

Tolley[®] Exam Training

CTA ADVANCED TECHNICAL PAPER

IHT, TRUSTS & ESTATES

PRE REVISION QUESTION BANK

FA 2019

May and November 2020 Sittings

PQ721
CTA

Tolley[®]

Tax intelligence
from LexisNexis[®]

INTRODUCTION

This Pre-Revision Question Bank for the Advanced Technical IHTTE paper contains 15 exam standard questions all with answers updated to Finance Act 2019.

Using this question bank

All the CTA exams, with the exception of the Awareness paper, are **3¼ hours** in length. The initial 15 minutes are pre-examination reading time and during this time you are permitted to read the question paper and the legislation and **annotate the question paper**, but you are not allowed to write in the answer folder. Calculators may be used during this period. There will be an announcement at the end of the fifteen minutes reading time after which you may start writing in the answer folder.

During the 3-hour writing period we recommend you initially **allocate 1.7 minutes per mark** to allow time for a final review stage at the end of each question.

10 mark question = 17 minutes
15 mark question = 25 minutes
20 mark question = 34 minutes

You should attempt each question as if you were in the real exam. Try to **avoid just reading the answers** to questions – it is all too easy to nod as you read our answer saying “yes I know that point, yes I understand that advice given” – the test is would you have actually put those points in your answer? You won’t find this out unless you **write the answers out** yourself.

Writing “proper” answers also gives you a good idea of how long an exam standard answer will take you to write.

Reviewing your answers

It is essential to read through your answer when you have finished. It is useful at this stage to pass on some tips about how to review your answers effectively – **before** you look at our model answer.

The first thing the marker will do is read your answer through as a whole – what overall impression are you giving of your ability? Have you put the marker in a good mood as soon as they see your script or is he going to be dreading marking what you have handed in? You want those red ticks to be flowing freely onto your page!

Key **presentation considerations** include spacing your answer out, cross referencing your workings, and using subheadings and short paragraphs in written answers. “White space” is vital within your answer. Leaving a line between paragraphs makes your answer look more attractive to the marker and will naturally lead him to give you more marks.

You may be able to make some small corrections at this review stage – you may find you have missed out a vital word such as “not” or you may at this stage think of another point or two to add while reading your answer. This approach could increase your marks much more effectively than carrying on with the point you were making before you stopped to do this final review.

Consider giving your answer to somebody else (even a non-tax person) to read. If they can understand the points you are trying to make, your communication skills are good. Remember that you are writing letters / memos etc for someone else to read, so look at your work from the viewpoint of the reader. Would the reader pay money for your advice?

Reviewing the model answer

In the advanced technical papers it is quite likely that there is no single “correct” answer. The model answer is only one possible solution. You may well have included valid points which are not included in the model answer. Review critically both your answer and the model answer. Are there points in the model answer which you could have included in your answer to get extra marks? Are there points you have included which, with the benefit of hindsight, you should have left out?

CONTENTS**QUESTIONS**

1	Len Demetris Trust	IT for mixed A&M trust & R185s
2	Carol Regis	GWR, instalments, planning, principal charge
3	Rose Vine	Death estate, lifetime gifts, DTR, deed of variation
4	Garry Thompson	Estate, settled property, instalments, planning
5	Stephen McMahon	IT & CGT for estate
6	Andrew Blair	Double grossing
7	Sir Randolph Lerner	Lifetime gifts, death estate, IIP, post mortem reliefs
8	Kevin Richardson	BPR issues and instalment tax
9	Paul Birch	IHT on death, IT & CGT for an estate
10	Alan York Settlement	CGT comp for trust / IHT issues
11	Des Bremner	Death estate, BPR/APR, deed of variation
12	Mark Draper	Double grossing
13	Michael Schofield	GWROB & double charges relief
14	Charlie Aitken	Net asset entitlements from an estate
15	Mr. Q	Overseas trust issues

CTA EXAMINATIONS

2020

TAX TABLES



Chartered
Institute of
Taxation
Excellence in Taxation

INCOME TAX - RATES AND THRESHOLDS

	2019/20	2018/19
Rates	%	%
Starting rate for savings income only	0	0
Basic rate for non-savings and savings income only	20	20
Higher rate for non-savings and savings income only	40	40
Additional and trust rate for non-savings and savings income	45	45
Dividend ordinary rate	7.5	7.5
Dividend upper rate	32.5	32.5
Dividend additional rate and trust rate for dividends	38.1	38.1
Thresholds	£	£
Savings income starting rate band	1 – 5,000	1 – 5,000
Basic rate band	1 – 37,500	1 – 34,500
Higher rate band	37,501 – 150,000	34,501 – 150,000
Dividend allowance	2,000	2,000
Personal Savings Allowance		
- Taxpayer with basic rate income	1,000	1,000
- Taxpayer with higher rate income	500	500
- Taxpayer with additional rate income	Nil	Nil
Standard rate band for trusts	1,000	1,000
Scottish Tax Rates⁽¹⁾	%	%
Starter rate	19	19
Scottish basic rate	20	20
Intermediate rate	21	21
Higher rate	41	41
Top rate	46	46
Scottish Tax Thresholds⁽¹⁾	£	£
Starter rate	1 – 2,049	1 – 2,000
Scottish basic rate	2,050 – 12,444	2,001 – 12,150
Intermediate rate	12,445 – 30,930	12,151 – 31,580
Higher rate	30,931 – 150,000	31,581 – 150,000
Top rate	150,000 +	150,000 +

INCOME TAX - RELIEFS

	2019/20	2018/19
	£	£
Personal allowance ⁽²⁾	12,500	11,850
Married couple's allowance ⁽³⁾	8,915	8,695
- Maximum income before abatement of relief - £1 for £2	29,600	28,900
- Minimum allowance	3,450	3,360
Transferable Tax allowance for married couples and civil partners ⁽⁴⁾	1,250	1,190
Blind person's allowance	2,450	2,390
Enterprise investment scheme relief limit ⁽⁵⁾	1,000,000	1,000,000
Venture capital trust relief limit	200,000	200,000
Seed enterprise investment scheme relief limit	100,000	100,000
Social investment relief	1,000,000	1,000,000

- Notes**
- (1) Scottish taxpayers pay Scottish income tax on non-savings income.
 - (2) The personal allowance of any individual with adjusted net income above £100,000 is reduced by £1 for every £2 of adjusted net income above the £100,000 limit.
 - (3) Only available where at least one partner was born before 6 April 1935. Relief restricted to 10%.
 - (4) The recipient must not be liable to tax above the basic rate. The recipient is eligible for a tax reduction of 20% of the transferred amount.
 - (5) From 6.4.18, the limit is £2 million, where over £1 million is invested in knowledge intensive companies.

CTA EXAMINATIONS

2020

TAX TABLES



Chartered
Institute of
Taxation
Excellence in Taxation

ISA limits	2019/20	2018/19
Maximum subscription:	£	£
'Adult' ISAs	20,000	20,000
Junior ISAs	4,368	4,260

Pension contributions

	Annual allowance ⁽¹⁾	Lifetime allowance	Minimum pension age
	£	£	
2018/19	40,000	1,030,000	55
2019/20	40,000	1,055,000	55

Basic amount qualifying for tax relief £3,600

Notes (1) The annual allowance is tapered by £1 for every £2 of adjusted income above £150,000 for individuals with threshold income above £110,000. It cannot be reduced below £10,000.

Employer Supported Childcare

Exemption – basic rate taxpayer⁽¹⁾ £55 per week £55 per week

Notes (1) For schemes joined on or after 6 April 2011 the exempt childcare amounts for higher and additional rate taxpayers (based on the employer's earning assessment only) are £28 and £25 respectively.

ITEPA mileage rates

Car or van ⁽¹⁾	First 10,000 business miles	45p
	Additional business miles	25p
Motorcycles		24p
Bicycles		20p
Passenger payments		5p

Notes (1) For NIC purposes, a rate of 45p applies irrespective of mileage.

INCOME TAX - CHARGES

Child benefit charge

Adjusted net income >£50,000
Adjusted net income >£60,000

Withdrawal rate

1% of benefit per £100 of income between £50,000 and £60,000
Full child benefit amount assessable in that tax year

INCOME TAX - BENEFITS

Car benefits

Emissions	2019/20 ⁽¹⁾	2018/19 ⁽¹⁾
0 – 50 g/km	16%	13%
51 – 75 g/km	19%	16%
76 – 94 g/km	22%	19%
95 g/km or more	23% + 1% for every additional whole 5g/km above threshold	20% + 1% for every additional whole 5g/km above threshold
165 g/km or more	37%	
180g/km or more		37%

Fuel benefit base figure

2019/20	2018/19
£24,100	£23,400

Notes (1) 4% supplement for diesel cars excluding those that meet the Real Driving Emissions Step 2 (RDE2) standard.

CTA EXAMINATIONS

2020

TAX TABLES



Chartered
Institute of
Taxation
Excellence in Taxation

Van benefits	2019/20	2018/19
	£	£
No CO ₂ emissions	2,058	1,340
CO ₂ emissions > 0g/km	3,430	3,350
Fuel benefit for vans	655	633

Official rate of interest	2019/20	2018/19
	2.5%	2.5%

INCOME TAX - SIMPLIFICATION MEASURES

Allowances

	2019/20	2018/19
	£	£
'Rent-a-room' limit	7,500	7,500
Property allowance/Trading allowance	1,000	1,000

Flat Rate Expenses for Unincorporated Businesses

Motoring expenses	First 10,000 business miles	45p per mile
	Additional business miles	25p per mile
Business use of home	25 – 50 hours use	£10 per month
	51 – 100 hours use	£18 per month
	101+ hours use	£26 per month
Private use of business premises	No of persons living there:	
	1	£350 per month
	2	£500 per month
	3+	£650 per month

Cash Basis for Unincorporated Businesses

	£
Turnover threshold to join scheme	150,000
Turnover threshold to leave scheme	300,000

CAPITAL ALLOWANCES

Annual investment allowance for plant and machinery (AIA) ⁽¹⁾	100%
WDA on plant and machinery in main pool ⁽²⁾	18%
WDA on plant and machinery in special rate pool ⁽³⁾⁽⁴⁾	6%
WDA on patent rights and know-how	25%
WDA on structures and buildings (SBA) ⁽⁵⁾	2%

- Notes**
- (1) On first £1,000,000 of investment in plant & machinery (not cars) from 1 January 2019 to 31 December 2020 (£200,000 before 31 December 2018 & from 1 January 2021).
 - (2) The main pool rate applies to cars with CO₂ emissions of not more than 110 g/km (130 g/km for expenditure incurred before 1 April 2018).
 - (3) The special pool rate applies to cars with CO₂ emissions greater than 110 g/km (130 g/km for expenditure incurred before 1 April 2018).
 - (4) The special pool rate was 8% prior to 6 April 2019 (1 April 2019 for companies).
 - (5) The 2% rate applies to expenditure from 29 October 2018 on new qualifying non-residential structures and buildings on a straight-line basis.

100% First year allowances available to all businesses

- 1) New energy saving plant and machinery, and water efficient plant and machinery (until April 2020).
- 2) Capital expenditure incurred by a person on research and development.
- 3) New zero-emission goods vehicles (until April 2021).
- 4) New cars registered before 31 March 2021 if the car either emits not more than 50 g/km of CO₂ (75g/km before 1 April 2018) or it is electrically propelled.
- 5) Electric vehicle charging points expenditure incurred from 23 November 2016 until April 2023.

CTA EXAMINATIONS

2020

TAX TABLES

NATIONAL INSURANCE CONTRIBUTIONS

Class 1 limits	2019/20			2018/19		
	Annual £	Monthly £	Weekly £	Annual £	Monthly £	Weekly £
Lower earnings limit (LEL)	6,136	512	118	6,032	503	116
Primary threshold (PT)/ Secondary threshold (ST)	8,632	719	166	8,424	702	162
Upper earnings limit (UEL)/ Upper secondary threshold for under 21 (UST) ⁽¹⁾ / Apprentice upper secondary threshold for under 25 (AUST) ⁽²⁾	50,000	4,167	962	46,350	3,863	892

Class 1 primary contribution rates

Earnings between PT and UEL	12%	12%
Earnings above UEL	2%	2%

Class 1 secondary contribution rates

Earnings above ST ⁽¹⁾⁽²⁾	13.8%	13.8%
-------------------------------------	-------	-------

- Notes** (1) Rate of secondary NICs for employees < age 21 on earnings between ST&UST is 0%.
(2) Rate of secondary NICs for apprentices < age 25 on earnings between ST&AUST is 0%.

	2019/20	2018/19
Employment allowance		
Per year, per employer	£3,000	£3,000
Class 1A contributions	13.8%	13.8%
Class 1B contributions	13.8%	13.8%
Class 2 contributions		
Normal rate	£3.00 pw	£2.95 pw
Small profits threshold	£6,365 pa	£6,205 pa
Class 3 contributions	£15.00 pw	£14.65 pw
Class 4 contributions		
Annual lower profits limit (LPL)	£8,632	£8,424
Annual upper profits limit (UPL)	£50,000	£46,350
Percentage rate between LPL and UPL	9%	9%
Percentage rate above UPL	2%	2%

OTHER PAYROLL INFORMATION

Statutory maternity/adoption pay	First 6 weeks @ 90% of AWE Next 33 weeks @ the lower of £148.68 and 90% of AWE
Statutory shared parental pay /paternity pay	For each qualifying week, the lower of 90% of AWE and £148.68
Student Loan	Plan 1: 9% of earnings exceeding £1,577 per month Plan 2: 9% of earnings exceeding £2,143 per month
Postgraduate Loan	6% of earnings exceeding £1,750 per month

National living/minimum wage (April 2019 onwards)

Category of Worker	Rate per hour	Category of Worker	Rate per hour
Workers aged 25 and over	£8.21	18–20 year olds	£6.15
21–24 year olds	£7.70	16–17 year olds	£4.35
		Apprentices	£3.90

CTA EXAMINATIONS

2020

TAX TABLES



Chartered
Institute of
Taxation
Excellence in Taxation

CAPITAL GAINS TAX

	2019/20	2018/19
Annual exempt amount for individuals	£12,000	£11,700

CGT rates for individuals, trusts and estates

Gains qualifying for entrepreneurs' relief/investors' relief	10%	10%
Gains for individuals falling within remaining basic rate band ⁽¹⁾	10%	10%
Gains for individuals exceeding basic rate band and gains for trusts and estates ⁽²⁾	20%	20%

Notes (1) The rate is 18% if the gain is in respect of a residential property

(2) The rate is 28% if the gain is in respect of a residential property

Entrepreneurs' relief and Investors' relief⁽¹⁾

	2019/20	2018/19
Relevant gains (lifetime maximum)	£10 million	£10 million

Notes (1) The first claims for investors' relief can be made in 2019/20.

Retail Prices Index

	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec
1982	–	–	79.44	81.04	81.62	81.85	81.88	81.90	81.85	82.26	82.66	82.51
1983	82.61	82.97	83.12	84.28	84.64	84.84	85.30	85.68	86.06	86.36	86.67	86.89
1984	86.84	87.20	87.48	88.64	88.97	89.20	89.10	89.94	90.11	90.67	90.95	90.87
1985	91.20	91.94	92.80	94.78	95.21	95.41	95.23	95.49	95.44	95.59	95.92	96.05
1986	96.25	96.60	96.73	97.67	97.85	97.79	97.52	97.82	98.30	98.45	99.29	99.62
1987	100.0	100.4	100.6	101.8	101.9	101.9	101.8	102.1	102.4	102.9	103.4	103.3
1988	103.3	103.7	104.1	105.8	106.2	106.6	106.7	107.9	108.4	109.5	110.0	110.3
1989	111.0	111.8	112.3	114.3	115.0	115.4	115.5	115.8	116.6	117.5	118.5	118.8
1990	119.5	120.2	121.4	125.1	126.2	126.7	126.8	128.1	129.3	130.3	130.0	129.9
1991	130.2	130.9	131.4	133.1	133.5	134.1	133.8	134.1	134.6	135.1	135.6	135.7
1992	135.6	136.3	136.7	138.8	139.3	139.3	138.8	138.9	139.4	139.9	139.7	139.2
1993	137.9	138.8	139.3	140.6	141.1	141.0	140.7	141.3	141.9	141.8	141.6	141.9
1994	141.3	142.1	142.5	144.2	144.7	144.7	144.0	144.7	145.0	145.2	145.3	146.0
1995	146.0	146.9	147.5	149.0	149.6	149.8	149.1	149.9	150.6	149.8	149.8	150.7
1996	150.2	150.9	151.5	152.6	152.9	153.0	152.4	153.1	153.8	153.8	153.9	154.4
1997	154.4	155.0	155.4	156.3	156.9	157.5	157.5	158.5	159.3	159.5	159.6	160.0
1998	159.5	160.3	160.8	162.6	163.5	163.4	163.0	163.7	164.4	164.5	164.4	164.4
1999	163.4	163.7	164.1	165.2	165.6	165.6	165.1	165.5	166.2	166.5	166.7	167.3
2000	166.6	167.5	168.4	170.1	170.7	171.1	170.5	170.5	171.7	171.6	172.1	172.2
2001	171.1	172.0	172.2	173.1	174.2	174.4	173.3	174.0	174.6	174.3	173.6	173.4
2002	173.3	173.8	174.5	175.7	176.2	176.2	175.9	176.4	177.6	177.9	178.2	178.5
2003	178.4	179.3	179.9	181.2	181.5	181.3	181.3	181.6	182.5	182.6	182.7	183.5
2004	183.1	183.8	184.6	185.7	186.5	186.8	186.8	187.4	188.1	188.6	189.0	189.9
2005	188.9	189.6	190.5	191.6	192.0	192.2	192.2	192.6	193.1	193.3	193.6	194.1
2006	193.4	194.2	195.0	196.5	197.7	198.5	198.5	199.2	200.1	200.4	201.1	202.7
2007	201.6	203.1	204.4	205.4	206.2	207.3	206.1	207.3	208.0	208.9	209.7	210.9
2008	209.8	211.4	212.1	214.0	215.1	216.8	216.5	217.2	218.4	217.7	216.0	212.9
2009	210.1	211.4	211.3	211.5	212.8	213.4	213.4	214.4	215.3	216.0	216.6	218.0
2010	217.9	219.2	220.7	222.8	223.6	224.1	223.6	224.5	225.3	225.8	226.8	228.4
2011	229.0	231.3	232.5	234.4	235.2	235.2	234.7	236.1	237.9	238.0	238.5	239.4
2012	238.0	239.9	240.8	242.5	242.4	241.8	242.1	243.0	244.2	245.6	245.6	246.8
2013	245.8	247.6	248.7	249.5	250.0	249.7	249.7	251.0	251.9	251.9	252.1	253.4
2014	252.6	254.2	254.8	255.7	255.9	256.3	256.0	257.0	257.6	257.7	257.1	257.5
2015	255.4	256.7	257.1	258.0	258.5	258.9	258.6	259.8	259.6	259.5	259.8	260.6
2016	258.8	260.0	261.1	261.4	262.1	263.1	263.4	264.4	264.9	264.8	265.5	267.1
2017	265.5	268.4	269.3	270.6	271.7	272.3	272.9	274.7	275.1	275.3	275.8	278.1

CTA EXAMINATIONS

2020

TAX TABLES



Chartered
Institute of
Taxation
Excellence in Taxation

Lease percentage table

Years	Percentage	Years	Percentage	Years	Percentage	Years	Percentage
50+	100.000	37	93.497	24	79.622	11	50.038
49	99.657	36	92.761	23	78.055	10	46.695
48	99.289	35	91.981	22	76.399	9	43.154
47	98.902	34	91.156	21	74.635	8	39.399
46	98.490	33	90.280	20	72.770	7	35.414
45	98.059	32	89.354	19	70.791	6	31.195
44	97.595	31	88.371	18	68.697	5	26.722
43	97.107	30	87.330	17	66.470	4	21.983
42	96.593	29	86.226	16	64.116	3	16.959
41	96.041	28	85.053	15	61.617	2	11.629
40	95.457	27	83.816	14	58.971	1	5.983
39	94.842	26	82.496	13	56.167	0	0.000
38	94.189	25	81.100	12	53.191		

CORPORATION TAX

Financial year	2019	2018	2017
Main rate	19%	19%	19%

EU definition of small and medium sized enterprises	Small ⁽²⁾	Medium ⁽²⁾	Extended definition for R&D expenditure
Employees ⁽¹⁾	< 50	< 250	<500
Turnover ⁽¹⁾	≤ €10m	≤ €50m	≤ €100m
Balance sheet assets ⁽¹⁾	≤ €10m	≤ €43m	≤ €86m

- Notes** (1) Must meet employees criteria and either turnover or balance sheet assets criteria.
(2) Thresholds apply for transfer pricing and distributions received by small companies.

VALUE ADDED TAX

	Standard rate	VAT fraction
From 4.1.11	20%	1/6

Limits	From 1.4.19	From 1.4.18
Annual registration limit	£85,000	£85,000
De-registration limit	£83,000	£83,000

Thresholds	Cash accounting	Annual accounting
Turnover threshold to join scheme	£1,350,000	£1,350,000
Turnover threshold to leave scheme	£1,600,000	£1,600,000

OTHER INDIRECT TAXES

	2019/20	2018/19
Insurance premium tax⁽¹⁾		
Standard rate	12%	12%
Higher rate	20%	20%
Tobacco products duty	From 29.10.18	Until 28.10.18
Cigarettes	16.5% x retail price + £228.29 (or £293.95 ⁽²⁾) per thousand cigarettes	16.5% x retail price + £217.23 (or £280.15 ⁽²⁾) per thousand cigarettes
Cigars	£284.76 per kg	£270.96 per kg
Hand-rolling tobacco	£234.65 per kg	£221.18 per kg
Other smoking/chewing tobacco	£125.20 per kg	£119.13 per kg
Tobacco for heating from 1 July 2019	£234.65 per kg	N/A

- Notes** (1) Premium is tax inclusive (3/28 for 12% rate and 1/6 for 20% rate).
(2) The £293.95/£280.15 per thousand cigarettes is a minimum excise duty (if higher than the first calculation).

CTA EXAMINATIONS

2020

TAX TABLES

INHERITANCE TAX

Death rate 40%⁽¹⁾ Lifetime rate 20%

Notes (1) 36% rate applies where 10% or more of the deceased person's net chargeable estate is left to charity.

Nil rate bands

6 April 1996 – 5 April 1997	£200,000	6 April 2003 – 5 April 2004	£255,000
6 April 1997 – 5 April 1998	£215,000	6 April 2004 – 5 April 2005	£263,000
6 April 1998 – 5 April 1999	£223,000	6 April 2005 – 5 April 2006	£275,000
6 April 1999 – 5 April 2000	£231,000	6 April 2006 – 5 April 2007	£285,000
6 April 2000 – 5 April 2001	£234,000	6 April 2007 – 5 April 2008	£300,000
6 April 2001 – 5 April 2002	£242,000	6 April 2008 – 5 April 2009	£312,000
6 April 2002 – 5 April 2003	£250,000	6 April 2009 – 5 April 2021	£325,000

Residence nil rate bands⁽²⁾

6 April 2017 – 5 April 2018	£100,000	6 April 2019 – 5 April 2020	£150,000
6 April 2018 – 5 April 2019	£125,000	6 April 2020 – 5 April 2021	£175,000

Notes (2) An additional nil rate band is available where a main residence is passed on death to a direct descendant. Tapered withdrawal for estates > £2million.

Taper relief

Death within 3 years of gift	Nil%
Between 3 and 4 years	20%
Between 4 and 5 years	40%
Between 5 and 6 years	60%
Between 6 and 7 years	80%

Quick Succession relief

Period between transfers less than one year	100%
Between 1 and 2 years	80%
Between 2 and 3 years	60%
Between 3 and 4 years	40%
Between 4 and 5 years	20%

Lifetime exemptions

Annual exemption	£3,000
Small gifts	£250
Wedding gifts	£5,000
Child	£5,000
Grandchild or remoter issue or other party to marriage	£2,500
Other	£1,000

ANNUAL TAX ON ENVELOPED DWELLINGS (ATED)

Residential property value	From 1.4.19	From 1.4.18
>£0.5m - ≤ 1m	£3,650	£3,600
> £1m - ≤ 2m	£7,400	£7,250
> £2m – ≤ 5m	£24,800	£24,250
> £5m – ≤ 10m	£57,900	£56,550
> £10m – ≤ 20m	£116,100	£113,400
> £20m	£232,350	£226,950

STAMP DUTY/SDRT

Stamp duty⁽¹⁾	- On shares transferred by physical stock transfer form	0.5%
Stamp duty reserve tax⁽¹⁾	- On agreements to transfer shares ⁽²⁾	0.5%
	- On shares transferred to depositary receipt schemes	1.5%

Notes (1) Does not apply to UK securities traded on a recognised growth market (eg AIM).

(2) Does not apply to units in UK unit trust schemes or shares in UK OEICS bought from fund managers.

CTA EXAMINATIONS

2020

TAX TABLES

STAMP DUTY LAND TAX

Stamp Duty Land Tax on purchase price / lease premium / transfer value – England & NI

Basic Rate % ⁽¹⁾⁽²⁾⁽³⁾	Higher Rate % ⁽¹⁾⁽²⁾	Residential ⁽¹⁾⁽²⁾⁽³⁾	Non-Residential
0	3	£0 - £125,000	£0 - £150,000
2	5	£125,001 - £250,000	£150,001 - £250,000
5	8	£250,001 - £925,000	£250,001 +
10	13	£925,001 - £1,500,000	N/A
12	15	£1,500,001 +	N/A

- Notes** (1) The basic rates are increased by 3% where the purchase is of an additional residential property for individuals (see column 2 for the rates that apply). Companies and trusts pay the additional 3% on all purchases of residential properties, subject to note 2 below.
- (2) Companies pay 15% on purchases of residential property valued > £500,000.
- (3) First-time buyers purchasing a single dwelling as their only or main residence on or after 22.11.17 may benefit from a reduced rate. (This includes qualifying shared ownership properties.) SDLT will not be due on properties up to £300,000. For homes up to £500,000, SDLT will be payable on £200,000 at 5%. Homes bought for more than £500,000 will incur the rates as per column 1 of the table above.

New leases – Stamp Duty Land Tax on lease rentals – England & NI

Rate (%)	Net present value of rent	
	Residential	Non-residential
Zero	Up to £125,000	Up to £150,000
1%	Excess over £125,000	£150,001-£5m
2%		Over £5m

Land and Buildings Transaction Tax (LBTT) on purchase price – Scotland

Basic Rate % ⁽¹⁾⁽²⁾⁽³⁾	Residential	Rate % ⁽¹⁾⁽⁴⁾	Non-Residential
0	up to £145,000	0	£0 - £150,000
2	£145,001 - £250,000	1	£150,001 - £250,000
5	£250,001 - £325,000	5	£250,001 +
10	£325,001 - £750,000		
12	£750,001 +		

- Notes** (1) Rates are charged on the portion of consideration that falls in each band. The same tax is payable for a premium granted for a land transaction, except for residential leases which are generally exempt. Special rules apply to a premium for non-residential property where the rent exceeds £1,000 a year.
- (2) An additional amount of tax equal to 4% (for effective dates on or after 25 January 2019) of the relevant consideration applies broadly to purchases of an additional dwelling by individuals and trusts (over which the beneficiary has substantial rights) and to purchases of a dwelling by certain businesses, companies and other trusts. Where the effective date is on or after 25 January 2019 but the contract was entered into prior to 12 December 2018, the 3% (prior) rate will apply.
- (3) For contracts entered into after 8 February 2018, where the effective date of the transaction is on or after 30 June 2018, there is a relief for first-time buyers where a 0% rate is applied to the first £175,000 of the purchase consideration.
- (4) These rates apply where the effective date is on or after 25 January 2019. Prior to this date the 0% band was the same, £150,001-£350,000 was 3%, £350,001+ was 4.5%.

New leases – Land and Buildings Transaction Tax (LBTT) on lease rentals - Scotland

Rate (%)	Net present value of rent ⁽¹⁾
	Non-residential
Zero	Up to £150,000
1%	£150,001+

- Note** (1) Residential leases are generally exempt

QUESTIONS

1. On 21 November 1999, Len Demetris settled funds on an accumulation and maintenance trust for the benefit of his grandchildren, being Jimmy, who was born on 23 December 1997, and Ellen, who was born on 5 January 2002. The beneficiaries are entitled to a 50% share of trust income from age 18 but capital does not vest until age 30.

The Trustees own a commercial investment property which is let on a rolling 12-month lease at a monthly rental of £2,000.

The other income of the Trustees for the year to 5 April 2020 was as follows:

Date	Shares	£
30.6.19	Dividend on shares in ABC plc	8,100
31.7.19	Interest on Treasury stock	4,000
30.9.19	Dividend on shares in XYZ plc	4,400
31.12.19	Building society interest	7,500
31.1.20	Interest on Treasury stock	4,000
31.3.20	Dividend on shares in XYZ plc	3,500

On 30 June 2020, the Trustees incurred professional fees of £740 in connection with the preparation of the trust accounts for the year ended 5 April 2020. There were no other trust management expenses.

The following payments were made to the beneficiaries:

Date	Beneficiary	£
30 September 2019:	Jimmy	5,000
	Ellen	5,000
31 March 2020:	Jimmy	5,000
	Ellen	5,000

Requirement:

- 1) Compute the total tax payable by the Trustees for 2019/20; (11)
- 2) State the entries necessary on forms R185 in respect of the payments to the beneficiaries in 2019/20. (4)
- Total (15)

2. Carol Regis died, aged 81, on 1 November 2019. She was domiciled in Florentania but had been resident in the UK since June 2004. She had never married. She left her estate to her niece, Sylvie.

Her estate at death consisted of:

- A house in London, value £515,000;
- A flat in Florentania, value £300,000. £75,000 of Florentanian death duties were paid;
- A farm in Gloucestershire, bought in 2002, value £2 million (agricultural value £1.5 million). It is let to a farmer on a business farming tenancy entered into on 26 March 2005;
- A 2% shareholding in a UK AIM listed trading company, value £100,000;
- A 5.2% shareholding in a UK quoted trading company, value £3.5 million.

On Christmas Day 2008 she gave a house in Norfolk to her friend, Edith. From then, until her death, she spent many weekends at the house with Edith. The value of the house was £60,000 in 2008 and was £185,000 in November 2019.

On 17 March 2010 she settled £200,000 in cash on a UK discretionary trust for her family. On 19 May 2015 she added a further £600,000 to the trust. Carol paid any IHT due.

The cash settled was used by the trustees to buy a portfolio of UK quoted stocks and shares, which had a value of £1 million in March 2020. No capital appointments have been made.

Requirement:

- 1) Calculate the Inheritance Tax payable as a result of Carol's death. (7)
- 2) State (with brief explanations) who is liable to pay the tax and when. (4)
- 3) Suggest what arrangements could have been made during her lifetime to reduce the liability you have calculated in 1) above. (5)
- 4) Calculate the IHT due on the 10-year anniversary of the trust in March 2020. (4)

Total (20)

3. Rose Vine, a widow who was UK domiciled, died on 14 February 2020. She left 2 children (David and Grace) and 1 grandchild (Chardonnay who is 23). Her husband had died in March 2005 leaving his estate of £225,000 to their children. He had made no lifetime transfers.

At the date of Rose’s death she owned 100% of the ordinary shares in Merlot Properties Ltd, an unquoted property investment company, with a value of £640,000, a home in the UK valued at £180,000, and quoted investments and bank accounts with a total value of £302,000.

She also owned a house in Sicilia, a foreign country, valued at \$200,000. The rate of exchange at 14 February 2020 was £1 = \$8. The costs of administration of the property in Sicilia due to the death had been £2,000 (this would have been £600 if the property had been located in the UK). Sicilian death duties amounted to £9,800.

In her will Rose left the shares in Merlot Properties Ltd to David, and the property in Sicilia to Grace. Her home was left to the children in equal shares. The Will states that all specific gifts should bear their own tax. The residue of her estate was left equally between her granddaughter and a UK charity.

Before her death, Rose had made two lifetime gifts. In January 2013 she gave cash of £200,000 to a discretionary trust. In July 2014 she had loaned £195,000 to her friend, Holly, who had fallen on hard times after her divorce. Rose wrote off the loan in August 2016 as a gesture of goodwill since it was obvious that Holly was never going to be in a position to repay.

Chardonnay has recently divorced a professional footballer and therefore has substantial assets of her own. Her tax adviser has suggested that a deed of variation should be carried out and her inheritance should be settled upon a discretionary settlement for her and other members of her family as beneficiaries.

Requirement:

- | | |
|--|-------------|
| 1) Calculate the Inheritance Tax payable as a result of Rose’s death, and state by whom this tax will be borne. | (13) |
| 2) Comment on the effect of the proposed deed of variation for the purposes of Income Tax, Inheritance Tax and Capital Gains Tax. | (7) |
| Total | (20) |

4. Garry Thompson died in a car accident on 28 June 2019.

Garry had built up two successful businesses.

The first was a clothing company, G&G Clothing Ltd, which he ran with his friend and business associate, Geoff Jones. Both had a 50% shareholding and neither shareholder had a 'casting vote'. A 50% interest was valued at £200,000 in June 2019. A 100% interest was valued at £500,000. Garry also held £80,000 of interest-bearing loan stock in G&G Clothing Ltd. The shareholders' agreement between Garry Thompson and Geoff Jones stipulated that the surviving shareholder will purchase the deceased's shares from their Executors at an agreed market value in the event of their death.

The second business was a consultancy company, GT Consultancy Ltd, which he established 10 years ago with his wife, Helen. Both Gary and Helen held 50% of the ordinary voting shares and again neither shareholder had a 'casting vote'. A 50% interest was valued at £200,000 in June 2019. A 100% interest was valued at £500,000. Garry also held £75,000 of interest-bearing loan stock in GT Consultancy Ltd.

Garry's other assets at the date of his death were as follows:

	Value at date of death £
Home	280,000
Quoted shares:	
Alpha plc	18,000
Bravo plc	11,000
Charlie plc	75,000
Cash deposits	50,000
Chattels	12,000
Rental properties:	
11 Mortimer Way	140,000
22 Mortimer Way	122,000
76 Platt Road	160,000

Charlie plc is quoted on the Alternative Investment Market. Garry had bought shares in Delta Ltd (an unlisted trading company) in January 2017. Delta Ltd was taken over by Charlie plc in July 2018 under an offer in which Garry received new shares in Charlie plc in exchange for his Delta Ltd shares.

Funeral expenses were £5,000 and other liabilities at death were £10,000.

The G&G Clothing Ltd shares have been paying regular dividends for a number of years and, as he did not need the money, he has been paying the amounts received to his children Anna (aged 22) and Robert (aged 20) in equal shares.

The dividends (all gross amounts) received and paid out were:

	£
25 July 2015	4,500
22 July 2016	5,400
29 July 2017	24,000
3 August 2018	5,800

Garry's younger brother, Alan, died in August 2016. Alan had made no lifetime transfers. Alan was single with no dependants, so he left his estate worth £310,000 on interest in possession trust for Garry with capital reversion to Anna and Robert on Garry's death. The trust assets (being cash and quoted shares) were valued at £375,000 in June 2019.

Garry's Will stated that:

- 1 The proceeds from the sale of his G&G Clothing Ltd shares should be left to his children in equal shares.
- 2 His shares in Alpha plc, Bravo plc and Charlie plc (or the cash proceeds of these shares if the Executors thought fit) should be left to his children in equal shares.
- 3 The home, chattels, his GT Consultancy Ltd shares and the Platt Road property should be left to his wife.
- 4 The Mortimer Way properties and cash deposits should be placed on discretionary trusts for the benefit of his wife and two children.

Requirement:

- 1) **Calculate the Inheritance Tax due on Garry Thompson's death and state the due date for payment.** (11)
 - 2) **Outline ways in which lifetime planning could have been put in place so as to reduce the IHT due and suggest any possible courses of action now open.** (5)
 - 3) **Calculate the repayment due to the Executors if you are told that the shares in Alpha plc, Beta plc and Charlie plc fell in value and the Executors sold the shares on 1 May 2020 before distributing the proceeds to Anna and Robert. Assume that the proceeds of sale were £10,000, £12,000 and £66,000 respectively.** (4)
- Total (20)

5. Stephen McMahon died on 31 March 2019 leaving an estate of residential let properties, quoted shares and bank deposits worth £950,000. He bequeathed his whole estate to his son Michael.

The administration period ended on 31 August 2020. The details below represent the income and expenditure during the period 1 April 2019 to 31 August 2020.

	2019/20	2020/21
<u>Income:</u>	£	£
Rents received	34,750	15,600
UK dividends received	7,000	3,000
Bank interest	3,550	1,500
<u>Expenditure:</u>		
Expenses of obtaining probate	3,000	
Property expenses	4,230	2,200
Administrative expenses	840	510
Interest on loan to pay IHT (repaid 31 October 2019)	1,000	

Michael received payments on account of income as follows:

31 July 2019	10,000
31 January 2020	8,000

The Executors sold one of the let properties on 5 April 2020 for £219,000 (after sales expenses). The property had a probate value of £190,000.

Requirement:

- 1) **Compute the Executors' Income Tax and Capital Gains Tax liabilities for 2019/20 and 2020/21.** (8)
 - 2) **Show Michael's income from the estate for 2019/20 and 2020/21 and how this will be treated for Income Tax purposes. You are not required to calculate his Income Tax liability.** (7)
- Total (15)

6. Andrew Blair died on 2 May 2019 aged 72. He left a wife (Thelma), one son (Lionel) and two grandchildren.

Andrew's only lifetime transfer has been a gift of £320,500 (in cash) to a discretionary trust for Lionel and the grandchildren in January 2013. Andrew paid any IHT due.

Andrew's death estate was as follows:

	£
Family home (50% share)	475,000
Investment properties	500,000
Quoted investments & gilts	500,000
Bank deposits	<u>400,000</u>
	<u>1,875,000</u>

The family home was held as joint tenants with Thelma.

Andrew's Will left a cash legacy of £299,500 to the trust (specified to be free of tax) with the balance of the estate to be divided equally between Thelma and Lionel.

The Trustees have decided to exercise their discretion and will appoint £100,000 to Lionel's eldest son, Anthony, on the occasion of his 21st birthday which will be on 29 December 2020. Anthony will pay any IHT due.

Requirement:

- | | |
|---|------|
| 1) Calculate the Inheritance Tax payable as a result of Andrew's death. | (10) |
| 2) Show how Andrew's estate will be distributed. | (5) |
| 3) Calculate the exit charge on the appointment to Anthony in December 2020. | (5) |
| Total | (20) |

7. Sir Randolph Lerner died on 7 April 2019. He was UK domiciled. He left a wife (Fiona), one adult daughter (Laura) and three grandchildren.

The following information is held:

- 1) In January 2002 he subscribed for 70,000 shares (a 70% shareholding) in Lerner Ltd, an unquoted trading company.
- 2) In February 2009 he gifted 30,000 Lerner Ltd shares to trustees of a discretionary trust for his grandchildren.
- 3) In May 2012 he gifted 20,000 Lerner Ltd shares to a trust in which his daughter Laura has a life interest.
- 4) In February 2015 Lerner Ltd became listed on the Alternative Investment Market.

The agreed share values at the time of both the two gifts were:

Shareholding	Per share value £
51% – 75%	12.00
40% – 50%	6.00
below 40%	3.00

He was excluded from benefit under both trusts and the trustees retained the shares until his death.

- 5) In August 2003 he inherited a 51% shareholding in Cleveland plc, a small company whose shares are listed on the London Stock Exchange. In July 2014 he gifted a 10% shareholding to Laura. A 10% holding was then valued at £700,000 but the transfer resulted in a loss to his estate of £900,000. Laura held the shares at Sir Randolph's death when they were worth £550,000.
- 6) No other transfers had been made.

At death his estate comprised the following:

- 7) He had a life interest in his uncle's estate. The uncle had died in June 2014 with an estate worth £235,000 on which Inheritance Tax of £27,500 was suffered. On Sir Randolph's death the trust assets then worth £300,000 reverted to Laura.
- 8) The following quoted shares were held at death:

<u>Number / %</u>	<u>Company</u>	<u>Value at death</u> £
7,000	Green plc	107,000
3,500	Blue plc	42,000
6,000	Red plc	8,000
41%	Cleveland plc	2,550,000

In the six months following death the following share sales occurred:

<u>Shares sold</u>	<u>Company</u>	<u>Gross Proceeds</u> £
6,000	Green plc	99,428
2,000	Blue plc	13,000
600	Red plc	650

- 9) Sir Randolph's Will left his 20,000 shares in Lerner Ltd to Laura, then valued at £10 per share.

- 10) At death his house, then worth £300,000, was left equally to Fiona and Laura subject to Fiona having full rent-free use and enjoyment of the house for her lifetime or for so long as she wished. The balance of his estate was left to the grandchildren's trust.

Requirement:

You are required to calculate, with explanations, the Inheritance Tax payable as a result of the death of Sir Randolph, clearly showing who will bear any liability.

(20)

8. Kevin Richardson died on 5 April 2020 aged 63. He was domiciled and resident in the UK. He left a wife (Miranda, aged 47), one son (Joey, aged 38) and three grandchildren.

Miranda is Kevin's second wife. She was born in South Africa and had been resident in the UK since 2009. It is now her intention to return to South Africa to be with her family and she will do so once Kevin's estate has been administered.

Kevin and Miranda had a controlling interest in and ran 'Cumfy Camp Ltd'. The company owns land on the east Yorkshire coast near Scarborough and provides luxury tents, wigwams and tepees for campers to hire on short-term lets.

Cumfy Camp Ltd provides the external tent and a ground sheet. Folding tables and chairs can be hired (free of charge on payment of a deposit) from the small shop on site. The campers bring their own sleeping bags, cooking equipment, cutlery and crockery, although these items are available to purchase from the shop. There is a small café attached to the shop.

The site has 36 tents for hire as well as space for campers to park up and pitch their own tents.

The shares of Cumfy Camp Ltd had originally been subscribed for in July 2013 as follows:

	No of shares
Kevin Richardson	5,500
Miranda Richardson	2,500
Lee Henry	<u>2,000</u>
Total	<u>10,000</u>

Kevin retired on 31 March 2017, at which point he gave 3,500 shares to Joey who then (with Lee Henry) took over day-to-day management of the business.

Every month since April 2015, Kevin had put £350 into building society accounts for each of his three grandchildren with the intention that they should have access to their account on their 18th birthdays. Joey has the relevant passbooks.

Prior to his retirement, Kevin had net income of £80,000 per annum of which he spent (on average) £30,000 and invested the rest. His net income dropped to £45,000 after retirement and his annual expenditure increased to £40,000.

His only other lifetime transfer was £20,000 to his niece, Julie, as a wedding gift in May 2015.

Kevin's death estate consisted of the following:

	£
Family home	400,000
2,000 shares in Cumfy Camp Ltd	See below
100,000 shares in Tyburn plc	200,000
150,000 shares in Cincinatti plc	150,000
Bank deposits	250,000

Kevin's Will left a cash legacy of £400,000 to Miranda and the residue of the estate to Joey.

In order to meet Miranda's legacy and settle IHT, on 3 September 2020 the Executors sold the Tyburn plc shares for £182,000 (after £2,000 selling expenses) and 90,000 of the Cincinatti plc shares for £92,500 (after £500 selling expenses).

Requirement:

- 1) Discuss the availability of business property relief in respect of Kevin’s shares in Cumfy Camp Ltd. Support your answer with reference to legislation and case law. (6)
 - 2) Assuming that no BPR is available on the Cumfy Camp Ltd shares, calculate the IHT payable on Kevin’s death. (8)
 - 3) Discuss whether any tax can be paid in instalments and (if so) how much tax is payable on the normal due date. (3)
 - 4) Explain the election that Miranda may make and whether it would be beneficial in this case (3)
- Total (20)

The shares of Cumfy Camp Ltd have had the following values (per share):

Holding	MV @ 31.3.17	MV @ 5.4.20
	£	£
0 – 25%	20	30
26 – 50%	30	40
51 – 75%	40	50
Over 75%	50	60

9. Paul Birch died on 1 May 2019 aged 64 after a short illness. He left his whole estate to his daughters, Zoe (aged 34) and Kate (aged 29). He had made no lifetime transfers.

Paul's estate consisted of the following:

	£
Family home & possessions in Birmingham	350,000
Residential investment property	100,000
UK quoted shares	230,000
Shares in Trinity Estates Ltd (5% holding)	35,000
UK bank deposits	<u>70,000</u>
Total	<u>785,000</u>

Trinity Estates Ltd is an unlisted property investment company.

Zoe and Kate are Executors of the estate. The Executors' estate return for 2019/20 has not been completed. Income and expenses in 2019/20 are as below:

Income:	£
Bank interest	5,000
Dividends	20,000
Expenses:	
Estate management expenses	450

The above income includes a dividend of £1,500 accrued at death, but not received by the Executors until after death.

The Executors made the following capital disposals in 2019/20:

- 1) The residential investment property was sold for £130,000 (before estate agents fees at 2%) on 20 June 2019;
- 2) 10,000 shares in AV Bank plc were sold on 31 January 2020 for £2.05 per share. This was before broker's commission at ½%. Paul had originally bought 16,000 AV Bank plc shares in May 2014 for £1.75 per share. The probate value of the shares was £3.25. The Executors bought a further 4,000 AV Bank plc shares in July 2019 at £2.80.

The administration of the estate ended on 3 April 2020 at which point all the remaining assets were transferred to Zoe and Kate.

Zoe is a director of a travel company. In 2019/20 her remuneration package was £175,000. Kate had twins in 2018 and is currently on a career break. Apart from a small amount of building society interest (£50 or so), Kate has no income.

Requirement:

- 1) Calculate the IHT payable as a result of Paul's death. (6)
 - 2) Calculate the income tax and CGT payable by the Executors for 2019/20. (8)
 - 3) Show the additional income tax payable by Zoe on her Estate income for 2019/20. (6)
- Total (20)

10. On 7 October 2005 Alan York settled £800,000 in cash on trust. The terms of the trust were that his brother Brian would get an interest in possession for life in 50% of the fund with Brian's son Cameron taking a successive life interest thereafter. On Cameron's death the trust capital would revert to Alan York's four grandchildren in equal shares.

The remaining 50% of the trust fund is to be held on discretionary trust for Alan York's children and grandchildren.

The Trustees invested the trust fund in quoted securities and three commercial investment properties.

On 8 October 2015, Alan York settled his holding of 4,000 shares in Mesmeric Designs Ltd (an unlisted trading company) on to the trust. There are 100,000 issued shares. The remainder of the shares were then owned by Brian and Cameron York (who owned 4,000 shares each), Cameron's fellow director Ajmal Kohli (who owned 8,000 shares) and a variety of private investors. No tax was payable on the transfer due to business property relief.

HMRC has agreed that the 4,000 shares settled had a value of £250,000 in October 2015. The remainder of the trust assets (after settling any IHT) were then valued at £1.2 million. A capital gain of £70,000 was held-over on the disposal to the Trustees.

Brian York died on 10 October 2015 leaving his Mesmeric Designs Ltd shares to Cameron and the residue of his estate to his wife Susannah.

In 2019/20, the Trustees made the following capital disposals:

- 1) On 6 April 2019 the Trustees granted a 12-year lease on one of their commercial investment properties for a premium of £40,000. The property had cost £75,000 in 2006. The reversionary interest in the lease was valued at £30,000. Legal fees of £1,200 were charged in connection with the drafting of the lease agreement
- 2) On 4 June 2019 some quoted shares were sold for £80,000. The shares had a base cost of £28,000.
- 3) On 7 July 2019 the Trustees sold 2,000 shares in Mesmeric Designs Ltd for net proceeds of £275,000.
- 4) On 12 October 2019, quoted shares valued at £100,000 were transferred to Richard, one of Alan's grandchildren. Richard is resident in New Zealand. The Trustees agreed to meet any IHT arising on the appointment. The shares had a base cost of £60,000.

Requirement:

Calculate (with appropriate explanations) the Capital Gains Tax & Inheritance Tax payable by the Trustees in respect of the various transactions undertaken in 2019/20. (20)

11. Des Bremner died in January 2020. He was 39 and left a wife (Faye) and two young children. He had made no lifetime gifts.

Des was a 50% shareholder and co-Director of Ice House Ltd (a frozen food company). The other 50% of the shares were owned by Des's brother, Brian. The sons had inherited the shares on the death of their father, George, who died of cancer in March 2018 aged 67. George Bremner had set up the company in 1987, but he had been ill since 2014, so Des and Brian had run the company in the period up to his death.

The company ran into cash-flow difficulties shortly after George fell ill, so in May 2016 both Des and Brian injected £175,000 cash into the company in return for interest bearing loan stock. None of this stock has thus far been redeemed, but the company is now stable and making healthy profits.

A 100% shareholding in Ice House Ltd was valued at £480,000 in January 2020 with a 50% shareholding discounted to £200,000.

Des was also a shareholder (30% share) in Kindon Allotments Ltd. Faye had 30% of the shares and Faye's brother, George Kindon, had 40%. They set up the company in 2007 when the company acquired 4 acres of arable land. Kindon Allotments Ltd lets small parcels of the land to local residents who use it to grow fruit and vegetables.

The agreed share values at Des's death were as follows:

% holding	Value
100	£400,000
60	£200,000
30	£80,000

The allotment land owned by Kindon Allotments Ltd was valued at £350,000 in January 2020 and had an agricultural value of £275,000. The company also owns a small area of scrubland close to the allotments (estimated to be worth £50,000) which is let to a local greyhound racing trainer to exercise his dogs.

Des's death estate consisted of the following:

	£
Family home & contents	350,000
Shares in Ice House Ltd (50% holding)	See above
Loan stock in Ice House Ltd (valued at par)	175,000
Shares in Kindon Allotments Ltd (30% holding)	See above
UK quoted shares	300,000
UK bank deposits	70,000

Des had liabilities of £13,500 at his death and his funeral cost £6,500.

Des's Will left the shares in Ice House Ltd and the family home & contents to Faye, the loan stock in Ice House Ltd to his brother Brian, and the residue of the estate on trust for his children until their 21st birthday.

Requirement:

- 1) **Discuss the availability of BPR or APR on the assets in the estate.** (9)
 - 2) **Assuming APR is available, calculate the IHT payable on Des's death.** (7)
 - 3) **Suggest any ways in which the tax can be reduced (computations are not required).** (4)
- Total (20)

12. Mark Draper died on 4 February 2020. Mark was married with two children and had made no lifetime transfers. He had always lived in the UK.

His estate consisted of the following:

	£
Family home & possessions in Oxford	500,000
Commercial investment property in London	500,000
Apartment in Paris (let to tenants)	500,000
Collection of classic cars (kept at the house in Oxford)	500,000
UK quoted shares & government stocks	500,000
UK bank deposits (net of deductible expenses)	<u>500,000</u>
	<u>3,000,000</u>

Mark's will left:

- His home and personal possessions to his wife, Mary;
- The apartment in Paris to his daughter, Marian;
- The classic cars to his son, Alex; and
- The residue to be divided equally between Mary, Marian & Alex.

Requirement:

Calculate the inheritance tax payable on the death of Mark Draper and show how the estate will be divided between the beneficiaries. (15)

13. Michael Schofield died on 27 February 2020, domiciled in the UK. He left his estate to his children. His only lifetime transfers were:

- 1) On 10 December 2013 he gave a flat in London to his sister, Millie. Michael lived in Edinburgh but used the flat on his regular business trips to London as it saved money on hotels. He continued to use the flat (on average about once a week) until he retired on 1 July 2016. Thereafter the flat was let by Millie to a long-term tenant. The flat was worth £295,000 in 2013 and £340,000 in 2016.
- 2) On 15 March 2014 he settled cash of £350,000 on to a bare trust for his four grandchildren in equal shares.

On his death Michael Schofield, owned the following:

- 1) Shares in Schofield Investments Ltd, an unquoted investment company. The shareholdings were as follows:

	No.
Michael Schofield	45,000
Sarah (wife)	25,000
Alexa (daughter)	15,000
Other unrelated shareholders	15,000
Total	<u>100,000</u>

Share values had been agreed as follows:

% holding:	Value per share
Over 75%	£9.00
50 – 75%	£7.50
Less than 50%	£6.00

- 2) A 60% shareholding in River State Investments Ltd, an unquoted investment company, worth £300,000 at his death. At that time the company had assets of £500,000, including Fox Farm, which had an estimated agricultural value of £200,000. The farm was let to a tenant on a 45-year lease granted in 1989.
- 3) A 60% shareholding worth £270,000 at death in Burrows Ltd, an unquoted trading company. Michael Schofield had acquired 20% in 2013 and a further 40% in January 2019.
- 4) A factory, bought in 2015, used by Burrows Ltd and worth £220,000 at death.
- 5) A French holiday cottage worth £100,000 at death, available for use by Michael and wider family members. French death duties of £28,500 were paid on death.
- 6) A UK house worth £1 million at death.
- 7) Personal possessions worth £70,000. Included in this was a painting worth £40,000, received as a specific legacy on his brother's death in December 2017. At that time the painting had been worth £30,000 and tax of £7,500 had been paid in respect of it.

At his death Michael Schofield had an outstanding mortgage of £132,500 charged on his UK home. Funeral expenses were £10,000. Legal and other costs of £5,250 were incurred in administering and realising the French holiday cottage.

Requirement:

Calculate, with supporting explanations, the Inheritance Tax payable as a result of the death of Michael Schofield. (20)

14. You have received the following letter from your client, Charlie Aitken:

Dear James,

My brother Alfie died in March 2020. He never married and had no children. Apart from a couple of specific gifts to his niece and nephew, I am the sole beneficiary of the estate. I am also the Executor.

I am currently in the process of making a substantial business acquisition and I would therefore like to know (approximately) what my net entitlement will be from Alfie's estate in order that I can work out whether the legacy will be sufficient to cover fully the acquisition costs or whether I will need any bank funding to make up the shortfall.

The attached Information Schedule should give you all you need to know.

I don't intend to keep any of Alfie's assets and will sell them as soon as it can be arranged. I've already been offered £350,000 for the house and I'm inclined to accept this for a quick sale. The partnership share has already been sold for £150,000 as this was part of the agreement Alfie had with his fellow business partners. I'm looking for a buyer for the shares. If you could do this as soon as possible, I would be very grateful in case I need to get things rolling with the bank.

Could you also explain what will happen with the trust and whether Alfie's death will cause there to be a tax charge?

Many thanks

Charlie Aitken

Requirement:

Write a letter to Charlie Aitken dealing with his queries. (15)

INFORMATION SCHEDULE

Assets at death:

	£
Family home	400,000
15% share in 'First Editions'	150,000
Shares in Aitken Antiques Ltd	300,000
Aston Martin car	80,000
Ski chalet in Switzerland	120,000
Cash and quoted shares	<u>200,000</u>
Total	<u>1,250,000</u>

Notes:

- 1) 'First Editions' is a partnership which owns and runs a chain of antique bookshops. Alfie worked in the business for around 10 hours each week.
- 2) Aitken Antiques Ltd is an unlisted trading company with no excepted assets. The shares had been held for many years. Alfie held all of the shares.
- 3) Alfie's Will leaves the car to his nephew Jonathan, the ski-chalet to his niece Angela and the residue of the estate to Charlie. There were no lifetime transfers.
- 4) Alfie Aitken was also the sole income beneficiary of a trust set up by his mother just before her death in April 2012. The trust assets (consisting of quoted shares and securities) were worth £500,000 in March 2020. On Alfie's death, Charlie takes a successive life interest with capital reversion to charity thereafter.

15. "Mr Q" is a Freedonian citizen who, for personal and business reasons, is thinking of coming to live in London for the foreseeable future. His overseas solicitor, Gregory O'Neill, has recently telephoned your Tax Partner to discuss Mr Q's UK tax position.

During the telephone call the following additional information was obtained:

- 1) Mr Q's wealth is held in an interest in possession trust, which he settled in 2000.
- 2) The trust holds a very substantial portfolio of quoted stocks and bonds in overseas corporations and various offshore funds.
- 3) The trust owns 100% of Mr Q's unquoted overseas holding company under which all Mr Q's various business interests are held.
- 4) The terms of the trust provide that the settlor is entitled to the trust income. The Trustees can appoint/advance capital at their discretion, subject to the consent of the settlor.
- 5) The Trustees of the trust are Gregory O'Neill and the settlor.
- 6) Mr Q's plans are to buy a London house and move his family to London. He is married to a lady who originally came from London and they have two children. The children will move to UK schools. Mr Q will base himself in London, returning to the UK after trips abroad. The intention is to be based in London for at least five years until the children have completed their education and the new business enterprises established are up and running. Thereafter Mr Q intends to return to Freedonia.

Gregory O'Neill is concerned that there may be UK Capital Gains Tax and Inheritance Tax consequences for the trust due to the settlor moving from Freedonia to the UK. He will be in London next week and has arranged a meeting with your Tax Partner to discuss the relevant UK tax issues.

Requirement:

Prepare a Technical Note for your Tax Partner in advance of his meeting with Gregory O'Neill next week explaining the UK Capital Gains Tax and Inheritance Tax consequences for the trust of the settlor's move to the UK and, where appropriate, making recommendations. You should ignore non-UK tax issues.

(15)

ANSWERS

1. LEN DEMETRIS TRUST

1) TAX LIABILITY OF TRUSTEES

The beneficiaries are entitled to an interest in possession from their 18th birthday.

Jimmy has had an IIP since December 2015 and is therefore entitled to 50% of the net trust income.

Ellen became 18 on 5 January 2020. She is therefore entitled to 50% of the trust income from that date. An apportionment of income and expenses will be required.

'Jimmy's fund' (fully interest in possession)

		Rent / Interest £	Dividends £
Rents	£2,000 x 12 x 50%	12,000	
Gilt interest	£8,000 x 50%	4,000	
BS interest	£7,500 x 50%	3,750	
Dividends	£16,000 x 50%		<u>8,000</u>
Total income		<u>19,750</u>	<u>8,000</u>
Tax due @ 20% / 7.5%		<u>3,950</u>	<u>600</u>

'Ellen's fund' (IIP from 5.1.20)

		Rent / Interest £	Dividends £
Rents	£2,000 x 12 x 50%	12,000	
Gilt interest	£8,000 x 50%	4,000	
BS interest	£7,500 x 50%	3,750	
Dividends	£16,000 x 50%		<u>8,000</u>
Total income		<u>19,750</u>	<u>8,000</u>
Less: Income subject to IIP			
Rents	£12,000 x 3/12	(3,000)	
Gilt interest	£4,000 x 50%	(2,000)	
Dividends	£3,500 x 50%		<u>(1,750)</u>
		<u>14,750</u>	<u>6,250</u>
Less: Expenses £(740 x 50% x 9/12) x 100/92.5			<u>(300)</u>
Liable at discretionary rates		<u>14,750</u>	<u>5,950</u>
Tax:			£
£1,000 @ 20%			200
£13,750 @ 45%			6,187
£5,950 @ 38.1%			2,267
£300 @ 7.5%			<u>22</u>
Tax on discretionary fund			<u>8,676</u>
Tax on IIP fund:			
Rents	£3,000 @ 20%		600
Gilt interest	£2,000 @ 20%		400
Dividends	£1,750 @ 7.5%		<u>131</u>
Tax on Ellen's fund			<u>9,807</u>

Tax payable by Trustees:

	£
Tax on Jimmy's fund	4,550
Tax on Ellen's fund	<u>9,807</u>
	<u>14,357</u>

2) FORMS R185

JIMMY:

Jimmy has an IIP and is therefore entitled to 50% of the trust income (after tax & expenses).

	Rent £	Interest £	Dividends £
Total gross income	12,000	7,750	8,000
Less: Tax @ 20% / 20% / 7.5%	(2,400)	(1,550)	(600)
Less: Expenses (£740 x 50%)			<u>(370)</u>
Distributable income	<u>9,600</u>	<u>6,200</u>	<u>7,030</u>

R185:

	Net £	Tax £
Rents	9,600	2,400
Interest	6,200	1,550
Dividends	7,030	570

Any distributions made to Jimmy are treated as payments on account of his income entitlement and are therefore ignored.

ELLEN:

Ellen has an IIP from 5 January 2020 and is therefore entitled to 50% of the trust income (after tax & expenses) from that date.

	Rent £	Interest £	Dividends £
Total gross income	3,000	2,000	1,750
Less: Tax @ 20%/20%/7.5%	(600)	(400)	(131)
Less: Expenses (£740 x 50% x 3/12)			<u>(92)</u>
Distributable income	<u>2,400</u>	<u>1,600</u>	<u>1,527</u>

R185:

	Net £	Tax £
Rent	2,400	600
Interest	1,600	400
Dividends	1,527	124

In addition, the distribution made to Ellen before 5 January 2020 would have been at the discretion of the trustees and would therefore have carried a 45% credit.

R185:

	Net £	Tax £
Trust income	5,000	4,091

2. CAROL REGIS**1): IHT PAYABLE AS A RESULT OF CAROL'S DEATH**

Carol had a Florentinian domicile of origin.

She had been resident in the UK for 16 tax years (2004/05 to 2019/20 inclusive), so satisfied the "15/20 rule" and she was resident for at least one of the four tax years up to the year of her death. Therefore, she had acquired a deemed UK domicile for IHT at the date of her death.

IHT will therefore apply to her worldwide assets. Relief is given for foreign taxes.

Lifetime transfers

i) Gift to Edith (December 2008):

	£
House	60,000
Less: 2 x AEs	<u>(6,000)</u>
PET (exempt at death)	<u>54,000</u>

The gift was a gift with reservation (GWR), so the value of the house is included in Carol's death estate.

ii) Gift to trust (March 2010):

	£
Cash	200,000
Less: AE 2009/10	<u>(3,000)</u>
CLT	<u>197,000</u>

No lifetime tax as < NRB.

No tax on death as Carol survived 7 years.

iii) Gift to trust (May 2015):

	£	£
Cash		600,000
Less: 2 x AEs		<u>(6,000)</u>
CLT		594,000
Nil band 2015/16	325,000	
Less: Chargeable transfers b/fwd	<u>(197,000)</u>	
		<u>(128,000)</u>
Taxable		466,000
IHT @ 20/80		<u>116,500</u>
Gross transfer £(594,000 + 116,500)		<u>710,500</u>

Additional tax is due on Carol's death as follows:

iv) Gift to trust (May 2015):

	£	£
CLT		710,500
Nil band 2019/20	325,000	
Less: Chargeable transfers b/fwd	<u>(197,000)</u>	
		<u>(128,000)</u>
Taxable		<u>582,500</u>
IHT @ 40%		233,000
Less: Taper relief (4 – 5 years = 40%)		(93,200)
Less: Lifetime tax		<u>(116,500)</u>
Additional tax payable on death		<u>23,300</u>

Death estate

	£	£
Home in London		515,000
Flat in Florentania		300,000
Farm	2,000,000	
Less: APR @ 100% x agricultural value	<u>(1,500,000)</u>	
		500,000
AIM listed shares	100,000	
Less: BPR @ 100%	<u>(100,000)</u>	
		Nil
UK company quoted shares		3,500,000
House in Norfolk – GWR		<u>185,000</u>
		5,000,000
Nil band (fully utilised by transfer May 2015)		<u>(Nil)</u>
Taxable		<u>5,000,000</u>
IHT @ 40%		2,000,000
Less: DTR (Foreign tax paid at less than 40%)		(75,000)
Tax payable		<u>1,925,000</u>

2): WHO IS LIABLE TO PAY THE TAX AND WHEN

The tax on the house subject to the GWR is payable by Edith. The rest of the tax will be suffered by the residuary legatee (Sylvie).

IHT on land (eg the house, the flat, the farmland and the house subject to the GWR) can be paid in instalments as land is 'qualifying property' under s.227.

However, the tax on the quoted shares cannot be paid in instalments because the holding will not satisfy the qualifying conditions in s.228.

Qualifying property:	£
Home in London	515,000
Flat in Florentania	300,000
Farm	500,000
House in Norfolk – GWR	<u>185,000</u>
	<u>1,500,000</u>
IHT @ 40%	600,000
Less: DTR	<u>(75,000)</u>
	<u>525,000</u>
Payable on normal due date (31.5.20)	
Instalment tax: £(525,000 x 10%)	52,500
Non instalment tax: £(2,000,000 – 600,000)	<u>1,400,000</u>
	<u>1,452,500</u>

3): ARRANGEMENTS TO REDUCE THE LIABILITY

Carol has not made use of her annual exemptions/small gifts exemptions.

She could have gifted assets to Sylvie at an earlier date in order to utilise these exemptions available annually. These would have been PETs, which would have been exempt after seven years (or subject to taper relief if Carol survived three years). A gift would also have frozen the value of the transfer for IHT.

In particular, Carol should have given away her foreign assets before she became deemed domiciled in the UK on 6 April 2019. This would have been a gift of excluded property and therefore not a PET for IHT.

Alternatively, Carol could have transferred her foreign assets into a trust before April 2019. The trust would be an excluded property trust as it would be non-UK domiciled and own non-UK assets. The trust assets would remain outside the scope of UK IHT, even after Carol had acquired a deemed UK domicile under the “15/20 rule”.

The house in Norfolk was a gift with reservation (GWR) and included in the death estate of Carol. The GWR rules would not have applied if Carol had either ceased to use the house or had paid Edith a market rent to use the house at weekends.

Another idea would have been to Edith a half share in the property and thereafter share occupation (and outgoings) with Edith. This would not have been a GWR.

The 5.2% holding in the quoted trading company does not qualify for Business Property Relief (BPR) since the company was quoted. Investment in an unquoted or AIM listed company would have qualified for 100% BPR and hence saved £1,400,000 of IHT.

4): IHT DUE ON THE 10-YEAR ANNIVERSARY OF THE TRUST IN MARCH 2020

Principal charge:

	£	£
Trust assets in March 2020		1,000,000
Nil band 2019/20	325,000	
Less: Settlor's transfers b/fwd	<u>(Nil)</u>	
		<u>(325,000)</u>
		<u>675,000</u>
Notional IHT @ 20%		<u>135,000</u>
Effective rate: $135,000 / 1,000,000 \times 100$		<u>13.5%</u>
Actual rate on original property:		
$13.5\% \times 30\%$	<u>4.05%</u>	
Actual rate on added property:		
$13.5\% \times 30\% \times (40 - 20)/40$ (Note)	<u>2.025%</u>	
Principal charge:		
$\text{£}1,000,000 \times 4.05\% \times 200/800$		10,125
$\text{£}1,000,000 \times 2.025\% \times 600/800$		<u>15,187</u>
		<u>25,312</u>

Note:

Quarters 17 March 2010 – 17 March 2020	40
Quarters 17 March 2010 – 19 May 2015	20

3. ROSE VINE

1): INHERITANCE TAX PAYABLE AS A RESULT OF ROSE'S DEATH

Lifetime transfers:

	£	£
<u>January 2013</u>		
Gift to discretionary trust		200,000
Less: AEs (2012/13 & 2011/12)		<u>(6,000)</u>
CLT		<u>194,000</u>
No tax on death as 7 years expired		
<u>August 2016:</u>		
Write off of loan to Holly		195,000
Less: AEs (2016/17 & 2015/16)		<u>(6,000)</u>
Chargeable transfer		189,000
Nil band 2019/20 (W1)	371,962	
Less: CTs in previous 7 years	<u>(194,000)</u>	
Nil band remaining		<u>(177,962)</u>
Taxable		<u>11,038</u>
IHT @ 40%		4,415
Less: Taper relief (3 – 4 years = 20%)		<u>(883)</u>
Tax payable by Holly		<u>3,532</u>

WorkingsW1) Nil band 2019/20

The Executors can make a claim for the unused nil band from Rose's husband's estate to be transferred to her.

Husband's death estate:

	£
Chargeable estate	225,000
Less: Nil band 2004/05	<u>(263,000)</u>
Nil band unused	<u>38,000</u>
% of nil band unused: 38,000/263,000	<u>14.45%</u>

Therefore, when Rose dies, we uplift the nil band by 14.45% as follows.

	£
Nil band 2019/20: £325,000 x 114.45%	<u>371,962</u>

Death estate:

	£	£
Merlot Properties Ltd shares (no BPR)		640,000
UK House		180,000
Cash and investments		302,000
House in Sicilia: \$200,000/8	25,000	
Less: Expenses (additional) (2,000 – 600) = £1,400 limited to 5%	<u>(1,250)</u>	
		<u>23,750</u>
		1,145,750
Less exempt gift to charity: £302,000 x 50%		<u>(151,000)</u>
Chargeable estate		994,750
Less: Residence Nil Rate Band (W2)		(180,000)
Less: General Nil Band 2019/20 (see above)	371,962	
Less: CTs in previous 7 years	<u>(189,000)</u>	
		<u>(182,962)</u>
		<u>631,788</u>
IHT @ 36% (W3)		227,444
Less: DTR (W4)		<u>(5,430)</u>
IHT payable by Executors		<u>220,014</u>

W2) Residence Nil Rate Band:

The RNRB will apply because Rose's home is left to a lineal descendant (in this case her children). The RNRB for 2019/20 is £150,000. In addition, Rose's Executors can claim a brought forward allowance of £150,000 because the RNRB was not used in the estate of Rose's husband. The RNRB is therefore increased to £300,000. However, the RNRB is limited to the value of the qualifying residence in the estate which in this case is £180,000.

W3) Lower rate

The lower rate of 36% applies here as the donated amount (£151,000) is clearly more than 10% of the baseline amount.

W4) DTR

Estate rate: $(227,444/994,750) \times 100$ 22.8644%

DTR is lower of:

- | | |
|--|---------------|
| (i) Foreign tax (£9,800) | |
| (ii) IHT on foreign asset (£23,750 x 22.8644%) | <u>£5,430</u> |

This is borne as follows:

	£	£
David: £640,000 x 22.8644%		146,332
Grace: £23,750 x 22.8644%	5,430	
Less: DTR	<u>(5,430)</u>	
David & Grace: £180,000 x 22.8644%		41,156
Chardonnay: £151,000 x 22.8644%		<u>34,526</u>
IHT as above		<u>220,014</u>

2): DEED OF VARIATION

Inheritance Tax

For IHT purposes, if the variation is made within two years after the death it will be treated as made by the deceased under s.142(1)(b) IHTA 1984. The variation should include a statement that s.142 is to apply. As a result, the settlement will not be caught by the gifts with reservation of benefit provisions, and the trust property will be outside Chardonay's estate.

The variation will have no effect on the IHT payable from the estate as the variation is neither to nor from an exempt beneficiary.

Capital Gains Tax

For CGT purposes, under s.62 TCGA 1992, Chardonay will not be treated as making a disposal of the assets transferred to the trustees. Again, the variation must be made within two years of the death and include a statement that s.62 applies.

For CGT purposes, Chardonay will be the settlor of the discretionary trust under s.68C(2) TCGA 1992. However, this will have marginal effect since trust gains are taxed on the trustees.

However, any subsequent gifts made by Chardonay to the trust will not be eligible for CGT gift relief as the trust is settlor interested.

Income Tax

The deed of variation creates an income tax settlement of which Chardonay is the settlor. Consequently, since Chardonay retains an interest in the settlement, any income received by the trust will be treated as her income under s.624 ITTOIA 2005.

The variation will not have retrospective effect (as is the case for IHT), therefore any income received by Chardonay from the settled assets before the date of the variation is assessable on Chardonay in the normal way.

4. GARRY THOMPSON1): Calculation of Inheritance Tax liability

Lifetime gifts:

The dividends paid by Garry to Anna and Robert should be exempt under s.21 IHTA 1984 (normal expenditure out of income).

Death Estate:

	£	£
Home	280,000	
Less: Exempt transfer	<u>(280,000)</u>	
		Nil
Shares in G&G Clothing Ltd (N1)		200,000
Loan stock in G&G Clothing Ltd (N2)		80,000
Shares in GT Consulting Ltd (N3)		Nil
Loan stock in GT Consulting Ltd (N4)		Nil
Quoted shares:		
Alpha plc		18,000
Beta plc		11,000
Charlie plc (N5)		Nil
Cash deposits		50,000
Chattels	12,000	
Less: Exempt transfer	<u>(12,000)</u>	
		Nil
Rental properties:		
11 Mortimer Way		140,000
22 Mortimer Way		122,000
76 Platt Road	160,000	
Less: Exempt transfer	<u>(160,000)</u>	
		Nil
		621,000
Liabilities:		
Funeral expenses	5,000	
Other liabilities	<u>10,000</u>	
		<u>(15,000)</u>
Free estate		606,000
Qualifying IIP (N6)		<u>375,000</u>
Total chargeable estate		981,000
Less: Nil band		<u>(325,000)</u>
Taxable estate		<u>656,000</u>
IHT @ 40%		<u>262,400</u>
Payable by Executors: £262,400 x (606,000 / 981,000)		<u>162,094</u>
Payable by Trustees: £262,400 x (375,000 / 981,000)		<u>100,306</u>

Notes:

N1: No BPR on shares in G&G Clothing Ltd as the shareholders' agreement constitutes a binding contract for sale (s.113).

N2: No BPR on loan stock in G&G Clothing Ltd as Garry did not control the company (s.105(1)(b)).

N3: Shares in GT Consulting Ltd eligible for 100% BPR.

N4: Loan stock in GT Consulting Ltd eligible for 100% BPR as Garry controls the company ('related property' principles apply to determine control).

N5: Shares in Charlie plc are eligible for 100% BPR because:

- The shares are AIM listed; and
- The shares are deemed to have been held for two years under the 'replacements' rules in s.107.

N6: The assets in the trust created by Alan are held on qualifying IIP for Garry. No QSR is available because Alan's estate was below the nil rate band.

Tax on the land (Mortimer Way properties), the unlisted shares and the unlisted loan stock can be paid in instalments under s.227 IHTA 1984 if the Executors claim:

	£
Tax on instalment property:	
£(200,000 + 80,000 + 140,000 + 122,000)	<u>542,000</u>
£162,094 x (542,000/606,000)	<u>144,975</u>

The tax payable by the normal due date is therefore:

	£
Tax payable by Executors on instalment property	
£144,975 x 10%	14,497
Executors' non-instalment tax (162,094 – 144,975)	17,119
Tax payable by Trustees	<u>100,306</u>
Total payable 31.12.19	<u>131,922</u>

2): IHT planning points

- Garry could have made regular annual gifts (up to £3,000 pa) to use lifetime exemptions and/or establish the discretionary trust earlier to use exemptions/taper relief.
- Amend the shareholders' agreement between Garry & Geoff. Replace this with an option whereby the surviving shareholder has an option to acquire the shares from the deceased's Executors. This would secure BPR.

Leave the shares and loan stock in GT Consulting to a chargeable beneficiary instead of Helen. Leaving the shares to Helen wastes the spouse exemption, as the legacy will be covered by BPR in any event.

Leave Helen other (non-BPR) assets (eg, shares in G&G Clothing Ltd or the investment properties) with equivalent value.

Leave more assets to Helen to use the spouse exemption. Helen can thereafter make lifetime gifts as (presumably) she is quite young and likely to survive seven years.

Leave the house to the children to access the residence nil rate band (although as things stand the unused RNRB can be transferred to his wife to be used on her death assuming she leaves it to a lineal descendant).

The final four planning points can be implemented by a Deed of Variation within two years of death accompanied by a statement that s.142 IHTA will apply to the variation.

3): Reduction in Inheritance Tax liability

A claim can be made by the Executors where quoted shares are sold within 12 months of death at a value less than their probate value (s.179 IHTA).

However, this does not extend to unquoted shares (covered by BPR anyway).

Asset	PV £	Proceeds £	Loss / (profit) £
Alpha plc shares	18,000	10,000	8,000
Beta plc shares	11,000	12,000	<u>(1,000)</u>
Loss on sales			<u>7,000</u>

Repayment to Executors:

Free estate £(606,000 – 7,000)	599,000
Qualifying IIP	<u>375,000</u>
Total chargeable estate	974,000
Less: Nil band	<u>(325,000)</u>
Taxable estate	<u>649,000</u>
IHT @ 40%	<u>259,600</u>
Payable by Executors: £259,600 x (599,000 / 974,000)	159,651
Original tax	<u>(162,094)</u>
Repayable to Executors	<u>2,443</u>

5. STEPHEN McMAHON

PART 1

EXECUTORS' INCOME TAX LIABILITIES:

<u>2019/20:</u>	Non-savings £	Interest £	Dividends £
Property income (after expenses)	30,520		
Bank interest		3,550	
Dividends			7,000
Less: Deductible payment (loan interest)	<u>(1,000)</u>		
Taxable income	<u>29,520</u>	<u>3,550</u>	<u>7,000</u>
Tax payable @ 20%/20%/7.5%	<u>5,904</u>	<u>710</u>	<u>525</u>
 <u>2020/21:</u>	Non-savings £	Interest £	Dividends £
Property income (after expenses)	13,400		
Bank interest		1,500	
Dividends			3,000
Taxable income	<u>13,400</u>	<u>1,500</u>	<u>3,000</u>
Tax payable @ 20%/20%/7.5%	<u>2,680</u>	<u>300</u>	<u>225</u>

EXECUTORS' CGT LIABILITY:

Proceeds (5.4.20)	£	219,000
Less: Probate value		(190,000)
Less: Costs of obtaining probate (W)		<u>(1,520)</u>
Chargeable gain		27,480
Less: Estate AEA		<u>(12,000)</u>
Taxable		<u>15,480</u>
CGT @ 28% (residential property)		<u>4,334</u>
W) <u>Costs of obtaining probate</u>		
Higher of:		
i) Actual costs (£3,000 x 190/950)		<u>£600</u>
ii) 0.8% x £190,000 (per SP 2/04)		<u>£1,520</u>

PART 2 – MICHAEL'S INCOME FROM THE ESTATE2019/20

Payments on account – deemed to be made from non-savings income:

Non-savings income	Net £18,000	Tax £4,500
--------------------	----------------	---------------

2020/21

This is the year in which the administration of the estate ends. Therefore, all the remaining income is treated as distributed in this year.

Total net income available for distribution:

	<u>Non-savings</u>	<u>Interest</u>	<u>Dividend</u>
	£	£	£
2019/20 gross income	29,520	3,550	7,000
2020/21 gross income	<u>13,400</u>	<u>1,500</u>	<u>3,000</u>
Total gross income	42,920	5,050	10,000
Less: Tax paid			
2019/20	(5,904)	(710)	(525)
2020/21	<u>(2,680)</u>	<u>(300)</u>	<u>(225)</u>
Net income	34,336	4,040	9,250
Less: Expenses			
2019/20			(840)
2020/21			<u>(510)</u>
Total income available	<u>34,336</u>	<u>4,040</u>	<u>7,900</u>
Less: Already distributed	<u>(18,000)</u>		
Total net income for distribution	<u>16,336</u>	<u>4,040</u>	<u>7,900</u>

R185 therefore:

	Net	Tax
	£	£
Non-savings income	16,336	4,084
Savings income	4,040	1,010
Dividend income	7,900	640

Note

Payments to Michael must be allocated between (i) income bearing basic rate tax of 20%, then (ii) income at the dividend rate of 7.5%.

Michael will receive form R185 (tax certificate) showing the net amount for the year and stating the tax paid by the Executors. Depending on Michael's other taxable income for the year, he may be due to pay higher rate tax at 40% / 32.5% (or 45% / 38.1%).

6. ANDREW BLAIR1): Inheritance tax on Andrew's death

Lifetime tax:

	£
Gift to trust (Jan 2013)	320,500
Less: AEs	<u>(6,000)</u>
CLT	314,500
Less: Nil band 2012/13	<u>(325,000)</u>
Taxable	<u>Nil</u>

Gross transfer	<u>314,500</u>
----------------	----------------

Death tax on CLT:

	£
Gross CLT	<u>314,500</u>
Covered by nil band on death, therefore no tax.	

Death estate:

The family home is held as joint tenants with the spouse. It will not therefore vest in the Executors and is exempt from IHT. The value of the house can therefore be ignored.

As the house does not pass to a lineal descendant, no RNRB is available.

Double grossing is required because we have:

- A tax-free legacy; and
- A partly chargeable/partly exempt residue.

Step 1: Gross-up the tax-free legacy as if it was the only part of the estate chargeable to IHT (ie 'single grossing'):

	£	£
Tax-free legacy		299,500
Nil band 2019/20	325,000	
Less: CTs b/fwd	<u>(314,500)</u>	
Taxable		<u>(10,500)</u>
		<u>289,000</u>
IHT @ 40/60		<u>192,667</u>
Gross legacy £(299,500 + 192,667)		<u>492,167</u>

Step 2: Calculate the chargeable value of the free estate and compute notional tax based on this estimated value:

	£
Net estate	1,400,000
Less: Gross legacy	<u>(492,167)</u>
Residue	<u>907,833</u>
50% chargeable to tax	<u>453,916</u>
Chargeable estate: £(453,916 + 492,167)	946,083
Less: Nil band	<u>(10,500)</u>
Taxable	<u>935,583</u>
IHT @ 40% (notional)	<u>374,233</u>

Step 3: Use the notional tax to work out an 'estate rate':

Estate rate:
 $374,233 / 946,083 \times 100$ 39.556%

Step 4: Using this estate rate, gross up the tax-free legacy as in Step 1 ('double gross'):

$£299,500 \times 100 / (100 - 39.556)$ £495,500

Step 5: Calculate the chargeable value of the gross estate and compute IHT based on this value. This gives the actual IHT payable.

	£
Total estate	1,400,000
Less: Gross legacy	<u>(495,500)</u>
Residue	<u>904,500</u>
50% chargeable to tax	<u>452,250</u>
Taxable estate $£(452,250 + 495,500)$	947,750
Less: Nil band	<u>(10,500)</u>
Taxable	<u>937,250</u>
IHT @ 40% (actual)	<u>374,900</u>

2): Distribution of estate

Estate rate: $£(374,900 / 947,750) \times 100$ 39.5568%

Tax on tax-free gift:	£
$£495,500 \times 39.5568\%$	196,004
Tax on chargeable residue:	
$£452,250 \times 39.5568\%$	<u>178,896</u>
Total	<u>374,900</u>

The tax on the tax-free legacy to the trust (£196,004) will be suffered equally by the residuary legatees (Thelma & Lionel).

The tax on the chargeable residue (£178,896) will be suffered by Lionel.

	£
Legacy to Trust	299,500
Residue: $£(1,400,000 - 299,500) = 1,100,500$	
$\frac{1}{2}$ Residue to Thelma $(550,250 - 98,002)$	452,248
$\frac{1}{2}$ Residue to Lionel $(550,250 - 98,002 - 178,896)$	273,352
IHT to HMRC	<u>374,900</u>
	1,400,000
Share of house to Thelma	<u>475,000</u>
Total estate	<u>1,875,000</u>

3): Exit charge on appointment to Anthony (29 December 2020)

		£
Initial value of trust (Jan 2013)		320,500
Initial value of cash addition on death (May 2019)		<u>299,500</u>
		620,000
Nil band 2020/21	325,000	
Less: Transfers in last 7 years before creation	<u>(Nil)</u>	
		<u>(325,000)</u>
		<u>295,000</u>
Notional tax @ 20%		<u>59,000</u>
Effective rate: 59,000/620,000 x 100		<u>9.516%</u>
Actual rate: 9.516% x 30%		<u>2.855%</u>
The cash to be appointed to Anthony will come proportionally from the cash additions in 2013 and 2019.		
Actual rate on original cash (Jan 2013):		
2.855% x 31/40		<u>2.213%</u>
Actual rate on cash added (May 2019):		
2.855% x (31 – 25) / 40		<u>0.428%</u>
Exit charge (29 December 2020):		£
Original cash (320,500/620,000):	51,694 x 2.213%	1,144
Added cash (299,500/620,000):	<u>48,306 x 0.428%</u>	<u>207</u>
	<u>100,000</u>	<u>1,351</u>
Quarters:		
January 2013 – December 2020		<u>31</u>
January 2013 – May 2019		<u>25</u>

7. SIR RANDOLPH LERNER

INHERITANCE TAX PAYABLE ON DEATH OF SIR RANDOLPH

Lifetime Tax

i) February 2009 – Chargeable lifetime transfer:

	£
Before transfer (70,000 x £12)	840,000
After transfer (40,000 x £6)	<u>(240,000)</u>
Loss to donor	600,000
Less: BPR @ 100%	<u>(600,000)</u>
CLT	<u>Nil</u>

ii) May 2012 – Chargeable lifetime transfer:

	£
Before transfer (40,000 x £6)	240,000
After transfer (20,000 x £3)	<u>(60,000)</u>
Loss to donor	180,000
Less: BPR @ 100%	<u>(180,000)</u>
CLT	<u>Nil</u>

iii) July 2014 – Potentially exempt transfer:

	£
Transfer of value	900,000
Less: BPR @ 50%	<u>(450,000)</u>
	450,000
Less: AE 2014/15	(3,000)
AE 2013/14 b/fwd	<u>(3,000)</u>
PET	<u>444,000</u>

50% BPR as transfer out of a controlling shareholding in a quoted company.

Death Tax

i) CLT February 2009: Donor survived seven years so no further tax to pay.

Original value of nil remains in cumulation until February 2016.

ii) CLT May 2012: Donor died within seven years of making transfer.

BPR on the shares not withdrawn – AIM is still treated as unquoted.

Original value of nil remains in cumulation.

No further tax to pay.

iii) PET July 2014: Now chargeable as donor died within seven years.

BPR is preserved on these shares under s.113A(3A)(a) IHTA 1984.

Fall in value relief applies under s.131 IHTA 1984 as the market value of the transferred property at the date of the gift (£700,000) exceeds its value at the date of the death of the donor (£550,000). However, these market values must be reduced by 50% because business property relief has been given at this rate.

The loss relief only applies to the tax payable by the donee, not the value of the transfer in the cumulative total.

	£	£
PET now chargeable		444,000
Less: Fall in value relief (s.131)		
(700,000 – 550,000) x 50%		<u>(75,000)</u>
Chargeable on death		369,000
Nil band at death	325,000	
Less: CTs in previous 7 years	<u>Nil</u>	
Nil band remaining		<u>(325,000)</u>
Taxable		<u>44,000</u>
IHT @ 40%		17,600
Less: Taper relief (4 – 5 years = 40%)		<u>(7,040)</u>
IHT payable by daughter		<u>10,560</u>

Death Estate

Free estate:

	£	£
Lerner Ltd shares: 20,000 x £10	200,000	
Less: BPR @ 100%	<u>(200,000)</u>	
		Nil
House	300,000	
Less: Spouse exemption (N)	<u>(300,000)</u>	
		Nil

Green plc shares		107,000
Blue plc shares		42,000
Red plc shares		8,000
Cleveland plc shares (not controlling shareholding so no BPR)		<u>2,550,000</u>
		2,707,000
Less: Loss on quoted shares (W)		<u>(3,436)</u>
Net free estate		2,703,564
QIIP (life interest)		<u>300,000</u>
Total estate for IHT		3,003,564
Nil band at death	325,000	
Less: CTs in previous 7 years (nil + 444,000)	<u>(444,000)</u>	
Nil band remaining		<u>Nil</u>
Taxable estate		<u>3,003,564</u>

IHT @ 40%		1,201,426
Less: QSR		
[(235,000 – 27,500)/235,000] x £27,500 x 20% (4 – 5 years)		<u>(4,856)</u>

Total tax due on death estate 1,196,570

Allocation of IHT

PRs: $2,703,564 / 3,003,564 \times 1,196,570$ £1,077,055

Suffered by residuary legatee (being the grandchildren's trust)

Trustees: $300,000 / 3,003,564 \times 1,196,570$ £119,515

Suffered by the remainderman (being Laura)

Note

The provisions of the Will are similar to those in the case of *IRC v. Lloyds Private Banking (1998)*.

In this case, the deceased and her husband jointly owned a house as tenants in common. On her death, the deceased left her share of the house to her daughter, subject to a provision that whilst her husband was alive and desired to live in the house, the Executor could not object to such residence or seek to enforce the trust for sale.

The husband subsequently died and HMRC claimed that he had an interest in possession in his widow's share of the house. The Court agreed that there was an interest in possession created by the Will as the effect was to create a right for the husband to live in the house.

On this basis, the gift of the house by Sir Randolph is treated as a gift to his spouse, half to her outright and half to an interest in possession trust for her. In both cases, the spouse exemption applies. The RNRB is not therefore available as no part of the house was left to a lineal descendant.

Working

Post mortem sales of quoted shares (s.179 IHTA 1984):

	Probate value £	Gross Proceeds £	Loss / (profit) £
6,000 Green plc	91,714	99,428	(7,714)
2,000 Blue plc	24,000	13,000	11,000
600 Red plc	800	650	150
Allowable loss (s.179)			<u>3,436</u>

The loss is deducted from the free estate.

8. KEVIN RICHARDSON

1): BUSINESS PROPERTY RELIEF IN RESPECT OF SHARES IN CUMFY CAMP LTD

Cumfy Camp Ltd is an unlisted company. However, BPR is only available if the business carried on by the company is a 'qualifying business', ie it does not consist wholly or mainly of dealing in land or holding and making investments (s.105(3)).

'Wholly or mainly' means that the business should satisfy a non-statutory '50% test'.

In the case of *Hall & Hall v CIR (1997)*, the courts held that a business which ran a caravan park was not a qualifying business as 84% of the income was in the form of rents and standing charges and hence the business consisted "mainly of holding and making investments". The courts held that "the business was preponderantly one of the receipt of rents" and BPR was denied.

Similarly in *Weston v CIR (2000)*, a widow owned shares in a company which ran a caravan park. BPR was again denied on the grounds that most of the company's income came from pitch fees (and hence the business consisted mainly of holding and making investments).

In *Furness v CIR (1999)*, a father and son operated a caravan park in partnership. Less than 50% of the partnership's income derived from rents for the sites, the rest coming from the provision of services on the site and profits from the sales of caravans. In this case, as the business consisted of more than simply holding land as an investment, when the father died, BPR was available on his partnership share.

Similarly in *George & Loochin v CIR (2003)*, BPR was allowed in respect of a caravan park business, as a significant part of the business was the provision of services (such as a country club and a licensed bar). The holding of land as an investment was held to be only one component of the business (and not the business itself).

Whether the shares of Cumfy Camp Ltd will be eligible for BPR therefore depends on the nature of their business. It would appear, based on the bare facts, that most of the company's income derives from the renting of tents and pitches for campers rather than the provision of services. The site only has a small shop and café, and few other facilities (licensed bar, recreation areas etc) seem to be provided. We would need to review the company accounts to get a fuller picture.

If it does transpire that the business passes the 50% test and is therefore 'trading', s.112 would need to be considered as this will restrict BPR based on the 'excepted assets' of the business. Under s.112, HMRC would seek to restrict BPR based on the percentage of excepted assets to total assets. A review of the company Balance Sheet would then be required.

2): IHT PAYABLE ON KEVIN'S DEATH

Lifetime transfers:

Regular annual gifts out of income:

	£
To grandchildren: £350 x 3 x 12	<u>12,600</u>

	Up to 2016/17	From 2017/18
	£	£
Annual net income	80,000	45,000
Less: Annual expenditure	<u>(30,000)</u>	<u>(40,000)</u>
Surplus	<u>50,000</u>	<u>5,000</u>

Therefore since 2017/18, Kevin has not had sufficient net income remaining to justify his monthly gifts as being 'normal expenditure out of income' under s.21 IHTA 1984.

Gift of shares to Joey (31.3.17) – related property rules apply.

		£
Value of shares before gift	55/80 x (8,000 x £50)	275,000
Value of shares after gift	20/45 x (4,500 x £30)	<u>(60,000)</u>
Loss to donor		215,000
Less: AE 2016/17		<u>(3,000)</u>
PET		<u>212,000</u>

Kevin's lifetime transfers have therefore been as follows:

2015/16:		£	£
Gift to Julie		20,000	
Less: marriage exemption		(1,000)	
Less: AE 2015/16		(3,000)	
Less: AE 2014/15 b/fwd		<u>(3,000)</u>	
PET			13,000
2016/17:			
PET to Joey (above)			212,000
2017/18:			
Excess annual gifts £(12,600 – 5,000)		7,600	
Less: AE 2017/18		<u>(3,000)</u>	
PET			4,600
2018/19:			
Excess annual gifts £(12,600 – 5,000)		7,600	
Less: AE 2018/19		<u>(3,000)</u>	
PET			4,600
2019/20:			
Excess annual gifts £(12,600 – 5,000)		7,600	
Less: AE 2019/20		<u>(3,000)</u>	
PET			4,600
Total PETs in 7 years before death			<u>238,800</u>

The PETs are covered by the available nil band but will reduce the nil band remaining on the death estate.

Death Estate

	£
Family home & contents	400,000
2,000 shares in Cumfy Camp Ltd: 20/45 x (4,500 x £40)	80,000
Shares in Tyburn plc	200,000
Shares in Cincinatti plc	150,000
Bank deposits	<u>250,000</u>
	1,080,000
Less: Exempt legacy to Miranda (N1)	<u>(325,000)</u>
	755,000
Less: Post mortem loss (N2)	<u>(13,000)</u>
Chargeable estate	742,000
Less: Residence nil rate band	(150,000)
Less: General nil band remaining £(325,000 – 238,800)	<u>(86,200)</u>
Taxable estate	<u>505,800</u>
IHT @ 40%	<u>202,320</u>

Notes:

N1: Miranda is non-UK domiciled and has not been resident in the UK for long enough to acquire a deemed domicile. Therefore the inter-spouse exemption is restricted to £325,000.

N2: Post mortem claim re quoted shares:

Shares sold	Probate value £	Gross proceeds £	Loss/(profit)
100,000 Tyburn plc	200,000	184,000	16,000
90,000 Cincinatti plc	<u>90,000</u>	<u>93,000</u>	<u>(3,000)</u>
	<u>290,000</u>	<u>277,000</u>	<u>13,000</u>

3): TAX PAYABLE IN INSTALMENTS

A claim can be made under s.227 IHTA 1984 to pay the tax on the family home & the shares in Cumfy Camp Ltd by 10 annual instalments.

The family home is qualifying property being land and buildings (s.227(2)).

The shares are qualifying property under s.228(1)(d) as the value transferred exceeds £20,000 and Kevin had at least 10% of the shares.

	£
Tax on instalment property: £(400,000 + 80,000) x 202,320 / 742,000	<u>130,881</u>

The tax payable by the normal due date (31 October 2020) is therefore:

		£
Tax on instalment property:	£130,881 x 10%	13,088
Non-instalment tax:	£(202,320 – 130,881)	<u>71,439</u>
Total payable 31.10.20		<u>84,527</u>

4): DOMICILE

Miranda is currently domiciled outside the UK. Consequently £325,000 of the legacy to her is exempt. This means £75,000 will be chargeable giving rise to an IHT liability of £30,000.

Miranda can elect to be domiciled in the UK for IHT purposes. The election must be made within two years of Kevin's death. If an election is made, the whole of the legacy to Miranda will be exempt giving rise to and IHT saving of £30,000.

However, because Miranda is now UK domiciled, in the future she will be subject to IHT on her worldwide assets. The election ceases once Miranda has been non-UK resident for four tax years, in which case she would revert to a non-UK domicile for IHT.

Miranda is relatively young (47) and is intending to return to South Africa. It would be beneficial for Miranda to make the election, which would then cease to have effect after four years of non-residence.

Miranda may wish to consider some form of insurance in case she dies before losing her UK domicile.

9. PAUL BIRCH

1): IHT ON PAUL'S DEATH

Taxable estate:

	£
Family home & possessions	350,000
Residential investment property	100,000
UK quoted shares	230,000
Shares in Trinity Estates Ltd (no BPR as dealing in land)	35,000
Bank deposits	<u>70,000</u>
	785,000
Less: Post mortem relief (W1)	<u>(3,044)</u>
Chargeable estate	781,956
Less: Residence nil rate band	(150,000)
Less: General nil band	<u>(325,000)</u>
Taxable estate	<u>306,956</u>
IHT @ 40%	<u>122,782</u>

WorkingsW1)

The AV Bank plc shares have been sold within 12 months of death, so the loss on sale can be deducted from the estate under s.179 IHTA.

16,000 shares were held at death. 4,000 shares were bought prior to sale. 10,000 shares were sold in January 2020.

Under s.185 the shares sold in January 2020 have to be apportioned. The number of shares treated as being sold out of the death estate is:

$$10,000 \times \frac{16,000}{20,000} = \underline{8,000 \text{ shares}}$$

We therefore calculate the loss on the sale of these 8,000 shares:

	£
Proceeds (8,000 x £2.05)	16,400
Probate value (8,000 x £3.25)	<u>(26,000)</u>
Loss	(9,600)
Less: Restricted for purchase	
£9,600 x (4,000 x £2.80) / 16,400	<u>6,556</u>
Allowable loss under s.179	<u>(3,044)</u>

2): TAX PAYABLE BY EXECUTORS

Income tax

	Interest £	Dividend £
Bank interest	5,000	
Dividends		<u>20,000</u>
Taxable income	<u>5,000</u>	<u>20,000</u>
Tax payable @ 20% / 7.5%	<u>1,000</u>	<u>1,500</u>

Capital Gains Tax

Gains arise on the sales of the residential investment property and the AV Bank plc shares.

	£
Gain on Investment property (W2)	26,600
Less: Loss on AV Bank plc shares (W3)	<u>(9,889)</u>
	16,711
Less: Annual exempt amount	<u>(12,000)</u>
Taxable gains	<u>4,711</u>
CGT @ 28% (residential property)	<u>1,319</u>

W2) Investment property:

	£	£
Proceeds		130,000
Less: Agent's fees @ 2%		<u>(2,600)</u>
		127,400
Less: Probate value	100,000	
Less: Relief for probate fees per SP 2/04		
£100,000 x 0.8%	<u>800</u>	
		<u>(100,800)</u>
Chargeable gain		<u>26,600</u>

W3) AV Bank plc shares:

	£
Proceeds (10,000 shares) = 10,000 x £2.05	20,500
Less: Broker's fees @ ½%	<u>(103)</u>
	20,397
Less: CGT base cost per s.104 pool (W4)	<u>(30,078)</u>
	(9,681)
Less relief for probate fees per SP 2/04: 8,000 x £3.25 = £26,000 x 0.8%	<u>(208)</u>
Allowable loss	<u>(9,889)</u>

W4) S.104 pool:

	Shares	Cost £
Shares held at death (1 May 2019)	<u>16,000</u>	
Base cost of 16,000 shares:		
16,000 @ £3.25	16,000	52,000
Less: S.179 relief		<u>(3,044)</u>
		48,956
4,000 shares acquired July 2019 @ £2.80	<u>4,000</u>	<u>11,200</u>
	20,000	60,156
Less: Sale January 2020	<u>(10,000)</u>	<u>(30,078)</u>
C/fwd	<u>10,000</u>	<u>30,078</u>

Note:

Where a s.179 claim is made to reduce the IHT value, the revised IHT value after relief for the loss becomes the CGT base cost.

Under SP 2/04, the CGT deduction for probate costs is equal to 0.8% of the 'probate value of the assets sold'. Only 8,000 of the 10,000 shares sold were held at death.

These shares had a probate value of £3.25. There is no provision whereby the 'probate value' in this instance is adjusted for any post mortem reliefs.

3): ADDITIONAL INCOME TAX PAYABLE BY ZOE

R185s for beneficiaries

2019/20:	Interest £	Dividends £
Gross income	5,000	20,000
Less: Tax	<u>(1,000)</u>	<u>(1,500)</u>
Net income	4,000	18,500
Less: Expenses		<u>(450)</u>
Net distributable income	<u>4,000</u>	<u>18,050</u>

50% each to the two beneficiaries:

R185 (Estate income)	Net £	Tax £
Interest	2,000	500
Dividends	9,025	732

The beneficiaries will be taxed on this net distributable income. However, as Zoe is an additional rate taxpayer, we need to make an adjustment for the pre-death income charged to IHT. No similar adjustment is required for Kate as she does not have any higher or additional rate income.

This is done as follows:

1. 'Net pre-death income':

	£
Dividends	1,500
Less: Tax at basic rate	<u>(300)</u>
'Net pre-death income'	<u>1,200</u>

2. IHT attributable to the net pre-death income:

$$(122,782 / 781,956) \times 100 = 15.7\% \times £1,200 \quad \underline{\underline{£188}}$$

3. Gross-up IHT at basic rate and deduct from distributable income:

	Interest £	Dividends £
Gross income per R185	2,500	9,757
Less: IHT adjustment ($£188 \times \frac{1}{2} \times 100/80$)		<u>(118)</u>
Income liable to tax at higher rates	<u>2,500</u>	<u>9,639</u>
Additional tax @ 25% / 30.6%	<u>625</u>	<u>2,950</u>

10. ALAN YORK SETTLEMENT

SUMMARY OF CAPITAL GAINS

	Non-ER gains £	ER gains £
W2: Quoted shares	52,000	
W3: Mesmeric Designs Ltd	92,500	92,500
W4: Appointment to Richard	40,000	
W1: Grant of lease	<u>(1,829)</u>	
Chargeable gains	182,671	92,500
Less: AEA	<u>(6,000)</u>	
Taxable gains	<u>176,671</u>	<u>92,500</u>
	@ 20%	@ 10%
	<u>35,334</u>	<u>9,250</u>
Total CGT payable	<u>44,584</u>	

Workings:W1) Grant of lease

	£
Premium	40,000
Less: 2% x £40,000 x (12 – 1)	<u>(8,800)</u>
Property income	<u>31,200</u>
Capital element of premium	8,800
Less: Legal fees	<u>(1,200)</u>
	7,600
Less Base cost: £75,000 x 8,800/(40,000 + 30,000)	<u>(9,429)</u>
Capital loss	<u>(1,829)</u>

W2) Quoted shares

	£
Proceeds	80,000
Less: Cost	<u>(28,000)</u>
Gain	<u>52,000</u>

W3) Mesmeric Designs Ltd

	£
Proceeds	275,000
Less: Cost £(250,000 – 70,000) x ½	<u>(90,000)</u>
Gain	<u>185,000</u>

Entrepreneurs' relief can be claimed by the Trust as they are selling shares in a trading company in which a qualifying beneficiary has 5% of the shares and works for the company. Cameron is a qualifying beneficiary as he has an IIP. He holds 8% of the shares and is a director (both satisfied for at least 24 months). The fact that the Trustees' holding is less than 5% is irrelevant.

The Trustees would need Cameron's consent to the ER claim as his lifetime ER gains limit is used up by any qualifying trust gains.

Note however that ER is only available on 50% of the gain as Cameron only has an IIP in half of the trust fund.

W4) Appointment to Richard

	£
Proceeds	100,000
Less: Cost	<u>(60,000)</u>
Gain	<u>40,000</u>

Even though the capital appointment is also a chargeable event for IHT, no gift relief is available under s.260 TCGA as Richard is non-UK resident.

INHERITANCE TAX

The appointment to Richard will give rise to an exit charge. The rate of tax to apply to the capital appointment will be calculated under s.69 IHTA as the distribution comes after a 10-year anniversary.

The 50% of the fund originally held on IIP for Brian was not relevant property as the IIP was acquired before March 2006. The trust assets therefore fell within his death estate in October 2015.

Cameron took a successive IIP on Brian's death on 10 October 2015. This is not a qualifying IIP as it does not satisfy the definition either of an immediate post death interest under s.49A or a transitional serial interest under s.49C. The part of the fund held on IIP for Cameron therefore became relevant property on 10 October 2015.

S.69(3) therefore applies, so we calculate the rate of tax using the value of Cameron's fund at the date it became relevant property (being £1.2m x ½ = £600,000).

The exit charge is therefore:

	£
Value of relevant property at 7.10.15	600,000
Initial value of addition to trust (8.10.15)	250,000
Value of Cameron's fund at the date it became relevant property (10.10.15)	<u>600,000</u>
	1,450,000
Less: Nil band at exit	<u>(325,000)</u>
	<u>1,125,000</u>
Notional tax @ 20%	<u>225,000</u>
Effective rate: 225,000/1,450,000 x 100%	<u>15.517%</u>
Actual rate: 15.517% x 30% x 16/40	<u>1.862%</u>
Gross up as Trustees pay tax: 1.862 / (100 – 1.862) x 100	<u>1.897%</u>
Exit charge: £100,000 x 1.897%	<u>1,897</u>

11. DES BREMNER1): APR / BPR ON ASSETS IN ESTATEShares in Ice House Ltd

Unlisted trading company so shares qualify for BPR under s.105(1)(bb) IHTA 1984.

Shares not held by Des for two years prior to his death as required by s.106. However, s.106 is deemed to be satisfied by s.109 as:

- a) Successive transfers in two years;
- b) Earlier transfer eligible for BPR; and
- c) At least one of the transfers was on death.

BPR therefore available on the shares at 100%.

Loan stock in Ice House Ltd

This has been held for two years.

However, s.105(1)(b) allows BPR on securities (eg loan stock), only where the transferor had control of the company at the date of the transfer.

Des had 50% of the shares – this is not a controlling holding therefore no BPR is available.

We do not know whether the loan stock carries voting rights (presumably not). However, Des's fellow shareholder holds an equal amount of loan stock, so even if the stock carries voting rights, Des would still only have 50%.

Shares in Kindon Allotments Ltd

Des has a 30% holding, as does his wife Faye. This means that:

- Des's shares will be valued using 'related property' principles; and
- Des is deemed to have 'control' of the company.

The shares will not be eligible for BPR as Kindon Allotments Ltd does not trade (it derives its profits from letting).

However, APR will possibly be available by virtue of s.122 which gives APR on shares if:

- The value of the shares is attributable to agricultural property; and
- The shares gave control of the company to the transferor.

The question is whether land let to allotment holders is 'agricultural land or pasture' within its normal meaning.

'Agricultural land or pasture' has its natural meaning and is taken to mean bare land used for agriculture (ie fields of land used for the cultivation of crops or the grazing of animals).

The allotments are bare land used for cultivating crops. The question is, are the allotment holders carrying out an agricultural activity (albeit on a small scale)?

HMRC may try to deny APR on the grounds that 'agriculture' implies a degree of scale or a degree of business activity and cultivating an allotment may not be 'agriculture' within its normal meaning.

Assuming that the land is 'agricultural', as the land is not used by Des for farming, it must have been owned for at least seven years (which it has).

APR would be available on the agricultural value of the agricultural land only. Therefore only the allotment land would qualify (not the land let for dog training).

Relief would be available at 100%, as leases have been signed after September 1995.

The transfer of value for IHT would therefore be:

	£
Value of shares (30/60 x £200,000)	100,000
Less APR: 100% x 275,000/400,000 x £100,000	<u>(68,750)</u>
IHT value	<u>31,250</u>

Quoted shares

We assume these do not constitute a controlling holding in a listed company, therefore no BPR is available.

2): IHT PAYABLE ON DES'S DEATH

S.39A IHTA 1984 applies because:

- There is a specific gift of non-business or non-agricultural property; and
- Agricultural property forms part of the residue.

Summary of estate:

	Gross £	BPR/APR £	Net £
Family home & contents	350,000	Nil	350,000
Shares in Ice House Ltd	200,000	200,000	Nil
Loan stock in Ice House Ltd	175,000	Nil	175,000
Shares in Kindon Allotments Ltd	100,000	68,750	31,250
UK quoted shares	300,000	Nil	300,000
UK bank deposits	<u>70,000</u>	<u>Nil</u>	<u>70,000</u>
	1,195,000	268,750	926,250
Less: Liabilities	<u>(20,000)</u>	<u>Nil</u>	<u>(20,000)</u>
Estate	<u>1,175,000</u>	<u>268,750</u>	<u>906,250</u>

S.39A has the effect of reducing the IHT value of an exempt specific gift (ie the gift of the house to Faye) by spreading some of the APR in the residue across to the exempt gift.

The IHT value of the gift to Faye is therefore:

$$£350,000 \times \frac{906,250 - 0}{1,175,000 - 200,000} = £325,321$$

Taxable estate:

	£
Estate as above	906,250
Less: Exempt legacy	<u>(325,321)</u>
Chargeable estate	580,929
Less: Nil band	<u>(325,000)</u>
Taxable estate	<u>255,929</u>
IHT @ 40%	<u>102,372</u>

3): WAYS IN WHICH THE TAX CAN BE REDUCED

Unlisted shares carrying 100% BPR have been left to an exempt beneficiary. This wastes the spouse exemption.

Brian runs Ice House Ltd, so he should be left the shares (qualifying for 100% BPR) and Faye should be left the loan stock (not eligible for BPR).

Deeds of Variation (one by each party) should therefore be entered into within two years, including a statement under s.142 IHTA 1984. In the Deeds of Variation, the Will is altered such that the shares in Ice House Ltd now pass by specific gift to Brian, and the loan stock in Ice House Ltd now passes by specific gift to Faye.

As s.142 makes the variation effective for IHT, BPR now attaches to the specific gift of the shares to Brian (making the revised IHT value nil). The IHT value of the stock left to Faye is also nil as the spouse exemption applies.

As the value of the shares exceeds the loan stock, Brian might need to make a compensating payment to Faye for the difference. However care would be needed to avoid s.142(3) which prohibits a s.142 election where compensation is paid by one party in return for property passing under the variation.

A Deed of Variation can also be used to avoid the effects of s.39A.

The Will should be varied such that the shares in Kindon Allotments Ltd pass to the children's trust by specific gift rather than as part of the residue

S.39A will not now apply, as there is no longer any agricultural property in the residue. APR will not therefore be partially spread against the exempt gift to the wife but will instead attach to the chargeable legacy.

HMRC insist that a Deed of Variation can only be valid if a person varies the will in favour of someone other than themselves. Therefore the trustees must either:

1. Redirect the shares to the children absolutely (probably not sensible given the ages of the children); or
2. Redirect the shares on to a different trust with different rights and entitlements (for example, on life interest trust or on discretionary trust until age 18).

12. MARK DRAPER

The gift of the house to Mary is exempt.

The gift of the apartment in Paris to Marian is tax-bearing as it is non-UK property.

The gift of the classic cars to Alex is tax-free as it is UK property.

Double grossing will be required because we have:

- A mix of tax-free and tax-bearing legacies; and
- A partly exempt / partly taxable residue.

Step 1:

Gross-up the tax-free legacy as if it was the only part of the estate chargeable to IHT (ie 'single grossing'):

	£
Chargeable estate	500,000
Less: Nil band	<u>(325,000)</u>
Taxable	<u>175,000</u>
IHT @ 40/60	<u>116,667</u>
Gross legacy £(500,000 + 116,667)	<u>616,667</u>

Step 2:

Calculate the chargeable value of the estate and compute notional tax based on this estimated value:

	£
Total estate	3,000,000
Less: Exempt transfer to Mary	<u>(500,000)</u>
Chargeable estate	2,500,000
Less: Gross legacy to Alex	<u>(616,667)</u>
Less: Legacy to Marian	<u>(500,000)</u>
Residue	<u>1,383,333</u>
2/3 chargeable to tax	<u>922,222</u>
Taxable estate: £(616,667 + 500,000 + 922,222)	2,038,889
Less: Nil band	<u>(325,000)</u>
Taxable	<u>1,713,889</u>
IHT @ 40% (notional)	<u>685,556</u>

Step 3:

Use the notional tax to work out an 'estate rate':

Estate rate: $685,556 / 2,038,889 \times 100$ 33.624%

Step 4:

Using this estate rate, gross up the tax-free legacy as in Step 1 ('double gross'):

$£500,000 \times 100 / (100 - 33.624)$ 753,284

Step 5:

Calculate the chargeable value of the gross estate and compute IHT based on this value. This gives the actual IHT payable.

	£
Total estate	3,000,000
Less: Exempt transfer to Mary	<u>(500,000)</u>
Chargeable estate	2,500,000
Less: Gross legacy to Alex	<u>(753,284)</u>
Less: Legacy to Marian	<u>(500,000)</u>
Residue	<u>1,246,716</u>
 2/3 chargeable to tax	 <u>831,144</u>
Taxable estate: £(753,284 + 500,000 + 831,144)	2,084,428
Less: Nil band	<u>(325,000)</u>
Taxable	<u>1,759,428</u>
 IHT @ 40% (actual)	 <u>703,771</u>
 Estate rate: 703,771 / 2,084,428 x 100	 <u>33.7633%</u>

Step 6:

Divide the estate between the beneficiaries.

	£
Tax on tax-free legacy (borne by residue – 1/3 each): £753,284 x 33.7633%	254,333
Tax on tax-bearing legacy (borne by Marian): £500,000 x 33.7633%	168,816
Tax on chargeable residue (borne equally by Marian & Alex): £831,144 x 33.7633%	<u>280,622</u>
	<u>703,771</u>

Allocation of estate:

	£
House and possessions to Mary	500,000
Tax-bearing legacy to Marian £(500,000 – 168,816)	331,184
Tax-free legacy to Alex	500,000
Residuary legacies (Note 1):	
To Mary £(500,000 – 84,777)	415,223
To Marian £(500,000 – 84,778 – 140,311)	274,911
To Alex £(500,000 – 84,778 – 140,311)	274,911
Tax to HMRC	<u>703,771</u>
Total estate	<u>3,000,000</u>

Note 1

	£
Total estate	3,000,000
Less: Specific legacies	<u>(1,500,000)</u>
Residue before tax	<u>1,500,000</u>
 1/3 to each of Mary, Marian & Alex	 <u>500,000</u>

13. MICHAEL SCHOFIELDLIFETIME TRANSFERS1) Gift to sister 10 December 2013

	£
Gift	295,000
Less: AE 2013/14	(3,000)
Less: AE 2012/13 b/fwd	<u>(3,000)</u>
PET	<u>289,000</u>

The gift was a gift with reservation as Michael had regular use of the property.

However, Michael stopped using the flat in July 2016 and thereafter released his reservation. This resulted in a PET being equal to the MV of the asset at the date of release (£340,000). No annual exemptions are available against this PET (see RI 55).

Double charges relief will apply to determine which PET is taxable (see below).

2) Gift to bare trust 15 March 2014

	£
Gift	350,000
Less: AEs (already used)	<u>(Nil)</u>
PET	<u>350,000</u>

3) Double charges computations

First:

Tax PET in December 2013 (£289,000) and ignore PET on release of reservation.

Second:

Tax PET on release of reservation in July 2016 (£340,000) and ignore PET in December 2013.

The higher charge will apply.

First calculations:

	£
PET in December 2013	<u>289,000</u>

Covered by nil band at death so no tax.

	£	£
PET on gift to bare trust in March 2014		350,000
Nil band 2019/20	325,000	
Less: PET 2013	<u>(289,000)</u>	
Remaining		<u>(36,000)</u>
Taxable		<u>314,000</u>

IHT @ 40%

Less: Taper relief (5 – 6 years = 60%)

Payable (by Trustees)

125,600
<u>(75,360)</u>
<u>50,240</u>

No nil band remaining on death estate.

Second calculations:

	£
PET in December 2013	<u>Ignored</u>

	£	£
PET on gift to bare trust in March 2014		350,000
Nil band 2019/20	325,000	
Less: PET 2013 (treated as nil)	<u>(Nil)</u>	
Remaining		<u>(325,000)</u>
Taxable		<u>25,000</u>
IHT @ 40%		10,000
Less: Taper relief (5 – 6 years = 60%)		<u>(6,000)</u>
Payable (by Trustees)		<u>4,000</u>
PET on release of reservation July 2016		340,000
Nil band 2019/20	325,000	
Less: PET 2014	<u>(350,000)</u>	
Remaining		<u>(Nil)</u>
Taxable		<u>340,000</u>
IHT @ 40%		136,000
Less: Taper relief (3 – 4 years = 20%)		<u>(27,200)</u>
Payable (by sister)		<u>108,800</u>

No nil band remaining on death estate.

The second set of calculations produce the most tax so these will be adopted.

DEATH ESTATE:

	£	£
Schofield Investments Ltd: 45,000 x £7.50 (N1)		337,500
River State Investments Ltd	300,000	
Less: APR (200,000/500,000 x £300,000 x 50%) (N2)	<u>(60,000)</u>	
		240,000
Burrows Ltd shares	270,000	
Less: BPR 20/60 x £270,000 x 100% (N3)	<u>(90,000)</u>	
		180,000
Factory used by Burrows Ltd	220,000	
Less: BPR @ 50% (N4)	<u>(110,000)</u>	
		110,000
French cottage	100,000	
Less: Expenses (limited to 5% x £100,000)	<u>(5,000)</u>	
		95,000
UK house	1,000,000	
Less: Mortgage	<u>(132,500)</u>	
		867,500
Personal possessions		<u>70,000</u>
		1,900,000
Less: Funeral expenses		<u>(10,000)</u>
Chargeable estate		1,890,000
Less: Residence nil rate band (N5)		<u>(75,000)</u>
Taxable estate		<u>1,815,000</u>
IHT @ 40%		726,000
Less: Quick Succession Relief (N6)		<u>(3,600)</u>
		722,400
Less: DTR (N7)		<u>(28,500)</u>
Tax payable		<u>693,900</u>

Explanatory Notes

N1: Shares in Schofield Investments Ltd valued as part of a 70% holding as related property rules apply.

N2: APR given on River State Investments Ltd shares as Michael Schofield had a controlling holding. 50% APR as pre-1995 lease with more than two years to run at death.

N3: Only 20% of the Burrows Ltd shares qualify for BPR as other shares not held for two years.

N4: Factory used by Burrows Ltd qualifies for 50% BPR as company controlled by Michael at date of death and building owned for more than two years.

N5: Residence nil rate band:

The RNRB is available as the house passed to the children but it is tapered away as the net value of the estate exceeds £2 million. "Net value" means after deducting liabilities but before reliefs (APR & BPR) and exemptions (spouse and charity).

	£
Chargeable estate	1,890,000
Add: APR	60,000
Add: BPR £(90,000 + 110,000)	<u>200,000</u>
Net value of estate	<u>2,150,000</u>

RNRB 2019/20	150,000
Less Restriction: $\frac{1}{2} \times £(2,150,000 - 2,000,000)$	<u>(75,000)</u>
Adjusted allowance	<u>75,000</u>

N6: QSR

$£7,500 \times 60\% \times 30,000 / (30,000 + 7,500)$	<u>£3,600</u>
---	---------------

N7: Full DTR given as UK tax on foreign asset will be $£95,000 \times 38.22\% = £36,309$. This exceeds the actual foreign tax paid. Estate rate is $722,400 / 1,890,000 \times 100 = 38.22\%$.

14. CHARLIE AITKEN

FIRM'S LETTERHEAD

Date

Dear Charlie

ESTATE OF ALFIE AITKEN (DECEASED)

Thank you for your recent letter regarding Alfie's estate.

From the figures provided to me, your net entitlement from Alfie's estate will be about £803,000.

This is only an estimate at this stage as there will be various expenses (eg, probate fees, expenses of selling assets etc) which will be suffered by the estate and will reduce the capital value. However it should give you a reasonable idea of what you will end up with.

There are a few points here which require explanation:

Family home

If the sale goes ahead at £350,000, you as Executor can make a claim for the sale proceeds (before any selling expenses) to stand in place of the probate value. I have assumed that this will happen and have therefore used £350,000 to calculate the IHT liability.

I am happy to assist with the paperwork should you require.

Partnership share

Prima facie the partnership share will not be eligible for business property relief (BPR) because there appears to have been a binding contract for the sale of Alfie's 15% interest in existence at the time of his death.

I would recommend that you go back to the partnership and enquire about the nature of the sale agreement, because if the transfer of Alfie's share was under the terms of an option (ie, it was non-contractual), BPR would be available. At this stage I have assumed the worst and not deducted any BPR.

Shares in Aitken Antiques Ltd

The shares are eligible for 100% BPR, so £300,000 of value is exempt from tax. However, as the shares were left to you as a residuary gift, the benefit of the BPR is not given to you entirely but is instead shared between the residue and the two specific gifts under the Will.

This is not an issue in respect of the Aston Martin car left to Jonathan because that legacy is 'tax-free' which means that any IHT on the gift will be suffered by you anyway out of your residuary entitlement.

However, the legacy of the ski chalet to Angela will bear its own tax as the asset is not situated in the UK. This means that Angela will receive some of the benefit of the BPR to reduce her tax liability (which correspondingly increases your own). This is unfortunate and is a product of the way that Alfie's Will was drafted.

There is some tax planning which we could put into place to alleviate this. This would involve you resettling the shares to yourself via some form of trust so that the benefit of the BPR attaches entirely to the shares. We could achieve this by means of a Deed of Variation.

However, this will add an additional layer of complication (and extra legal and professional fees for setting up and thereafter running the resulting trust), for what is only a relatively small amount of tax (the tax cost to you of losing the full benefit of the BPR is presently £7,667 being £30,000 @ 25.556%). It would also delay the administration of the estate.

In addition, this planning does not save any tax – it merely moves a small amount of the total tax liability across from you to Angela.

I therefore suggest we do not pursue this any further, but if you do feel differently and require further advice on this, please let me know.

Re the ski chalet, I would mention that if there are any additional probate fees relating solely to the chalet (for example, any Swiss legal fees), these fees can be deducted from the value of the asset to a maximum of 5% of its value.

This will however only make a marginal difference to your net entitlement from the estate as most of the benefit will go to Angela as she is inheriting the chalet.

Your mother's trust

Alfie's death will not cause there to be any further tax charges in respect of the trust.

Because your mother set up the trust after March 2006, the trust fell into the 'relevant property' regime. This means that, despite Alfie's right to income, no part of the trust formed part of his estate at his death.

The position is the same for you, ie there will be no IHT charge on the trust assets your death.

You will, of course, now be entitled to the net annual income of the trust which will need to be reported on your annual self-assessment return.

I hope this answers your queries.

Yours sincerely

[]

APPENDIX

	£	£
Family home		350,000
15% share in 'First Editions'		150,000
Shares in Aitken Antiques Ltd	300,000	
Less: BPR	<u>(250,000)</u>	
		50,000
Aston Martin car	80,000	
Less: BPR	<u>(20,000)</u>	
		60,000
Ski chalet in Switzerland	120,000	
Less: BPR	<u>(30,000)</u>	
		90,000
Cash and quoted shares		<u>200,000</u>
Chargeable estate		900,000
Less: Nil band		<u>(325,000)</u>
Taxable estate		<u>575,000</u>
IHT @ 40%		<u>230,000</u>
Estate rate: 230,000/900,000 x 100		<u>25.556%</u>
		£
IHT payable		230,000
Less: Attributable to ski chalet (£(90,000 x 25.556%))		<u>(23,000)</u>
Payable by Charlie Aitken		<u>207,000</u>
		£
Assets before tax:		
£(350,000 + 150,000 + 300,000 + 200,000)		1,000,000
Less: IHT to be suffered by Charlie (above)		<u>(207,000)</u>
Charlie's net entitlement		<u>793,000</u>
Note: S.39A 'spreading fraction' = 900,000/1,200,000 = <u>75%</u>		
IHT value of specific gifts:		
Car (£80,000 x 75%)		<u>60,000</u>
Ski-chalet (£120,000 x 75%)		<u>90,000</u>

15. MR QTECHNICAL NOTE

The move to the UK will have implications for Mr Q's personal tax affairs.

However, this note focuses on the UK CGT consequences for the IIP trust set up in 2000.

Trust residence and domicile

The crucial question for CGT will be the settlor's tax status now and going forward.

If the settlor is going to settle in the UK and base his and his family's life in the UK for the next five years, he is likely to be considered UK resident under the statutory residence test.

As a Freedonian citizen living outside the UK it is likely that Mr Q currently has a non-UK domicile of origin (most probably his Freedonian domicile of origin).

That domicile will be superseded by a UK domicile of choice only if Mr Q settles permanently in the UK (which is unlikely from the information provided).

It is therefore assumed that Mr Q is likely to become resident in the UK, but he will not be domiciled in the UK.

For CGT purposes, once Mr Q comes to the UK, the trust will have mixed residence Trustees. [We assume that Mr O'Neill would remain non-UK resident.]

A trust with mixed residence Trustees is treated as being a UK resident trust at the 'relevant time' if the settlor was either:

- Resident in the UK; or
- Domiciled in the UK.

The 'relevant time' for these purposes means when the trust was set up or when property is added.

On the basis that no property is added to the trust, the trust would remain non-UK resident.

There needs to be continuous monitoring of the trust to ensure that assets are not added to the trust thereby causing the trust to become UK resident. We would strongly recommend that no further property is added to the trust. If future settlements are to be considered, a separate trust should be established for this purpose.

Capital Gains Tax

Under general principles, capital gains of the trust are not directly taxable on the non-resident Trustees.

There are exceptions for assets used in a trade or UK land and property (gains on which are chargeable to CGT in the hands of the Trustees).

Trust gains can be attributed to the settlor if S.86 TCGA applies.

However, S.86 cannot attribute trust gains to non-UK domiciled settlors.

As S.86 does not apply to the trust, S.87 will apply instead.

S.87 matches trust gains with capital payments to UK resident beneficiaries. A capital payment means a payment or benefit which is not taxable as income. This can include the use of trust assets and low interest loans.

Matched gains are then charged to UK CGT in the hands of the beneficiary. The beneficiary can use his annual exempt amount against attributed gains but cannot deduct personal capital losses and cannot recover the CGT from the trust. The CGT is increased by a supplementary charge where there is a delay of more than one tax year between the trust gains and the matched capital payment.

Non-domiciled recipients of capital payments can use the remittance basis if a relevant claim is made. This means that the capital payment has to be brought or enjoyed in the UK in order for it to become taxable. Retaining a capital payment offshore can avoid a UK liability under S.87.

Only capital gains made on or after 6 April 2008 can be attributed to non-UK domiciled beneficiaries. Consideration should be given to the Trustees electing to 'rebase' their assets to 6 April 2008 thereby eliminating any chance of gains accruing before April 2008 being attributed to Mr Q.

Trust gains for S.87 purposes include gains of non-UK resident companies which are 'close' (broadly controlled by five or fewer persons) and in which the Trustee has an interest.

Inheritance Tax

When the trust was created, Mr Q was non-UK domiciled meaning that the non-UK assets of the trust are excluded property and outside the scope of IHT.

Mr Q obtaining UK residence will not change this.

The IHT position will change if the Trust invests in UK situs assets as such assets would then be brought within the scope of IHT. As Mr Q has a qualifying IIP, any UK assets within the trust would fall within his estate.

In addition, if any company held within the trust structure invests in UK residential property, the value of the shares represented by the UK residential property would no longer be excluded property and would also be chargeable to IHT in Mr Q's estate.

House in the UK

Mr Q intends to buy a house in London.

If he buys this personally, the house will form part of his chargeable estate for IHT.

Mr Q would also be liable to CGT on a sale of the property although the gain will be covered by private residence relief if Mr Q occupies the property as a home during its period of ownership.

Alternatively the trust could buy the property and allow Mr Q rent-free occupation.

For IHT, the house would be within Mr Q's estate being UK situs.

For CGT, a disposal of the house by the Trustees would be chargeable to UK tax under the NRCGT rules, but the gain would be eligible for private residence relief as the property would be the only or main residence of a beneficiary.

