

THE CHARTERED INSTITUTE OF TAXATION

APPLICATION AND PROFESSIONAL SKILLS

Taxation of Individuals

November 2021

TIME ALLOWED

3 HOURS 30 MINUTES

- 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.
- Except as set out below or indicated by additional information in the question, you may assume that 2020/21 legislation (including rates and allowances) continues to apply for 2021/22 and future years.
 - 1) You MUST assume that the UK remains within the European Union.
 - 2) You MUST ignore all temporary Covid related legislation including furlough, grants, loans and the reductions in VAT and SDLT rates.

Except in relation to points 1) and 2) above, 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 are a tax manager in a firm of Chartered Tax Advisers. Your tax partner, Sally Jones, recently met with new clients Jack Clarke and Beth Roberts (see **EXHIBIT A**), who are engaged to be married in September 2022.

Jack is divorced and has a child, Oscar, from his previous relationship with Rebecca. Currently, Jack, Beth and Oscar live in the property which Jack bought with Rebecca. Beth lets out her former home.

Jack and Beth are keen to buy a new home together and they wish to structure their tax affairs in the most efficient way both before and after their marriage.

The following exhibits are provided to assist you:

EXHIBIT A: Notes of a meeting with Jack and Beth

EXHIBIT B: Extract from Jack and Rebecca's separation contract

EXHIBIT C: Email from Jack

EXHIBIT D: Pre-seen information

Requirement:

Prepare a draft report for review by your tax partner advising Jack and Beth on their proposed property transactions and general tax planning given their forthcoming marriage.

Continued

EXHIBIT A

Notes of a meeting with Jack and Beth

Present: Sally Jones, Jack Clarke, Beth Roberts
Date: 30 October 2021

Jack and Beth are new clients to the firm. They have been in a relationship for five years. They currently live together in Jack's home, The Old Rectory, with Jack's son, Oscar.

Jack originally bought The Old Rectory in March 2005 with his ex-partner, Rebecca. Jack and Rebecca were not married, but they lived together in The Old Rectory as their main residence from the date of purchase. They separated five years later, in March 2010, at which point Rebecca moved out of The Old Rectory into rented accommodation in Bath. However, because Jack did not have the financial means to buy Rebecca's share of the property, a contract was made such that, out of the two of them, only Jack could remain living in the house. The contract did not create a trust. A copy of the contract was provided in the meeting (**EXHIBIT B**).

Beth moved in with Jack in December 2019, at which point she started to let her former home, 22 Westland Road. However, the arrangement caused tension with Rebecca, so Jack and Beth would like to buy a new home together as soon as possible and downsize from The Old Rectory. In addition, they would like to move closer to where Oscar wants to study for his A Levels.

Jack and Beth have obtained valuations of their properties as follows:

| <u>Property</u> | <u>Market value</u> |
|------------------|---------------------|
| The Old Rectory | £900,000 |
| 22 Westland Road | £450,000 |

There is no expectation of a material change in these values over the next few years.

They consider that they have two options to fund the purchase of their new property, for which they have a budget of £450,000:

- 1) Sell The Old Rectory and use Jack's share of the proceeds to fund the purchase of the new property. In this event, Beth would continue to let 22 Westland Road. However, The Old Rectory can only be sold prior to the marriage with Rebecca's consent.
- 2) Sell 22 Westland Road and use the proceeds to buy their new home, which could happen either before or after they marry. The Old Rectory would be sold in any event once Jack and Beth marry, under the terms of Jack's contract with his ex-wife. £400,000 of Jack's share of the proceeds from the sale of The Old Rectory would be invested in a further buy-to-let property. The remaining £50,000 would be invested in a savings account.

They would like advice as to which option is best and whether it will make a difference if transactions take place before or after their marriage.

They would also like advice on mitigating their overall exposure to Income Tax and Inheritance Tax.

Jack and Beth are happy to pool their income and assets, but they have made arrangements to protect their own interests as well as those of any beneficiaries, including Oscar, in the event of their separation or the death of either of them. No advice is required on this point.

Continued

EXHIBIT B

Extract from Jack and Rebecca's separation contract

Dated this ninth day of March, 2010

The Old Rectory

- (a) Mr Clarke shall be entitled to occupy the property registered at HM Land Registry under title number CE7535487 ('The Old Rectory') rent free to the exclusion of Ms Ferncroft until the determining event (as hereafter defined);
- (b) Subject to paragraph (c), the property shall not be sold without the prior written consent of both parties, which shall not be unreasonably withheld, and then only after the first to happen of the following events ("the determining event"), namely:
 - i. The surviving child of the parties attaining the age of eighteen years; or
 - ii. The death of either party; or
 - iii. The remarriage of either party.
- (c) Notwithstanding paragraph (b), the parties may agree to sell the property prior to the occurrence of the determining event.
- (d) Mr Clarke undertakes to indemnify Ms Ferncroft as to 50% of her liability for Capital Gains Tax consequent upon sale of The Old Rectory.

EXHIBIT C

Email from Jack

To: Sally Jones
From: Jack Clarke
Date: 2 November 2021
Subject: Rebecca's income

Dear Sally

Thanks so much for your time the other day.

You asked me to provide information on Rebecca's financial circumstances in case it is relevant to the report you will be drafting.

She has informed me that her current salary is £40,000 per annum and that she does not have any other income. She does not own any other assets apart from her share of The Old Rectory.

I hope this helps.

Kind regards

Jack

Continued

EXHIBIT D

Pre-seen information

Clients: Jack Clarke and Beth Roberts

Jack Clarke

Date of birth 3 January 1980
Place of birth Scarborough, UK
Address The Old Rectory, Pucklechurch, South Gloucestershire, UK
UK resident Yes
UK domiciled Yes
Marital status Single (co-habiting with Beth)
Occupation Software engineer
Children Oscar (age 15). Resides with Jack.

Income

Salary £31,000 per annum
Child benefit £21.05 a week

Assets

50% of The Old Rectory, Pucklechurch, South Gloucestershire, UK

Purchase date March 2005
Cost £500,000

The property was purchased jointly with Jack's ex-partner, Ms Rebecca Ferncroft. There is no mortgage.

Beth Roberts

Date of birth 21 June 1986
Place of birth Bristol, UK
Address The Old Rectory, Pucklechurch, South Gloucestershire, UK
UK resident Yes
UK domiciled Yes
Marital status Single (co-habiting with Jack)
Occupation Self-employed graphic designer
Children None

Income

Trading profits £47,000 per annum
Rental profits £8,000 per annum

Assets

22 Westland Road, Thornbury, Bristol, UK

Purchase date January 2016
Cost £300,000

The property is currently let. There is no mortgage.