



## 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 Wu, explaining what, if any, inheritance tax is payable on the estate.

**(8 marks)**

You obtain the grant of probate on 31 May 2017.

Marcus Wu tells you that the property department will deal with the sale of Vicarage Road but that he is concerned about the capital gains tax position.

- (b) Write a briefing note for Marcus Wu, explaining whether a sale of Vicarage Road for £370,000 will produce a capital gains tax liability and, if so, whether there is anything that can be done to minimise it.

**(7 marks)**

Esme has written to confirm that, if it is possible, she would like to receive the holiday cottage (valued at £250,000 at the date of death) as part of her entitlement and the remaining £100,000 as cash.

The valuer has stated that because of market activity in the spring, the value of the cottage is now £280,000. Esme wishes to know whether the appropriation will give rise to any tax liability.

- (c) Write paragraphs to be included in a letter to Esme, explaining:

- whether the appropriation is possible;
- what she will receive;
- whether any capital gains tax will be payable as a result.

**(5 marks)**

You have received statements of dividends and interest for the post-death period in the tax year 2016/17. Dividends received are £3,000. Interest received is £150.

- (d) Write a briefing note for Marcus Wu, explaining what income tax liability, if any, the estate will have and any steps that should be taken in relation to the residuary legatee.

**(5 marks)**

**(Total: 25 marks)**

**Turn over**

## Question 2

Reference: Question relates to **Document 4** of the case study materials.

Write paragraphs to be included in a letter to Armadia, explaining:

- (a) how the estate will be distributed, making clear which interests will be vested and which will be contingent, and the approximate extent of each person's entitlement;  
**(10 marks)**
- (b) whether Armadia can administer the estate alone and whether she can prevent Curt's family from being involved if they wish to join in taking the grant;  
**(5 marks)**
- (c) how much inheritance tax, if any, is payable on the estate;  
**(5 marks)**
- (d) what steps should be taken to protect the personal representatives from liability for unknown debts.  
**(6 marks)**

**(Total: 26 marks)**

### Question 3

Reference: Question relates to **Documents 5 and 6** of the case study materials.

- (a) Write paragraphs to be included in a letter of advice to Victor, explaining whether Luana is entitled to one quarter of the estate under the terms of the will and, if not, the possible legal claims open to Luana and her chances of success.

**(14 marks)**

Victor decides that he wants to give effect to his uncle's wishes and give one quarter of the estate (approximately £500,000) to Luana.

He proposes to make a cash payment from his uncle's bank accounts, once he has obtained probate.

- (b) Write paragraphs to be included in a letter of advice to Victor, explaining the most tax-efficient way to structure the transfer of £500,000 in cash to Luana.

**(8 marks)**

Luana asks if it would be possible to take the flat as part of her entitlement. Victor is happy for her to do this, but points out that the market price has risen by £20,000 since his uncle's death.

- (c) Write the content of an email to Victor, setting out any change this might make to your previous advice.

**(5 marks)**

**(Total: 27 marks)**

**Turn over**

#### **Question 4**

Reference: Question relates to **Documents 7 and 8** of the case study materials.

- (a) Write a briefing note for Marcus Wu, explaining how the estate of Henry Hambling will be distributed.

**(6 marks)**

- (b) Prepare a briefing note for Marcus Wu, explaining how much inheritance tax, if any, will be payable on Henry's estate and when it will need to be paid (you do **not** need to deal with methods of funding the tax), and listing the items that will have to be submitted when the application for a grant is made.

**(9 marks)**

Assume that Ursula has obtained the grant of representation to Henry's estates and has accepted an offer to buy the house for £700,000. The estate agent has advised that this is the best price that can be achieved in the current market.

- (c) Write a briefing note for Marcus Wu, explaining the tax implications of a sale at this price.

**(7 marks)**

**(Total: 22 marks)**

**End of Examination Paper**

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