



Tolley[®] Tax Training

CTA LAW E-ASSESSMENT

6TH EDITION UPDATE - GUIDANCE NOTES

FROM 1 MARCH 2010

INTRODUCTION

All students studying for the CTA Law e-Assessment need to purchase the Chartered Institute of Taxation's textbook, *Essential Law for the Chartered Tax Adviser*.

The 6th edition of this book is examinable from 1 March 2010 onwards.

If you are just beginning your CTA studies and are working from the new edition of the textbook, you should not need this guidance.

The guidance given here is aimed at students who have already begun their studies using the 6th edition and draws attention to the major changes from the previous edition.

In general, the law in the new edition textbooks is stated as at 1 July 2009.

Please note that our material does not cover the Scottish Law option.

Disclaimer

This document is for use by Tolley Tax Training students only, for the purpose of preparing for the CTA examinations. It should be used in conjunction with the publications listed above. Whilst every care has been taken in the preparation of these notes, no responsibility for anyone acting upon, or refraining from acting upon, these notes can be accepted.

CASE LAW

CTA CHAPTER 3

There have been important changes to the courts of law. The House of Lords has been replaced by the **Supreme Court for the United Kingdom**. This comprises 12 Justices of the Supreme Court and sits in London, usually as a court of five justices. It hears criminal and civil appeals only, on a point of law of public interest. It is the final court of appeal under English Law. The Supreme Court has the same powers as the House of Lords did to bind lower courts, and it may also depart from its own previous decisions.

In addition to the main courts of law, there is now a **Tribunal system** which deals with appeals about particular subjects such as immigration, pensions and tax. The Tribunal is made up of two tiers: a **First Tier Tribunal** and an **Upper Tribunal**. Each tier of the Tribunal is divided into Chambers which deal with particular subjects and are staffed by experts in that field.

The **Tax Chamber** deals with all direct and indirect tax matters. Tax cases are usually listed to be heard in the first instance by the First tier Tribunal, although a complex case may start in the Upper Tribunal.

An appeal against a decision of the First Tier Tribunal on a point of law is heard by the Upper Tribunal. Appeals from the Upper Tribunal are heard by the court of Appeal, but an appeal will only be permitted if it relates to an important point of principle or practice, or there is some other compelling reason.

EU LAW

CTA CHAPTER 4

The Treaty of Lisbon has not yet been ratified.

There are 27 Member States of the European Union. At present, there are three candidates for membership which have met the conditions for membership: Croatia, Macedonia and Turkey.

REGULATORY FRAMEWORK OF THE TAX ADVISER

CTA CHAPTER 5

HMRC's wide statutory powers to require information from taxpayers and third parties were extended by Schedule 36 FA 2008 to include information or documents reasonably required for checking a taxpayer's position. These powers will not, however, override legal professional privilege.

PARTNERSHIPS

CTA CHAPTER 10

The legislation relating to limited partnerships is currently being overhauled. A limited partnership is formed when registered, and must include in its name "limited partnership" or "lp".

COMPANY LAW

CTA CHAPTER 11

Companies Act 2006 is now fully in force, apart from two small provisions concerning polls and certain provisions relating to accounts and audits in Northern Ireland.

Companies House is now an Executive Agency of the **Department for Business, Innovation and Skills** (BIS - previously BERR)

RECONSTRUCTIONS, INSOLVENCY AND STRIKING OFF

CTA CHAPTER 17

As an alternative to liquidation under ESC16, a company may use the provisions of Companies Act 2006 to reduce its share capital before striking off takes place, without permission from the court. Such a reduction does not count as a distribution, meaning that ESC16 is therefore unnecessary.

INTELLECTUAL PROPERTY LAW

CTA CHAPTER 21

The Intellectual Property Office is now part of the Department for Business, Innovation and Skills (BIS).

Following harmonisation, applications for Community Trade Marks must be made to the Trade Marks and Designs Registration Office for the EU (OHIM) in Alicante.

WILLS AND INTESTACY

CTA CHAPTER 25

The amounts of the statutory legacies available when a person dies intestate have changed.

If the deceased leaves a spouse or civil partner but no issue, the surviving spouse or civil partner is entitled to a statutory legacy of £200,000 if the death was before 1 February 2009, or **£450,000** if death took place later.

If the deceased leaves both a spouse or civil partner and issue, the surviving spouse or civil partner is entitled to a statutory legacy of £125,000 if the death was before 1 February 2009, or **£250,000** if death took place later.