



## Association of Taxation Technicians

### Examination

November 2006

### PRINCIPLES OF LAW

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TIME ALLOWED – 1 HOUR 30 MINUTES

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- 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 5 for Scots Law candidates.*

1. Persons entitled to deal with a deceased person's estate are called his personal representatives ("PRs").

**You are required to describe:**

- 1) **The two types of PR and the duties and powers of a PR.** (15)
- 2) **The types of legacy which may be made under a valid will, giving an example of each.** (10)

Total (25)

2. James has an appointment to see your manager next week. He has been in partnership with Robert for two years and wants to know how the partnership may come to an end. He is also thinking about entering into a new partnership with Derek.

**You are required to prepare a memorandum to your manager which he can refer to at his meeting, outlining the ways in which dissolution of a partnership may occur and setting out why a formal partnership agreement would be advisable for the new partnership, explaining what terms should be included in that agreement.**

**Marks are specifically allocated to the correct format of the memorandum.** (25)

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

- 1) **Define money laundering.** (4)
- 2) **Explain the requirements under the regulations dealing with systems and training to prevent money laundering.** (9)
- 3) **The Proceeds of Crime Act 2002 details the offence of failure to disclose in relation to money laundering. Explain this offence and any defence.** (6)
- 4) **List the principles found in the Data Protection Act 1998.** (6)

Total (25)

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

- 1) **Explain the hierarchy of the courts in England and Wales or Scotland.** (8)
- 2) **Explain the bases on which a court may depart from precedent.** (9)
- 3) **Describe the intrinsic and extrinsic aids used in interpreting statutes.** (8)

Total (25)

5. Mr and Mrs Bloom own a freehold property known as “Dun Roamin” which they occupy with their adult son Evan. Mr and Mrs Bloom purchased the property 10 years ago with cash. However, the property was in a poor state of repair and as a consequence much work was needed to make it habitable. Evan helped his parents renovate the property and contributed to the cost of doing so. The house has been on the market for some time and Mr and Mrs Bloom have finally found a buyer, Mr Brown. The parties have entered into a binding contract for the sale of the property. However Evan does not want to move and says that he will not vacate the property, regardless of whether it is sold or not. Mr and Mrs Bloom are the registered owners of the property at HM Land Registry. Evan’s name is not mentioned on the land certificate.

You are required to:

- 1) **Advise Mr and Mrs Bloom whether Evan has any rights in the property or its proceeds of sale.** (5)
- 2) **Explain whether those rights (if any) would bind Mr Brown as purchaser. Assume Mr Brown has no knowledge of these circumstances.** (11)
- 3) **Given the problems with Evan, Mr and Mrs Bloom decide to pull out of the sale and put the house back on the market as and when they have resolved their difficulties with their son. Explain whether Mr and Mrs Bloom can do this and what remedies (if any) Mr Brown may have against them.** (9)

Total (25)

*Alternatively, Scots Law candidates may answer the following question:*

5. *Jeremy is the registered owner of Teuchter Hall in Scotland, a fine house with various outbuildings set in twenty hectares of land. He granted a standard security over the property to the Highlands Building Society, a five year lease over the stables and a grazing licence over five hectares to his neighbour, Ian McTavish. McTavish has not yet taken possession of the property. Jeremy also concluded missive of sale of the Hall to Extremeholidays Co Ltd. However, he subsequently received a better offer from Barbieworld Co Ltd and completed the conveyancing formalities in order to transfer ownership to them instead of Extremeholidays.*

**You are required to:**

- 1) **Explain what formalities are required to complete the transfer of ownership from Jeremy to Barbieworld.** (2)
- 2) **Identify what rights, if any, the Highland Building Society, Ian McTavish and Extremeholidays continue to have in the property after ownership is transferred.** (14)
- 3) **Identify any remedies anyone has against anyone else and explain fully how these may be exercised.** (9)

Total (25)

6. John, Paul and Ringo have decided to set up their own company in order to run a music shop, selling old records. All three will be directors but their parents will be the shareholders. John, Paul and Ringo are very keen to be company directors as they believe that they will in effect be their own bosses and so will be able to do what they want.

**You are required to explain:**

- 1) **What formalities need to be gone through in order to incorporate a limited company and explain how the company can protect John, Paul and Ringo.** (6)
- 2) **If there are any statutory regulations which apply automatically to regulate how a company is to be run. If so, can John, Paul and Ringo either dispense with or alter these regulations?** (13)
- 3) **If John, Paul and Ringo would be correct in assuming that their parents as shareholders cannot have any say in how the company is run.** (6)

Total (25)