



Association of Taxation Technicians

Examination

November 2005

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 are alternative Questions 1, 3 and 6 for Scots law candidates.

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

- 1) **What is a will? What formal requirements must be observed when drawing up a will and what legislation sets out those requirements?** (12)

Hector made a valid will in 2002. In that will he left assets to Hilda, his ex wife (they divorced last year). He wants to make an additional bequest to Chris. He is planning to get married to Valentina but does not know when he will do so.

He comes to you for advice on whether he needs to make a new will and of the effect of the changes in his personal circumstances on his 2002 will. He also wants to know whether he should make any new will before or after his intended marriage to Valentina.

- 2) **Write a letter to Hector advising him on his options and on the specific course of action you recommend.** (13)

(Note that 4 marks are specifically allocated to the advice that you give on the specific course of action you recommend.)

Total (25)

Alternatively, Scots law candidates may answer the following question:

- 1) **What is a will? What formal requirements must be observed when drawing up a will and what legislation sets out those requirements?** (12)

George separated from his wife Fiona in 1979, although they never got round to getting a divorce. At this point he had no will. In 1982, he made a will, leaving all his estate to his new partner, Chloe. In 1984, George and Chloe had a son, James. George died in 2005 and Fiona and James seek legal advice as to the validity of George's will, and whether they have any claim on his estate.

- 2) **You are asked to advise them, separately.** (13)

Total (25)

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

- 1) A private company may not raise capital by issuing securities to the public. A public company may offer securities to the public. **Explain what legislative provisions and regulations regulate public offering as well as the requirements which apply?** (7)

- 2) The shares of a public company listed on the London Stock Exchange are freely transferable. **Explain how shares in a private company can be transferred and the restrictions which might apply.** (6)

- 3) The rules relating to the consideration given in return for an issue of shares for public companies are more stringent than for private companies. **Give an example of this rule.** (4)

- 4) A company can change its status from private to public or vice versa. **Explain how.** (2)

- 5) A group structure may develop for a variety of tax and commercial reasons. **List some of the considerations.** (6)

Total (25)

3. **You are required to answer the following:**
- 1) **Explain how and in what circumstances an implied trust may arise.** (11)
 - 2) **A discretionary trust is a category of private express trust. Describe the main feature of a discretionary trust and how it differs from a trust with an interest in possession. You are not required to discuss taxation.** (14)
- Total (25)

Alternatively, Scots law candidates may answer the following question:

You are required to answer the following:

- 1) ***Outline the characteristics of the following: a resulting trust, an alimentary trust, and the rule against accumulations in Scots law.*** (11)
 - 2) ***A discretionary trust is a category of private express trust. Describe the main feature of a discretionary trust and how it differs from a trust with an interest in possession. You are not required to discuss taxation.*** (14)
- Total (25)*

4. **You are required to answer the following:**
- 1) **Until the UK joined the European Community (now Union) in 1973, the UK parliament was said to be "supreme". Is this still true today? What are the consequences of parliamentary supremacy and what has been the effect of the UK's membership of the European Union and of the Human Rights Act?** (16)
 - 2) **Describe the three legislative procedures in place for the adoption of EU law in the UK.** (9)
- Total (25)

5. **You are required to answer the following:**
- Ant and Dec are directors of Byker Grove Ltd. They own 40 shares each and Ant's friend Bill owns 20. Dec wishes to allot a further 20 new shares to Ben, one of his friends.
- 1) **Explain what Dec must do to achieve this, what authority he has and how the new shares should be valued and paid for.** (11)
- Ant and Dec want to pay a dividend and will be recommending it at the next general meeting.
- 2) **Explain what are the restrictions on paying a dividend and why these restrictions exist.** (7)
- Ant and Dec distribute without checking the profits and discover they do not have enough money to continue to trade so go into liquidation.
- 3) **Explain the consequences of a company making an unlawful distribution.** (4)
- Ant and Dec as directors are in a fiduciary position, that is, a position of trust. Directors control other people's money, and it would be relatively easy to abuse this position meaning they are, therefore, subject to a variety of statutory and non-statutory restraints.
- 4) **Explain Ant and Dec's overriding duty as directors.** (3)
- Total (25)

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

- 1) **The three types of legal estate in land law.** (12)
- 2) **The interests which may affect land and what effect each may have if a buyer were to purchase the land with or without knowing the existence of that interest.** (13)

Total (25)

Alternatively, Scots law candidates may answer the following question:

You are required to explain:

- 1) ***The distinction between real and personal rights in Scots law.*** (12)
- 2) ***The interests which may affect land and what effect each may have if a buyer were to purchase the land with or without knowing the existence of that interest.*** (13)

Total (25)