FINAL EXAMINATION  
SPRING SESSION 2007  
SCHOOL OF LAW

Student Family Name:  
Student Given Names:  
Student Number:  
Course:  

Unit Name: Estate Planning & Professional Responsibilities  
Unit Number: CO805A  
Time Allowed: Three hours plus 10 minutes reading time.  
Number of Questions: 4  
Total Number of Pages: 4  
Lecturer's Name: Marie Brownell

INSTRUCTIONS  
PLEASE READ CAREFULLY BEFORE PROCEEDING

1. Write your name and student number on the top of this examination paper and on ALL answer booklets.
2. This is a CLOSED book examination
3. Answer all questions in the Answer Booklets provided
4. This exam is worth 50% of the marks for this Unit. It is marked out of 50. Marks for each question are shown on the Paper.
5. Calculators are allowed
6. There are no other special instructions

DO NOT TAKE THIS PAPER FROM THE EXAMINATION ROOM
QUESTION 1 (25 Marks)

Personal Circumstances:

- Ian is married to Stephanie (second marriage for both)
- Ian and Stephanie have two sons, Jake 9 years old and Alex 6 years old
- Ian is 48 years of age and a Marketing Manager
- Ian has one daughter from a previous marriage - Emily (single 20 years of age and Ian pays for her university tuition fees)
- Stephanie is 52 years of age and a part-time teacher
- Stephanie has two children from a previous marriage to Norman - Jasper (30 years old -married with 2 children, James 2 and Carly 5) and Julie (26 years old and single)

Assets:

- Ian and Stephanie own the main residence as joint tenants, worth $700,000
- Ian has a share portfolio of $500,000 in his sole name in a margin lending account with $200,000 debt
- Ian has an investment property valued at $250,000, with $120,000 debt
- Ian and Stephanie have an investment property as joint tenants valued at $450,000, with $200,000 debt
- Ian has life insurance for $500,000 in his own name, on his life with no nominated beneficiary
- Ian has super of $320,000 but has not made a death benefit nomination
- Stephanie has $90,000 in Super; but has not made a death benefit nomination
- Ian established a family trust; "The Ian Family Trust" the trust has assets of $1.3m. The Trust owes Ian $250,000. Ian is the Trustee, Appointor and Guardian of the Trust.

Estate Planning Wishes:

In 2001 Ian and Stephanie visited their lawyer to update their Wills. Ian and Stephanie wanted to keep it simple but they did want to ensure that their Wills gifted 50% of their estate to their spouse and 50% to their children of their respective first marriages (not children from their spouse's previous marriage).

Therefore, Ian's Will purported to give his estate 50% to Stephanie and 50% to Emily. Stephanie’s Will purported to give her estate 50% to Ian and 50% to Julie and Jasper.
A summary of their personal assets (excluding the family trust) is as follows:

<table>
<thead>
<tr>
<th>Asset</th>
<th>Owner</th>
<th>Value</th>
<th>Liability</th>
</tr>
</thead>
<tbody>
<tr>
<td>Home</td>
<td>Both, joint tenants</td>
<td>$700,000</td>
<td></td>
</tr>
<tr>
<td>Share Portfolio</td>
<td>Ian</td>
<td>$500,000</td>
<td>$200,000</td>
</tr>
<tr>
<td>Property</td>
<td>Ian</td>
<td>$250,000</td>
<td>$120,000</td>
</tr>
<tr>
<td>Property</td>
<td>Both, joint tenants</td>
<td>$450,000</td>
<td>$200,000</td>
</tr>
<tr>
<td>Life Insurance</td>
<td>Ian</td>
<td>$500,000</td>
<td></td>
</tr>
<tr>
<td>Superannuation</td>
<td>Ian</td>
<td>$320,000</td>
<td></td>
</tr>
<tr>
<td>Superannuation</td>
<td>Stephanie</td>
<td>$90,000</td>
<td></td>
</tr>
<tr>
<td>Jewellery</td>
<td>Stephanie</td>
<td>$130,000</td>
<td></td>
</tr>
</tbody>
</table>

Required: Advise Ian and Stephanie as to how effective their Will is in meeting their objectives. Advise an alternate or supplementary estate planning strategy to meet the concerns they have mentioned and any other issues that you identify.

QUESTION 2 (9 Marks)

Describe how Capital Gains Tax applies in the following circumstances:

a) A main residence purchased in 2001 is gifted under a Will to a child of the deceased. The Testator died in August 2004. The executor of the Will exchanged contracts on the sale of the home in September 2006. (3 marks)

b) An investment property held as joint tenants with a spouse, was purchased in 1984 for $130,000. The husband dies in 2006. The value at the date of death is $500,000. (3 marks)

c) A parcel of shares acquired by a now deceased resident taxpayer on 12 October 2000 for $9,500 was sold by the executor of the estate on 10 September 2005 for $56,000.

The deceased died on 29 August 2002 and the shares were valued at $61,750 at date of death for Probate purposes. (3 marks)
QUESTION 3 (12 Marks)

(a) Explain to a client the effect and importance of an Enduring Power of Attorney. (2 marks)

(b) Explain to a client the advantages and disadvantages of testamentary discretionary trusts. (5 marks)

(c) What is a Special Disability Trust (SDT)? In what circumstances would you recommend a SDT? Explain to a client the advantages and disadvantages of a SDT? (5 marks)

QUESTION 4 (4 marks)

Explain the taxation implications of a superannuation death benefit being received by:

a) a de facto spouse;

b) a dependant child, 22 years of age;

c) a dependant sibling, who lived with the deceased;

d) an adult independent child.

Which of the above individuals could receive the superannuation death benefits as a pension?

End of Examination Paper