# Post Election
# Private Client Tax Update

**John D. Bunker** LL.B CTA TEP
Solicitor, Chartered tax adviser & lecturer

**Professional Conferences**

**Wills, Probate and Advising the Elderly Update**

**October/November 2024**

## Post Election Private Client Tax Update
## Agenda – *NB slides adapted just after 30 Oct Budget!**

- 1.1- 1.12 **Labour Budget on 30 October 2024** poss changes to IHT, CGT, property taxes, pensions
- 2.1 –2.4 **Resident Non-doms: awareness of whole new world**
- 3.1- 3.8 **Tax planning in 2024/25 in Stealth Tax Britain:** IHT, CGT, Income tax & Estate planning
- 4.1 -4.14 **Estates & Trusts: Stealth Taxation for PRs & Trustees:** CGT, loss relief, appropriations.
- **The content delivered on the day on 31 Oct, will seek to add any comment possible on the changes in the Budget.*

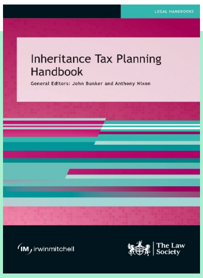
## John D. Bunker LLB. CTA TEP
Consultant Solicitor & Chartered Tax Adviser,
Tax Trusts & Estates, Irwin Mitchell and freelance lecturer

- **Co-Editor of Law Society IHT Planning Handbook**
  - **Published mid-Dec 2020, of which John wrote 1/3 of content**
- 30+ years experience as a solicitor, 25+ as a CTA,
  - specialising in wills, trusts, estate and tax planning
  - A member of SFE who has contributed regularly to the SFE Forum.
- **John serves on HMRC's TRS Sub-group advising HMRC on TRS Manual;**
  **and the Capital Taxes Liaison Group** & TACT's Private Trusts Committee; and
  - represented STEP until Nov 2021 on HMCTS Probate Users Group.
- **Serves on CIOT's Private Client (UK) Taxes Committee, which chaired for 3½ years to Sept 2021**
- After 23 years as a partner, moved in 2012 to technical & training role for Thomas Eggar, now developed within Irwin Mitchell's national Private Client team: in offices in Birmingham, Chichester, Gatwick, Leeds, London, Manchester, Newcastle, Reading & Sheffield.
- **John has developed external training work in a freelance capacity**,
  - with enthusiasm for his subject, John seeks to illuminate technical details with practical insight, in training for local law societies, national conferences (incl STEP & CIOT) & branches of STEP, CIOT, SFE & other professional groups, and Professional Conferences, MBL & individual firms.

## The Law Society IHT Planning Handbook (Dec 2020),
## A new, 2nd Edition due in 2025: planning for non-doms to be revised
until now only process (probate/TRS) changes, **designed for all who advise on IHT–not just lawyers.**
Reviewed in STEP Journal June 2022 by Denese Molyneux, STEP E & W Chair

irwinmitchell

The Law Society





**John Bunker**
Consultant Solicitor and
Chartered Tax Adviser
+44 (0)1243 813 152
+44 (0)7801 012 737
john.bunker@irwinmitchell.com


"It is the sort of book that sits on your desk, rather than your shelf, and is highly likely to be well used in the office by everyone ranging from the trainee solicitor to the head of the department"
- Caroline Bielanska

"It is written in a really approachable, accessible style while imparting a huge amount of extremely complex information"

"Like receiving tax advice over a coffee from a good friend, who also happens to be an IHT expert"

## 1.1 Labour Budget on 30 October 2024
## Major Tax increases ~~likely~~ for some of our clients

- PM Starmer says Budget on 30 October will be "painful"!
- PM & Chancellor Reeves have flagged need for tax increases
  - but boxed in on Income Tax, NICs, VAT & Corp Tax
- **No commitment by Labour not to increase IHT & CGT.**
  - **By shutting off simple increase in rates on 80% of tax revenue**
  - **likely to end up with more complexity – no easy options!**
    - On IFS Podcast in Aug said: "bad for good people, good for bad people!"

## 1.2 Labour Budget on 30 October 2024
## Looking ahead to potential tax increases for our clients

- **Will look at some potential changes – & what might say to clients**
- Not seeking to forsee the future, but respond to concerns clients express
- **If clients asking for advice, what can be done**:
  - ~~Some things immediately, if ahead of 30 Oct?~~
  - Some action may be worthwhile post-Budget?
  - Some points may need further thought?
- **We do know personal tax is only going to get tougher & more complex**
  - Any clients wanting to take action: worth considering ASAP!

## 1.3 Labour Budget on 30 October
## Wealth taxes & IHT

- **Wealth Tax** per se? – probably not, as no mandate;
  - though Wealth Tax Commission (Dec 2020) did say
    - could work as one-off, e.g. pay for Covid!
  - **So, the "wealth taxes" = CGT & IHT = increases likely. E.g.**
    - **IHT: Pension death benefits**: *See 1.11/1.12 below* **Big changes**
    - **APR** Changes to relief on let agricultural land? **Big change see 1.3X**
      - E.g. Farm Business Tenancies for min period to get 100% relief?
    - **BPR** cap on relief? Limited to £2m/£5m?
      - **YES Limited to £1m @ 100% - see 1.3X**
    - **RNRB**: withdrawing RNRB to raise £2bn p.a.? **No, RNRB survives!**

## 1.3X Labour Budget on 30 October
## Changes made to IHT in Budget

- **APR** & **BPR** changes from 6 April 2026:
  - **100% relief limited to only £1m total**, for both APR & BPR.
    - **After that only 50% relief**
  - Trusts set up with APR & BPR before 30 Oct 24 get a special £1m allowance
    - But any trusts set up between now & 6.4.26
      - subject to anti-forestalling provisions
- **AIM shares only get 50% relief** from 30.10.24
- **NRB, RNRB & £2m threshold all frozen for further 2 years to 2030!**

## 1.4 Labour Budget on 30 October
## IHT – following up OTS reports

- **If IHT increases likely, which?**
  - **Office of Tax Simplification (OTS) in 2 IHT reports** in 2018 & 2019
  - Made recommendations that could now be picked up
    - **Normal Expenditure out of Income Exemption** <u>**NO CHANGE**</u>
      - Could be restricted, so good to make full use now - *see 1.6 below*
- **Clients thinking of gifting assets, consider doing before 30 October**
- **But also tax planning to work the system - incl using trusts <u>IS CRUCIAL</u>**
  - **will continue to be important – with frozen NRBs, allowances etc.**
    - *See 2nd talk - "IHT Tips and Traps"*

## 1.5 Labour Budget on 30 October
## IHT & Businesses – follow up OTS reports – <u>NO CHANGE</u>

- **Hybrid businesses** (mixture of trading and investment activity):
  - BPR trading threshold could be raised - from 50%+ to 80%
    - If happens, will need a lot of review with accountants
- **Double benefit of 100% BPR/APR + CGT uplift on death could go**
  - **= only BPR & lose CGT uplift** – as OTS suggested
    - if happens, many wills need reviewing!
    - & do consider scope for Deeds of Variation of estates or varying trusts
    - <u>**Don't lose CGT uplift but do lose 100% relief over £1m.**</u>

## 1.6 Labour Budget on 30 October
## IHT: normal expenditure out of income exemption

- **Normal expenditure out of income exemption NOT changed from 30 Oct**
- **if clients thinking of gifting, worth acting now.**
  - **2 Key elements to watch***: see also talk 2 – 1.5/1.6*

**(1) Written commitment from client to show intention to continue payments**

- E.g. client asks re making single advance payment of school fees & future payments
  - Get letter committing to pay school fees each term, on top of first payment;
- E.g. City high earner lives off monthly income: giving bonus to trust for grandchildren?
  - could sign letter committing to paying his/her bonus each year

**(2) Keeping records of income & expenditure**

- Advise value of keeping records as per IHT 403 form

## 1.7 Labour Budget on 30 October
## Wealth taxes : CGT

- CGT really needs reform – but instead, possible change of rates & some reliefs?
- **CGT rates** – ~~currently~~ was 10/20% or 18%/24% on residential prop
- **Now from 30 Oct 2024 increased to 18% & 24% on all assets**
  - **24% temp reduced higher rate on resi-prop** (from April 2024)
    - designed to help sort Furnished Holiday Lets (FHLs)
    - ~~Was for a year, to 5 April 2025, might it end on 30 Oct?~~
      - ~~& revert to 28% incl resi-prop surcharge of 8%.~~
  - ~~**possible 30% flat rate, or aligning with income tax**~~?
    - ~~Would need to bring in some new form of Indexation Allowance~~
      - ~~So not taxing inflationary increases! & big issues re split years!~~
- **CGT rates for resi-prop now same as for other assets**
  - **i.e. the surcharge is no more!**

## 1.8 Labour Budget on 30 October
## Planning for CGT & IHT pre-Budget or pre 6.4.25?

- **Clients thinking of gifting assets, consider doing before 30 October**
  - Especially if gains on residential property wish **to realise @ 24% rate**;
  - **Or BADR at 10% on Furnished Holiday Lettings (FHLs)** before relief lost
    - New rules to take effect from 6 April 2025 – to align with Long Term Lets
      - Limited time to sort out / sell if appropriate &
    - **Watch anti-forestalling provisions in draft Finance Bill clause**
      - published 29 July 2024
      - No hold-over or roll-over claims if to connected persons

## 1.9 Labour Budget on 30 October
## Property taxes: PPR & SDLT

- **CGT relief on main residence (PPR)**
  - hope it's not withdrawn, unfair on those who've not built equity with tax relief
  - But might it be limited in some way? A cap?
- **SDLT:** Currently a temp **"holiday" due to expire 31 March 2025:**
  - **threshold increased from £125K to £250K**
  - **first-time buyers relief (FTBR)**
    - max property value increased £500K to £625K.
  - Will revert to normal, lower figures on 1.4.25 unless changed.
- **Higher Rate for Additional Dwellings charge now up from 3% to 5%**
  - For all completions from 31.10.24

## 1.10 Labour Budget on 30 October
## Property taxes: Planning advice to clients?

- **If clients want to help families buy property:**
  - **plan ahead to utilise these temp SDLT benefits**
    - Need to complete by 31.3.25 (as currently stands) so need to get moving!

- **If clients consider gifting property interests for IHT planning:**
  - **Consider capital gain & whether can crystallise gain @ lower rates**
    - Or hold-over gain to a lifetime trust
      - But always watch the Reservation of benefit (GROB) trap – *see talk 2.*

## 1.11 Labour Budget on 30 October
## Pensions: what might change?

- **Pension contributions: restrictions on income tax relief** ~~likely~~ NO
  - But some say not good, as want people to contribute, better to tax on way out
  - **Make payments (if can) before 30 Oct?**
    - Reduce taxable income especially around 45% & 40% thresholds
  - Lifetime cap? Or limit to the amount of relief?
  - Could the NIC aspects be changed? E.g. NIC on E/er contributions?

- **Changes to IHT treatment likely** – currently very generous YES
  - Talk of reducing the 25% tax free cash sum; No that stays!
  - Or bringing pensions as a whole into IHT net, even where written in trust? **YES**

## 1.12 Labour Budget on 30 October
## Pensions: Pensions death benefit - *ALL changed on 30.10.24*

- **Pension death benefits**: scope to pass on tax effectively –introduced 2015/6;
  - Old 55% tax rate charged on undrawn pensions, after age 75, designed to encourage drawing
  - **Changed in 2015/16 to allow estate planning**
  - **E.g. to pass on the pension death benefit**
    - as a pension annuity, lump sum
    - **or Flexi-Access Drawdown (FAD)**
    - **at the marginal tax rates of the beneficiary**
  - Very generous, could be changed so any Benefits passed on @ 45%
    - NOT marginal rate of beneficiaries?
    - Don't delay actioning any implementation with financial planners
- **ALL undrawn pensions now caught in IHT net.**
  - Consultation on process, how pension trustees can be responsible for IHT on death

## 2.1 Resident Non-doms: awareness of whole new world
## Resident Non-doms (RNDs) IHT – current rules
## *NB these slides in part 2 not updated post Budget!*

- From 6 April 2025 **IHT changing from a domicile-based system**
  - **to a residence-based system.**
  - Changes announced in March 2024 by Tory Government were quite radical
    - Labour say changing some details, but the core remains
- **Compared with current rules (Individuals):**
  - Domicile-based system
  - UK deemed domiciled (15/20 years UK residence) = IHT on worldwide assets
  - Individuals in scope of UK IHT for 3 calendar years after leaving the UK
    - "tail" provision = effectively need to watch for 4 years

## 2.2 Resident Non-doms: awareness of whole new world
## RNDs: IHT – new rules

- **New rules would charge IHT on an individual's worldwide assets**
  - **when have been resident in the UK for 10 years**
    - the "**residence criteria**",
    - So any new arrive in the UK will be caught after 10 years
  - **& keep individuals in scope of UK IHT for 10 years after leaving UK**
    - the "**tail" provision**.
      - **So a 10-year tail rather than current 4 years!**

- **Taxation of foreign incomes & capital gains**
  - **including the remittance basis - also being totally changed**

## 2.3 Resident Non-doms: awareness of whole new world
## RNDs: IHT – advice needed ahead of new rules

- **RND Clients need to take advice soon** – at the least to start the process
  - To consider options, even if then wait for details to action any plans!
    - Emma Chamberlain says hopes will be a proper technical note on 30 Oct,
      - Cf Technical note issued on 29 July was really a policy statement

  - **Before 6 April 2025:** Clients who may be affected should review:
    - **IHT planning** – **look at worldwide IHT exposure & Wills**

- **NB: subject to consultation & enactment: time for action will run fast!**

## 2.4 Resident Non-doms: awareness of whole new world
## RNDs: IHT – advice needed ahead of new rules

- **Opportunity – To do some planning before due to take effect in April 2025**

- **Pitfalls (1) if don't take advice, may be too late to do when full details out**
- **(2) if advising on Wills: do question any client who says "non-dom"**
  - **Are they in fact already deemed dom as here for at least 15 tax years?**
  - **Do they appreciate significance of changes & how might impact them?!**
- **(3) for some RNDs making a will may have consequences,**
  - **especially if for worldwide estate**
    - e.g. Double Tax Treaties with France, Italy, India & Pakistan

- **Good scope for X-referral if you're not a specialist**

## 3.1 Tax planning in 2024/25 in Stealth Tax Britain
## Stealth Tax Britain

- **The Conservatives developed "Stealth Tax Britain"**
  - **the squeeze to raise tax revenue not rates**
    - with Autumn Statement 2022, Spring Budget & Autumn Statement 2023 & Spring Budget 2024
  - **Labour now need to continue as public finances so squeezed**

- **What does it mean for advising clients?**
  - Many clients / estates will pay much more tax
  - Need to plan more carefully to utilise available exemptions, reliefs etc.

## 3.2 Tax planning in 2024/25 in Stealth Tax Britain
## IHT: the freeze / stealth tax continues until ~~2028~~ 2030

- **IHT frozen for total 7 years until April ~~2028~~ 2030 = ~~3½~~ 5½ years more**
- ***Extended in Budget for 2 more years – to 2030!***
  - **NRB, RNRB & taper threshold for RNRB starts @£2m,**
    - = more estates will be caught
    - **= 60% marginal tax rate on capital over £2m**

    - **Freezing = a "stealth tax"**
      - Just doing nothing = clients/estates pay extra tax
        - As values of property increase, so does the "tax take"!
  - **Great time now for clients to consider lifetime gifts**

## 3.3 Tax Planning in 2024/25 in Stealth Tax Britain
## What advice to clients?
## Estate planning to include reviewing assets

- **Estate Planning: legal, tax planning and financial planning**
  - Good for legal, tax and financial planners (FPs) to liaise on IHT planning
      - Working together can get better solutions for clients.

  - **Lawyers & tax advisors work with FPs to review assets & income**
    - Ensure all working well for clients' needs and objectives
      - To ensure structured effectively & what is available for lifetime gifts

  - **FPs can use cash-flow modelling as invaluable tool to review choices**

## 3.4 Tax planning in 2024/25 in Stealth Tax Britain
## Income tax planning – for fiscal drag?

- **Additional rate (45%) threshold now £125,140**
  - lowered from £150,000, from 6 April 2023;
    - = more caught for extra 5% tax &
    - **loss of Personal Allowance - tapered away above £100K**
      - = lose £1 for every £2 over £100K.

- **Higher rate (40%) threshold remains at £50,270*** (for 3rd year)
  - *incl Scotland for savings & Div income, but not for other income in Scotland
- **& basic rate (20%) & personal allowance (£12,570)**
  - **all fixed at current levels until April 2028** = a further 3 ½ years;
    - ***but not further – will increase again in 2028/29***

## 3.5 Tax planning in 2024/25 in Stealth Tax Britain
## Income tax planning – for fiscal drag? (2)

- **1. Can you reduce total taxable income?**
  - E.g. consider pension contributions + gift aid donations?
  - Can any income be switched into a different form?
    - Or take income at different time – watch income from estates & trusts.
- **2. Is a change of investment appropriate for different tax treatment?**
  - taking into account all Div & CGT changes *- see 3.6,*
    - Review with FP – *as per 3.7,*
- **3. Can spouses review the structure of their assets**
  - to get income in right hands, to reduce marginal tax rates? – *see 3.8.*

## 3.6 Tax Planning in 2024/25 in Stealth Tax Britain
## Dividend & CGT changes: estate planning review

- **Tax planning – including financial planner's input for individuals & couples**
  - **to take account of the 3 big tax changes for shares** (made in 22/23):
    - (i) **CGT AEAs**: major reductions of tax-free capital gains
      - now down to £3K (from £6K & £12.3K);
    - (ii) **Dividend tax**: extra 1.25% tax on all Divs; &
    - (iii) **Dividend allowances**: big reduction in tax free amounts
      - now down to £500 (from £1K & £2K)

- **= large increase in need to complete Self-Assessment Tax Returns**
  - As Dividends no longer covered by the Dividend allowance
    - & smaller gains will need to be reported

## 3.7 Tax Planning in 2024/25 in Stealth Tax Britain
## Estate planning review: investment strategy?

- **Review investment strategy with Financial Planner (FP)**
  - Take stock of objectives; & if investing in equities: is it worth still holding shares?

    - **Maximise ISA allowances**
      - for tax-free gains (& income) – now even more valuable;
      - Still frozen @ £20K p.a. (& no extra British ISA) but can invest all in equities
      - But if only want cash investment - cash ISA = income tax free
    - **Consider Investment Bonds?**
      - not subject to capital gains or extra 1.25% Div tax
      - & a switch might save some clients need to do SA Tax Returns

## 3.8 Tax Planning in 2024/25 in Stealth Tax Britain
## Spouse estate planning: response to income tax changes

- **Review structuring of assets**
  - **& consider possible transfer of assets between them**

- **ISAs**: **To enable full use to be made of ISA allowances**;
- **Income: To secure better balance of taxable income below the thresholds**
  - To avoid loss of PA - keep below £100K taper threshold
  - **Below 45% rate - £125,140 threshold &**
  - **Below 40% rate - £50,270 threshold;**

- **Tax compliance**: to avoid need for a Self-Assessment (SA) Tax return?

## 4.1 Estates & Trusts: Stealth Taxation for PRs & Trustees
## Why relevant to Personal Representatives (PRs)?

- Estate admin involves some basic routine & price competition re fees, but
  - **Options for PRs to help save tax** (i) in an estate
    - Or (ii) to save personal tax for beneficiaries of estates as individuals;
    - Or (iii) to help will trust start in a better tax position after the estate
- **We can offer PRs planning options – (1) as tax advisers**
  - **Or (2) to add value in probate administration**
    - Can help differentiate what is offered - sometimes simple step to save tax
    - But can also offer extra advice – for extra fees – if can show added value

## 4.2 Estates & Trusts: Stealth Taxation for PRs & Trustees
## Two stealth tax elements in CGT planning in 2024/25

- **1. CGT Annual Exempt Amounts (AEAs)**
  - **Down to £3K for Personal representatives (PRs)** (as for individuals)
    - **& for Trustees now a miserly £1.5K**
- **2. Frozen thresholds = triggers higher rates of personal CGT quicker**
  - **Higher rate threshold @ £50,270** for 3rd year + fixed until 2028;
    - = band of income & gains taxable @ lower rates = **frozen @ £37,700**
- **Combined effect of 1 & 2 = much more of capital gains @ higher rates**

## 4.3 Estates & Trusts: Stealth Taxation for PRs & Trustees
## Response to stealth tax elements in CGT planning

- **Clients need to plan to make good use of lower AEAs**
  - & where gains likely to be taxable: manage expectations re tax liabilities
- **PRs: review estates carefully re possible disposals to crystallise gains**
  - **& potential use of appropriations** – *see 4.5/4.6;*
    - Including potential lower rates for beneficiaries
  - & **what to do with gains if doing a Deed of Variation**
    - No need to pass on any gains to new beneficiary/trust, can crystallise;
- **Be aware of rates of CGT likely to be payable**
  - **& rates ~~may~~ have increased - to 24% for all gains in estates & trusts**

## 4.4 Estates & Trusts: Stealth Taxation for PRs & Trustees
## Strategy in advising on losses & gains estates & IHT

- **Many estates have both gains & losses – on shares & property**
- **How do we make the most of IHT Loss relief on land & shares?**
  - & lower / different CGT exemptions & lower rates?

- **Being pro-active in the stealth tax environment:**
  - **To make the most of opportunities to reduce IHT & save CGT.**
  - **Adding value to estate administration, in how realise losses & gains**, to make the most of:
    - Loss relief for IHT – to save 40% IHT; &
    - Using CGT exemptions and lower rates of beneficiaries.
- **Interaction of losses /gains: needs effective use of appropriations**



## 4.5 Estates & Trusts: Stealth Taxation for PRs & Trustees
## Loss relief & post death gains/losses: don't waste loss relief

- **Loss relief for IHT-** for both **land** (4 years from DOD) &
  - **Shares/securities** (one year from DOD)
  - **include all sales by "appropriate persons" acting in same capacity**
    - **So all sales - not only losses**
      - **i.e. any gains will reduce loss relief – if sales by PRs as such.**

- **Solution to the "waste" of loss relief** (by gains reducing losses):
  - **Sales realising losses by** PRs acting in the same capacity, To secure loss relief
  - **But any sales with gains outside the estate - after appropriation**

## 4.6 Stealth Taxation: CGT/Loss Relief Planning for estates
## Appropriation: Legal duty of PRs & tax planning

- **PRs duty to satisfy legacies & divide estate fairly**
  - **appropriate @Market Value** (M.V.)**@date of appropriation**

- If normal wide powers in will - Execs can appropriate assets to a beneficiary or trust,
  - in whole or part satisfaction of entitlement, rather than sell all.

- But **beneficiary acquires at Probate Value** (P.V.) **for CGT purposes**
  - = Execs hold appropriated asset as bare trustees for beneficiary or trust fund
  - All income + gains arising from appropriation date
    - = personal income & gains

35

## 4.7 CGT/Loss Relief Planning for estates
## Appropriations before selling land/shares

- **Assets appropriated are outside estate for any sales**
  - If realise gains post appropriation
    - as bare trustees for beneficiaries
    - Gains will not reduce the losses, maximising the loss relief

- So if selling land or shares with losses & gains
  - **sell assets with losses in estate**
    - **within time limit for loss relief** &
  - **Realise gains post appropriation**
    - **as bare trustees for beneficiary**
- **But manage beneficiary expectations of potential tax & compliance**

36

## 4.8 CGT/Loss Relief Planning for estates
### Example of gain & loss: Uncle Sam's estate

- Eg. **Sam** dies & leaves estate to nephews Ben & Jerry
- **"White House"** valued for IHT @ £1m; **sold at a loss of £100K** for £900K;

- 2nd home **"Rose Cottage" sells @ £50K gain** after 9 months, Cf P.V. £250K
- **If Rose Cottage were sold by PRs in estate = £50K less "loss relief"**

- Better option**: PRs appropriate Rose Cottage to Ben & Jerry equally,**
  - sale as bare trustees for Ben & Jerry = each have £25K capital gains;
  - **Estate keeps full £100K loss =extra IHT saving @ 40% x £50K =£20K**
- Ben + Jerry each set off ½ sale expenses + own CGT exemptions v. gain
  - & **pay CGT on balance @18/24% = better than 40% IHT in estate**

37

## 4.9 CGT Planning for estates
### Capital Gains are a major risk area in estates (& trusts)

- **Capital Gains are one of 4 main areas of risk for trusts and estates**:
  - Trusts and estates toolkit - GOV.UK (www.gov.uk)
    - Based on HMRC experience of what goes wrong in practice,
      - including professionals!
    - Toolkits set out risk, explanation & mitigation
      - How we can reduce risk for clients & our PI policies!

  - **CGT for trusts & estates supplementary toolkit**
    - **Separate toolkit as biggest area of risk = valuations** - & use of RICS surveyors
  - So, the basics of **valuation** & **when an estate becomes a trust** are important

38

## 4.10 CGT Planning for estates
## Exemptions & rates for PRs & beneficiaries

- PRs have AEAs for the estate **for tax year of death & 2 more tax years**
  - in **2024/25 = £3,000** (as for individuals)

- **Currently Gains** in excess **taxed – from 30.10.24**
  - **@ 24% on all gains – not just residential property** (tax year 24/25) **or**
  - ~~**@ 20%** on assets other than residential property~~

  - **Cf. ~~10/~~18% or ~~20/~~24% for beneficiaries** to whom appropriate assets
    - Taxed as a top slice of income;
    - & individuals may have personal AEAs available

39

## 4.11 CGT Planning for estates
## Paying CGT on Residential property

- **If any disposal of UK residential–property & CGT due:**
  - **PRs must report & pay tax within 60 days of completion.**
    - Still seems many estates not reporting & paying CGT in time

- **Payment on account** of CGT liability to be made
  - **Taking into account any annual exemption & any losses to date**
    - Applies to all, including Non-resident beneficiaries

  - **Paper version of CGT on UK Property return** – now made permanent after trial
    - Update in March 2024 Trusts and Estates Newsletter
      - Only to be used in specific circumstances – those who cannot report online.

40

## 4.12 CGT Planning for estates
## When does PPR relief apply to estates?

- **CGT payable** on disposals of UK Resi Prop
  - **Where not a PPR –** if qualify for relief may not be CGT to pay
- **For Principal Private Residence (PPR) relief to apply**
  - must have been main or only residence of 1 or more beneficiaries
    - Both immediately before & after death,
  - & benef(s) must have been left at least a 75% interest in property
    - Either outright or an interest in possession
- *S. 225A TCGA 1992:* PR's must claim PPR relief, &
  - If an election between 2+ properties = joint election by PRs & individual(s)

41

## 4.13 CGT Planning for estates
## Capital Gains on resid prop in estates or trust- PPR?

- **Take care re interaction of estate & any individual beneficiary/trust** arising
- **Trust test is less stringent than estates:**
  - **One or more of the trust beneficiaries must occupy the property**
    - **as their only or main residence** &
  - **must be entitled to occupy the property under the terms of the trust.**
    - **Entitlement to occupy**: either by an interest in possession (a *right* to occupy) or
    - under a discretionary trust if trustees have power, which exercise, to allow a beneficiary under the terms of the trust to occupy the property
      - Sansom v Peay [1976] 52 TC 1.
- CG65407 - Private residence relief: settled property: entitlement to occupy under the terms of an express trust - HMRC internal manual - GOV.UK (www.gov.uk)

42

## 4.14 **Any questions? Do see afterwards**
## &
## **Contact details**

- **Thank you for your participation**


- **John D Bunker LL.B CTA TEP**
  Solicitor, Chartered tax adviser and lecturer

  JDB Legal and Tax Training Ltd
  www. Jdbtraining.co.uk
- Email: John@Jdbtraining.co.uk

  **Tel: 07507 914931**