



The Chartered Tax Adviser Examination

November 2019

Application and Professional Skills

Inheritance Tax, Trusts & Estates

TIME ALLOWED – 3 ¼ HOURS

- 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 2018/19 legislation (including rates and allowances) continues to apply for 2019/20 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, James Bird, has received a telephone call (**EXHIBIT A**) from Andrea Loom, who is a trustee of the Pearson Legacy Trust (an existing client of your firm) which was settled by Joanne Pearson. Andrea has received a letter (**EXHIBIT B**) from South West Bespoke Properties Ltd (a company in which the trust holds a minority shareholding) which advises of a significant change proposed to the company's business strategy.

James has asked you to review his telephone note and the letter from South West Bespoke Properties Ltd. In addition, James has asked you to review Joanne Pearson's letter of wishes that accompanied the trust deed (**EXHIBIT C**) before preparing a draft report to the trustees addressing the points raised in his telephone call with Andrea.

The following exhibits are provided to assist you:

EXHIBIT A: Notes of a telephone call from Andrea Loom to James Bird

EXHIBIT B: Letter dated 3 November 2019 from South West Bespoke Properties Ltd

EXHIBIT C: Letter of wishes dated 18 February 1998 accompanying trust deed

EXHIBIT D: Pre-seen information

Requirement:

Prepare a draft report to the trustees of the Pearson Legacy Trust, for review by James Bird, which advises on the implications for the trust of the change of strategy by South West Bespoke Properties Ltd and the tax efficient structuring of the remaining capital appointment from the trust.

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Continuation

EXHIBIT A

Notes of a telephone call from Andrea Loom to James Bird

Call taken by: James Bird
Received from: Andrea Loom
Date: 04/11/2019
Client Matter: Pearson Legacy Trust

Andrea telephoned to inform me of a letter (dated 3 November 2019) she had received from South West Bespoke Properties Ltd (SWBP).

The letter states that the directors are to pursue a change in strategy and following the completion of a major project next year, the company will cease property development. Instead, its accumulated reserves will be used to purchase properties to retain and rent out, which it is considered will generate a greater return on capital employed.

Andrea wanted to know what effect, if any, this change will have on the tax treatment of the trust. The terms of the trust have not altered since it was settled and she recalls being advised that the trust is an accumulation and maintenance (“A&M”) trust.

Andrea also wanted to obtain advice regarding capital appointments from the trust. Chloe was 25 on 18 October 2019 but no action has yet been taken regarding her entitlement. David, who is currently aged 23, is now the only remaining beneficiary.

The previous entitlements of the older beneficiaries had historically been satisfied entirely in cash, with the beneficiary paying any Inheritance Tax (IHT). However, SWBP has significantly reduced its dividends in the past few years and is not proposing to distribute the funds generated from its latest development such that there is not sufficient cash in the trust at present to meet Chloe’s entitlement in full.

The trust assets as at 18 October 2019 were:

	<u>Value (£)</u>
100,000 Ordinary Shares in South West Bespoke Properties Ltd	3,350,000
0.2% of the issued share capital/voting rights	
Quoted share portfolio (base cost of £1.6 million)	2,050,000
Cash (after deductions for creditors)	430,000

Due to the lack of cash resources, the trustees have decided to transfer half of each of the trust’s assets to satisfy Chloe’s entitlement.

[Note: A member of the Trust Tax team has already calculated the IHT charge arising by reason of Chloe’s entitlement to be £37,034 having established the trust’s effective rate to be 14.222% – these figures do not need to be recomputed.]

Chloe

Andrea has already informally spoken with Chloe regarding her capital share of the trust fund. Chloe is not yet sure what she will do with the capital but she is currently continuing her education and has no immediate need for the capital funds.

David

David is already settled in London and is planning to buy a property as soon as possible; the trust fund is his only source of capital at present other than his employment income of £50,000 per year. Andrea did comment that David appeared to have a very wise head on his shoulders and was already progressing well in his new job.

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EXHIBIT B

Letter dated 3 November 2019 from South West Bespoke Properties Ltd

The Trustees of the Pearson Legacy Trust
Estate office
Swindon
SN1

South West Bespoke Properties Ltd

3 November 2019

Dear Sirs

Strategy change by South West Bespoke Properties Ltd (the "Company")

Your current holding 100,000 Ordinary Shares

This letter is to notify you that the directors, with the expected backing of the controlling shareholder, are proposing changes to the long-term strategy of the Company.

Since its creation, the Company has been one of the premier luxury housebuilders in the South West of England. However, headwinds to this approach have become more apparent over the last few years and achieving a satisfactory return on the capital employed has become far more difficult.

The Company is therefore to cease trading as a property development company entirely with effect from 30 June 2020, which will coincide with the end of our current project.

We will redeploy our accumulated reserves to purchase new purpose built premium quality commercial office space in central London with a view to long-term rentals of these properties. We believe that the Company's return on capital employed will be greatly enhanced, which will benefit all shareholders.

As part of this change we have reached an agreement in principle with a private equity company to make £100 million available to the Company over and above its current cash resources.

Should any minority shareholders not wish to continue their investment in the Company as a result of these changes, the private equity company has offered to purchase any ordinary shares at a price of £33.50 per share. We have had confirmation from BigFirm LLP Chartered Accountants that this represents the market value of the shares.

This offer will remain open until 30 April 2020.

We thank you in advance for your continued support. Should you require any further information please do not hesitate to contact Mr Daniel Poll, Head of Investor Relations and we of course look forward to sharing the detail of our plans at our Annual General Meeting later this month.

Yours faithfully

Sir R J Dickinson

Sir Ralph J Dickinson
Chairman
South West Bespoke Properties Ltd

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Continuation

EXHIBIT C

Letter of wishes dated 18 February 1998 accompanying trust deed

The Trustees of the Pearson Legacy Trust
Estate office
Swindon
SN1

Mrs J Pearson
2 Oakdale Park
Swindon
SN1

18 February 1998

Dear Andrea, Rebecca and Timothy

Pearson Legacy Trust

Thank you for agreeing to act as trustees of my legacy trust.

Although I know that I may not restrict your discretion in any way, I would like the following wishes to be considered.

I foresee the age of attainment I have placed upon my beneficiaries to be an absolute maximum, not a fixed rule. I am comfortable with appointments taking place earlier if, you consider this to be in their best interests.

The trust is created with the sole objective of benefiting my grandchildren in the best way possible and I have placed an age limit only for their own protection and upon receipt of professional tax advice.

With warmest regards

Joanne Pearson

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EXHIBIT D

Pre-seen information

Client

Trustees of the Pearson Legacy Trust

Trust created

18/02/1998

Settlor

Mrs Joanne Pearson

Trustees

Mrs Andrea Loom (Lead)

Mrs Rebecca Moon

Mr Timothy Pearson

Beneficiaries

Mr Jonathan Loom	Born 27/03/1983	Died 20/01/2000
Mr Michael Loom	Born 27/03/1983	
Miss Laura Moon	Born 19/08/1986	
Mr James Moon	Born 20/08/1991	
Miss Chloe Moon	Born 18/10/1994	
Mr David Pearson	Born 18/07/1996	

Initial Trust Fund

100,000 ordinary shares in South West Bespoke Properties Ltd

Terms of trust

Unchanged since creation, see trust deed and key extract below:

Clause 5

- 1) The capital and income of the trust fund shall be held subject as provided below upon such trusts in favour or for the benefit of my grandchildren born prior to 27 March 2008.
- 2) The Trustees may pay or apply any income for or towards the maintenance or education or otherwise for the benefit of the beneficiaries who are for the time being living and under the age of 25 years.
- 3) Upon each beneficiary attaining the age of 25 years they will become entitled to their share of the trust fund absolutely.
- 4) The Trustees may at any time or times during the trust period transfer or raise and pay the same to or for the absolute use and benefit of a beneficiary before they attain 25 years.

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Information relating to Settlor

Born

28 May 1930

National Insurance Number

BY793407A

Domicile

England and Wales

Residence

2 Oakdale Park
Swindon
SN1

IHT Reference

L700269/04B

Marital status

Married to Kenneth Pearson (still living). Date of marriage 4 May 1955.

Children

Mrs Andrea Loom	Born 28 February 1957
Mrs Rebecca Moon	Born 14 January 1962
Mr Timothy Pearson	Born 31 December 1963

Gifting History

14/06/1996	£500,000 in cash to Mrs Andrea Loom
18/07/1997	£500,000 in cash to Mrs Rebecca Moon
18/02/1998	100,000 shares in South West Bespoke Properties Ltd transferred to Pearson Legacy Trust. Value £1,125,000 (no holdover-relief claimed)
19/03/1999	£600,000 in cash to Mr Timothy Pearson
20/06/2004	£250,000 in cash to National Heart charity
13/02/2013	£600,000 in cash to Mrs Andrea Loom
13/02/2013	Transferred ownership of 2 Oakdale Park to Mrs Rebecca Moon
13/02/2013	£600,000 in cash to Mr Timothy Pearson

Assets

Share portfolios (quoted and unquoted) valued at approximately £4 million

Property portfolio valued at approximately £6 million (all mortgage free)

Cash at various institutions approximately £2 million

Continued

Continuation

Will

Specific Legacies

Cash to Kenneth Pearson (husband)

Quoted share portfolio to three children

Residue of estate

15% to National Heart Charity

85% on interest in possession trust for husband and on his death, on discretionary trust for the benefit of the three children