



Association of Taxation Technicians

Examination

May 2006

PRINCIPLES OF LAW

TIME ALLOWED – 1 HOUR 30 MINUTES

- You should answer **four** out of the six questions set.
- Each question carries 25 marks.
- Start each answer on a new sheet of paper.
- 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 6 for Scots Law candidates.*

1. **What is an express private trust? Describe the types of express private trust, giving an example for each of when they might be used.** (25)

2. Your firm acts for a company which has 30 consultants working for it under a variety of contracts. The company wishes to ascertain whether the consultants are employed or self employed.

You are required to write a letter to the Human Resources manager explaining the difference between the two, why it is important to clarify the status of each consultant, and how status can be determined. (25)

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

- 1) **The difference between tax avoidance and tax evasion.** (4)
- 2) **The elements which generally constitute a crime and the burden of proof which must be satisfied if a person is to be found guilty of an offence.** (5)
- 3) **The concept of professional privilege.** (5)
- 4) **In what circumstances can the details of a client's affairs be disclosed without the authority from the client.** (11)

Total (25)

4. Ash, Bobby and Charlie are in a partnership together running a shop called "The Alternative Bookshop" selling books of an ecologically and socially responsible nature.

Charlie wants to introduce a new partner, Eric, and to devote part of the shop to a trendy new coffee bar. Ash and Bobby feel strongly that a coffee bar would be inappropriate to the mood of the shop and have made it clear to Charlie that they do not agree to his suggestion. However, whilst Ash and Bobby are both away on holiday together Charlie decides to go ahead anyway and he signs a contract with a local building firm to start the necessary work. The building firm is aware of the disagreement as their salesman was present when the partners discussed the matter. Charlie also orders a consignment of a new book he thinks will sell well. This order is made to their normal supplier.

You are required to explain:

- 1) **Whether all or any of the partners are bound by the contracts and why.** (9)
- 2) **To what extent Eric would be taking on liability for the debts of the partnership if he was to join as an additional partner.** (4)
- 3) **If Ash were to retire as partner to what extent would he remain liable for the debts of the partnership both prior to and after his retirement.** (6)
- 4) **What are the duties that partners owe each other.** (6)

Total (25)

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

- 1) **The characteristics of a company resulting from it being a separate legal entity.** (12)
- 2) **In what circumstances will the “veil of incorporation” be lifted.** (7)
- 3) **The differences between the following types of companies:**
 - (a) **Limited by shares;**
 - (b) **Limited by guarantee.** (6)

Total (25)

6. **In the context of real property you are required to explain:**

- 1) **Legal, equitable and overriding interests.** (10)
- 2) **Planning, environmental and other matters affecting the enjoyment of land.** (3)
- 3) **The principles behind the system of land registration.** (6)
- 4) **How a prospective buyer can identify whether there are any interests over a particular piece of land.** (6)

Total (25)

Alternatively Scots law candidates may answer the following question.

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

- 1) ***The main impact of the Abolition of Feudal Tenure (Scotland) Act 2000.*** (4)
- 2) ***The distinction between a real right and a personal right.*** (7)
- 3) ***The nature of the following real rights in land: ownership, servitude, real burdens and standard securities.*** (14)

Total (25)