



# The Chartered Tax Adviser Examination

May 2020

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## Application and Professional Skills

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### Inheritance Tax, Trusts & Estates

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TIME ALLOWED – 3 ¼ HOURS

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- The first 15 minutes is designated as reading time. During this time you may read your question paper and legislation, annotate your question paper and use your calculator. You are not permitted to start writing your answer. The Presiding Officer will inform you when you can start writing.
- In order to secure a pass in this paper, 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.

- Write on one side of the paper only. Do not write in the margins.
- 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 tick the appropriate box on the cover sheet.
- 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, you may assume that 2019/20 legislation (including rates and allowances) continues to apply for 2020/21 and future years. Candidates answering by reference to more recently enacted legislation or tax cases will not be penalised.

You are a tax senior in a firm of Chartered Tax Advisers. Your Tax Partner, John Rhodes, met with Jennifer Lewis last week.

Jennifer is a long-standing client of your firm and holds substantial assets. She is also a Trustee of the Lewis Family Settlement, which is also a client of your firm.

Jennifer would like advice in the form of a report on the implications of transferring several of her assets or Trust assets to her children, Anthony Lewis and Laura Anderson. She wrote to John Rhodes following the meeting setting out her proposals. John has asked you to review the letter (**EXHIBIT A**) together with other documents he has passed to you and to prepare the draft report to Jennifer and the Trustees of the Lewis Family Settlement.

The following exhibits are provided to assist you:

**EXHIBIT A:** Letter from Jennifer Lewis to John Rhodes

**EXHIBIT B:** Jennifer Lewis – list of assets and their current value

**EXHIBIT C:** Lewis Family Settlement – Assets and Liabilities

**EXHIBIT D:** Pre-seen information

**Requirement:**

**Prepare a draft report to Jennifer Lewis and the Trustees of the Lewis Family Settlement which provides recommendations in relation to her proposals for the transfer of assets to Anthony Lewis and Laura Anderson.**

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**EXHIBIT A**

Letter from Jennifer Lewis to John Rhodes

XYZ Chartered Tax Advisers  
Greenfield Business Park  
Greenfield  
Oxfordshire  
OX1 EFG

Jennifer Lewis  
Hillfield House  
Grange Road  
Greenfield  
Oxfordshire  
OX5 ABC

1 May 2020

Dear John

Thank you for meeting with me last week. As discussed, I have decided to transfer some of my assets to my children, Anthony and Laura and I have detailed below my thoughts on this.

As you know, Laura is far more financially aware and sensible than Anthony, so I need to deal with things a bit differently for each child. For example, you may recall that Laura purchased her rental property, Larch Cottage for £250,000 using all the money I gave her for her 40<sup>th</sup> birthday, but I am not sure what Anthony did with his 40<sup>th</sup> birthday money. He has told me there is nothing left from the gift other than an old sports car he purchased in 2010! I suspect he spent most of it when he took a year off work to travel across America in 2016 and I think anything left over was used to pay for his wedding to Tiffany last year.

Ultimately, I would like Laura and Anthony to each have 25 shares in Lewis Timber Supplies Ltd during my lifetime. I don't mind if these come from the Lewis Family Settlement or from my personal holding, as they all originated from Douglas, my father-in-law.

Laura works very hard for the company, so I believe she deserves to have her 25 shares now and then I will think about a transfer to Anthony at some point in the future once I have seen him contributing more to the business. I have discussed this with my sister Helen, the co-Trustee, and we both think this could be the right course of action for the Trust shareholding but only if there are no adverse tax consequences.

I recall that some claims were made in relation to the Trust's holding of shares after James died. I don't remember what these related to, but I expect you have copies on your records. I also know that you may need to carry out a formal valuation of the shares, but for now I am happy for you to use £850,000 for the value of 25 shares.

I do not want to show any favouritism between my children, but Helen and I do believe that Anthony should not receive any Trust assets for at least the next two years by which point he may have become more responsible. In the meanwhile, Anthony and Tiffany are looking for a larger house but their resources are limited. As 3 Oaklands Avenue is between tenants right now, we are thinking of offering it to them to live in. However, neither Anthony nor Tiffany seem too keen on the house as a permanent home. I do admit that it is quite old-fashioned, but it is in the catchment area for the secondary school they want Chloe to go to, so they could happily live there for the next few years.

In just over two years' time, maybe at the end of 2022, we would like Anthony to receive a capital distribution from the Trust. So, our proposal is for either the Trust to sell the house and give Anthony the post-tax proceeds or to transfer the house to him at that point and he can then sell it himself. He and Tiffany could then buy a more modern new-build house which is more to their taste. I would be happy if they end up with between £700,000 and £750,000 from the Trust in order to help them to purchase the sort of property they are looking for.

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Obviously, we do not know how much 3 Oaklands Avenue will be worth in 2022, but I am happy for you to assume that it will remain at the current value if calculations are required.

As you know, above all Helen and I are resolute that the level of cash in the Trust bank account must be preserved as far as possible. We see these funds as a fall back sum, which we want to have available to transfer to Laura and Anthony if they require urgent help from the Trust in the future and we would not want to undertake any proposal which would reduce this below half of the current level.

Finally, as mentioned at our meeting, I am starting to find Hillfield House a bit too big for me to manage on my own. I would like to sell the house and move to somewhere smaller nearby, but I do not have the energy for house hunting at my age. Laura has made a very good suggestion and has offered me Larch Cottage to live in. The cottage is a lovely property and is only a few minutes away from Hillfield House, so I think this is an excellent idea. I have been told that Hillfield House would sell very quickly if I put it on the market this month and I plan to go ahead with this unless you advise me otherwise.

I have enclosed details and valuations of my assets as requested (**EXHIBIT B**). If you require any further information, please let me know.

Both Helen and I are happy for you to include any recommendations in relation to the Lewis Family Settlement in the same report as the advice to me.

I look forward to hearing back from you shortly.

Yours sincerely

Jennifer Lewis

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**EXHIBIT B**

Jennifer Lewis – list of assets and their current value

<u>Asset</u>	<u>Ownership history</u>	<u>Current value</u>
Hillfield House, Greenfield, Oxfordshire (Jennifer's main residence)	Purchased in joint names with James in 1977 for £35,000 and has been Jennifer's home ever since. There is no mortgage on the property.  Probate value of the whole property on 15 October 2015 was £795,000.	£ 875,000
Quoted share portfolio	Various quoted shares and unit trusts originally purchased by Jennifer in 2005.	860,000
50 ordinary shares in Lewis Timber Supplies Ltd*	Douglas Lewis gifted 25 shares to Jennifer and 25 shares to James in 1990 when a holding of 25 shares in the company was valued at £15,000. Douglas's base cost was £1 per share and holdover relief was claimed on both gifts.  Probate value of 25 shares on 15 October 2015 was £650,000.	1,700,000
Cash	Held in bank accounts, savings bonds and ISA's	215,000

\* The total issued share capital of Lewis Timber Supplies Ltd is 100 ordinary shares.

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## **EXHIBIT C**

### Lewis Family Settlement – Assets and Liabilities

#### Assets settled

- 1) 3 Oaklands Avenue, Greenfield, Oxfordshire.  
A residential investment property.  
Value on 10 October 2005 was £300,000.  
Probate value on 15 October 2015 was £550,000.  
Current value is £850,000.
- 2) Cash settled on 10 October 2005 was £150,000.  
Cash held on 15 October 2015 was £205,000.  
The Trust currently holds £65,000 cash in the Trust bank account.
- 3) 50 ordinary shares in Lewis Timber Supplies Ltd.  
Douglas's base cost for these 50 shares was £100,000.  
Value on 10 October 2005 was £195,000.  
Probate value on 15 October 2015 was £1.3 million.  
Current value of 50 shares is £1.7 million.

#### Trust liabilities and other information

The Trustees elected for the instalment option in relation to the Inheritance Tax due on 3 Oaklands Avenue on James' death.

Five instalments have been paid to date, currently leaving a liability of £62,500 outstanding and due in equal instalments of £12,500 annually until 30 April 2025.

The Trustees have funded each Inheritance Tax instalment to date from the annual dividend income (after accounting for Income Tax) received on their shareholding in Lewis Timber Supplies Ltd as they do not want to deplete the Trust capital any further.

The annual net dividends after income tax are roughly equal to the annual Inheritance Tax instalments due.

In recent years, 3 Oakland Avenue has required a large amount of repair work to be carried out and the allowable expenses incurred on the property have exceeded the income received from the tenants for the past few years. The work is now complete and the property has retained its value as it is situated in an excellent location.

#### Reliefs, claims and elections

50 ordinary shares in Lewis Timber Supplies Ltd.

- 1) On 31 December 2005, Douglas claimed holdover relief to defer the gain arising on the shares on creation of the Lewis Family Settlement.
- 2) The shares qualified for 100% Business Property Relief on creation of the Trust and on James' death.
- 3) Holdover relief was claimed once more on 30 November 2016 to defer the original held over gain arising on the shares on James' death.

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## EXHIBIT D

### Pre-seen information

#### Permanent file details

##### Jennifer Lewis

Client name: Jennifer Lewis

Engagement letter: The firm's engagement letter was signed on 10 April 2018 and covers both tax compliance and tax advisory work.

Client background: Jennifer Lewis (born 25 September 1943) is a widow. She is UK resident and domiciled.

Her husband, James Lewis, died on 15 October 2015. James was a director of the family business, Lewis Timber Supplies Ltd, an unquoted trading company with no significant investments.

Jennifer and James had two children: Anthony (born 15 August 1970) and Laura (born 10 January 1974). Anthony and Laura have worked for Lewis Timber Supplies Ltd for many years. Jennifer worked for the business until 2002 when she retired. All three individuals are higher rate taxpayers.

Laura married Mark Anderson in 1999. They have two children, Benjamin (born 1 March 2005) and Emma (born 13 April 2008).

Anthony married Tiffany (born 5 May 1988) in 2019. Tiffany has a daughter, Chloe (born 6 February 2011) from a previous relationship.

Neither Mark nor Tiffany have any involvement in the business. They are also both higher rate taxpayers.

Provisions of James' Will: James left the whole of his free estate to Jennifer. He made no lifetime gifts.

Lewis Family Settlement: James also held a life interest in 100% of the assets of the Lewis Family Settlement. This trust was created on 10 October 2005 by Douglas Lewis (James' father).

Jennifer and her sister, Helen Reed, are trustees of the Lewis Family Settlement.

Lifetime gifts: Jennifer has made the following lifetime gifts:

15 August 2010	Cash gift of £250,000 to Anthony on his 40 <sup>th</sup> birthday
10 January 2014	Cash gift of £250,000 to Laura on her 40 <sup>th</sup> birthday
On 6 April annually (since 6 April 2011)	£750 to Anthony £750 to Laura £750 to Benjamin £750 to Emma

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Permanent file details  
Lewis Family Settlement

Name of Trust: Lewis Family Settlement

Engagement letter: The firm's engagement letter was signed by the Trustees on 10 April 2018 and covers both tax compliance and tax advisory work.

Settlor: Douglas Lewis (deceased 12 December 2012)

Date of settlement: 10 October 2005

Trustees: Original Trustees were Jennifer Lewis and James Lewis.  
  
Helen Reed (Jennifer's sister) was appointed as Trustee after the death of James Lewis.

Principal beneficiary: James Lewis (only child of Douglas Lewis)

Principal Trusts: Income to the principal beneficiary during his lifetime. Thereafter, the Trust fund to be held at the Trustees' discretion for the benefit of the settlor's grandchildren. Overriding power given to Trustees to appoint income and/or capital to the discretionary beneficiaries if they wish.

Administrative powers: Standard Trustee powers provided by the Trustee Act 2000.  
[Scots Law: Standard Trustee powers provided by the Trusts (Scotland) Act 1921.]  
  
Trustees have also been given additional powers including the power to permit a beneficiary or beneficiaries to occupy or enjoy the use of any moveable or immoveable property held within the Trust fund.