



Association of Taxation Technicians

Examination

November 2004

PRINCIPLES OF LAW

TIME ALLOWED - 1 HOUR 30 MINUTES

Candidates should answer **four** out of six questions set.

Each question carries 25 marks.

Start each answer on a fresh sheet.

All workings should be shown and made to the nearest month and pound unless the question requires otherwise.

Marks are specifically allocated for good presentation.

Candidates who answer in accordance with Scots law or Northern Ireland law should tick the appropriate box on the front of the answer folder.

There is an alternative Question 2 for Scots law candidates.

1. **You are required to answer the following:**

- 1) **You have been asked by the partners in your firm to prepare a note explaining what money laundering is and how it applies to them as professionals as well as explaining the obligations upon them, the potential offences applicable and the role of the Money Laundering Reporting Officer.** (18)
- 2) **You have also been asked to prepare a similar note explaining the firm's obligations under the Data Protection Act 1998.** (7)

Total (25)

2. Peter is divorced and has two children, Bill and Ted. Peter owns the following assets:

- 1) The former matrimonial home "High Winds" (which Susan, Peter's ex wife lives in) worth £400,000
- 2) Shares in the family company "Family Co" worth £50,000
- 3) Cash and savings totalling £300,000
- 4) A sports car worth £30,000
- 5) A flat in the city (which his wife does not know about and in which Gloria, a close friend of Peter's, lives rent free)

Peter buys a "DIY" will pack and draws up a will. The terms of the will are as follows:

"To my wife Susan I leave High Winds for her to live in during her lifetime. On her death, High Winds is to be sold and the proceeds are to given to the RNIB.

To my son Bill I leave my shares in the family company.

To my son Ted I leave my sports car."

Peter makes no further bequests in his will. He had made no previous wills.

The will is signed by Peter alone. He then files it in his filing cabinet.

Peter sadly died last week. Bill and Ted have come to see you with the will for your advice.

You are required to:

- 1) **Write to Bill and Ted explaining what they and their mother Susan are entitled to under the will or otherwise and the nature of any interests they will receive. For the purposes of this answer please ignore any potential claims under the Inheritance (Provision for Family and Dependants) Act 1975.** (10)
- 2) **Explain how your answer would differ if Susan and Peter had not been divorced but merely separated at the time of his death?** (8)
- 3) **Explain how your answer to 1) would differ had High Winds been in the joint names of Peter and Susan?** (7)

Total (25)

Alternatively, Scots law candidates may answer the following question:

2. Joe is separated from his wife, Alice, and has one surviving child, George. His other child, Sam, sadly died in an accident a few years ago. Sam was married with two children, Jenny and Freda, who are now aged 16 and 18 respectively.

Joe died last week, and George comes to see you for advice.

Joe owned a half share in the family home in which Alice continues to live, with Alice owning the other half. There is no destination clause in the title to the house which was worth £200,000. He also owned half the furniture in the family home, his half share valued at £20,000, a painting by Elizabeth Blackadder valued at £120,000, shares in the family company worth £200,000 and cash and personal effects valued at £15,000.

You have been Joe's solicitor for many years and can remember him coming into the office to sign his will three years ago and indeed have an unsigned copy on your file showing that he intended his wife to receive his share of the house, his furniture and the painting. George was to receive the shares in the company with Jenny and Freda sharing the balance. However, Joe took the will away with him and, although a thorough search has been made since his death, it has not been found. He had made no previous wills.

You are required write to George explaining the following:

- 1) **The legal entitlements of the various members of the family to Joe's estate and how it will be distributed.** (20)
- 2) **What would happen if the will turns up as he has heard disturbing things about legal rights. (You are not asked to make any recalculations dealing with this event.)** (5)

Total (25)

3. Noah is a web designer and trades as a sole trader. He meets Harrison who is in the same area of work and they decide to get together to run a business.

You are required to:

- 1) **Explain the definition and formation of a partnership.** (5)
- 2) **Consider the advantages and disadvantages from a legal point of view of trading through a company or remaining unincorporated and write a letter to Noah and Harrison explaining the differences. (You do not need to consider limited liability partnerships).** (20)

Total (25)

4. **You are required to explain:**

- 1) **What are the essential elements of a contract?** (6)
- 2) **What vitiating factors can make a contract invalid?** (8)
- 3) **What remedies are available for breach of contract?** (6)
- 4) **With the explosion in e-commerce over the last few years, it is increasingly important that businesses and their advisers are aware of the different issues to be taken into account when forming contracts online. What regulations came into force in 2002 to reduce the uncertainty in dealing with online contracts within the European Union and what information did they state had to be provided where contracts are concluded electronically?** (5)

Total (25)

5. Jamie is a senior negotiator with the estate agency, Able Estates. Jamie has worked for Able Estates for two years.

One day Jamie is called into the managing director's office. He is told that there is going to be a 're-organisation' and that as a consequence Jamie's position is to be downgraded to 'assistant negotiator' and that the team of four assistants he presently supervises will now be supervised by a new 'senior negotiator' called Julie, who has just joined the firm after finishing her History degree. Julie happens to be the managing director's niece. Jamie is outraged by this decision as there have never been any complaints about his work and he is popular with staff and clients alike. He therefore immediately walks out of the office and never returns. A week later Jamie receives a letter from Able Estates informing him that as he has not returned to work they are assuming that he has resigned and that he will be paid up until his last day in the office. Jamie's contract provides for three months notice either way.

You are required to advise Jamie on what legal remedies (if any) he has against Able Estates. (25)

6. **You are required to explain:**

- 1) **The main differences between public and private companies.** (10)
- 2) **The requirements laid down in the Companies Act 1985 which must be satisfied if one company is to be regarded as the subsidiary of another company.** (8)
- 3) **The commercial and tax reasons why a group structure may develop.** (7)

Total (25)