

1. In answering the questions below, you are not expected to have any knowledge of tax law beyond what is set out here.
2. Capital gains tax is charged on gains accruing to a person on the disposal of assets.
3. The amount of the gain on the disposal of an asset is computed by subtracting from the consideration for the disposal the categories of allowable expenditure set out in s 38(1) of the Taxation of Chargeable Gains Act 1992 ('TCGA 1992'), which provides:

*'38.— Acquisition and disposal costs etc.*

*(1) Except as otherwise expressly provided, the sums allowable as a deduction from the consideration in the computation of the gain accruing to a person on the disposal of an asset shall be restricted to—*

*(a) the amount or value of the consideration, in money or money's worth, given by him or on his behalf wholly and exclusively for the acquisition of the asset, together with the incidental costs to him of the acquisition or, if the asset was not acquired by him, any expenditure wholly and exclusively incurred by him in providing the asset,*

*(b) the amount of any expenditure wholly and exclusively incurred on the asset by him or on his behalf for the purpose of enhancing the value of the asset, being expenditure reflected in the state or nature of the asset at the time of the disposal, and any expenditure wholly and exclusively incurred by him in establishing, preserving or defending his title to, or to a right over, the asset,*

*(c) the incidental costs to him of making the disposal.'*

(The term 'incidental costs', which appears in s 38(1)(a) and (c), is defined in s 38(2). In answering the questions below, you do not need to consider 'incidental costs'.)

4. The allowable expenditure on a disposal is restricted in the case of 'part-disposals'. Section 42 TCGA 1992 relevantly provides:

*'42.— Part disposals.*

*(1) Where a person disposes of an interest or right in or over an asset, and generally wherever on the disposal of an asset any description of property derived from that asset remains undisposed of, the sums which under paragraphs (a) and (b) of section 38(1) are attributable to the asset shall, both for the purposes of the computation of the gain accruing on the disposal and for the purpose of applying this Part in relation to the property which remains undisposed of, be apportioned.*

*(2) The apportionment shall be made by reference—*

*(a) to the amount or value of the consideration for the disposal on the one hand (call that amount or value A), and*

*(b) to the market value of the property which remains undisposed of on the other hand (call that market value B),*

*and accordingly the fraction of the said sums allowable as a deduction in*

*the computation of the gain accruing on the disposal shall be—  
A/A+B  
and the remainder shall be attributed to the property which remains  
undisposed of...  
(4) This section shall not be taken as requiring the apportionment of any  
expenditure which, on the facts, is wholly attributable to what is disposed  
of, or wholly attributable to what remains undisposed of...'*

### **Question 1**

Smith owns an estate comprised of two contiguous parcels of land, Blackacre (a brownfield site) and Whiteacre (arable farmland). Between 1990 and 1992, Smith was involved in a boundary dispute in which the neighbouring landowner claimed (unsuccessfully) that part of Blackacre fell within his land, and in the course of which Smith incurred £10,000 of irrecoverable legal costs. In 1995, Smith spent £100,000 building a chemical factory on Blackacre. The factory turned out to be unprofitable and by 2010 it was closed. In 2015, Smith was advised that the now derelict factory presented a serious risk of environmental contamination and consequently spent £30,000 to demolish it. In 2022 Smith sells Blackacre for £300,000.

On Smith's disposal of Blackacre:

- (a) Is the £10,000 of legal costs an allowable deduction?
- (b) Is the £100,000 spent on building the chemical factory an allowable deduction?
- (c) Is the £30,000 spent on demolishing the chemical factory an allowable deduction?
- (d) In any case where you answered 'yes', is the allowable expenditure restricted by s 42 TCGA 1992?