



The Chartered Tax Adviser Examination

November 2008

PAPER IV

PROFESSIONAL RESPONSIBILITIES, ETHICS AND LAW

TIME ALLOWED – 3 HOURS

- You are required to answer all of the questions.
- Start each answer on a new sheet of paper and write on one side of the paper only.
- All workings should be shown and made to the nearest month and pound unless the question specifies otherwise.
- Marks are specifically allocated for presentation.
- Candidates who answer the law part of this paper in accordance with Scots law or Northern Ireland law should tick the appropriate box on the front of the answer folder.

PART A – PROFESSIONAL RESPONSIBILITIES AND ETHICS

You should answer **ALL** questions from this Part.

1. You are a manager in a small firm of Chartered Tax Advisers. One of the partners, Mr Jones, recently received a telephone call from a client during which the client expressed disquiet at the quality of service provided to him. Mr Jones has asked you to prepare a memorandum for the attention of all partners outlining the Institute's guidelines in this area.

You are required to prepare a memorandum outlining The Chartered Institute of Taxation's guidelines in relation to complaints to a Member firm. (10)

2. You are a manager in a large firm of Chartered Tax Advisers. The firm operates a local practitioner support scheme, part of which involves the provision of a quarterly bulletin to all scheme members. You have been asked to co-author an article for the next issue.

The article will cover the powers of HM Revenue & Customs to request documents from a firm during a tax investigation of one of its clients. You are responsible for addressing the extent to which legal professional privilege can curtail those powers as well as detailing the protection provided by statute.

You are required to prepare a paper setting out how legal professional privilege impacts upon HM Revenue & Customs' powers in requesting information from a tax adviser during the course of a client investigation and also the protection provided under statute. (15)

3. You are a partner in a firm of Chartered Tax Advisers. A friend of yours, with whom you qualified as a Chartered Tax Adviser some years ago, is currently employed in industry. He is thinking of setting up as a sole practitioner and is keen to ensure that he complies with The Chartered Institute of Taxation's guidelines in running his practice. He has asked you for advice on the matters he needs to consider in respect of client service.

You are required to set out notes to discuss with your friend, setting out The Chartered Institute of Taxation's guidelines in this area. (15)

4. You are a manager in a firm of Chartered Tax Advisers, specialising in personal taxation. You have received a letter from one of your clients explaining that he has recently received a repayment of Income Tax, which he has banked. Having looked at your file, it seems that his tax return has been processed incorrectly and the repayment has been made in error.

You are required to draft a letter to the client, explaining what action needs to be taken, based on The Chartered Institute of Taxation's guidance on this matter. (10)

PART B – LAW

You should answer **ALL** questions from this Part.

5. **You are required to summarise and explain the main types of intellectual property rights recognised in the UK.** (15)

6. One of your clients, Vera Edge, has recently been into the office for a meeting with you. During the meeting, she asked you for advice on how she may make a valid Will. You agree to write to her confirming the essential requirements for a valid Will.

You are required to write a letter to Vera confirming the formal requirements which must be observed when drawing up a Will. (10)

7. You have been instructed by a new client, Serial Acquisitions Inc, which is based in the USA. They want advice on the purchase of a small UK company, Target Ltd, which they have decided fits their business model. Negotiations are at a very early stage, but the UK company directors are insisting on drafting Heads of Agreement as soon as possible.

This is Serial Acquisitions Inc's first non-US acquisition and they want advice on the typical structure of Heads of Agreement in a UK transaction.

You are required to draft a letter to the client, setting out the principal matters dealt with in Heads of Agreement. (10)

8. A tax practitioner who makes a mistake in the course of work carried out for clients is likely to be liable to the clients for breach of contract, principally for breach of the implied term that they will perform the contract with reasonable care and skill. However, the practitioner may be liable to pay damages to the client for the tort of negligence.

You are required to:

- 1) **Explain what comprises a tort (Scots law – Explain what comprises a delict);**
- 2) **Provide the legal definition of negligence;**
- 3) **Explain the duty of care, and to whom is it owed;**
- 4) **Explain when a breach of the duty of care arises;**
- 5) **Discuss the causation of damage.**

(15)