AF1 IHT
Part 7 Gifts with Reservation and POAT

This milestones for this final part are to understand:

- What is a gift with reservation and the implications in a calculation.
- The principles of Pre-Owned Asset Tax. (POAT)

If a donor retains an interest in a gift or can still benefit from it then for IHT purposes it is still part of the donor's estate. It is a Gift with Reservation.

The most common example is where parents transfer ownership of their house to their children but continue to live there at a nominal rent. The children would be the legal owners but on the parent's death HMRC would include the property in the parent's estate. Moreover, its value would be taken at the date of death not when it was transferred.

To avoid this the parents would have to pay the market rent. The gift would then be classed as a PET. The value of the PET would be the value of the property at the time the gift was made and it would become exempt after seven years.

Over the years there have been several attempts to solve the gift with reservation problem; that is how you can give property away yet still have the benefit or use of it. Most of these have involved complex trust arrangements and they have always been challenged by HMRC. They now have a further weapon, **Pre Owned Assets Tax (POAT)**.

This is an income tax charge. The original owner is deemed to be deriving an income from the asset which is added to their other taxable income and is payable every year.

- For chattels it is 2.5% of the capital value for chattels and intangible assets.
- For land it the market rental.
- Land and chattels must be revalued every 5 years
- There is no charge where the cash value of benefits is £5,000 or less. Note that this is for the deemed income and not the value of the asset. This means that for a chattel with a value of less than £200,000 there will be no tax charge. This is because £200,000 @ 2.5% = £5,000
- There is no charge when the person pays the full market value for the use of the asset or elects for it to be treated as a Gift with Reservation

POAT applies to all gifts made since 17 April 1986 though the POAT rules were only introduced in 2005/2006.

POAT rules are complex and it is possible to fall foul of these by what might seem to be a straightforward transaction.

Kate gives her son £50,000. That would be a PET and would become exempt after seven years. The son uses this money to buy a house. Some years later Kate moves in with her son. She could be caught by POAT as she is deriving a benefit from the asset she gave away.

That concludes this part so you should now understand

- What is a gift with reservation and the implications in a calculation.
- The principles of Pre-Owned Asset Tax. (POAT)