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(a) Outline of the Will Structure

The revocation clause should identify Margaret Hughes as testator and annul any former wills and testamentary dispositions. Margaret has not made a will previously; therefore, a revocation clause lessens confusion and competing documents. The legality of the will is subject to section 9 of the Wills Act 1837. It shall be written, signed by the testator and attested by two persons at the same time. One of those witnesses must sign or acknowledge the will in the presence of the testator. Wills normally feature an attestation clause to prove execution. Legal wills must manifest the desire of the testator by proper method.

Special Gifts

Margaret Hughes wants her car and jewellery to go to Anna. Identify specific legacies to be assured. . Ademption of a bequest occurs when the testator does not inherit the object of the legacy.

Pecuniary legacies

As Margaret's granddaughter, Emily will receive £20,000. Emily is under 18; thus, her money legacy has to be held in trust. Emily's legacy forms part of the estate for inheritance tax purposes. A tax-free contribution of £10,000 will be donated to the Dogs Trust.

Residuary gift

The residuary clause is the portion which distributes the testator's estate after payment of debts, legacies and testamentary taxes. And the majority is likely to be most of the residual, as Margaret Hughes' estate is sizeable (property value £480,000, savings & assets comprising £320,000). Anna will get her share, but Daniel's will be held on trust because the testator had worries about his money management.

Trust for Daniel

Daniel's inheritance trust has to wait until he's 55 to inherit (age contingent). The will, therefore, must comply with the testator's wishes for her son Daniel to receive his

share of her wealth at age 55. Until that time, the trustees of the trust will hold and manage Daniel's estate and use income and capital for him.

Trust for Emily.

Her inheritance of £20,000 to her granddaughter Emily is to be held in trust until she attained the age of 18. The trustees shall administer the trust in her minority and apply capital and income for her maintenance, education and benefit, TA 1925, sections 31 and 32. Trustees can benefit beneficiaries with trust capital. It is usual to establish a discretionary trust for grandchildren to enable flexibility for education and maintenance, but Margaret has made it clear that she wants to give Emily a fixed sum at 18 and so a basic **statutory trust** would be more appropriate.

Appointment of Executors and Trustees

The will must have contained the direction of Margaret Hughes to Anna to be the executor. There is just one executor, hence there are no alternates. The Daniel trust requires 2 trustees. Anna might be a trustee. The trust being a will, the other trustee may be a professional.

Margaret is worried about how Daniel's finances are being handled. This is good estate administration under the Administration of Estates Act 1925.

(b) How the trust for Daniel would operate

When Margaret dies, Daniel's will trust becomes an age-contingent trust, with his total entitlement deferred until he becomes 55. Daniel has a beneficial interest in the trust property, and the trustees hold the legal title. The notion of trust law that legal and beneficial ownership are separated and that trustees hold assets for Daniel is the basis of this.

Statutory Provisions

Under section 32 of the Trustee Act 1925 trustees may advance capital. The case of *Pilkington v IRC* (1962) illustrates that the Act extends the meaning of "benefit". Section 31 permits trustees to utilise the income of the trust to maintain, educate and benefit beneficiaries during delay.

Trustee Powers

Trustee responsibilities include beneficiaries' best interests. Under s1 Trustee Act 2000, trustees shall exercise reasonable care and skill in the administration of the trust.

s3 of the TA 2000 gives them general investment discretion subject to the suitability and diversification requirements of section 4. Trustees are to appropriately administer the trust fund and take advice.

Speight v Gaunt (1883) established the obligation of care in investment decisions. Cowan v Scargill (1985) emphasised the duty of trustees to beneficiaries.

Beneficiaries' Rights

Daniel has an equitable interest in the trust but cannot claim capital until he is 55. In Schmidt v Rosewood Trust Ltd (2003) the right of beneficiaries to hold trustees to account and to call for trust information was upheld. As a beneficiary, he has the right to hold the trustees accountable and may request information about the trust.

Tax Planning and HMRC Compliance

(a) Fundamental inheritance tax (IHT) principles

Margaret's estate will be liable for tax under the Inheritance Tax Act 1984. The usual tax-free amount is £325,000. Her husband died before her, leaving her everything. There was no inheritance tax owed due to the spouse exemption. You could be able to claim the transferable nil-rate band (TNRB) and the transferable residential nil-rate band (TRNRB) to increase the amount that's tax-free. This might boost the nil rate band to £650,000. If Anna and Daniel leave a qualifying residence to direct descendants, they could get the residence nil-rate band (RNRB) of up to £175,000. This **relief** is granted because Margaret's children will inherit her property.

The £10,000 Dogs Trust bequest is a charitable donation and is not subject to inheritance tax, reducing the taxable estate. There are no exemption and Emily's £20,000 bequest is included in the estate for inheritance tax purposes. Lifetime gifts within 7 years of death may also be taken into account for inheritance tax reasons, but no such donations have been discovered on the facts given.

(b) Likely IHT position on Margaret's death

Margaret's estate is worth £800,000. Net estate is £790,000 after the £10,000 charitable gift.

Nil-rate band (transferable allowance): £650,000.

£175,000 residence nil rate band

Total assistance: £825,000

The relief (£825,000) is greater than the net estate (£790,000), hence no inheritance tax is due.

Inheritance tax is 40% on the value above the categories with no transferable allowances.

How the proposed will structure—including the trust for Daniel affects IHT treatment and tax charges

Daniel's trust comes into the estate on death and is subject to inheritance tax after allowances. In this instance there is no inheritance tax payable on the trust.

Trust property is the suitable **property regime**. It may also be subject to ongoing taxes, including periodic 10-year charges of up to 6% of the value of the trust, and exit taxes on capital distributions to Daniel. These charges are usually capped and reflect a balance between tax efficiency and Daniel's inheritance.

(d) Identify HMRC requirements

Notify HMRC about the estate during **probate**. The estate is above the nil rate band hence you will need to complete form IHT400. Use form IHT402 to claim the transferable nil-rate band. There was no inheritance tax to pay within six months of death in this instance.

Register Daniel's taxable trust with **Trust Registration Service (TRS)**. **Trustees** must declare income and gains, keep accurate records and pay taxes.

Fines can be avoided, and the estate managed efficiently if executors meet the reporting criteria of HMRC.

Margaret may also consider taking out a life assurance policy written in trust. These insurance policies are outside the estate, and can be used to pay inheritance taxes without raising the estate's taxable value.

1. Initial Steps and Client Care

a) First Steps

Following Margaret Hughes' death, Anna, as the executor, should act quickly to secure the inheritance and start probate. Find the original will and make sure it is the most recent legitimate will. If there is no coroner, you must report the death within five days and acquire multiple certified copies. Funeral arrangements should be as Margaret wished. Next, Anna needs to insure the estate and to inform banks and financial institutions to freeze accounts to avoid illicit transfers. Such methods are necessary in estate management. The Inheritance (Provision for Family and Dependants) Act 1975 enables some people to obtain reasonable financial support from an estate.

b) To verify the validity of the will, the will must be written, signed by Margaret, and witnessed by two independent witnesses present to comply with section 9 of the Wills Act 1837. Testamentary ability must be proven in accordance with *Banks v Goodfellow* (1870), and Margaret must have known about creating a will, her property, and potential beneficiaries. Before acting, the estate administrator must assess any suspicious circumstances, such as improper influence or lack of knowledge and approval.

c) In terms of eligibility to serve as an executor, Anna can be a **single** executor. Functionally, the trust created for Daniel requires at least **two trustees** to facilitate efficient management. The trustees must act as a team, and in the absence of **substitute executor** to act on her behalf, problems may occur if Anna is unable or unwilling to act.

d) As a trainee solicitor, professional responsibilities under the SRA Codes of Conduct it is vital to ensure that the services provided, and their cost are clearly explained. In dealing with Anna, the bereaved client, ensure that you sensitively explain to her the legal rights she has.

2.a) Initial schedule of assets and liabilities

Create a first schedule of Margaret's assets and liabilities. Her estate is largely comprised of property valued at approximately £480,000 and investments/savings at approximately £320,000. Note any liabilities (funeral costs, debts); however, no liabilities are mentioned. The executor should also check if Margaret has made any lifetime gifts within 7 years of death as these may be relevant for inheritance tax calculations.

b) Professional valuation and post death tax considerations

The assets should be valued at their market value on the date of death. The value is what an interested buyer would have paid for the asset in a free market environment. The property is usually valued by an expert (RICS surveyor), while investments are valued at their date-of-death value.

(c) Estate for probate differs from the value for IHT purposes.

The probate value of the estate is the total market worth of assets at the time of death. But if there are exclusions, reliefs, or deductions, the value for inheritance tax purposes may be different. This distinction is crucial as the probate value sets the estate for administration, while the inheritance tax value sets any tax liabilities.

3. Inheritance Tax Application

a) The estate of Margaret is subject to IHT, but there are some exceptions to it. **Nil rate band** £325,000 and **residence nil rate band** £175,000 would qualify as the property is going to her children. A £10,000 donation towards **Dogs Trust is an exemption** from IHT. The **Spouse Exemption** rule qualifies here because the estate of her deceased husband was left for her use, so there would be no IHT.

Daniel's trust falls under the **relevant property regime** with periodic ten-yearly chargeability and exit charge liability on payment out.

b) The estimated **gross estate** is £800,000. Deducting the £10,000 charitable gift, the **net estate** is £790,000.

Available allowances: Including transferable allowance, nil-rate band: £ 650,000,
Residence nil-rate band: £175,000

Relief total: £825,000

Values above thresholds incur 40% inheritance tax. Due to the relief (£825,000) exceeding the net estate (£790,000), the estate is tax-free. No inheritance tax applies.

Anna, the executor, is **responsible** and must report and pay taxes before distributing the inheritance.

c) The estate exceeds the nil-rate band, thus Anna must complete form **IHT400** and claim transferable allowances on form **IHT402**. HMRC usually accepts these papers within 12 months of death. In most cases, inheritance tax must be paid within six months of death, but in this case, allowances prevent it.

Taxes must be paid before probate. Funds can be paid directly from Margaret's bank accounts to HMRC under the **Direct Payment Scheme**.

4. Application for the Grant of Probate

a) Margaret has left a legally enforceable will and appointed Anna as an executor; thus, a Grant of Probate should be given. This deed gives Anna the authority to handle the estate.

b) **Apply** online or by paper using form PA1P.

The actual will, death certificate, and inheritance tax forms are needed. Anna must also write a statement of truth verifying the application. Probate fees is £300 for estates over £5000, and processing periods vary by estate complexity. Online, roughly 2 weeks if no queries are raised. Paper approximately 13 weeks.

c) Possible issues include Anna perhaps being unable to act, with no **alternative executor** to take over and thus delaying the process. **Emily is a minor beneficiary** so her inheritance will be held in trust until she reaches 18 years of age. Daniel may also need an **additional trustee** for the trust in order for it to be properly administered.

5. Administering the Estate

a) Once probate is granted, Anna will have to collect and convert the **assets of the estate**, closing bank accounts and selling property if necessary. All **debts and liabilities**, including funeral expenses and any inheritance tax, must be paid before distribution. Anna should also publish statutory notices in the London Gazette to protect herself from unknown creditors so that she is not personally liable for any secret claims against the estate.

Then the **specific legacies** must be given away. Anna gets the jewellery and the car, Emily gets £20,000 (to be held in trust until she turns 18), and the Dogs Trust gets £10,000. The **residuary estate** is to be distributed in accordance with the will, with Daniel's part held on trust until he is 55 years of age.

Finally, **estate accounts** should also be produced to document all assets, obligations and distributions, to ensure transparency and proper administration.

b) A trust for Daniel must be created and registered with the **Trust Registration Service (TRS)**. **Trustees** must adhere to their duties, including acting in the best

interests of the beneficiary and managing the trust within statutory obligations. If the trust makes income or capital gains, there can be **ongoing tax liabilities**.

c) If the estate is complex, Anna can opt to do things on her own, get assistance from a lawyer, or even hire professionals to handle everything.

References:

Pilkington v IRC (1962) AC 612 (HL)

Speight v Gaunt (1883) 22 Ch D 727

Cowan v Scargill (1985) Ch 270

Banks v Goodfellow (1870) LR 5 QB 549

Schmidt v Rosewood Trust Ltd (2003) 2 AC 709

Inheritance (Provision for Family and Dependents) Act 1975

Administration of Estates Act 1925

Inheritance Tax Act (1984)

Trustee Act 1925

Trustee Act 2000

Wills Act 1837

