

# **The Chartered Institute of Taxation**

**Advanced Technical**

**Inheritance Tax, Trusts & Estates**

**November 2024**

**Suggested answers**

**ANSWER 1**

2022/23	Non-savings £	Savings £	Dividends £
Rental income (net of expenses)	35,000		
Foreign dividends			20,000
Foreign interest		5,000	
Less interest £500,000 x 8% x 5/12*	(16,667)		
Taxable	<u>18,333</u>	<u>5,000</u>	<u>20,000</u>
Tax at 20%/8.75%	<u>3,666</u>	<u>1,000</u>	<u>1,750</u>
Total tax due			<u>£6,416</u>

2023/24	Non-savings £	Savings £	Dividends £
Rental income (net of expenses)	34,000		
Foreign dividends			25,000
Foreign interest		4,000	
Less interest £500,000 x 8% x 7/12*	(23,333)		
Taxable	<u>10,667</u>	<u>4,000</u>	<u>25,000</u>
Tax at 20%/8.75%	<u>2,133</u>	<u>800</u>	<u>2,187</u>
Total tax due			<u>£5,120</u>

\* The first 12 months of interest payable on a loan used to pay IHT is tax deductible.

ISA interest continues to be exempt from tax for three years post death or completion of the administration if earlier.

**R185 2023/24**

Available for distribution	Non-Savings £	Savings £	Dividends £
Property £18,333 + £10,667	29,000		
Interest £4,000+ £5,000		9,000	
Dividends £20,000 + £25,000			45,000
Less tax	(5,799)	(1,800)	(3,937)
Less: admin expenses*	(2,500)		
Less: additional interest paid- 4 months	<u>(13,333)</u>		
Total	<u>£7,368</u>	<u>£7,200</u>	<u>£41,063</u>

\* there is no fixed order for deducting expenses and therefore it is most tax efficient to deduct from the income subject to the highest rate of tax.

R185 2023/24	Net £	Tax £
Non-savings	7,368	1,842
Savings	7,200	1,800
Dividends	41,063	3,938

## Capital Gains Tax

2022/23 sale of Bermudan Bank shares not subject to CGT as estate is non-UK resident and the shares are non UK situs.

2023/24 distribution of shares in Property Ltd, a property rich company, is not a chargeable event for CGT purposes.

### 2023/24

London Flat	£	£
Sale proceeds		400,000
Probate value	(350,000)	
Probate costs	<u>(1,287)</u>	<u>(351,287)</u>
		48,713
Annual exemption		<u>(6,000)</u>
		<u>42,565</u>
Tax @ 28%		<u>£11,960</u>

Probate costs: Per SP 2/04 £8,000 x 350,000/2,175,000= £1,287

Annual exemption available for executors for the year of death and next two tax years

2. 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).

Jane was not UK resident but was UK domiciled so the estate is UK resident for Income Tax purposes and the executors must account for Income Tax on the worldwide estate income.

The estate is subject to self-assessment as it is clear that the criteria for the informal reporting of tax due has not been met since 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 the due date.

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 Jane was not UK resident at the date of her death her executors only need to account for CGT arising in the estate in limited circumstances. This includes the disposal of UK situs residential property. The executors are therefore required to report the disposal of the London flat in a CGT online UK property return and are liable for the CGT thereon.

The disposal of the UK property must be reported on a Capital Gains Tax UK Property Return within 60 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 60 days interest and penalties may arise.

## MARKING GUIDE

TOPIC	MARKS
1. Split income types	0.5
ISA interest not taxable	0.5
Offset rental expenses against income	0.5
Calculate IHT interest	0.5
Offset IHT interest against non-savings	0.5
Only first 12 months allowable	0.5
Total income tax (2 years)	1.0
Correct tax rates applied	1.0
Amounts available for distribution	1.5
No CGT on disposal of shares	0.5
No CGT on distribution	0.5
CGT property	0.5
Probate costs	1.0
R185- correct entries 2023/24	<u>1.0</u>
<b>Sub-total</b>	<b>10</b>
2. Income tax Estate UK resident, mixed executors and UK dom	1.0
Worldwide income	0.5
Tax due more that £10,000 must register	0.5
Interest due on late payments	0.5
Capital gains- non resident	1.0
UK residential property taxable	0.5
CGT return should be filed within 60 days	0.5
Interest and penalties for late payment	<u>0.5</u>
<b>Sub-total</b>	<b>5</b>
<b>TOTAL</b>	<b>15</b>

## **ANSWER 2**

i) The shares in Tee Ltd would qualify for 100% business property relief (BPR) as the business is wholly or mainly trading and the shares have been held for more than two years. The surplus cash and the boat would be excepted assets as they are not used in the business or required for future use in the business.

Excepted assets which will not qualify for BPR are £900,000/£4,000,000 = 22.5% so the share value attracting BPR will be 77.5%. This will be applied to the value of Donald's shares:

£3,200,000 x 77.5% = £2,480,000 will attract 100% BPR be sheltered from Inheritance Tax (IHT).

ii) Woodlands relief is available for land held for investment purposes. It is not available for commercial woodlands or woodland ancillary to agriculture. Woodlands relief is not an exemption but is a deferral relief. In this case woodlands relief would be available to defer IHT on the value of the timber growing on the land of £240,000. The land itself, valued at £160,000, would be subject to IHT on death. The election must be made by the executors within two years of death and Donald must have owned the land for five years immediately prior to death or acquired the land by way of a gift or inheritance.

As woodlands relief is only a deferral the IHT will become payable on a future disposal of the trees. If the trees are young and have a relatively low value this relief would not be beneficial. A disposal of the woodlands will trigger a charge to IHT which will be payable by the donee or person who is entitled to the proceeds of sale. If the disposal is for full consideration, tax is charged on the net proceeds of sale. Otherwise, tax is charged on the net value of the timber. The chargeable amount is then added to and treated as the top slice of the deceased's estate with IHT calculated using the nil rate band at the date of disposal.

iii) The July 2023 gift of cash to Donald's daughter Mary, less the 23/24 and 22/23 annual exemptions is a potentially exempt transfer (PET) which will remain within the scope of IHT on his death if Donald does not survive seven years from the date of the gift. Taper relief would apply to reduce the IHT rate once he has survived the gift by at least three years.

The subsequent purchase by Mary of a flat in which Donald resides will be caught by the Pre-Owned Assets (POAT) rules under the contribution condition. Donald will need to declare the annual rental value, currently £12,000 on his self-assessment tax return each year and pay Income Tax on this amount.

Donald could choose to elect out of the POAT regime and instead treat the gift of £350,000 used to buy the flat in which he lives as a gift with reservation of benefit. The election should be made by 31 January 2025. In this case, considering his age and the Income Tax charge due each year versus the IHT due on a gift with reservation it is likely to be more beneficial for him to pay the Income Tax charge.

iv) The gift of artwork to Mary in August 2010 was a gift with reservation of benefit (GWROB) because Donald made a gift but kept the artwork in his possession and retained at nil cost the use/enjoyment of the asset. Therefore the artwork would have been treated as part of his estate for IHT purposes. The handing over of the artwork in July 2023 means that the GWROB would have been released at this date. That release is a PET made in July 2023 and the value is the market value of the artwork on that date. The deemed PET on cessation of the GWROB cannot be reduced by any available annual exemptions. The PET of the artwork will fall outside his estate provided he survives seven years from the date the GWROB came to an end i.e. by July 2030. Taper relief would apply once Donald has survived three years from the end of the GWROB.

v) The gifts to Mary of the dividends, less any available annual exemption, would again be PETs. The gifts would not be exempt from IHT because they would not qualify as normal expenditure out of income. In order for this exemption to be available the gift must:

- be part of a normal regular pattern of giving;

- be made out of the donor's income; and
- leave the donor with sufficient income to fund their normal lifestyle.

Since Donald has sold capital assets to fund his lifestyle after making the gifts, the payments to Mary would not fulfil all the requirements necessary for the exemption to apply.

It may be possible for the dividends to be increased in order to use some of the surplus cash held in Tee Ltd. These additional dividend amounts could then be gifted and may be exempt if all the requirements are met for them to be regarded as normal expenditure out of income.

## MARKING GUIDE

TOPIC	MARKS
i) 100% BPR, Wholly and mainly trading	0.5
Held more than 2 years	0.5
Surplus cash and personal use excepted assets	0.5
Calculation	1.0
ii) Woodlands relief available for woodlands held for investment purposes Deferral not an exemption	0.5
Deferral only available on value of timber	0.5
Land value subject to IHT	0.5
Election must be made by executors within 2 years	0.5
Land must have been held for 5 years	0.5
IHT payable by donor/person entitled to proceeds	0.5
IHT on subsequent sale	1.0
iii)	
Gift is a PET so need to survive seven years	0.5
Taper relief available	0.5
Caught by contribution condition POAT	0.5
Declare rental value on tax return and pay income tax	0.5
Can elect out of income tax regime- Instead flat value would be a GWROB	0.5
Need to make election by 31 Jan following end of first tax year the charge arises	0.5
Would be advised to pay the income tax due to his age	0.5
iv)	
Gift to Mary a GWROB	0.5
Artwork remains in his estate until released	0.5
GWROB ceased July 2023- Need to survive seven years from July 2023	0.5
PET is market value at July 2023.	0.5
AE cannot be used against release of GWROB	0.5
Taper relief available	0.5
v)	
Gifts to Mary would be PETS	0.5
Requirements for gifts out of excess income	0.5
Why gifts would not qualify	0.5
Suggest how this could be improved	0.5
<b>TOTAL</b>	<b>15</b>

### **ANSWER 3**

1. A non-domiciled individual will become deemed domiciled when they have been resident for 15 out of the previous 20 UK tax years. Stefan will become deemed domiciled on 6 April 2026, his 16<sup>th</sup> year of residence. After this date his Inheritance Tax (IHT) exposure will be as follows:

	£
UK property	2,500,000
UK bank account	23,000
UK investments	150,000
Swedish home	600,000
Other holiday home	300,000
Non-UK investments	<u>1,500,000</u>
Total assets	5,073,000
Less nil rate band (note 1)	<u>(325,000)</u>
Total chargeable estate	<u>4,748,000</u>
Tax at 40%	<u>£1,899,200</u>

Note 1: Estate too large to qualify for residence nil rate band.

Note 2: The original gift to the discretionary trust was excluded property (see 2. below) and furthermore Stefan is not a beneficiary of the trust.

Note 3: Gifts of foreign assets (such as the gifts to his children from his foreign account) prior to deemed domicile are excluded property not subject to the seven year rule.

Note 4: The UK pension fund is exempt from IHT.

2. Stefan can protect his foreign assets from IHT and retain access to them if he gifts them to a settlor interested trust prior to becoming UK deemed domiciled. The trust can be UK or non-UK resident and will have excluded property status so that it is exempt from IHT on its foreign assets even if Stefan is a beneficiary of the trust. This is because the excluded property rules have priority over the gift with reservation of benefit (GWROB) provisions which would otherwise prevent Stefan from making outright gifts and retaining use of the assets. Adding UK situs assets to the trust would be a chargeable lifetime transfer and would remain part of Stefan's estate for IHT purposes under the GWROB provisions.

A gift of assets to the trust would be a disposal of the assets at market value for Capital Gains Tax (CGT) purposes. Stefan may be able to claim the remittance basis in order to avoid the tax charge but once Stefan has been resident for 15 out of the previous 20 tax years he will no longer be able to use the remittance basis of taxation.

If Stefan wants to retain access to the funds, he will need to be a beneficiary of the trust. If the trust is UK resident the trustees would be subject to UK income tax and CGT on all income and gains arising in the trust which does not meet his objective of protecting his foreign assets from tax. The trust would be UK resident if there were any UK resident trustees.

If the trust is non resident the trustees will not be subject to Income Tax on foreign assets or CGT on worldwide assets. The trust would also have protected trust status. This means that the settlor interested rules do not apply and the trust income and gains are not taxable on Stefan unless or until he receives a benefit or distribution from the trust.

If property or value (such as a future inheritance) is added to the trust after Stefan becomes deemed domiciled this will taint the trust. This means that the trust will lose its protected status and all income and gains of the trust will be taxable on Stefan on an arising basis whilst he is UK resident. The trust will also lose its protected status if Stefan obtains a domicile of choice in the UK.

The trust would however keep its excluded property trust status for IHT purposes on assets added prior to deemed domicile.

#### Distributions

An income distribution made to a UK resident will be subject to Income Tax.

A capital distribution made to a UK resident such as Stefan is subject to UK tax to the extent that there is accumulated income or there are undistributed gains (stockpiled gains) in 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 Stefan was UK resident when the trust was created. It would therefore be difficult to argue that there was no element of UK tax avoidance involved in the decision to create the trust.

Once the accumulated income in the trust has been exhausted the remaining distribution is matched with realised gains in the stockpiled gains pool. Any distribution matched to the stockpiled gains pool is subject to CGT on the UK 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 beneficiary is a higher or basic rate taxpayer.

If the Swedish home and the holiday home are available for Stefan's use all year round he will be taxed on the benefit he is deemed to have from the use of the properties. The benefit will be equal to the annual rental value of the properties and this amount will be taxable in the same way as a capital distribution above. Stefan can pay rent in order to avoid the tax charge. If he decides to do so care must be taken that he does not pay more than the market value such that he taints the trust as described above.



## MARKING GUIDE

TOPIC	MARKS
1.	
Deemed domicile date	1.0
Nil rate band	0.5
Tax at 40%	0.5
Discretionary trust excluded property and he is not a beneficiary	1
Gifts to children not subject to 7 year rule	1
UK pension exempt	0.5
Not qualify for residence nil rate band	0.5
<b>Sub-total</b>	<b>5</b>
2.	
Gift assets to trust	0.5
Disposal for CGT purposes	0.5
Can be UK or offshore	0.5
Excluded property status meaning	1
UK situs assets CLT and part of estate	0.5
UK trust subject to UK tax	0.5
Discount UK res trust	0.5
Stefan will be a beneficiary	0.5
UK trust residency rules	0.5
Protected trust rules explanation	1.5
Tainting rules and impact	1.5
Tainted trust will retain IHT benefits	0.5
S731 motive defence unlikely to apply	0.5
Match capital distribution to income	1
Match remainder to capital gains	1
Last in first out basis	0.5
Explanation re supplementary charge	1.5
Use of properties, how taxed	1
Option to pay rent and tainting risk	1
<b>Sub-total</b>	<b>15</b>
<b>TOTAL</b>	<b>20</b>

## **ANSWER 4**

### (1) Distribution of assets in December 2024

#### CGT

The gain arising can be heldover under s260 (TCGA 1992) and no CGT is due.

	£
Proceeds	6,450,000
Cost	(555,000)
Gain held over	(5,895,000)
Chargeable to CGT	<u><u>0</u></u>

#### *IHT – exit charge*

	£	£
Initial value of trust assets		2,620,000
NRB	325,000	
Settlor's Chargeable lifetime transfers (CLTs) in previous seven years	<u>-</u>	(325,000)
		<u>2,295,000</u>
Notional IHT at 20%		459,000
Effective rate		17.519%
Actual rate (AR)= $x 30\% \times 39/40$		5.124%
Distribution to beneficiaries at MV		6,450,000
Less APR (W1)		(2,010,000)
		<u>4,440,000</u>
<b>IHT due on transfer at AR</b>		<u><u><b>£227,505</b></u></u>

	£	£
<u>W1 - APR</u>		
<u>Beckett's Fields</u>		
50 acres of land 50/100 x £800,000 (N1)	<u>400,000</u>	
At 50% (lease pre September 1995 and >2yrs to run)		200,000

<u>Symes Farm</u> - all at 100% as FBT		
200 acres of land (N1)	1,600,000	
Farmhouse (N2)	<u>210,000</u>	
		1,810,000
Total APR		<u><u>£2,010,000</u></u>

N1 – Agricultural value of land

N2 – assuming of a character appropriate to the land

(2) Sale of assets by trustees and appointment of cash to beneficiaries in May 2025

CGT

	<b>Non-residential £</b>	<b>Residential £</b>	<b>Total £</b>
Proceeds	6,000,000	450,000	6,450,000
Base cost	(450,000)	(105,000)	(555,000)
	<u>5,550,000</u>	<u>345,000</u>	<u>5,895,000</u>
Annual exemption	-	(3,000)	(3,000)
	<u>5,550,000</u>	<u>342,000</u>	<u>5,892,000</u>
At 20%	1,110,000		1,110,000
At 28%		95,760	95,760
Total CGT			<u><u>£1,205,760</u></u>
Total net proceeds (£6,450,000-£1,205,760)			<u><u>£5,244,240</u></u>

*IHT exit charge*

	<b>£</b>	<b>£</b>
Open Market Value (OMV) of assets at TYA		6,450,000
APR (W1)		<u>(2,010,000)</u>
Net value (C)		4,440,000
NRB	325,000	
Settlors CLTs within seven years of gift	-	
Distributions in the previous ten years	<u>-</u>	(325,000)
		<u>4,115,000</u>
Notional IHT (NT) at 20%		823,000

Effective rate NT/C	18.536%
Actual rate at TYA = ER x 30%	5.561%
On distribution - Actual rate at 1/40	0.139%
Transfer (Net proceeds of sale-TYA charge) x AR (£5,244,240 - £246,908 (W2)) x 0.139%	<u><u><b>£6,946</b></u></u>

W2 – The TYA charge would be outstanding at the date of distribution and should be paid to HMRC by the trustees and not distributed to the beneficiaries and not included in the transfer. This is calculated as:

	£	£
OMV of assets at TYA		6,450,000
APR (W1)		<u>(2,010,000)</u>
Net Value (C)		4,440,000
NRB	325,000	
Settlor's CLTs within seven years of gift	-	
Distributions in the previous ten years	<u>-</u>	(325,000)
		<u>4,115,000</u>
Notional IHT at 20%		823,000
Effective rate NT/C = ER x 30%		18.536%
Actual rate at TYA		5.561%

Value of transfer £4,440,000 (£6,450,000 - £2,010,000) x 5.561% = £246,908

## MARKING GUIDE

TOPIC	MARKS
<i>(1) Distribution of assets pre TYA</i>	
<i>CGT</i>	
Holdover relief under s260 - no charge	0.5
<i>IHT</i>	
Initial value	1
Less NRB un-amended	0.5
Notional IHT/effective rate/actual rate	1
Correct quarter deduction	1
Deduction of APR against transfer	1
Apply AR to net transfer to calculate IHT due	0.5
<u>Calculation of APR</u>	
APR available as let for 7 years	0.5
On 50 acres of Beckett's Fields as other use is non-agricultural	1
At AV	0.5
At 50% as not an FBT and >2 yrs to run	1
On AV for Symes farm land and farmhouse	1
Farmhouse of character appropriate	0.5
At 100% as FBT	0.5
<i>(2) Sale of assets and distribution of cash post TYA</i>	
<i>CGT</i>	
MV split between non-residential and residential	0.5
Less correct base cost	0.5
Annual exemption correct and set against residential	1
20%/28% rates correctly applied	0.5
Total CGT due shown	0.5
<i>IHT</i>	
Recognise need for TYA calculation (to calculate exit after TYA)	0.5
OMV of assets at TYA	0.5
Less: APR deduction here (Calculation marks given above)	1
Deduct NRB un-amended	0.5
Notional IHT/effective rate/actual rate	1
Distribution rate amended for correct quarters elapsed	1
Apply full rate to transfer of value to calculate ten year charge	1
Deduct TYA from net proceeds to give net distribution	0.5
Apply rate amended for quarters elapsed to net distribution	0.5
<b>TOTAL</b>	<b>20</b>

## ANSWER 5

(1)

### Capital Gains Tax (CGT) on disposals

	Proceeds £	Cost of sale £	Base cost £	Chargeable gain £	CGT at 20% £
Amethyst necklace	20,000	(1,200)	(15,000)	3,800	760
Broad Sword (N1)	-	-	-	-	-
Clock (N2)	-	-	-	-	-
Dining table	25,000	(2,750)	(17,000)	5,250	1,050
Eighteenth century silver	15,000	-	(10,000)	5,000	1,000
Freud painting	30,000	-	(12,000)	18,000	3,600
Garden statue	15,000	-	(10,500)	4,500	900
					<u><u>£7,310</u></u>

Chattels relief is of no benefit on the disposals as all costs and proceeds are in excess of £6,000 so in all cases the actual gain will be lower than the gain calculated under marginal relief

(N1) A private sale of a conditionally exempt asset to a body mentioned in schedule 3 IHTA 1984 is free of CGT - s258 TCGA 1992.

(N2) A clock is a wasting asset and therefore exempt from CGT s45 TCGA 1992.

(N3) The annual exemption is offset against the residential property gain in preference.

### Recapture charge due on disposals

	Net proceeds of sale £	Market value at gift £	CGT on disposal £	Recapture charge £
Amethyst necklace	18,800		(760)	18,040
Broad Sword (N4)	-		-	-
Clock (N5)	7,750		-	7,750
Dining table	22,250		(1,050)	21,200
18 <sup>th</sup> century silver		15,000	(1,000)	14,000
Freud painting		30,000	(3,600)	26,400
Recapture charge due on				<u>87,390</u>
Recapture charge at 40% (added to Charles's estate)				<u><u>£34,956</u></u>

(N4) No recapture charge where disposal is to a museum s32(4) IHTA 1984.

(N5) There is still a recapture charge even though the clock is exempt from CGT.

## **Inheritance Tax**

Sir Philip has also made a potentially exempt transfer (PET) of £15,000 in respect of the silver, £30,000 in respect of the painting and £15,000 in respect of the statue. These will fail if he dies within seven years of the gift.

(2)

### *Recapture charges and CGT on gift of conditionally exempt assets*

#### **Silver**

The gift of the silver to Holly has triggered both a recapture charge and CGT on the disposal. The PET of £15,000 will become chargeable on Sir Philip's death as he will not meet the seven year survival period. Holly has already disposed of the silver and so the IHT will crystallise and the CGT charge arising on her gift has crystallised such that no mitigation of these is possible.

#### **Painting**

The gift of the painting to Matthew has triggered a recapture charge, CGT and on Sir Philip's death a charge to IHT on the PET will crystallise. The painting gifted to Matthew is not pre-eminent in its own right and so no new claim for conditional exemption can be made on this.

#### **Statue**

The gift of the statue to Holly will trigger a charge to IHT on the PET on Sir Philip's death within seven years and has triggered a charge to CGT. The statue is pre-eminent and had been held by Sir Philip for more than six years prior to gift and therefore a claim could be made for conditional exemption within two years of Sir Philip's death. This would mean that no IHT or CGT would arise on the transfer and the CGT charge previously paid on the gift would be refunded. The CGT disposal would be treated as nil gain nil loss.

The undertakings are that:

- The statue must be kept permanently in the UK.
- The statue must be preserved.
- There must be reasonable public access allowed to the statue (and not just be by appointment).
- The undertakings must be published so that the public is aware that the statue is available to view.

## MARKING GUIDE

TOPIC	MARKS
(1)	
<i>CGT</i>	
Necklace, Silver, painting, table, statue - proceeds/MV less CoS, less base cost	1.5
CGT at 20%	0.5
Broad sword - conditionally exempt asset sale to museum - no CGT s258	1
Clock - wasting asset no CGT	0.5
<i>Recapture</i>	
Recapture charge triggered	0.5
Added to Charles's death estate and so taxed at 40%	1
On net proceeds of sale or MV at gift	1
Less CGT on relevant assets on disposal	0.5
Calculation including necklace, table, silver, painting	1
Include clock as not exempt for recapture	1
Not include broad sword as exempt from recapture as sold to museum	1
<i>Inheritance tax - PETs</i>	
PET of silver, painting and statue at MV at gift	0.5
<b>Sub total</b>	<b>10</b>
(2)	
No mitigation is possible for the gift of the silver as Holly has disposed of it	0.5
No mitigation is possible for Matthew as the painting is not pre-eminent in its own right	0.5
Holly could make a conditional exemption claim in respect of the statue	0.5
Within two years of Sir Philip's death	0.5
Recapture charge, IHT on PET and CGT would be refunded	1
Likely undertakings permanently in UK/preserved/public access/undertakings published	2
<b>Sub total</b>	<b>5</b>
<b>TOTAL</b>	<b>15</b>



## **ANSWER 6**

### **(1) IHT due on Ian's death**

*Inheritance Tax (IHT) originally due on Ian's death*

	£
95 Woodlands Park, Dudley (Main residence) (N2)	150,000
67 Coyne Street, Fleet (Let property)	850,000
40% shareholding in Woodwater Ltd (N1)	-
Computerline plc shares	250,000
Jewellery collection	200,000
Residue	20,000
	<hr/>
	1,470,000
Nil rate band (W1)	<u>(540,000)</u>
	930,000
IHT at 40%	<u><b>£372,000</b></u>

#### W1 - Nil rate band

	£	£
NRB	325,000	
PET 14 October 2016	<u>(110,000)</u>	
		215,000
Faye's NRB (100%)		<u>325,000</u>
		540,000

(N1) The shares were in an unquoted trading company which had been held for more than two years by Lucy. Although Ian had not held them for two years, BPR would be available because the rules for successive transfers would apply (s109 IHTA). There have been two transfers of the property within two years, one was on death and the earlier transfer qualified for BPR.

(N2) No residence nil rate band is available as no residence is left to a direct descendant.

*Revised computation after actions on 14 December 2024*

	£
95 Woodlands Park, Dudley (Main residence) (N4)	150,000
67 Coyne Street, Fleet (Let property) (N3)	850,000
40% shareholding in Woodwater Ltd	-
ComputerLine plc shares	250,000
Jewellery collection (N2)	200,000
Residue	20,000
	<hr/>
	1,470,000
Spouse exemption (N2) (N3)	(850,000)
Charitable legacy (N5)	<u>(250,000)</u>
	370,000
Residence nil rate band (W1) (N4)	(150,000)
Nil rate band (W2)	<u>(220,000)</u>
Chargeable to IHT	-

<u>W1 - Residence nil rate band</u>	<u>£</u>
Ian's RNRB	175,000
Faye's RNRB (100% x £175,000) (N6)	175,000
	<hr/> 350,000
Used on Ian's death – capped at value of residence	<hr/> (150,000)
Unused RNRB	200,000
 <u>Carried forward for use by Karen</u>	
Ian's unused RNRB therefore – capped at 100% (Faye's cannot pass to Karen)	175,000
As a percentage of RNRB at Karen's death	100.00%

The RNRB available for Karen is capped at 100% of the RNRB reflecting the fact that she can only inherit Ian's RNRB.

<u>W2 - Nil rate band</u>	<u>£</u>	<u>£</u>
NRB	325,000	
PET 14 October 2016	<hr/> (110,000)	
		215,000
Faye's NRB (100%)		<hr/> 325,000
		540,000
Used on Ian's death		(220,000)
 <u>Carried forward for use by Karen</u>		
Ian's unused NRB		320,000
As a percentage of NRB at current rates to be c/f and applied at Karen's death		98.46%

(N2) Although the relevant statement is made to pass these to Karen, it is not a valid deed of variation for IHT purposes as it is made for consideration.

(N3) As this is being appointed from a discretionary trust within two years of death, s144 IHTA 1984 provides that it is treated as having taken effect on death. As a result, spouse exemption is available.

(N4) As above, s144 provides that the appointment is treated as having taken effect on death. As a residence is now being left to a direct descendent, RNRB is available. Ian has access to his deceased first wife's RNRB but the total available for use is capped at the value of the residence, being £150,000.

(N5) s143 IHTA 1984 provides that the gift is treated as being made by Ian's Will and so charitable exemption is available.

(N6) Faye died before RNRB applied and her estate was worth less than £2 million. Therefore her transferable RNRB is 100% x £175,000.

## **(2) CGT consequences**

For CGT purposes, the trust came into existence on 14 January 2024 when the assets were first assented to it and so the disposal is made by the trustees. The appointments from the trust will be at market value and a gain or loss will arise relative to probate value on Coyne Street and Woodlands Park. There is no equivalent to s144 for CGT purposes and therefore no reading back for CGT. No holdover relief will be available as there is no IHT event (s144 IHTA 1984).

The gains and losses can be offset and the annual exemption of £3,000 can be deducted.

### *CGT consequences of deeds of variation*

Jenny to Sean - If a statement is included that it is to apply for CGT purposes under s62(6) TCGA 1992 then the gift is treated as made by Ian on his death and no CGT arises.

If no statement is included then CGT will arise at 20% of the gain and will be payable by Jenny

Paul to Karen – Consideration means this is ineffective and Paul is treated as making a chargeable gain.

### *CGT consequences of Lewis's gift to charity*

Gift is treated as made by Lewis. Gifts to charity are exempt from CGT and so no gain is chargeable.

## MARKING GUIDE

TOPIC	MARKS
<u>(1) Inheritance tax</u>	
<i>Inheritance tax on death</i>	
Exclude Woodwater Ltd shares with explanation	1
Less NRB	0.5
Reduced for failed PET within seven years	0.5
Add 100% of Faye's NRB	0.5
No RNRB and reason	0.5
IHT at 40%	0.5
<i>Revised IHT position</i>	
	Mark given above
Exclude Woodwater Ltd shares with explanation	
Less RNRB and explanation of why available - application of s144	1
Include Faye's RNRB, explanation of why and value	1
RNRB capped at £150k and why	0.5
Less NRB to cover remaining value	0.5
Apply spouse exemption to £850k gift of Coyne St and application of s144	1
Apply charitable exemption to £250k gift to Lewis/charity and application of s143	1
No spouse exemption available on Jewellery as consideration means s142 does not apply	1
Karen's b/f TNRB as a %	0.5
Karen's b/f TRNRB capped at 100%	1
<b>Sub total</b>	<b>11</b>
<u>(2) CGT consequences</u>	
<i>Appointments from trust</i>	
Appointments from trust will be at market value and a gain will arise over probate value	0.5
No holdover relief available as no charge to IHT s144	0.5
Annual exemption available	0.5
<i>Deed of variation - Jenny to Sean</i>	
If statement s62(6) TCGA included 'read back' into Will and no CGT arises	0.5
If no statement CGT arises and gain taxed at 20%	0.5
<i>Deed of variation - Paul to Karen</i>	
No reading-back is possible because of consideration and a chargeable gain arises	0.5
<i>Lewis's gift to charity</i>	
Treated as made by Lewis - gifts to charity are free of CGT	1
<b>Sub total</b>	<b>4</b>
<b>TOTAL</b>	<b>15</b>