

WRITTEN EXAMINATION

PAPER II

10 NOVEMBER 2005

10.45am – 12.45pm

Time Allowed – 2 Hours

Instructions to Candidates:

1. Complete the Green Examination Information Sheet by stating your examination reference number (not your name) together with the area in which you are practising and the local Association of which you are a member. Attach the green sheet to the top of your answer pad and ring the numbers of the **three** questions that you have answered.
2. Write your reference number (**not** your name) on each page. Number each page in the top right-hand corner.
3. Write on one side of the paper only, leaving the margin on the left- hand side.
4. Start each answer on a separate sheet and place your answers in numerical order.
5. Time has been allowed for you to read through the Question Paper **and plan** your answers.
6. You should attempt to answer **three** out of the five questions, listing them on the green sheet.
7. All questions carry equal marks: 20 each.
8. Questions are framed so as to minimise the need to make assumptions but state clearly any that you do make and the reasons for them.
9. Where appropriate, you will be expected to state the relevant Act, Statutory Instrument or case upon which you have based your answers.
10. You may use imperial or metric measurements in your answers. Please indicate which units you are using.
11. The presentation and clarity of your answers is important.

QUESTION 1

You have been asked to advise a new client on the tax implications following his father's recent death. It is believed that no tax planning had taken place prior to his father's demise. Your client has no connection, whatsoever, with farming and is an only child. The deceased's wife died three years earlier.

The deceased had a 100% freehold interest in a 101 hectare (250 acre) cereal farm made up as follows:

- 65 hectares (160 acres) were 'in hand'.
 - 45 hectares (110 acres) were in agricultural use
 - 16 hectares (40 acres) were land covered in water (a fishing lake)
 - 4 hectares (10 acres) are allocated in the local plan as 'residential' but no planning permission has been applied for. This land has been abandoned agriculturally for at least the last 10 years having been used previously as a car-boot sale site.

- 36 hectares (90 acres) of bare land were let to AB Farming Ltd at a market rent in 1999.

The dwelling, occupied by the deceased until his death, is a substantial Grade II listed mansion which has seen better times.

There are 3 other dwellings: two cottages and a farmhouse, used by the farm manager.

Agricultural land in the area is fetching around £3,000 per acre and serviced residential land with planning permission is being marketed locally at around £2,000,000 per acre.

Prepare **notes** ready for a meeting with your client on the likely tax consequences for the Estate.

In addition, what will the possible 'sticking' issues be when the matter is eventually discussed with the District Valuer?

QUESTION 2

You are instructed to act for the Executors of the late Mr. Mayor whose ownership includes a Grade II Listed Georgian house with a 2 acre plot of garden on the urban fringe of a small market town. You have been asked to investigate and advise on the planning issues which may affect the value of the Estate.

The garden is partially within a Conservation Area and the plot adjoins the market which is still utilized as a livestock disposal centre but also accommodates local furniture and bric-a-brac auctions.

A national developer has expressed interest in pursuing an option agreement both to change the use of the house to offices and to develop the garden for much needed local housing.

Write a LETTER to the Executors to advise on the possibility of future development and the planning procedures that may need to be followed. Thereafter, suggest to them steps you would pursue in negotiating the Heads of Terms for a possible option agreement with the developer.

QUESTION 3

Your Principal of two years has decided to resign and set up his own firm of surveyors and consultants and you have accepted his offer of an 'exciting and challenging position' working as his 'right hand person'. However, when you arrive you find the first week will not be quite so exciting as you first thought as he is anxious for you assist in preparing the new Office Procedures Manual.

You are therefore required to make **NOTES** on what you consider to be the important points to be included within the 'office manual' on the following issues:

- a) Professional indemnity insurance
- b) Clients' complaints procedure
- c) Principal terms of the staff employment contracts
- d) Principal points of the office Health and Safety policy
- e) Money laundering and clients' money procedures.

QUESTION 4

Set out in note form the basis of valuation, the procedures and time limits in respect of end of term tenancy claims under:

- the Agricultural Holdings Act 1986, and
- the Agricultural Tenancies Act 1995

In addition you have suggested to your client, who holds his farm under a Agricultural Holdings Act 1986 tenancy, that it may be preferable to negotiate a 'deal' prior to quitting with regard to the end of tenancy out-going valuation.

Write brief notes in preparation for a meeting with your tenant client who has asked for advice on the following issues:

1. What factors in general terms need to be looked at when considering a deal?
2. How would you proceed with negotiations and what are the steps you would take in the interim notwithstanding negotiations?
3. Assuming a deal is agreed, what points need to be covered in the Heads of Terms of Agreement in order to protect your client?

QUESTION 5

You act for a retained client for whom in 1999 you negotiated a management agreement with English Nature. Reviews under the agreement are on a five-yearly basis and your client has just approached you, belatedly, to negotiate the compensation review for 2004. What changes in legislation have occurred since the 1999 review, and how have the principles of compensation changed, if at all?

Please write a succinct letter to your client setting out your views.

Whilst taking instructions on the SSSI review, your client has asked about the Higher Level Scheme. Your client is considering entering the remainder of his farm, which is not affected by the SSSI into the HLS. Your client wants to know more background information, how to apply for the scheme.

Please prepare a report in bullet point format outlining the principal issues for discussion with your client at your next meeting.