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REPORT TO ROBERT AND CLAIRE WILLIAMS ON THE TAX IMPLICATIONS OF:

1) **ACCEPTING EMPLOYMENT OPPORTUNITIES OFFERED TO ROBERT WILLIAMS**
2) **PROPOSED INVESTMENT OPPORTUNITY**
3) **PURCHASING PROPERTY IN LEAMINGTON SPA**

INTRODUCTION

As requested in the meeting with Robert and Claire Williams held on 17 October 2018, this report considers the taxation implications of:

1) Accepting either of the employment opportunities offered to Robert Williams.
2) Investment opportunity in purchasing shares in Charles Williams Ltd.
3) Purchasing property in Leamington Spa

EXECUTIVE SUMMARY

Choice of employment contract

Both Robert and Claire will become non-UK resident for tax purposes and will then be subject to UK income tax on Claire's dividends which will be Nil, based on the maximum liability imposed on non-UK residents.

Contract 1 will provide a greater income over the 6 year period of £22,000. However there would be Capital Gains Tax payable of around £33,000 in the tax year they resume UK residence.

If contract 2 is accepted there would be no Capital Gains Tax payable and Robert would still retain his tax exempt ISA shareholding.

Purchase of shares in Charles Williams Ltd

Both Robert and Claire will be qualifying investors for the purposes of Enterprise Investment Scheme.

The full amount invested of £250,000 will qualify for a tax reduction at 30% saving £75,000.

Robert could purchase all the shares in his own name and qualify for full relief if the investment is carried back and treated as made in 2017/18. Claire could invest a maximum of £85,000, purchasing 850 of the 2,500 shares, with half of the investment being carried back to 2017/18 and half qualifying for relief in 2018/19.

The income tax relief will be retained if the shares are owned for a minimum period of 3 years.

Any gain on the disposal of the shares, once they have been retained for 3 years, will be exempt. If the takeover takes place in 5 years' time and the shares have appreciated in value as anticipated, proceeds of over £500,000 will be received with no tax payable.

The remaining amount available for investment of £30,000 could be used to fully utilise the ISA allowances of both Robert and Claire before they become non-UK resident.

Purchase of Leamington Spa property

The purchase of the Leamington Spa property should be made by Peter and Jane in order to minimise the Stamp Duty Land Tax payable.

The sale of the shares followed by cash gifts to Peter and Jane will not attract any immediate Inheritance Tax liabilities and would remain exempt providing Robert and Claire survive for 7 years from the date of the gifts.

EMPLOYMENT OPPORTUNITIES

Residence position

Robert's former employment was terminated on 31 December 2017. He has been offered 2 employment opportunities in Dubai both of which will start in the tax year ended 5 April 2019. Claire will remain in the UK until July 2019 at which point she will join Robert in Dubai.

The tax position of both Robert and Claire will change when they move overseas as they will no longer be resident in the UK. Taxpayers who are resident in the UK in a tax year are taxable on their worldwide income and capital gains arising in that year. Non-resident individuals are only taxable on their UK income arising in the tax year and generally will not pay Capital Gains Tax unless the disposal is of a UK residential property.

Residence status is determined by applying the Statutory Residence tests to the circumstances of the individual.

Robert will commence his new employment on either 1 January or 1 February 2019 depending on which contract is taken up. For tax year 2018/19 Robert will be treated as resident in the UK as a result of having been present in the UK for 183 days or more in that tax year.

If the individual starts to work abroad the tax year may be split into two separate parts, the UK part for which the individual is taxed as a UK resident and the remainder for which the individual is taxed as non-UK resident, meaning that overseas income arising during the latter part of the tax year is not charged to UK tax.

Robert will qualify for the split year treatment as he will satisfy the following conditions:

1. He was UK resident in 2017/18
2. He will be non-UK resident in 2019/20 as he will be automatically treated as such due to satisfying the "work abroad" conditions
3. He will satisfy the "overseas work" criteria in that he will be working for at least 35 hours per week on average, be present in the UK for no more than 90 days and spend no more than 30 days working in the UK

The 90 and 30 day tests are scaled down on a pro-rata basis by ignoring the number of complete calendar months between the beginning of the tax year and the commencement of the overseas work.

Robert will therefore need to ensure that he is present in the UK in tax year 2018/19, prior to his departure, for no more than 22 days (3/12 x 90 days) if contract 1 is accepted and 15 days (2/12 x 90 days) if contract 2 is accepted. None of Robert's work will be undertaken in the UK so the scaling of the 30 day UK work test is not applicable.

In order to be treated as automatically non-UK resident in 2019/20, Robert will have to work for at least 35 hours per week on average and be present in the UK for no more than 90 days. Given the average working week for both contracts and the annual holiday entitlement, during which time they will visit the UK, these conditions will be satisfied.

As a result Robert will be treated as non-UK resident from the first overseas workday on which at least 3 hours of work is carried out. This will be 1 January 2019 (if contract 1 is accepted) and 1 February 2019 (if contract 2 is accepted). This means that no amount of his salary relating to the overseas work will be subject to UK tax.

Claire will be joining Robert in July 2019. The residence position for Claire will be determined in a similar manner to Robert as she is accompanying her husband in Dubai. She will be treated as UK resident for 2019/20 as a result of having a "home" in the UK in which she is present for at least 30 days in the tax year and there is a period of 91 consecutive days during which she

has the home and has no overseas home. Claire will also benefit from the split year treatment and she will be treated as non-UK resident from the date she joins Robert in Dubai.

If contract 1 is accepted Robert and Claire would become UK resident again and the split year treatment would apply in a similar manner when they became non-UK resident. Claire's dividend income from her shareholding would then become taxable as she would resume UK resident status. Robert's income for the Scottish part of contract 1 would also be subject to UK taxation. However, as his employer is paying all relevant taxes in the UK their effect can be ignored for the purposes of this report.

UK taxation implications when non-UK resident

From the dates that Robert and Claire will be treated as non-UK resident they will only be subject to UK tax on their UK income. The only UK source of income will be Claire's dividend income from her shareholding and Robert's income from his ISAs which will retain its exempt status.

There is a limit on the UK tax liability of non-UK residents. The maximum UK tax liability for Robert and Claire will the tax deducted is respect of "disregarded income" which included dividends received from UK companies. Where non-UK residents receive dividends from UK companies they are treated as having paid tax at a rate of 7.5% on the amount of dividends received which is then offset against their tax liabilities. Therefore neither Robert nor Claire will have any tax payable regarding their UK source income whilst they are non-UK resident.

Choice of contract

Given that Robert's income during his employment in both Dubai and Scotland will not suffer tax the choice of contract would initially depend on the total amount receivable over the contact duration. In Appendix 1 the total amount receivable under contract 1 exceeds contract 2 by £22,000. Contract 1 should therefore be accepted based solely on the net income receivable over the 6 years.

However, as they are considering purchasing a property in Leamington Spa for Peter and Jane's use whilst in their second and third years at University the taxation implications of releasing the funds becomes relevant. These provisions are considered in detail in the section of this report relating to the purchase of the Leamington Spa property.

INVESTMENT OPPORTUNITY

A cash sum of £280,000 is available for investment.

Purchase of 2,500 shares in Charles Williams Ltd

The shares to be purchased at a cost of £250,000 in Charles Williams Ltd would represent a 25% holding in the company and it is anticipated that the purchase would be made under the Enterprise Investment Scheme.

Where the shares are subscribed for the tax relief is given by means of a tax reducer at a flat rate of 30% of the investment. There is an annual maximum qualifying for relief of £1 million but this will not be relevant for your investment.

The tax reducer is limited to the individual's income tax liability for the year and cannot create a "negative" amount for the tax liability. The relief is usually given in the year in which the subscription is made, but it is possible to carry back the subscription to the preceding tax year provided the limit for relief is not exceeded in that earlier year.

Your income tax liabilities for 2017/18 are £87,612 for Robert and £13,151 for Claire (see Appendices 3 and 4)

In order to claim the relief the individual must subscribe for the shares in a qualifying company and also be a qualifying investor. The accountants and tax advisers of Charles Williams Ltd have confirmed that the company meets all the qualifying criteria for the Enterprise Investment Scheme.

In order to be a qualifying investor the individual cannot be connected to the company in the period beginning 2 years prior to the issue of the shares and ending 3 years after the issue.

The investor is connected with the company if he, or an associate, is an employee of the company. Siblings are not regarded as associates for the purposes of the relief. An employee includes a director but there are special provisions which allow a director to be eligible for the relief. A director will obtain relief if either they are unpaid for the period noted above or were not connected when the shares are issued and become a paid director after the share issue and receive reasonable remuneration.

The investor will also be connected to the company if their holding is more that 30% of the ordinary share capital or they can exercise more than 30% of the voting power. The shareholdings of associates are also taken into account when considering this test.

Based on the above criteria both Robert and Claire will be qualifying investors as they have not been involved in any way with the company since its incorporation and the proposed holding will not breach the 30% limit. It is also recommended that you do not accept a directorship in the company for the period of 3 years following the issue of the shares.

They will therefore qualify for a maximum income tax reducer of £75,000 (30% of the £250,000 investment) when the investment is made. The shares can be subscribed for by either Robert or Claire but the availability of the relief needs to be considered.

It is likely that the investment will be made in the tax year ended 5 April 2019 and relief would normally be claimed in that year. However, as Robert's employment was terminated on 31 December 2017 and the non-contractual termination payment was received on 14 February 2018, it will be necessary to claim Robert's relief for the tax year ended 5 April 2018 as there will be no income tax liability for the year ended 5 April 2019 to obtain the relief.

As Robert's income tax liability for 2017/18 is greater than £75,000 full relief would be available if he would subscribe for all the shares. If Claire were to subscribe her tax liability of £13,151 for 2017/18, and assuming a similar liability for 2018/19, would mean that full relief would only be available if she were to buy shares to the value of £85,000 and claim relief for half her purchase in both 2017/18 and 2018/19.

It should be noted that the income tax relief will only be preserved if the shares are kept for 3 years after their issue. If the shares are disposed of sooner there will be a clawback of the income tax relief originally gives but this would not apply if the shares are gifted to the investor's spouse. Based on the information provided it is not anticipated that the shares will be disposed of within this period but it should be borne in mind if a potential purchaser makes an offer for the company earlier than the 5 years anticipated by Charles.

The shares subscribed for will also benefit from a Capital Gains Tax exemption on their eventual disposal at a gain if the shares have been held for 3 years. If the anticipated increase of 15% per annum in the value of the shares is achieved you will receive proceeds of over £500,000 for a sale in 5 years' time, with no tax payable on their disposal. However, if the shares are sold within 3 years any gain you realise will be chargeable to Capital Gains Tax as well as having the income tax relief clawback referred to above.

Your proposed move to Dubai, and the choice of contract, will not have any effect on the above analysis.

Additional investment in ISAs

You have advised us that a sum of £280,000 is available for investment. If you decide to subscribe for the shares in Charles Williams Ltd at a cost of £250,000 this would leave an amount of £30,000. Robert has always invested any spare cash in his ISA accounts and we would assume that this amount would also be invested. The annual investment limit for ISAs is £20,000 so Robert would be able to fully utilise the annual limit in the year ended 5 April 2019.

However, in order to benefit from the ISA advantages it is necessary for the individual to be resident in the UK when the subscription is made. If Robert is considering making this investment it should be done before he departs the UK to take up his overseas employment. The tax efficiency of the ISA accounts will not change when Robert becomes non-UK resident.

Robert will not be able to make further subscriptions into his ISA accounts whilst he is non-resident. Claire does not at the moment have any ISA accounts so the remaining £10,000 could be invested in an ISA in her name if it is desired to fully invest the available £280,000.

The tax relief available on the investment in Charles Williams Ltd will lead to a tax repayment to both Robert and Claire if both subscribe for the shares. This could also be used to fully utilise the ISA limits for Robert and Claire prior to their departure to Dubai.

PURCHASE OF PROPERTY IN LEAMINGTON SPA

In addition to the proposed investment in Charles Williams Ltd you are also considering purchasing a property in Leamington Spa which would allow the children to reside there during their time at University. The purchase of the property costing around £400,000 would be funded by the disposal of your capital assets namely Robert's ISAs and/or Claire's shareholding. You anticipate that you will require £425,000 to purchase the property and the incidental costs of its acquisition. The report considers the implications of Robert and Claire making the purchase or gifting the money to Peter and Jane allowing them to purchase in their own names.

The purchase of UK property is subject to Stamp Duty Land Tax which is payable by the purchaser. If the property were to be purchased by yourselves, you would be acquiring an additional residential property as you already own your home in Chester. This would result in additional duty being payable of £12,000 (see detailed calculation in Appendix 5).

The current value of Robert's ISA accounts is £210,000 and Claire's shareholding is valued at £850,000. Claire inherited the shareholding in September 2002 when the shares were valued at £250,000.

As already stated non-UK residents are generally not liable to UK Capital Gains Tax irrespective of where the asset is situated. So, if Claire were to sell her shares whilst non-UK resident there would be no tax liability. However there is a major exception to this general rule which could potentially apply.

Anti-avoidance legislation will charge Capital Gains Tax on individuals who have become "temporarily" non-UK residents. The legislation applies where the following conditions are satisfied:

1. Immediately following a period of UK residence the individual becomes non-resident
2. The individual was UK resident in at least 4 of the7 tax years immediately preceding the tax year of departure
3. The period of non-residence is no more than 5 years.

The impact of the legislation is that if the individual is temporarily non-resident and regains UK residence any capital gains made during the period of non-residence on assets owned when they left the UK will be taxed in the year of return.

The choice of employment contract becomes important as at least some of the funds required to purchase the property will have to come from the sale of part of Claire's shareholding which

is standing at a substantial gain. If contract 1 is accepted both Robert and Claire will be regarded as temporarily non-resident due to the 3 year period in Dubai before moving to Scotland. However contract 2 will be spent entirely in Dubai for the 6 year period ending on 31 January 2025. Although Claire will not be joining Robert in Dubai until July 2019, both Robert and Claire will still remain outside the UK for more than 5 years and will not therefore be caught by the temporarily non-resident rules.

Appendix 2 compares the potential tax liabilities of the asset disposals in raising the required £425,000.

If contract 1 is accepted there would be a Capital Gains Tax liability of around £33,000, but there would be no such liability if contract 2 is accepted. This additional tax liability if contract 1 is accepted would outweigh the additional income received by Robert. Additionally, if contract 2 is accepted Robert would still retain his ISA shareholding which would retain its tax free status on his return to the UK.

As a result, the acceptance of contract 2 would be the best option to accord with the objectives of tax minimisation.

In order to minimise the tax burden on the purchase of the Leamington Spa property the shares should be sold and the proceeds transferred to Peter and Jane to allow them to purchase the property, pay the Stamp Duty Land Tax and other incidental costs, such as legal fees. The transfer of cash in not within the scope of Capital Gains Tax but would be a potentially exempt transfer for Inheritance purposes. In order to benefit from the Annual Exemptions available Claire should transfer half the proceeds to Robert. If both Robert and Claire were to transfer, say £212,500 each, they would be able to utilise their annual exemption for both the year of transfer and the previous year thereby reducing the transfer value by £6,000 each.

The potentially exempt transfer would only become chargeable if Robert or Claire were to die within a period of 7 years from the transfer date. If they survive the 7 year period the transfer would become fully exempt and no Inheritance Tax would be payable.

Appendix 1

Robert Williams – Post tax income receivable over contract duration

	Contract 1	Contract 2
	£	£
Monthly salary		
Dubai – 36 x £10,000	360,000	
Scotland – 36 x £8,000	288,000	
Dubai 72 x £8,000		576,000
Terminal bonus	30,000	80,000
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Total receivable	**£678,000**	**£656,000**
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Appendix 2

Robert and Claire Williams – Capital Gains Tax on share disposals

Contract 1 accepted

As any gains made while in Dubai will be taxable in the UK on their return, it is significant that no CGT will arise on Robert's ISAs whereas Claire's shares are standing at a significant gain. From a tax perspective, as much as possible of the required funds should come from Robert's ISAs with the balance then coming from Claire's shares.

Robert sells his ISA shareholding (no CGT)		£210,000

Additional amount required (net of tax)- disposal by Claire		£215,000

Claire would need to sell around £250,000 of her shareholding		
Proceeds		250,000
Cost 250,000/850,000 x £250,000		(73,529)

Chargeable gain on resuming UK resident status		176,471
Annual exemption		(11,700)

Taxable gain		£164,771

Capital Gains Tax payable @ 20%		£32,954

Post tax proceeds – £250,000 - £32,954		£217,046

Claire would still retain around £600,000 of her shareholding which would be chargeable to Capital Gains Tax.		

Contract 2 accepted

Since Claire would be non-UK resident at the date of the disposal (assuming the disposal takes place after she has become resident in Dubai) and the temporary non-resident provision will not apply as she will not be returning to become UK resident within 5 years, it will be better from a tax perspective for her to sell shares on which taxable gains could arise in the future (i,e, after their return from Dubai) than for Robert to realise his ISA investments on which future gains are exempt. Claire would retain £425,000 of her shareholding which would be chargeable to Capital Gains Tax when she resumes UK resident status at the end of the contract.

We cannot comment on whether from an investment perspective this is the better option and advice should be taken in this regard from an IFA.

Appendix 3

Robert Williams – Income Tax liability for the year ended 5 April 2018

		Non-Savings income
		£
Employment income	9/12 x £135,000	101,250
Taxable termination payment	See working	125,000

Net income		226,250
Personal Allowance	Fully abated	Nil

Taxable income		£226,250

Income tax liability		
Non savings	33,500 @ 20%	6,700
	116,500 @40%	46,600
	76,250 @ 45%	34,312

		£87,612

Working		
Taxable termination payment		
Gross payment		155,000
Exempt amount		(30,000)

Taxable payment		125,000

Tax deducted (Code 0T M1)		
2,792 @ 20%		558
9,708 @ 40%		3,883
112,500 @ 45%		50,625

		55,066

Amount received	155,000 – 55,066	£99,934

Appendix 4

Claire Williams – Income Tax liability for the year ended 5 April 2018

	Non-Savings income	Dividend Income
	£	£
Employment income	40,000	
Dividend income		29,850
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Net income	40,000	29,850
Personal Allowance	(6,500)	(5,000)
	-----------	-----------
Taxable income	£33,500	£24,850
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Income tax liability		
Non savings	33,500 @ 20%	6,700
Dividend allowance	5,000 @ 0%	0
Dividends	19,850 @ 32.5%	6,451

		£13,151

Appendix 5

Stamp Duty Land Tax on purchase of Leamington Spa property

Estimated purchase price - £400,000

	Purchase by Robert and Claire		**Purchase by Peter and Jane**	
SDLT bands	SDLT rate	SDLT amount	SDLT rate	SDLT amount
£	%	£	%	£
125,000	3	3,750	0	Nil
125,000	5	6,250	2	2,500
100,000	8	12,000	5	7,500
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400,000		22,000		10,000
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