

# THE CHARTERED INSTITUTE OF TAXATION

## APPLICATION AND PROFESSIONAL SKILLS

### Inheritance Tax, Trusts & Estates

**May 2022**

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TIME ALLOWED

3 HOURS 30 MINUTES

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- In order to secure a pass in this exam, you will be required to demonstrate competence in each of three skills.

You will be assessed across your answer as a whole for Structure. A pass or fail grade will be awarded.

You will be assessed for competence in a number of broad topics for the following skills:

- Identification and Application
- Relevant Advice and Substantiated Conclusions

For each topic for each of these two skills, a grade will be awarded. The grades for those topics will be weighted and averaged to produce a final grade for each skill of 0, 1, 2, 3 or 4. A grade of 3 or 4 is required to demonstrate competence.

- All workings should be shown and made to the nearest month and pound unless the question specifies otherwise.
- Candidates who answer any law elements in this paper in accordance with Scots law or Northern Ireland law should indicate this where relevant.
- Scots law candidates may provide answers referring to Land and Buildings Transaction Tax rather than Stamp Duty Land Tax.
- Unless otherwise indicated by the provision of additional information in the question, you may assume that 2021/22 legislation (including rates and allowances) continues to apply for 2022/23 and future years. Candidates answering by reference to more recently enacted legislation or tax cases will not be penalised.
- You must type your answer in the space on the screen as indicated by the Exam4 guidance.

You have started a new role as a tax manager in a firm of Chartered Tax Advisers. Caroline Robinson, your Tax Partner, recently met with Peter Hartley and his wife, Saskia, who are long-standing clients of the firm and trustees of the Hartley Settlement, which is also a client of your firm.

The Hartley Settlement owns land and buildings at Yew Tree Farm and following an offer from a property developer for the purchase of part of the land and farm shop business, Peter and Saskia are seeking advice on their proposals for the future of the trust.

Caroline has sent you an email setting out the background to the client and their queries (**EXHIBIT A**) together with details of the trust assets and the draft sale and purchase agreement (**EXHIBITS B and C**).

She has asked you to prepare a draft report to the trustees addressing their concerns.

The following exhibits are provided to assist you:

**EXHIBIT A:** Email from Caroline Robinson following a meeting with Peter and Saskia Hartley

**EXHIBIT B:** Valuations and details of the assets held by the Hartley Settlement

**EXHIBIT C:** Extract from the draft sale and purchase agreement for the sale of West Fields

**EXHIBIT D:** Pre-seen information

**Requirement:**

**Prepare a draft report to the trustees of the Hartley Settlement, for review by Caroline Robinson, which provides recommendations in relation to the sale of the land, property and farm shop business at West Fields and the cessation of Peter Hartley's interest in possession in the remaining trust assets.**

Continued

**EXHIBIT A**

Email from Caroline Robinson following a meeting with Peter and Saskia Hartley

To: Tax Manager <taxmanager@xyztax.co.uk>  
From: Caroline Robinson <caroline.robinson@xyztax.co.uk>  
Date: 3 May 2022 10:20  
Subject: Draft Report for the Hartley Settlement

I met with Peter and Saskia Hartley yesterday to discuss some proposals that they have in mind for the Hartley Settlement. I have set out below some background information relating to the clients and their specific queries.

The trust owns the 330 acre site making up Yew Tree Farm which was farmed by the previous two generations of the Hartley family. The land has been farmed by the trust since 1995 with the help of a farm manager. Luke, Peter and Saskia's son, took over the farm manager role about 15 years ago when the previous employee retired.

Peter and Saskia have never been personally involved in the farming business and they lived in London until 2012 running a successful architect's practice. The practice was sold in 2012 and I recall that the capital gain was in the region of £2.5 million each, but this qualified in full for Entrepreneurs' Relief (now Business Asset Disposal Relief). They moved back to Cornwall at that time to be closer to Luke and his family.

The land at the farm is split into four areas – North Fields, South Fields, East Fields and West Fields. Full details of how each area is used and the respective valuations are shown on the attached schedule (**EXHIBIT B**).

Last month, a property developer made an offer of £2.32 million to purchase the West Fields Farm Shop business and the remainder of the West Fields site. The 40 acre site was left unused after Geoffrey Hartley's death as it was not easily accessible until around 2018, when the new 'A' road was built next to the land. To take advantage of this new access route, the trustees decided to develop five acres of the site using £75,000 of the trust's cash funds and converted one of the derelict barns into a farm shop and car park.

Peter has been running the farm shop as a sole trader since April 2019, employing a team of local staff to assist him. The shop and café have become very popular and the developer now wants to purchase the business and the rest of the West Fields site. He plans to convert the remaining four unused barns into shop units and extend the car park to create an exclusive shopping complex selling locally produced goods. An extract from the draft sale and purchase agreement is attached (**EXHIBIT C**).

Peter and Saskia are keen to accept the offer as they both want to retire and last year they purchased a plot of land a few miles away and started to build a new eco-friendly home for themselves. They have significant personal wealth aside from the Hartley Settlement, but this is tied up in investments and properties, so ideally they would like to use the proceeds from the sale of West Fields to fund the remaining build and furnishing costs of their new home. They have suggested that the net cash proceeds from the sale after tax are appointed to Peter out of the trust, as this is allowed under the terms of the trust.

Saskia has capital losses of £75,300 after making some bad investment choices in 2013. These were claimed on her 2013/14 self-assessment tax return and have been carried forward and remain unused to date. As usual, she brought up the losses as she always does at our meetings, so please could you consider this when preparing the report? It would be good if these losses could finally be used, but obviously only if this results in an overall tax saving compared to a straight sale by the trustees.

Peter and Saskia have also been considering their estates and their Inheritance Tax exposure. Once the sale of West Fields is concluded, they think it will then be the right time for Peter's interest in possession in the remaining trust assets to cease.

They feel that the best course of action after the sale would be for Luke to be given a life interest in the trust, then for the assets to pass to his children absolutely on his death. The reason they want to keep the trust in place is because they do not get on with Luke's step-children and do not want to run the risk of Yew Tree Farm potentially ending up in their ownership in the future.

However, Peter and Saskia have said that they would also like to know the tax implications if Peter gives up his interest in possession with the trust wound up and the assets appointed to Luke following the sale of West Fields. They would consider this option if there are significant tax savings but only on the understanding that Luke would leave the farm to his own children in his Will and not his step-children. They want our recommendation from a tax point of view and Peter said that he would settle any tax charges arising as a result of his interest in possession ending.

Finally, they have mentioned that Luke has lots of ideas to bring East Fields back into full agricultural use himself instead of letting this to a tenant in the future.

Continued

**EXHIBIT B**Valuations and details of the assets held by the Hartley Settlement

<u>Asset</u>	<u>Use of land</u>	<u>Valuations (price per acre)</u>		
		<u>6 Oct 1983</u>	<u>8 May 1995</u>	<u>Current value</u>
North Fields 150 acres and barns	120 acres of prime arable land with reasonable road access. The current crop is wheat and the land has been farmed in hand by the trust since 1995.	£1,400 AV £2,000 MV	£5,000 AV £7,200 MV	£9,750 AV £15,000 MV
See notes 1) and 2) below.	Surrounded by 30 acres of woodland which acts as a shelter belt against harsh weather.	£350	£1,950	£4,400
	Six barns with no development potential located within North Fields. Used for storage of tractors and equipment.	£1,000 per barn	£5,000 per barn	£10,000 per barn
South Fields 50 acres	Average quality land with good access to the main road. Farmed in hand by the trust since 1995.	£975 AV £1,350 MV	£3,100 AV £4,400 MV	£8,000 AV £12,500 MV
See notes 1) and 2) below.	Current crop is potatoes which are sold in Yew Tree Farm Shop and to local grocers and restaurants.			
East Fields 90 acres	Poor quality, hilly land, unsuitable for growing crops.	£500	£1,750	£6,500
See notes 2) and 3) below	Unused until June 2017 when it was let to neighbouring farmer who since then uses the land within his sheep farming business.			
West Fields 40 acres	Unused average quality land.  Five derelict barns.  The unused land and derelict barns have good development potential due to their condition and location.	£500  £800 per barn	£1,250  £2,750 per barn	Now comprises the farm shop, car park, and 35 acres of unused land with four derelict barns.  See <b>EXHIBIT C</b> for current values.
Cash relating to East Field rents	Held in a non-interest bearing bank account.	Current balance = £6,925		

Notes

- 1) Geoffrey Hartley claimed Capital Gains holdover relief on the transfer of North Fields and South Fields to the trustees of the Hartley Settlement.
- 2) The market value (MV) and agricultural value (AV) of each area of land or each building are equal unless otherwise stated.
- 3) The trustees do not treat East Fields as part of the farming trade and the income received from the neighbouring farmer is reported as rental income.

Continued

**EXHIBIT C**

Extract from the draft sale and purchase agreement for the sale of West Fields

Clause 3 – Assets Being Sold

- 3 The assets being sold consist of the following:
- 3.1 The goodwill of the business known as West Fields Farm Shop, including the business name, website and email address.
- 3.2 The developed barn at map reference 012345 and car park covering a five acre site within Yew Tree Farm outlined in green on the map attached to this agreement.
- 3.3 The 35 acre site of land within Yew Tree Farm, Near Helston, Cornwall, TR20 1JK known as “West Fields”, outlined in red on the map attached to this agreement.
- 3.4 The four undeveloped barns located within the 35 acre West Fields site outlined in red, as referred to in clause 3.3 above, and specifically located at the map references shown in the appendix to this agreement.

Clause 4 – Sale Price

- 4 The sale price for the assets listed in Clause 3 above is £2,320,000 and is allocated as follows:
- |     |  |            |
|-----|--|------------|
| 4.1 | Goodwill of West Fields Farm Shop referred to in clause 3.1              | £120,000   |
| 4.2 | Developed barn and car park within West Fields referred to in clause 3.2 | £150,000   |
| 4.3 | The 35 acre West Fields site referred to in clause 3.3                   | £1,850,000 |
| 4.4 | Four undeveloped barns within West Fields referred to in clause 3.4      | £200,000   |

Continued

## EXHIBIT D

### Pre-seen information

#### Client name

The Hartley Settlement.

The trustees signed the firm's GDPR compliant engagement letter, covering tax compliance and advisory services, on 18 June 2021.

#### Settlor

Geoffrey Hartley (deceased 10 December 2012).

#### Trustees

Peter Hartley (son of the settlor). Also a client.  
Saskia Hartley (daughter in law of the settlor). Also a client.

#### Date of creation

8 May 1995

#### Principal beneficiary

Peter Hartley

#### Initial settlement

- 1) Land and buildings at Yew Tree Farm, Near Helston, Cornwall.  
Geoffrey inherited these assets from his father on 6 October 1983.
- 2) £160,000 cash.

#### Terms of trust

Principal Trusts:

- 1) The settled assets shall be held upon trust to pay the income thereof to the principal beneficiary during his lifetime.
- 2) The Trustees shall have the power at any time to appoint by deed any part or parts of the settled assets to the principal beneficiary absolutely.
- 3) In default of the exercise of the above power, the settled assets shall be held upon trust to pay the income equally to any children of the principal beneficiary living at his death during their lifetime.
- 4) On cessation of the interest in the settled assets created by clause 3 above, the Trustees shall hold the settled assets for the grandchildren of the principal beneficiary absolutely and if more than one in equal shares.

Over-riding Powers of Revocation and New Appointment:

- 5) The Trustees shall have the power at any time to revoke the provisions contained in clauses 1 and 2 above in respect of the whole or part of the settled assets and the income thereof for the purpose of appointing such assets and income for the benefit of the issue of the principal beneficiary as the Trustees think fit.
- 6) Any trust appointment of the settled assets and income thereof under the power of revocation and new appointment may create any new interest or interests whether absolute or limited, including the resettlement of any part of the settled assets and income on new trusts.

#### Additional information relating to the Hartley Settlement and Hartley family

Geoffrey Hartley was born on 13 April 1922. His wife, Diane, died in 2003 leaving her estate to Geoffrey. Both Geoffrey and Diane were domiciled in England and Wales.

They had one child, Peter, born on 31 July 1957. Geoffrey left his entire estate to Peter and other than creating the Hartley Settlement in 1995, he made no other lifetime gifts.

Peter Hartley married Saskia Campbell in 1975 and they have one child, Luke, born 1 June 1978. Luke is married to Ella and they have two children aged three and five. Ella also has two adult children from a previous relationship.

All members of Peter Hartley's family are higher rate taxpayers and are resident and domiciled in England and Wales. Peter and Saskia have made cash gifts of £1,500 to each of their two grandchildren on 6 April annually since they were born. These gifts are transferred from the capital account held within their joint quoted share portfolio so utilise their Inheritance Tax annual exemptions. They have made no other lifetime gifts in the last seven years.