0
	No CGT on disposal of shares – Non resident	1.0
	Capital gains computation - Property	1.0
	Correct tax rates applied	0.5
	Probate costs	1.0
	R185 distributions Julie,	2.0
	Sub-total	16.0
2)	NRCGT return. Deadline. Penalties and interest	1.0
	Annual exemption not available for 2022/23	0.5
	Tax due > £10,000. Must register for self-assessment	0.5
	Interest due on late payments	0.5
	30 day return for disposal of UK property by UK resident estate	1.0
	Interest and penalties for late filing and late payment of CGT	0.5
	Sub-total	4.0
TOTAL		20

ANSWER 6

1) Calculation of transfer value at 10-year anniversary 31 August 2022

Eligibility for Agricultural Property Relief (APR) and/or Business Property Relief (BPR)		£	Value for IHT £
Farmhouse		650,000	
Centre of the farming business. Due to age, and no modifications, assumed in keeping with the farm. BPR not available on farmhouse. Occupied by the farmers.	APR (100%)	<u>(450,000)</u>	200,000
Farmland		800,000	
Used for farming activities.	APR (100%)	(650,000)	
BPR available on amount not covered by APR - Farm trade.	BPR (50%)	<u>(75,000)</u>	75,000
Northwest field		1,100,000	
Development (Hope) value should be included as likely to impact on valuation even if full planning permission not yet achieved. Field still being used by farm as integral part of business therefore eligible for APR. BPR available on hope value as part of business, restricted to 50%.	APR (100%)	(20,000)	
If a binding contract of sale has been signed BPR cannot be claimed.	BPR (50%)	<u>(540,000)</u>	540,000
Barns and Units		400,000	
Not being used for agricultural purpose. All short term leases. Activity should be matched against the five tests in [1999] SSCD 321 <i>Farmer & Giles (Farmer's Executors) v CIR</i> . BPR should be available as part of overall farming business.	BPR (50%)	<u>(200,000)</u>	200,000
New Barn Farm shop		300,000	
Not being used for agricultural purpose. Being used by company which Trustees control (80% of shares)	BPR (50%)	<u>(150,000)</u>	150,000
Farm Shops Limited (80% of £68,000)		54,400	
Excepted assets – Shop in town not used in business for two years before the 10 year anniversary therefore not qualifying for BPR. Town shop £140,000-£100,000 = £40,000. £54,400 x 40,000/68,000 = £32,000. Qualifying for 100% BPR unquoted trading company £54,400 - £32,000	BPR	<u>(22,400)</u>	32,000
Tied cottage		40,000	
Occupied by retired farm worker in receipt of a pension from the farm therefore APR can be claimed. The valuation is restricted to agricultural value under s169(1) IHTA 1984. Market value is not relevant as it includes value attributable to being occupied for residential purposes not by someone so employed.	APR (100%)	<u>(40,000)</u>	Nil
Cash at Bank			33,000
Value at 10-Year anniversary			<u>£1,230,000</u>

Notes

APR stated as a percentage of the agricultural valuation of the asset.

BPR on Trust assets 50% relief for use by partnership

Where applicable BPR given for the value of the asset not covered by APR. APR is given priority over BPR.

Estimated Ten-year anniversary calculation.

	£	£
Current value of relevant property (RP)		1,230,000
Less: Nil rate band	325,000	
Settlor's Cumulative transfers	-	
Distribution in last 10 years	-	(325,000)
Chargeable relevant property		<u>905,000</u>
Notional tax (NT) 20%	£181,000	
Effective rate (ER) (NT/RP x 100)	14.715%	
Actual rate (AR) ER x 30% x 40/40	4.415%	
Principal charge (PC) AR x RP		<u>£54,305</u>

Inheritance Tax (IHT) due six months after end of month in which event occurred: 28 February 2023. Reportable on forms IHT100 and IHT100d.

2) If an appointment is made from the trust in the first quarter after the ten-year anniversary, no exit charge will arise. As a result, s260 TCGA 1992 holdover relief cannot be claimed. However, as a qualifying business (agricultural land) asset, s165 TCGA 1992 holdover would be available to defer any gains arising.

If both reliefs are in point (i.e. where the appointment is made in a later quarter such that it is a chargeable event for IHT purposes) a claim under s260 TCGA 1992 will take precedence. Depending on the values involved it may be beneficial to delay any appointment until the second quarter to enable a claim for holdover relief to be made under s260 TCGA 1992 for the non-business element.

Where an appointment of the shares or land is made after the first quarter, an exit charge will arise as the full value does not qualify for BPR.

If the appointment of the shares is delayed by a further 12 months the full value of the shares will qualify for 100% BPR. As an event for IHT has occurred, s260 TCGA 1992 holdover relief can be claimed to defer any chargeable gains arising.

The Trustees should consider appointing the Northwest field to the principal beneficiaries before planning permission is obtained and any formal agreement is reached for the sale of the land, as full hope value will not yet have been realised. The beneficiaries will each have their own annual exemption for capital gains purposes therefore four allowances will be available as compared to the trust AE set at 50% of personal AE. Due to the potentially high value of the land, it would be more beneficial to appoint in the first quarter.

OMARKING GUIDE

TOPIC	MARKS
1) APR/BPR	
APR stated as a percentage of the agricultural value	0.5
Given in priority to BPR	0.5
BPR(50%) can be claimed for element not covered by APR, if conditions met.	0.5
Farmhouse – must be integral part of business, and in keeping with the size of the farm, and occupied by the farmer	0.5
BPR not due on farmhouse	0.5
Farmland - APR permitted use. Farming trade BPR (50%)	0.5
Northwest field. Still being used as integral part of farm. APR/BPR.	0.5
BPR available on hope value	0.5
Barns and units – short term leases. Case law to support not an investment activity. Claim for BPR	1.0
Farm shop – used by company over which trustees have control. 50% relief. No APR	0.5
Shares in trading company qualify for 100% BPR	0.5
Calculation of BPR	0.5
Excepted asset not in use by the business for 2 years	0.5
Tied cottage – meets criteria for APR, restricted to AV	1.0
Calculation of value of relevant property	0.5
10 Year calculation	
Relevant property after APR/BPR	0.5
Calculation NT/ER/AR/PC	1.0
Due dates and forms	1.0
Sub-total	11
2)	
No exit charge in first quarter after 10YA	0.5
Balance timing with availability of claims under s260 & s165	0.5
Appointment before any agreement made. CGT annual exemption for each beneficiary. Not full hope value	0.5
Qualifying business s165	0.5
Precedence of s260 over s165	0.5
Exit charges after first quarter. Not fully BPR	0.5
Gift of shares exit charge, not all BPR. Defer appointment by 12mths	0.5
Gift land in first quarter – no exit charge	0.5
Sub-total	4
TOTAL	15