



## THE CHARTERED INSTITUTE OF LEGAL EXECUTIVES

### UNIT 21 – PROBATE PRACTICE\*

**Time allowed: 3 hours plus 15 minutes' reading time**

#### **Instructions to Candidates**

- You have been provided with a clean copy of the case study materials for you to use in this examination.
- You have **FIFTEEN** minutes to read through this question paper and the case study materials before the start of the examination.
- **It is strongly recommended that you use the reading time to read this question paper fully.** However, you may make notes on this question paper or in your answer booklet during this time, if you wish.
- **All questions are compulsory. You must answer ALL the questions.**
- Write in full sentences – a yes or no answer will earn no marks.
- **Candidates may use in the examination their own unmarked copy of the designated statute book: Blackstone's Statutes on Property Law 2016–2017, 24th edition, Meryl Thomas, Oxford University Press, 2016.**
- Candidates must comply with the CILEx Examination Regulations.
- Full reasoning must be shown in answers. Statutory authorities, decided cases and examples should be used where appropriate.

#### **Information for Candidates**

- The mark allocation for each question and part-question is given and you are advised to take this into account in planning your work.
- Write in blue or black ink or ballpoint pen.
- Attention should be paid to clear, neat handwriting and tidy alterations.
- Complete all rough work in your answer booklet. Cross through any work you do not want marked.

**Do not turn over this page until instructed by the Invigilator.**

\* This unit is a component of the following CILEx qualifications: **LEVEL 6 CERTIFICATE IN LAW, LEVEL 6 PROFESSIONAL HIGHER DIPLOMA IN LAW AND PRACTICE** and the **LEVEL 6 DIPLOMA IN LEGAL PRACTICE**

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## Question 1

Reference: Question relates to **Documents 1, 2 and 3** of the case study materials.

- (a) Write a briefing note for Marcus explaining how David's estate will be distributed. Ignore inheritance tax for the purposes of this question.

**(8 marks)**

- (b) Write a briefing note for Marcus explaining how Roseanne's estate will be distributed. Ignore inheritance tax for the purposes of this question.

**(6 marks)**

- (c) Using the figures provided in the letter from Pearl Harris, write a briefing note for Marcus explaining what inheritance tax, if any, will be payable on David's estate.

**(6 marks)**

- (d) Using the figures provided in the letter from Pearl Harris, write a briefing note for Marcus explaining what inheritance tax, if any, will be payable on Roseanne's estate.

**(10 marks)**

**(Total: 30 marks)**

**Turn over**

## Question 2

Reference: Question relates to **Documents 4 and 5** of the case study materials.

(a) Write paragraphs to be included in the letter of advice to Edward explaining whether:

- he is entitled to take a grant of representation and, if so, what sort of grant it will be;
- he can act alone;
- he must clear anyone off.

**(5 marks)**

(b) Write paragraphs to be included in the letter of advice to Edward explaining how Vera's estate will be distributed. It is not necessary to calculate exact amounts, but you should indicate what proportion of the estate each beneficiary will take.

**(9 marks)**

(c) Write a briefing note for Marcus explaining, on the basis of the figures currently available, whether inheritance tax is payable on Vera's estate and, if so, how much.

**(5 marks)**

Your firm has acted in the administration of Vera's estate. You obtained a grant of representation for the person(s) with the best right and submitted an account to HMRC showing assets at the value set out in Document 5. Nine months after Vera's death, the house is sold by the personal representative(s). Due to a general fall in house prices, the best price that can be obtained is £350,000.

(d) Write a briefing note for Marcus explaining what effect, if any, the sale of the house for £350,000 will have on the inheritance tax liability of the estate.

**(5 marks)**

**(Total: 24 marks)**

### Question 3

Reference: Question relates to **Documents 6 and 7** of the case study materials.

- (a) Write a briefing note for Marcus identifying any problems with the attestation clause and witnessing of the new Will.

**(6 marks)**

- (b) Write a briefing note for Marcus suggesting possible ways to challenge the new Will and indicating where the burden of proof will fall.

**(10 marks)**

Assume for this part of the question only that the Will in Lillian's favour is invalid and that Yolanda obtains a grant of probate to the earlier Will which divided the estate equally between her and the charity. Yolanda is now dealing with the administration of the estate.

The motorway route is not coming near Isabelle's house, so property prices have risen sharply. Yolanda has received an offer £100,000 above the probate value of the house.

- (c) Write a briefing note for Marcus explaining what the tax implications of the sale will be for the estate if Yolanda sells as executor and whether there is anything she can do to mitigate any tax liability.

**(6 marks)**

**(Total: 22 marks)**

**Turn over**

#### **Question 4**

Reference: Question relates to **Document 8** of the case study materials.

- (a) Write paragraphs to be included in a letter to Oliver and Quentin explaining how the life policy written in trust for the grandchildren will be treated for inheritance tax purposes, and what action Oliver and Quentin should take to obtain payment of the proceeds.

**(5 marks)**

- (b) Write paragraphs to be included in a letter to Oliver and Quentin explaining on what basis Xhania could seek provision from Frank's estate, what she would have to show, and her chances of success.

**(9 marks)**

Nine months after their father's death, Oliver and Quentin have decided that they want to give Xhania £200,000. She is happy with this amount. The Suffolk cottage has increased in value to £200,000 and Xhania has asked if she can have it instead of cash. This suits Oliver and Quentin as neither of them want to keep the cottage.

- (c) Write paragraphs to be included in a letter to Oliver and Quentin explaining the most tax-efficient way to give Xhania the cottage and explaining any formalities that will have to be complied with.

**(10 marks)**

**(Total: 24 marks)**

**End of Examination Paper**

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