

Compulsory Past Papers

M. Not.



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ABOUT GhSL

Għaqda Studenti Tal-Ligi (The Malta Law Students' Society) is a faculty-based, non-profit organisation at the University of Malta that represents all law students within the Faculty of Laws.

The organisation plays a pivotal role in law students' academic and social life at the University of Malta. The organisation has also been responsible for publishing the prestigious *Id-Dritt*, and the *GhSL Online Law Journal*.

Moreover, GhSL boasts its own Thesis Library, located at the GhSL office in the Faculty of Laws. Additionally, GhSL is the only law organisation responsible for the distribution of authoritative law notes and past papers.

For further queries on this set of notes, as well as any other, please feel free to contact our **Resources Officer** at resources@ghsl.org.



Advice from an Alumna

By Dr Priscilla Mifsud Parker

The law course is a long journey, but one that, if well-travelled, will lead to beautiful destinations. In an industry which is today attracting many young individuals looking to develop their career in law, it is important to stay ON the beaten track and remain focused. It may go without saying that it is of great importance for all students to attain good academic grades, to be dedicated to their work, as well as to be determined in this highly-competitive industry in order to fulfil their dream of becoming lawyers one day. However what is crucial is that as students and later on as professionals we are innovative by being sensitive to the changes around us. These changes might be political, economic, environmental, socio-cultural or others; what is for sure is that they all have an impact on the profession of a lawyer. We are members of a dynamic profession which is very sensitive to its surroundings. The type and 'genre' of advice which is required from us is all affected by what is being experienced by the receivers of this advice.

Work experience is considered as a vital part of the staple diet of any prospective lawyer in order to put into practice and refine the knowledge gained from the theoretical reality of the lecture halls and lawbooks into the skills required for a successful career in law. An internship will not only show future recruiters that you have a genuine interest in pursuing a career in this sector, but that you have the practical knowledge and skills to succeed in your role.

Here are some personal suggestions that I feel helped me during my journey:

1. *Being Ambitious*

A powerful trait in any competitive industry, ambition will help you in your law course, in your career as a lawyer, as well as in your life. Whilst the law course can be quite intimidating and challenging, an ambitious individual who is dedicated to learning new things has the potential to understand and realize long-term goals. Do not view the journey as one whole insurmountable mountain but focus on the next small goal and once achieved move on to the next and goal by goal you will reach your final target point.

In this respect, gaining valuable work experience through an internship is an important step taken by an ambitious young lawyer who wants to attain certain skillsets, and remain a step ahead of his/her peers. By being inquisitive, analytical and humble enough to accept guidance and mentoring one is guaranteed a fruitful experience in a law firm. It is also not only a means to start focusing on the direction of your career and to build upon your chosen path, but will undoubtedly expose you to the international world. This is crucial, as most of the traditional legal sectors have been intertwined with new areas of legislation and all these together now present much more opportunity for intra-jurisdictional work.

2. *Networking*

By engaging with counterparty students abroad and in international fora one gains an insight into another reality and is exposed to different cultures, ways of communicating and is able to bridge



the differences between parties to a mundane discussion which will eventually become a transaction or a major project in professional life.

3. Organisational Skills

Organisation is key in any industry. Good organisation skills always stand out to a recruiter when considering potential applicants. Such skills can be obtained by gaining experience either through organising one's own work, study plan, student events or cultural/philanthropic events.

Going hand-in-hand with this, is having a study plan. By planning your studies ahead, one will have a sufficient amount of time to meet all the demands, while also being able to participate in productive outside activities. Reviewing notes or case briefs before class can also help you follow and participate in class discussions better, whilst following case-law allows you to apply them for specific situations. In view of the amount of material involved summarising and carving out the most crucial points is essential to then build your argument in papers.

4. Taking your own class notes

It is always important to take down your own notes as laws are always evolving and passed-down notes would provide the context but are not ideally used for the detail. Researching the particular topic and comparing Malta's law with that of other jurisdiction gives one a completely different outlook and commenting on these variances in an exam paper, dissertation or assignment would distinguish one student from another. Not to be overlooked are also the consultation papers, commentaries and other official public documents that are issued by local authorities from time to time on different areas of law and industry. Being abreast of what is happening in industry will help putting the particular law or regulation in context.

5. Participation

Participation is a main element of the learning process. Being actively involved during seminars and lectures and participating in legal debate sessions, mock trial competitions and moot courts are essential in order to improve your persuasive and presentation skills. If you find this very difficult (all of us have different characters and traits), then try to focus on participation in other events which will expose you to public speaking starting off in smaller groups in a more familiar environment and trying out new experiences and larger audiences as you go along.

6. Practice is the key to success

This leads us to our next point – practice. Attaining good grades is undoubtedly an important part of the law course, however, in themselves, they are not enough to show that you have substantial material to succeed. Working within a law firm introduces you to the world of work, and allows you to gain specific industry-related skills which one will only ever be able to learn in a workplace setting.

Work experience can provide you with valuable insight which will help you decide what your career aspirations are and in which areas you would like to further delve into.



Masters of Notarial Studies Compulsory Units Past Papers

1. Law of Civil Procedure
2. Conveyancing Law
3. Law of Succession - Advanced
4. Fiscal Legislation Associated with Immovables 1 / 2
5. Examination of Title
6. Registration of Acts & Trade
7. Accountancy Skills for the Legal Profession

If you require any further information, have any suggestions or find any mistakes in this publication, do not hesitate to contact us on academic@ghsl.org



Advanced Issues in the Law of Civil Procedure

If you require any further information, have any suggestions or find any mistakes in this publication, do not hesitate to contact us on academic@ghsl.org

UNIVERSITY OF MALTA
FACULTY OF LAWS
MA ADVOCACY / MA NOTARIAL STUDIES / LL.D.II
MAY/JUNE 2017 EXAMINATIONS

CVL5034 ADVANCED ISSUES IN THE LAW OF CIVIL PROCEDURE

DATE: MONDAY 5TH JUNE 2017

DURATION OF EXAM: 10.00AM TO 12.05PM

Answer one question from each section, to make two questions in all. Each question carries 50 marks in all. Use a separate booklet for each question. Reference to decided cases enhances your answer.

SECTION A

- 1) Answer *both* of the following sub-questions:
 - a. Art. 396 Cap. 12 provides that it is lawful for a defendant to set up a counter-claim against the plaintiff, provided that there is a connection with the claim of the plaintiff. Examine this provision. (30 Marks)
 - b. Briefly explain the rules regulating proceedings against the Government (20 Marks)
- 2) Analyse:
 - a. The precautionary warrant of prohibitory injunction (35 Marks)
 - b. The object of a protest (15 Marks)

SECTION B

- 3) 'The proof by means of a referee or referees is ordered on the demand of the parties or one of them or by the court of its own motion' (Art. 644 Cap.12). Discuss the role of referees in civil proceedings, illustrating by appropriate references to jurisprudence. (50 Marks)
- 4) Write notes on *two* of the following topics:
 - a. Privileged communications *and* the rule of evidence as to signatures or marks. (25 Marks)
 - b. Hearsay evidence. (25 Marks)
 - c. The procedure to be followed when any superior court requires the evidence of a person *who is absent from Malta and is residing abroad*. (25 marks).

University of Malta
Faculty of Laws

CVL5034 – Advanced Issues in the Law of Civil Procedure

Date: Thursday, 7th September, 2017

Duration of Examination: 10.00am-12.05pm

(Instructions to students).

Answer **one** question from each section, to make **two** questions in all. Each question carries 50 marks in all. Use a separate **booklet** for each question. References to jurisprudence enhance your answer.

SECTION A

1. Consider:
 - a. The Executive Garnishee Order. (35 marks)
 - b. The case of death 'pendente lite' of any party to a suit. (15 marks)
 2. Discuss:
 - a. Any two grounds giving rise to a new trial (30 marks)
 - b. Jactitation suits (20 marks)
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SECTION B

3. 'The proof by means of a referee or referees is ordered on the demand of the parties or one of them or of the court' (Section 644 of Chapter 12). Discuss the role of the referee in civil proceedings; illustrating by jurisprudence where appropriate. (50 marks)
 4. Write notes on TWO of the following:
 - a. Privileged communications and the rules of evidence as to signatures or marks. (25 marks)
 - b. Hearsay Evidence. (25 marks)
 - c. The procedures to be followed when any superior court requires the evidence of a person who is absent from Malta and is residing abroad. (25 marks)
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Compulsory Units Past Papers

Conveyancing Law...

If you require any further information, have any suggestions or find any mistakes in this publication, do not hesitate to contact us on academic@ghsl.org

University of Malta
Faculty of Laws
LLD Third Year, 2012/2013
Conveyancing Law and Notarial Practice CVL5012
Credit Value: 8

21st January 2013, 0915 to 1215

- (1) You are Notary NN and today you are publishing a notarial act on the basis of the facts and information you find in the question. You should not divulge your identity in any way. Where any law requires you to state who you are or to sign your name, you should always use "NN".
- (2) Do not prepare the notes of enrolment, privilege and hypothec, or the Land Registry applications, but you are expected to write in the margin all the relevant details as if you had already filed the notes in the Public Registry or lodged the Land Registry applications consequent to the publication of the act.
- (3) The Faculty Office has printed one set of the most important legislation on conveyancing, except the Civil Code. You are free to consult any such legislation should you deem it necessary or useful.
- (4) For the purposes of this examination, do not consider any measures announced in the last Budget.
- (5) You are not allowed to have any mobile telephones and/or memory-resident electronic devices; however, you are allowed to use calculators that are not otherwise excluded in terms of this paragraph.
- (6) Answer either in Maltese or in English.
- (7) Maximum marks for your answer to the question: 100.

The vendors: Donald Darmanin and his wife Diane Darmanin resided in the flat at Birkirkara described below from the date of their marriage in 1998 till June 2011 when they, together with their children, established their residence permanently in Luxembourg. Donald and Diane have appointed Pierre Darmanin, Donald's brother, as their attorney in Malta to sign a preliminary agreement for the sale of the flat and the final notarial act.

The purchasers: Anthony Portelli, a Maltese citizen, left Malta for the first time when he was 20 years old and, for a number of years, lived in various Latin American countries. In the year 2000 he married in Lima a Peruvian citizen Rosita Flores. In 2011 Anthony Portelli returned to Malta with his wife Rosita Portelli Flores and their three children and they have settled here, living in rented property since they do not own any immovable property. Upon purchasing the flat, they intend moving into it.

The immovable: flat number 2 in an unnumbered block of three flats and a penthouse in Triq il-Kanonku Ciappara Birkirkara. The flat is registered as property number 87654321.

Some facts: On 2nd October 2012, the attorney entered into a four-month preliminary agreement for the sale of the flat to the purchasers for the price of €120,000, out of which the sum of €12,000 was paid on the preliminary agreement, which you duly registered at the Capital Transfer Duty Division of the Inland Revenue Department. The balance is being paid on the final notarial act you are publishing today, except for the sum of €20,000 which the purchasers have agreed to pay to the vendors within two years from today together with interest at 2% per annum. The interest is payable yearly in arrears. The attorney of the vendors has accepted to give the purchasers such favourable terms since the purchasers are giving the vendors on the notarial act adequate legal safeguards for the payment of the balance and interest.

Agency fees of €7,080 inclusive of VAT are payable by the vendors.

PTO

UNIVERSITY OF MALTA
FACULTY OF LAWS
LL.D. 3rd YEAR
MAY/JUNE 2015 EXAMINATIONS

EXAMINATION: CVL 5012 – Conveyancing Law and Notarial Practice

DATE: Friday 12th June 2015

READING TIME: 8.30AM to 8.35AM

DURATION OF EXAMINATION: 8.35am – 11.35am

INSTRUCTIONS TO STUDENTS:

Answer either Question 1 or Question 2

Simple calculators can be used.

Answers can be in English or Maltese

Question 1:

(100 marks)

Jean Luc Axisa wants to regulate his succession for after his demise. He has therefore come to your office to draw up a will. He gives you the following information and indicates the following wishes:

Jean Luc Axisa is a bachelor but for the past fifteen years he has been in a stable relationship with his partner Samantha Abela. Samantha and Jean Luc have a daughter called Sopia who today is twelve years old. He is the sole owner of the property at number 7, Triq il-Kbira, Balzan and this property is the sole residence of the whole family.

He tells you that before Sopia Axisa was born he had already drawn up a will but its contents no longer reflect his wishes and therefore he would like this to be revoked.

During his lifetime Jean Luc has lent the sum of €10,000 to his parents Henry and Louisa Axisa. Henry and Louisa Axisa are repaying their son Jean Luc in sporadic payments whenever they afford too. If he passes away whilst his parents are still paying back their debt, Jean Luc wants this debt to be forgiven.

Jean Luc wants to leave Samantha the right to continue living in their house of residence after he passes away, however he would not like her to have any other person (apart from their daughter Sophie) residing with her. He also would like to give to Samantha Abela the sum of €25,000 for her to use it as she wishes.

As his heir, Jean Luc would like to nominate his daughter Sophie Axisa and he indicates that it is his wish that should Sophie pass away before him he would like his heirs to be Sophie's descendants.

Question 2:

(100 marks)

A young couple are purchasing a piece of land in order to built on it their ordinary and primary residence. The value of the plot is of 265,000 euro.

They are paying Eur165,000 on the deed (Eur65,000 own funds and Eur100,000 donated by the parents of the female on the same deed)

. The balance of Eur100,000 is to be paid within five (5) years from the deed together with interest at the rate of five per cent payable every year in arrears.

The female already owns a garage.

The male is Bulgarian and the female Maltese born in Malta but lived in Australia for a long time and came back to Malta more than five years ago.

The final deed is to be published after September of the current year 2015.

Please draft deed according to the provisions of the Law.

UNIVERSITY OF MALTA
FACULTY OF LAWS
LL.D. 3rd YEAR
SEPTEMBER 2015 EXAMINATIONS

EXAMINATION: CVL 5012 – Conveyancing Law and Notarial Practice

DATE: 2nd September 2015

READING TIME: 8:30am – 8:35am

DURATION OF EXAMINATION: 8:35am – 11:35am

INSTRUCTIONS TO STUDENTS:

Answer either Question 1 or Question 2

Calculators may be used.

Answers may be in Maltese or in English

Question 1:

(100 marks)

A young married couple are acquiring their first house. The husband has money of his own which he had before his marriage, while the wife is being donated the money in order to purchase her share by her parents. The price is of € 200,000. They are acquiring in equal shares. The deed will be published in November 2015. Please write deed giving all the details according to Law. The first part is the donation of the money and the second is the sale.

Question 2:

(100 marks)

George and Maria Farugia got married on the 14th February 1951. Soon after they got married they purchased the house at official number 50 in Saint Peter Street, Birzebbugia, which was to serve as their primary residence till the date of their death.

During their marriage George and Maria had three children, Peter, Annunziata and Grace, who are now all well into their fifties.

In 1975 George's aunt, Domenica passed away and left George as her sole heir. As part of her inheritance she left to George a property at number 10, Saint Augustine Street, Birzebbugia and a grave at Addolorata Cemetery number 62, Compartment AB, Division East both of which she owned in whole.

In 1998 Peter legally separated from his wife and had to move out of his matrimonial home. His parents Maria and George gave him permission to permanently reside in the house, which George inherited from his aunt Domenica and that is 10, Saint Augustine Street Birzebbugia which has remained his residence ever since.

Maria and George made a *unica charta* will in the records of Notary Paul Pisani on the 22nd September 2000 wherein they left:

1. To each other, by title of legacy, one-fourth (1/4th) undivided share in full ownership of all their assets and the right of usufruct on the remainder three-fourths (3/4ths) of their assets with the exemption from the obligation of granting security and the drawing up of inventory as is otherwise required at law.
2. George left by title of legacy to their son Peter, the full ownership of the whole share of the property at number 10, Saint Augustine Street, Birzebbugia
3. Nominated as their universal heirs in equal shares between them their three (3) children, Peter, Annunziata and Grace.

Maria passed away on the 12th August 2005 and George, Peter, Annunziata and Grace declared the property that was transmitted to them from the inheritance of the late Maria in virtue of a deed in the records of Notary Paul Pisani dated the 15th December 2005.

George died on the 17th May 2015. His children have engaged you to draw up the deed of transmission causa mortis relative to the estate of their father. They have brought to you architects valuations showing the values of the **whole share** of all the properties which are as follows:

1. 10, Saint Augustine Street Birzebbugia valued at €50,000
2. 50, Saint Peter Street Birzebbugia valued at €100,000
3. Grave at Addolorata valued at €2000.

The deed is being published today. Tax workings may be clearly shown on a separate sheet if required.

UNIVERSITY OF MALTA
FACULTY OF LAWS
LL.D. III YEAR
JANUARY 2016 EXAMINATIONS

EXAMINATION: CVL5024 – CONVEYANCING LAW, CONDOMINIA AND NOTARIAL PRACTICE

DATE: 14TH JANUARY 2016

READING TIME: 8:30AM – 8:35AM

DURATION OF EXAMINATION: 8.35AM to 11.35AM

INSTRUCTIONS TO STUDENTS:

Answer only ONE of the following questions.

You may answer in English or Maltese.

Each question carries 100 marks.

Question 1:

A married couple sold their house and are now buying another one for Eur 295,000. They do not have all the money so the parents of the wife have agreed to give them on loan the sum of Eur 50,000 on the deed of purchase for the purpose of buying the said house.

The said sum is to be repaid within five years in equal installments together with interest at the rate of four per cent per annum which interest is to be paid yearly in arrears.

The Vendor, which is a Company, purchased the land over which they built the maisonette being transferred, which is at elevated ground floor level underlying another maisonette at first floor level and overlying garages at semi basement level, in 2001. Together with the maisonette they are buying a garage at semi-basement level and a divided portion of the roof.

Please write the deed giving all the details according to law.

Question 2:

Michael Micallef passed away on the 26th August 2015. He was previously married to Jane who passed away in 1995 but got married again to Marthese in 2003. Marthese is 47 years old. From his first marriage to Jane, Michael had two daughters Doreen and Carmen.

Michael died with a will in the records of Notary George Bonello Dupuis dated the 18th April 2015 in virtue of which:

- He revoked all previous wills
- He left by title of pre-legacy to his wife Marthese his residential home, which he had acquired whilst he was still a widower. Michael resided in this house ever since he acquired it and when he married Marthese she too moved in this house and has resided there ever since. The house is 6, Triq il-Wiesgha, Gharghur and is subject to €5.25 annual and perpetual groundrent payable to Joint Office. The house has been valued by an architect at €150,000.
- He left by title of pre-legacy to his daughter Doreen the boathouse which he used as his summer house with the official number 29, in Dawret it-Tunnara, Mellieha. He was the sole owner of this boathouse and the architect valued it at €50,000.
- He declared that during his lifetime he donated to his other daughter Carmen the sum of €50,000 which she had used to purchase the flat internally numbered 3, in block named Soleil in Triq il-Kbira, San Pawl il-Bahar.
- He nominated as his universal heirs in ½ undivided share his wife Marthese Micallef and in the other ½ undivided share between them his daughters Doreen and Carmen.

The heirs have engaged you to prepare the necessary deed of declaration causa mortis including any other act which may be necessary in these circumstances.

UNIVERSITY OF MALTA
FACULTY OF LAWS
LL.D.III/ M.NOT
JUNE 2017 EXAMINATIONS

EXAMINATION:CVL5024 CONVEYANCING LAW, CONDOMINIA AND NOTARIAL PRACTICE

DATE: 30th May 2017, TUESDAY

DURATION OF EXAMINATION: 8:30AM – 11:35AM

INSTRUCTIONS TO STUDENTS:

Answer only ONE of the following questions:

Each question carries 100 marks

Answers may be given in Maltese or English

Question 1:

A married couple John and Lucia Caruana, sold their house and are now buying another one for € 305,000. They do not have all the money so the parents of the wife Paul and Maria Borg have agreed to give them a donation of the sum of €50,000 on the deed of purchase for the purpose of buying the said house.

The Vendor which is a Company XYZ Holdings Limited purchased the land over which they built the maisonette being transferred, which is at elevated ground floor level underlying another maisonette at first floor level and overlying garages at semi basement level, in 2013. The Company is still paying Bank of Swieqi plc a loan for construction it took in 2014 and the Bank is appearing on the same deed in order to waive its rights over the property transferred. Together with the maisonette they are also buying a garage at semi-basement level that has a common ramp with an adjacent garage that abuts in the street and a divided portion of the roof.

Please write the deed giving all the details according to law.

Question 2:

Jonathan Bugeja passed away on the 10th January 2015. He died with a will published in the records of Notary Francis Micallef dated the 30th January 2007 wherein he nominated as his universal heirs his wife Michelina in the undivided share of one-half (1/2) and his children Samantha and Mark in the undivided share of one-half (1/2) between them.

At the time of his death Jonathan owned:

- (a) The one-whole share of his house of residence namely the house externally numbered 21 in Triq il-Kbira Marsaxlokk, which an architect has valued at €250,000. This property had been the residence of Jonathan and his wife Michelina for over 20 years.
- (b) The 1/6th undivided share of a portion of land in Marsaxlokk which an architect has valued at €125,000 for the whole share.

Michelina, Samantha and Mark visit your office in 2017 and ask you to prepare the necessary causa mortis declaration. The causa mortis declaration is being published today.

Draft the required deed of declaration causa mortis.

University of Malta
Faculty of Laws
May/June 2018 Examinations

CVL5024 – Conveyancing Law, Condominia and Notarial Practice

Tuesday 29th May 2018

Duration of Examination: 8:30 am to 11.35am

INSTRUCTIONS TO STUDENTS:

Answer **ONE** of the following questions. Each question has 100 marks. The answer can be either in Maltese or English.

Question 1

Write the following contract including all the details required by Law. Where they are missing in the question, invent the other details required.

Giovanna Borg has a house in Mosta valued €540,000. As her husband died in the year 2017 and she does not have any children, she has decided not to live anymore in this rather big house. She is her husband's sole heir and the said house was his and her ordinary residence. She made the declaration "causa mortis" in relation to her husband within one year from his death. The house belonged to the Community of Acquests that existed between her and her husband..

Paul and Liza Grech are a young married couple who have two children. They would like to transfer their apartment also in Mosta, which is now rather small, and acquire a bigger house. This apartment has a value of €320,000 and is on the second floor level and forms part of a block of four apartments overlying a garage at groundfloor. They have been living in this apartment as their ordinary residence since 2012..

Consequently spouses Grech and Mrs Borg decided to exchange these properties.

However, Paul and Liza do not have enough money to pay the difference in value of €220,000, and they do not wish to take out a loan. The parents of Paul are ready to give them on loan the sum of €150,000 at the rate of interest of 2.5% per annum on condition that the loan is fully repaid within ten years. The parents of Liza have agreed to grant her a donation of the amount of the remaining €70,000.

Question 2

John Francalanza (who was born on 06.06.1949), died on the 01.01.2016 and was survived by his wife Joanne Francalanza nee' Brincat (born on 06.09.1950) and his three children Martina (born on 01.03.1970) and Marica (born on 01.04.1971), both unmarried and still living with their parents and Maurice (born 10.05.1972) who lives in Australia.

Since the death of John Francalanza, his widow and children left everything as it was at his time of death. Maurice, however, has now decided to come and live in Malta and he wants to live in the apartment his father John had in Bugibba, Saint Paul's Bay. This apartment was bought by John before his marriage. His mother and sisters did not object to this arrangement and they were so pleased that they decided to give him their share of the said apartment.

When Joanne went to the Notary to ask what needs to be done in order to transfer the apartment in Maurice's name, the Notary explained that first of all they had to do the declaration of transfer "causa mortis" consequent to John's death. At that stage Joanne realized that when her husband died, she and her children had to do this declaration and pay the tax due in terms of the Duty on documents and transfers Act.

The Notary suggested that she engages an Architect in order to make a valuation of the property belonging to her late husband and prepare the Land Registry plans which plans are to be duly signed by the said architect.

There is a good number of properties to declare.

After the Notary made the usual testamentary searches. It resulted that John had made his last will and testament in the records of Notary Mario Mirabelli dated the 05.05.2015 in virtue of which he ordered the following:

- a) He exempted all his children from the obligation of collation;
- b) Bequeathed by title of legacy to his daughter Martina a car Fiat Uno number JON 001.
- c) Bequeathed by title of legacy to his son Maurice the apartment in Bugibba limits of Saint Paul's Bay;
- d) Bequeathed by title of legacy to his children in equal shares between them, any right and interest he may have in his residence at Qormi which property was purchased by John during his marriage and which house is to remain subject during her lifetime to the usufruct of his widow, and he also exempted her from the obligation of making an inventory and from giving the security prescribed by Law;
- e) Bequeathed by title of legacy in favour of his three children in equal shares between them the field Ta'Qassati limits of Attard, the field ta' Karawettu limits of Dingli and a garden situated in Triq il-Karamelli, Hal Kirkop. All this property was inherited by John from the Estate of his late parents.

f) Nominated as his universal heir his wife Joanne Francalanza.

Besides the said property John also had 1/8 undivided share (inherited from his late uncle) of the tenements next to each other numbers 17,18 and 19 Strada Stretta, Floriana and ½ undivided share (bought during marriage) of the shop called "Sweet Encounters" without number Triq il-Penit Haz Zebbug, Malta.

According to the estimate of the architect, the total of properties has these values:

1. The house in Hal Qormi: €320,000;
2. The apartment in Bugibba: €190,000;
3. The field Ta' Qassati: €50,000;
4. The field Ta' Karawettu: €55,000;
5. Garden at Hal Kirkop: €150,000;
6. Floriana funds: €300,000 total;
7. The shop Sweet Encounters: €200,000.

The beneficiaries should follow this estimate.

Write the contract which in its first part should contain the declaration causa mortis including all tax calculations as due by all the beneficiaries, and in the second part write the "putting into the possession" of the various legacies left by John.

Where they are missing in the question, invent the other details required as long as compatible with the above.



Advanced Practical Applications in the Law of Succession

If you require any further information, have any suggestions or find any mistakes in this publication, do not hesitate to contact us on academic@ghsl.org

UNIVERSITY OF MALTA
FACULTY OF LAWS
MASTER OF ADVOCACY / MASTER OF NOTARIAL STUDIES
JANUARY 2017 EXAMINATIONS

EXAMINATION: CVL5036 – Advanced Practical Applications in the Law of Succession
DATE: Friday 20 January 2017
Reading and Noting time: 10.00am to 10.05am
Time of Examination: 10.05am to 11.05am
Writing is permitted during the Reading and Noting time

INSTRUCTIONS TO STUDENTS: Reply to the Question below

Karl and Paula, a married couple, made a will *unica charta* when still childless, by virtue of which they revoked all previous wills and reciprocally nominated each other as universal heirs. They eventually had 2 children, Sarah and Luke.

Years later, Karl revoked all previous wills and whilst leaving his wife Paula the usufruct of his estate, he nominated Sarah and Luke as his sole universal heirs. Eventually, Karl and Paula adopted another child Carlà and it so happened that soon after, another natural child Donald was born to them. Karl and Paula modified their existing wills and left Donald his legitim in terms of law.

Luke was donated an apartment by his parents on the occasion of his marriage and he died childless in the year 2000, and was survived by his spouse, by his parents and by his siblings. Paula died some months later in 2001 after her son Luke.

Karl remarried with Maria and had another child Anna. He modified his existing wills and left his spouse the maximum allowed by law.

Karl died in 2004 and the heirs also wish to sell property held in common however, Donald is intent to make things difficult due to his legitim.

Advise all possible beneficiaries of their succession rights as the law stood before the 2005 amendments in order to partition the estates of Luke, Paula and Karl respectively.

University of Malta
Faculty of Laws

CVL5036 – Advanced Practical Applications in the Law of Succession

Date: Wednesday, 13th September, 2017

Duration of Examination: 10.00am – 11.05am

Reply to the case study below:

Don and Jenny, were married with 3 children, Glen, Maria and Alex. They made an *unica charta* will, wherein they reciprocally bequeathed to each other the maximum allowed by law to surviving spouses and also nominated their 3 children as their sole universal heirs. Years later they had another child Jake.

Maria died first after a short illness and she was survived by her husband, by her parents and by her 3 brothers.

Jenny died some months after her daughter and Don remarried Alexia. Eventually he revoked his existing wills and whilst leaving his son Alex the legitim in terms of law, he nominated his wife Alexia as his universal heir. On her part Alexia also made a will and nominated her husband Don her sole heir. Years later, a child Paula was born to Don and Alexia.

Don has now died and whilst Alex is causing trouble and is claiming that he be assigned a portion of each of the properties belonging to his late father in settlement of his legitim, his brothers are questioning also the nomination of their step mother Alexia as the sole universal heir of their late father.

Alexia died last and she was survived by her sole daughter Paula and by her mother.

Advise all possible beneficiaries of their rights of succession under the law before the amendments which entered into force in 2005 in order to assign and partition the estates of Maria, Jenny, Don and Alexia, respectively.

University of Malta
Faculty of Laws
January 2018 Examinations

CVL5036 – Advanced Practical Applications in the Law of Succession

Friday 26th January 2018

Duration of Examination: 10.00am to 11.05am

Reply to the Case study below:

Andrew had a child Lisa when he was still a bachelor. He then married Ruth who was not the mother and they made an unika charta will by virtue of which they reciprocally bequeathed the usufruct of their estate and nominated all their future children as their universal heirs. They eventually had 4 children, Ryan, Carl, Luca, and Maria.

Maria married Jesmond and some years later she had a child Ray who was born out of an extramarital relationship. Alas, Maria died suddenly without a will and she was survived by her husband and by her son Ray.

Ruth, Maria's mother, donated Ryan some land which she had inherited on which he then constructed his residence. Ruth modified her unika charta will wherein she left the maximum allowed by law to her husband Andrew and the legitim to her children, Carl and Luca. Ruth died and some years later she was followed by Ryan who died without a will. Andrew married again and has another child from this second marriage.

Andrew has now died and the heirs want to sell the property which they inherited without delay but Carl and Luca who were left the legitim by their mother are withholding their consent.

Advise all beneficiaries of their rights under the law of succession as it stood before the 2005 amendments relative to the estates of Maria, Ruth, Ryan and Andrew respectively.

University of Malta
Faculty of Laws
January/February 2019 Examination Session

CVL5036 ADVANCED PRACTICAL APPLICATIONS IN THE LAW OF SUCCESSION

Date: Wednesday 6th February 2019 **Duration of Examination:** 10:00AM - 11:05AM

INSTRUCTIONS TO STUDENTS:

Reply to the case study below.

Peter and Patricia made an unica charta will shortly after their marriage, wherein they nominated each other as universal heirs. They eventually had three children, Steve, Sarah and Samantha.

After years of happy marriage and family life, Patricia fell victim to a disease and passed away. In anticipation of her demise, she had donated two arable fields to her husband Peter.

Following his wife's loss, Peter engages in a long-term relationship with Victoria, which yields a daughter, Veronica.

Ultimately, he falls for the charms of a younger woman, Wendy, whom he decides to marry. Their marriage produces Peter's youngest child, William.

Peter's woes were not over.

A few years later, Peter's youngest daughter from his first marriage, Samantha, falls ill shortly after her marriage to Edward and eventually passes away without issue. Samantha had been donated an apartment by Peter on the occasion of her marriage. She was survived by her spouse, Edward, her father, Peter, her siblings, Steve and Sarah, and her half-siblings, Veronica and William.

During the later years of his life Peter decides to draft a will. He leaves his spouse, Wendy, the maximum allowed by law and appointed his children Steve and William as his heirs. He left Sarah and Veronica their legitim in terms of law.

Peter eventually dies in 2003, survived by his second wife Wendy, and his children Steve, Sarah, Veronica and William.

Advise all possible beneficiaries of their succession rights as the law stood before the 2005 amendments in order to partition the estates of Patricia, Samantha and Peter.

University of Malta
Faculty of Laws

September 2019 Examination Session

CVL5036 ADVANCED PRACTICAL APPLICATIONS IN THE LAW OF SUCCESSION

Date: Thursday 5th September 2019

Duration of Examination: 8:30AM-9:35PM

INSTRUCTIONS TO STUDENTS:

Reply to the case study below.

Theo had a daughter, Roberta, from a ten-year relationship with Rosette. The relationship ended, and he eventually married Charlotte, from whom he had three sons: Charles, Carl and Christopher. Theo and Charlotte made an unica charta will wherein they nominated their first-born son Charles as sole universal heir and left the legitim to Carl and Christopher, without making any mention of Roberta. Prior to their marriage, Theo had given Charlotte a precious gold ring as a gift.

Some years after the marriage, Theo fell ill and passed away.

Although filled with grief, Charlotte met an old friend, Norman, whom she accepted to marry. Two years after their marriage, Charlotte and Norman had a child: Nora. Soon after Nora's birth, Charlotte modified her will to nominate her as her joint universal heir together with Charles.

Charlotte eventually passed away.

A few years later she was followed by Carl, who was survived by his wife Elena and his daughter Elisabeth. Shortly after his marriage, Carl had made an Unica Charta will with Elena, whereby they had reciprocally nominated each other as heirs. Elisabeth was born to them five years into their marriage.

Advise all beneficiaries of their rights under the law of succession as it stood before the 2005 amendments relative to the estates of Theo, Charlotte and Carl.



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FACULTY OF LAWS
DEPARTMENT OF CIVIL LAW
FEBRUARY 2021 EXAMINATION SESSION

CVL5036 ADVANCED PRACTICAL APPLICATIONS IN THE LAW OF SUCCESSION Monday, 8th February 2021

Examination time: 08:30 – 09:30 + 15 extra minutes for uploading/downloading.

In case of difficulty during the examination (issues with exam paper, electricity power cut, internet connection, etc), you may contact the Faculty of Laws on the following:

Telephone: 2340 3251; 2340 2780

Email: laws@um.edu.mt

Please note that for immediate feedback it is best to communicate using telephone. Use email only if there are circumstances when the use of telephone is not possible.

Keep your mobile phone handy since important communications during the examination may be communicated by the University through SMS.

By sitting for this examination, I declare that I am aware of the provisions of the regulations regarding conduct during examinations and I pledge to observe them.

Students may not obtain or seek to obtain advantage in an examination, or give or endeavour to give assistance to other students. Students who are found guilty of a breach of the University Assessment Regulations are liable to disciplinary action which may result in the examination being cancelled and other consequences.

Students may be subject to an additional oral examination to safeguard against plagiarism, collusion or other misdemeanours.

With regard to FLOW/multi examinations, you are advised to type directly on WISEflow (and not on MS Word intending to copy and paste on WISEflow).

With regard to FLOWassign examinations, you are advised to upload your work in PDF format.

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INSTRUCTIONS TO STUDENTS:

Advise on the case study below. The maximum word limit for your answer is 2,000 words.

Ian and Carla were the proud parents of Alex. Alas, their relationship did not work out. They split up and eventually Carla married Kurt. They made an *unica charta* will and whilst Kurt nominated Carla his universal heir, she bequeathed him a lifetime usufruct and nominated her future descendants from their marriage as her universal heirs. They eventually had 2 children: Paula and Lara.

Kurt died quite young and Carla remarried Nick; out of which marriage another 2 children, Jan and Donna, were born. Carla revoked her previous will and in her new will she left the legitim to Paula, the maximum allowed by law to her second husband Nick, and nominated all her other 4 remaining children as her universal heirs.

Carla has now died and she is followed by her daughter Donna who died unmarried and childless. Paula is withholding her consent for the sale of an immovable property belonging to her mother's estate claiming a right of ownership due to her legitim.

You have been nominated as an arbiter to partition the estates of Kurt, Carla and Donna respectively under the law of succession before the 2005 amendments. Submit your legal opinion to all beneficiaries on their respective rights and obligations.



M.Not
Compulsory Units Past Papers

Fiscal Legislation 1

If you require any further information, have any suggestions or find any mistakes in this publication, do not hesitate to contact us on academic@ghsl.org

UNIVERSITY OF MALTA

LLD First Year - Diploma of Notary Public

FISCAL LIABILITY ON NOTARIAL DEEDS

24th January 2001

1300 to 1310

10 minutes allocated for students to review the paper, and to plan their answers. Students may not start writing their answers during this time.

1310 to 1410

1 hour allocated for candidates to answer the paper.

Answer all questions. You may answer in English or Maltese.

1. Mary Borg, wife of Carmelo, passed away on the 19th November 2000. She bequeathed her immovable properties in terms of her last will. The properties, values, beneficiaries, and other relevant details, follow:

Property	Deceased's share	Value of the full share in full ownership	Beneficiary	Other details
House at Safi	$\frac{1}{4}$	55,100	Carmelo (her husband, aged 62 years), in usufruct; and Leone (her son) and Jane (her daughter) in bare ownership	Ordinary residence of the deceased, of her husband Carmelo, and of Leone. Between the ages of 60 and 70, the value of the usufruct is deemed to be 20% of the value of the full ownership. Leone is a Canadian citizen. Jane lives elsewhere at Mellieha.
House at Qrendi	$\frac{1}{4}$	35,550	In usufruct in favour of Leone (her son); in bare ownership in favour of Jane (her daughter)	Ordinary residence of Leone, aged 43. Between the ages of 40 and 50, the value of the usufruct is deemed to be 40% of the value of the full ownership.

Calculate the duty payable on the deed of declaration causa mortis, which is being published today the 24th January 2001. Give brief relevant explanations for your methodology.

2. Anthony Abela, a Maltese citizen, is the owner of a large plot of land at Naxxar, valued Lm23,250. Claudia Bianco, an Italian citizen, is the owner of a small flat at Qawra, valued Lm28,750.

Anthony Abela and Claudia Bianco agree to exchange the two properties. The deed of exchange is published today the 24th January 2001.

Anthony Abela intends to establish the flat at Qawra as his future sole ordinary residence. Anthony Abela does not own any other immovable property.

Claudia Bianco intends to build a terraced two-storey house on the plot of land at Naxxar. She will eventually establish her sole, ordinary residence at this new house at Naxxar.

Anthony Abela inherited $\frac{1}{2}$ undivided share of the plot of land in 1996. He purchased the remaining $\frac{1}{2}$ in 1998 from his sister.

Claudia Bianco had established her sole ordinary residence at the flat in Qawra in 1995. She purchased $\frac{1}{4}$ share of this flat in 1995 from her aunt. She purchased another $\frac{1}{4}$ share of the flat in December 1998 from her uncle. She inherited a third $\frac{1}{4}$ share from her uncle in January 1999. Finally Claudia Bianco acquired the remaining $\frac{1}{4}$ share in June 1999, by title of donation from her mother.

Discuss with reference to the Immovable Property (Acquisition by Non-Residents) Act (Chapter 246). Calculate (a) the duty payable in terms of the Duty on Documents and Transfers Act (Chapter 364), and (b) the liability from the point of view of provisional capital gains tax, indicating the amount of provisional capital gains tax payable.

UNIVERSITY OF MALTA
LLD First Year - Diploma of Notary Public
NS002 - FISCAL LIABILITY ON NOTARIAL DEEDS

23rd January 2002 1300 to 1310 10 minutes allocated for students to review the paper, and to plan their answers. Students may not start writing their answers during this time.

 1310 to 1410 1 hour allocated for candidates to answer the paper.

Answer all questions. You may answer in English or Maltese.

1. Anna Abela, wife of George, passed away on the 19th September 2001. She bequeathed her immovable properties in terms of her last will. The properties, values, beneficiaries, and other relevant details, follow:

Property	Deceased's share	Value of the full share in full ownership	Beneficiary	Other details
House at Marsa	¼	55,500	<ul style="list-style-type: none"> In usufruct in favour of George (her husband, aged 62 years); In bare ownership in favour of Leone (her son) and Jane (her daughter), in equal shares between them 	<ul style="list-style-type: none"> Ordinary residence of the deceased, of her husband George, and of her son Leone. Between the ages of 60 and 70, the value of the usufruct is deemed to be 20% of the value of the full ownership. Leone is a Canadian citizen; Jane lives elsewhere at Mellieħa.

(a) Calculate the duty, if any, which is payable on the deed of declaration *causa mortis*. The deed is being published today the 23rd January 2002. Give brief relevant explanations for your methodology.

(b) What procedures, if any, does Leone have to follow under the *Immovable Property (Acquisition by Non-Residents) Act*?

2. John Callus and his sister Catherine Callus inherited one-half (½) undivided share of a field from their aunt Gaetana, who passed away in 1995. Her immovable property was duly declared in 1995, and the duty *causa mortis* was paid.

In 1997 John Callus and Catherine Callus (who were both still unmarried) purchased the other one-half (½) undivided share of this field.

They have now prepared a plan of partition:

- Plot 1 – valued Lm34,500, will be assigned to John Callus. He intends to construct his future sole ordinary residence on that plot of land. At present John resides in a rented flat, and he does not own any other immovable property.
- Plot 2 – valued Lm34,500 will be assigned to Catherine. Catherine already owns a flat where she resides. Catherine has no immediate specific intention on how to utilise plot 2.

(a) Calculate the duty, if any, which is payable on the deed of partition which is being published today. Give brief explanations for your methodology.

(b) Calculate the provisional capital gains tax, if any, which is payable on the deed. Give brief explanations.

September 2003

Section C - Fiscal Legislation (50 marks)

C1

- Youssef Mubarak is a citizen of Lebanon. He was born in Lebanon in 1975 and resided there continuously with his parents until he was 18 years old. In 1993 he moved to France to pursue his studies and training. He came to Malta for the first time in January 1999 to take up a job as an I.T. network engineer with a firm at Victoria, Gozo. He rented a flat at Nadur Gozo, and he has been residing there since then. As a matter of fact since he arrived here in January 1999 he only travelled abroad once a year, each time during the whole month of August, to visit members of his family.
- Jane Camilleri is a Maltese citizen. She was born in Adelaide, Australia in 1978. In 1989 she accompanied her parents back to Gozo, and she has since resided at Għajnsielem, Gozo. She has only been abroad on short holidays which were never longer than three weeks in any particular year.
- Youssef Mubarak and Jane Camilleri are planning to get married in June 2006.
- They have made all necessary arrangements to purchase an apartment at Munkar, Gozo, where they intend to establish their matrimonial home. The price for the apartment is Lm57,500. Youssef Mubarak and Jane Camilleri will purchase it in equal shares (one half share each). They do not own any other immovable property, whether in Malta or abroad.
- The notarial deed of purchase will be published on 1st November 2005.

Question C1.a Advise Youssef Mubarak and Jane Camilleri whether they, or any one of them, should obtain a permit under the Immovable Property (Acquisition by Non-residents) Act. Answer only: (a) neither one nor the other requires a permit, or (b) both require a permit, or (c) one of them (indicating who) requires a permit. In addition, give a brief explanation (based on the law) to justify your answer.

Question C1.b Calculate the stamp duty (duty on documents and transfers) payable on the deed of purchase. Your answer should include very brief notes reflecting your methodology and calculation.

C2 John Zammit acquired a bakery in three stages. (a) He inherited one-half ($\frac{1}{2}$) undivided share from his uncle Carmelo who died in 1945. The $\frac{1}{2}$ share was then (in 1945) valued Lm450. (b) He purchased one-fourth ($\frac{1}{4}$) undivided share from his aunt Gaetana in 1989 for the price of Lm5,000. (c) He received the remaining one-fourth ($\frac{1}{4}$) undivided share by title of donation from his father Nazzareno in 2004. On the 2004 deed of donation the $\frac{1}{4}$ share was valued Lm12,000.

The premises consist of three large, interconnected rooms which have been used by John Zammit exclusively for the production and sale of bread and cakes throughout the past 60 years. John Zammit retired in June 2005, and has now agreed to sell the bakery. The price for the premises (the immovable property) has been set at Lm55,750. The deed of sale will be finalised on the 15th September 2005.

Question C2 What amount of provisional capital gains tax, if any, is payable on the deed of sale? Explain briefly.

Please go to the next page

C3 Carmen Cachia passed away on the 14th June 2005. She was not married. She was survived by her brother John Cachia and her niece Josephine Sammut (the latter being the daughter of Carmen's pre-deceased sister Mary Sammut). In terms of her last will, Carmen Cachia bequeathed the general usufruct of her estate in favour of her brother John Cachia (aged 63 – value of usufruct, linked to the beneficiary's age, is calculated at 20% of the value of the full ownership); and she appointed her niece Josephine Sammut as her sole universal heir. The deceased had one immovable property. Further details appear below:

Description	Value of the full share	Deceased's share	Other remarks
House at Hamrun	€44,400	3/4 - three-quarters	Residence of (i) the deceased and (ii) her brother John Cachia. N.B. Josephine Sammut resided elsewhere at Qormi.

Question C3 The declaration *cause mortis* will be published today the 5th September 2005. Calculate the duty, if any, which is payable by each one of the two beneficiaries. Explain briefly.

Section D Drafting (20 marks)

D1 A preliminary promise of sale/promise of purchase agreement (*konvenju*) is drawn up today. The sale by public deed will be finalised in two years' time.

Question D1 Draft only the provision in the agreement which reflects that two years' term.

D2 Anthony Axiq is a widower (his wife pre-deceased him).

In colloquial terms he insists that when he passes away his motor-car will belong exclusively to his son John. All other assets should belong to his four children, Anthony, John, Pauline and Stefania, in equal shares. Above all, his sons and daughters should ignore anything which they received gratuitously from their father during his life-time.

Question D2 Draft only the appropriate dispositions in Anthony's will and testament, reflecting the issues indicated in the previous paragraph.

11th June 2004

Section C - Fiscal Legislation: (60 marks)

Paul Brincat died on the 20th March 2004. The only immovable real rights which belonged to him consisted of nine-tenths (9/10) undivided share of a house (1, St Publius Street, Floriana), where he used to reside before he passed away. The whole share in full ownership of this house is valued Lm55,750.

The deceased's two heirs are his two children, in equal shares between them: (i) Bernard Brincat, a citizen of Malta who has resided in France for the past seventeen years, and (ii) Carmen Caruana, a citizen of Malta who always resided together with her father at Floriana.

1. Upon the opening of succession, and in order to inherit the property at Floriana, are the heirs required to carry out any procedure in terms of the Immovable Property (Acquisition by Non-Residents) Act (Chapter 246), as amended by Act IX of 2003? Explain your answer briefly and to the point.
2. Calculate the tax, in terms of the Duty on Documents and Transfers Act (Chapter 364), which is paid on the declaration causa mortis published today, giving brief but appropriate explanations.

The two heirs have reached an agreement whereby Carmen Caruana will sell her 9/20 undivided share in the property at Floriana to her brother Bernard Brincat, for the price of Lm27,875.

3. Is any procedure required under the Immovable Property (Acquisition by Non-Residents) Act (Chapter 246), as amended by Act IX of 2003, for the sale by Carmen Caruana to Bernard Brincat? Explain your answer briefly and to the point.
4. (a) In terms of law, is any Provisional Capital Gains Tax payable on the deed of sale? Give a brief explanation for your answer.
(b) If your answer is in the affirmative, you are required to calculate the amount payable as Provisional Capital Gains Tax, at the normal rate. Would there be grounds for a different rate at which provisional capital gains tax might be paid? How would that be achieved?

Section D - Drafting: (20 marks)

Anna and John Bonello are married. They have two children. This evening (Friday 11th June 2004) they will draw up their will *unica charta*.

1. Draft only the disposition whereby the pre-deceased spouse bequeaths to the surviving spouse the maximum permissible according to the law in force today. You are required to identify that maximum in terms of shares and/or real/personal rights.

Anna and John Bonello have been informed that the law might be changed in the future, and that a predeceased spouse might be permitted to bequeath a larger share and/or more significant real/personal rights to the surviving spouse.

2. Draft only a second disposition, as an exception to the previous disposition, and conditional upon a future change in the law, whereby the predeceased spouse would in that case bequeath to the surviving spouse the maximum which would be permissible by law.

Which of the following is the effective date of the charge? (a) 20 April 2005 or (b) 27 May 2005 or (c) 3 June 2005.

B40. Land is registered in the name of X with title number 18000321. By a deed of Notary of 15 May 2005, B gave X a loan of Lm5,000 so that X could purchase a small car. As a guarantee, X constituted a charge in favour of B over the said land with title 18000321. A notary applied for the registration of the charge in the Land Registry on 27 May 2005, and on 6 June 2005 the Land Registrar registered the charge on the said title. Which of the following is the effective date of the charge? (a) 15 May 2005 or (b) 27 May 2005 or (c) 6 June 2005.

B41. Two special hypothecs on the same property are registered on the same day in the Public Registry. Hypothec 1 is registered at 8 am while Hypothec 2 is registered at 10 am. Which of the following is correct? (a) Hypothec 1 ranks first or (b) Hypothec 2 ranks first or (c) Hypothec 1 and Hypothec 2 have equal ranking.

B42. Applications for the registration of two charges (in this case both equivalent to special hypothecs) on the same land are entered in the day-book as follows: Charge 1 at 8 am with progressive number 1234 and Charge 2 at 10 am with progressive number 1250. Which of the following is correct? (a) Charge 1 ranks first or (b) Charge 2 ranks first or (c) Charge 1 and Charge 2 have equal ranking.

B43. A caution is equivalent to a title which is guaranteed. (a) True or (b) False.

B44. Land registered with a guaranteed title is subject to all overriding interests for a period of ten years from effective date of the guaranteed title. (a) True or (b) False.

B45. A Bill currently before Parliament proposes to repeal the Public Registry Act and the Land Registration Act and establish one Central Registry for the registration of all real estate titles. (a) True or (b) False.

June 2005

Section C Fiscal Legislation (60 marks)

C1. John Borg and his wife Carmen Borg are the owners of a large flat at Marsascala, valued Lm53,575, which they utilised only during the summer months, given that their ordinary residence is at Zabbar.

Albert Zammit and his wife Maria Zammit are the owners of a large warehouse at Zejtun, valued Lm44,275.

The two properties will be exchanged. Albert and Maria Zammit will pay an owelty of Lm9,900 to John and Carmen Borg.

Albert and Maria Zammit will establish their sole ordinary residence at the flat at Marsascala.

All four persons are Maltese citizens. They were born in Malta. In addition, they have always resided here in Malta. Throughout their lifetime all four persons have only been abroad on brief holidays, which never exceeded 3 weeks in any year.

Question C1.1. Calculate the stamp duty (duty on documents and transfers) payable on the deed of exchange. Your answer should include very brief notes reflecting only your methodology and calculation.

Question C1.2. What amount of provisional capital gains tax, if any, is payable on the deed of exchange? Explain briefly.

C2. Giovanni Abdilla inherited a plot of land in 1955. He has now decided to donate it (now valued Lm42,750) to his daughter Catherine Abdilla. Catherine has already applied for a development permit to build a modest ground-floor house there. She intends to move in.

X

at newly-built house, and establish her sole, ordinary residence there, in about 18 months'

Catherine Abdilla is an Australian citizen. She is not a citizen of Malta. She was born in Melbourne, Australia in 1970. She resided there till January 2003. She arrived in Malta for the first time in February 2003. She has resided uninterruptedly at Malta since then, except for a four-month study period in Lyon, France, between June and October 2004.

Question C2.1 Advise Catherine Abdilla whether or not she must obtain a permit under the Immovable Property (Acquisition by Non-residents) Act. Answer Yes/No. Give a brief explanation (based on the law) to justify your answer.

Question C2.2 What amount of provisional capital gains tax, if any, is payable on the deed of donation? Explain briefly.

George Galea passed away on 14 January 2005. In terms of his last will, George Galea bequeathed the general usufruct of his estate in favour of his wife Carmen Galea (aged 65). The value of usufruct, linked to the beneficiary's age, is calculated at 20% of the value of the full ownership; and he appointed his two children Pauline and Peter as universal heirs. The deceased had one immovable property. Further details appear below:

Description	Value of the full share	Deceased's share	Other remarks
House at Dingli	Lm77,500	¾ - three-quarters	Residence of (i) the deceased, (ii) his wife Carmen, and (iii) his daughter Pauline

Question C3 The declaration *causa mortis* will be published today 6 June 2005. Calculate the duty, if any, which is payable by each one of the three beneficiaries. Explain briefly.

Section D Drafting (20 marks)

D1 Following the amendments to the Civil Code introduced by Act XVII of 2004, there is now an inversion of the presumption as to whether one testator may or may not alter a will *unica charta* insofar as his/her succession would be concerned.

Question D4 Draft an article which reflects the principle of reciprocity in a will *unica charta*, indicating the circumstances permissible by law when the surviving spouse will forfeit the bequest from the predeceased spouse.

D2 Two individuals conclude a preliminary promise of sale/promise of purchase agreement, of immovable property. The parties have agreed on the price - Lm40,000. A payment of Lm1000 is effected at the time when the preliminary agreement is signed. The remainder will be paid when the public deed of sale is published.

Question D5 Draft that part of the preliminary agreement where the parties establish the prices. Draft also a statement reflecting the payment effected on the preliminary agreement, and the undertaking in respect of the remainder of the price, as indicated in the previous paragraph.

June 2006

Section C Fiscal Legislation (60 marks)

Section C Part 1 - Duty on Documents and Transfers Act
Immovable Property (Acquisition of by Non-Residents) Act

1 June 1965 Georgina Gatt was born at Birzebbugia, Malta. She acquired Maltese nationality/citizenship by birth, given that her parents and grand-parents were all born in Malta.

1 December 1967 Georgina Gatt, then 2½ years old, accompanied her parents who emigrated to Melbourne, in Australia. Georgina lived in Australia uninterrupted till 1999.

1 February 1999 Georgina Gatt travelled to Milan, Italy. There she was employed for an indefinite period teaching the English language. She continues to reside and work there to this day. Since then she has travelled to Malta regularly, invariably spending here one week during the Christmas holidays, another week during the Easter holidays, and approximately 2 months during the summer holidays.

1 March 2006 Fortunata Gatt, who was Georgina's grand-mother, passed away. Fortunata Gatt then resided at number 5, Triq San Gwann, Birzebbugia. In terms of her Will, Fortunata Gatt bequeathed her one-fourth (¼) undivided share of this house in favour of Georgina Gatt.

5 June 2006 Georgina Gatt has just arrived in Malta for a few weeks.

Today she will conclude the declaration *causa mortis* in respect of the legacy which she received from her grand-mother. An architect has advised her that the value of the full share of the house is Lm57,500.

In addition she has also approached her uncle Philip Gatt, who is the other co-owner of the house. She agreed to purchase the remaining three-fourths (¾) undivided share of the same house at 5, Triq San Gwann, Birzebbugia from him, undertaking to pay him the price of Lm43,125 for his ¾ share. Philip Gatt had inherited his share of the house from his father in 1990. Georgina Gatt and Philip Gatt intend to conclude this sale in December 2006.

In both cases (the declaration *causa mortis* and the December purchase) she will tell the Notary that she intends to make use of the house for her accommodation during her regular but brief holidays in Malta.

Georgina Gatt is not married. She does not own any other immovable property.

Question C1 Is Georgina Gatt a "resident of Malta" or a "non-resident person" for the purposes of the Immovable Property (Acquisition by non-Residents) Act? You are required to explain very briefly, by linking any relevant facts listed above to legal criteria.

Question C2 Does Georgina Gatt require an AIP permit in relation to the legacy of ¼ undivided share of the house at 5, Triq San Gwann, Birzebbugia which devolved in her favour from her grand-mother Fortunata Gatt? You are required to explain your answer briefly.

Question C3 Will Georgina Gatt require an AIP permit to purchase ¾ undivided share of the house at 5, Triq San Gwann, Birzebbugia from her uncle Philip Gatt? You are required to explain your answer briefly.

Question C4 Calculate the duty payable by Georgina Gatt on the Declaration causa mortis (¼ share of the house at 5, Triq San Gwann, Birzebbugia). The deed of declaration will be published today 5 June 2006 in the evening. Write brief notes to explain your calculation.

Question C5 Calculate the duty (in terms of the Duty on Documents and Transfers Act) which will be payable by Georgina Gatt in December 2006 on the deed of purchase of ¾ share of the house at 5, Triq San Gwann, Birzebbugia. Write brief notes to explain your calculation.

September 2006

Section B Registration of Acts and Titles (60 marks)

- Answer ONE question from Part One of this Section and ONE question from Part Two of this Section.

You are to bear in mind, if and where applicable, the amendments to the Land Registration Act that have not yet come into force.

Section B Part One

Answer ONE question only:

B.1.1 Consider the laws which are inapplicable with regard to land registerable in the Land Registry. (45 marks)

B.1.2 Compare and contrast the nature and effects of a title and a guaranteed title. (45 marks)

B.1.3 What are "overriding interests"? What is their effect on a guaranteed title? Discuss briefly four of the overriding interests listed in the law. (45 marks)

Section B Part Two

Answer ONE question only:

B.2.1 Distinguish between compulsory and declaratory registration areas. (15 marks)

B.2.2 What is a caution against first-registration of title to land? How is such a caution lodged with the Land Registrar? What remedy does the cautioner have against a decision of the Land Registrar in relation to such a caution? (15 marks)

Section C Laws of Direct Relevance to Notarial Practice (60 marks)

Section C Part One

Mrs Mary Brown and her sister Mrs Carmen Black are British citizens. They were born in London, in the UK, and they lived there continuously, except for very brief holidays in Malta, which never exceeding three weeks in duration in any particular calendar year. In Malta they used to stay with their maternal grandmother at Birzebbugia.

Their grandmother passed away on 15 July 2006. Mrs Smith and Mrs Black have been informed that their grandmother left a Will, and that she bequeathed by title of legacy her only immovable property, which consisted of the full share (1/1) of her residence, a two-storey modest house, to Mrs Smith and Mrs Black, in equal shares between them.

Question C.1.1: Do the two beneficiaries need to obtain an AIP permit to sanction the devolution *causa mortis* of the house at Birzebbugia, which occurred upon their grandmother's death? Explain briefly by reference to legal criteria arising from

Sept 2006
Fiscal
legislation

Sept 2006 - Fiscal legislation

the Immovable Property (Acquisition by non-residents) Act and any other related legislation.

The house at Birzebbugia has been valued Lm48,500.

Question C.1.2: Calculate the Duty, if any, under the Duty on Documents and Transfers Act, which Mrs Mary Brown and Mrs Carmen Black will pay on the deed of declaration *causa mortis* which will be published today 4 September 2006. Write very brief notes to explain your answer.

Mrs Brown and Mrs Black have been advised by an architect that it is possible for them to partition the house at Birzebbugia, thereby converting it into two small holiday flats for their one month-long, future holidays in Malta. The ground-floor flat will be assigned to Mrs Brown, while the first floor flat will be assigned to Mrs Black. The deed of partition will be finalised on 1 December 2006.

Question C.1.3: Do the two co-partitioners need to obtain an AIP permit before proceeding with the publication of the deed of partition of the two flats at Birzebbugia? Explain briefly by reference to legal criteria arising from the *Immovable Property (Acquisition by non-residents) Act and any other related legislation.*

Question C.1.4: Calculate the Duty, if any, under the Duty on Documents and Transfers Act, which Mrs Mary Brown and Mrs Carmen Black will pay on the deed of partition which is scheduled to be published on 1 December 2006. Write very brief notes to explain your answer.

Section C Part Two

Mr John Gatt purchased a plot of land in 1990 for the price of Lm15,000. Although he had planned to build a house for his own residence at that site, he never constructed anything. In 2006 he decided to sell this plot of land for the sum of Lm85,250.

Question C.2.1: Calculate the Property Transfer Tax payable by Mr John Gatt on the deed of sale.

Please go to the next page

Section D: Drafting (20 marks)

Mr Joseph Zammit made a Will in 1990. He does not want to revoke that Will. He only wants to bequeath a car, a Volkswagen Beetle, to one of his children, Mr Paul Zammit. Mr Joseph Zammit knows that he owns only one-half ($\frac{1}{2}$) undivided share of that car; nevertheless, Mr Joseph Zammit wants to bequeath the full-share of the car all the same to his son Paul. The future beneficiary of the car (Mr Paul Zammit), was already nominated as a co-heir in the 1990 Will; and he will eventually get the car over and above his share as co-heir.

Question D.1: Draft an introductory paragraph, and a concluding paragraph, for this particular Will which will be published today 4 September 2006, to indicate that the previous Will made in 1990 is not being revoked, and that today's Will must be read in conjunction with the previous Will.

Question D.2: Draft the appropriate provision/s to give effect to the devolution by succession of the car in favour of Mr Paul Zammit.

UNIVERSITY OF MALTA

Faculty of Laws

LLD First Year Students – 2006 – 2007 – May – June Special Session 2007

CVL 4014 – Fiscal Laws Associated with Immovable Property (4 Credits)

30 May 2007 14:15 to 15:15 1 hour allocated for candidates to answer the test paper.

- You are required to answer all questions. You may answer in English or in Maltese.
- During the test candidates are not allowed to have any mobile 'phones and/or memory-resident electronic devices; however, candidates are allowed to use calculators that are not otherwise excluded in terms of this paragraph.

SECTION ONE

Carmen Cachia, then a widow, died on 3 February 2007. The immovable properties belonging to the deceased, their respective values, the beneficiaries according to her last will, and other relevant details, follow:

Property	Deceased's share	Value of the full share	Beneficiaries	Other details
House at Lija	Two-fifths (2/5)	Lm52,750	Her son <u>Joseph Cachia</u> in full ownership	<ul style="list-style-type: none"> Residence of the deceased Carmen Cachia Her son Joseph resides elsewhere
Flat at Qawra	One-half (1/2)	Lm52,750	Her daughter <u>Anna Psaila</u> in full ownership	Residence of Anna Psaila

Question 1: Calculate the duty payable by the two beneficiaries on the deed of declaration *causa mortis*, which is being published today 30 May 2007. You are requested to write brief notes to explain your calculations.

SECTION TWO

Stephen Smith and his sister Mary Smith are UK citizens. They have been officially informed that they are not entitled to Maltese nationality.

They were born in Liverpool in the UK. They have always resided there.

In 1968 a very distant relative died, and she bequeathed a small house at Marsascula to Stephen Smith and Mary Smith jointly, in equal shares between them. Then the full share of the house was valued Lm850.

In December 2006 Stephen Smith visited Malta for the first time following the death of the tenant who used to occupy the house. He decided to retire permanently in Malta and to reside at the house at Marsascula. He agreed to purchase his sister's half share of the house. Stephen will pay his sister Lm37,750 as the price for her half share. It is envisaged that this sale will be concluded towards the end of June 2007.

Question 2: Stephen Smith has been informed that, despite his foreign nationality, there are various reasons which entitle him at law to purchase the half share of the house from his sister. Indicate all these reasons, and discuss them very briefly in relation to the purchase outlined in this Section.

Question 3: Calculate the Property Transfer Tax payable by Mary Smith on the deed of sale (which will be published at the end of June 2007) in terms of the Income Tax Act. Write brief notes to explain your calculations. State whether this tax is provisional or final.

June 2007

Section C Fiscal Legislation (60 marks)

C.1

Giovanna Caruana died on 3 March 2007. She was survived by her husband and her only son. The sole immovable property belonging to the deceased, its value, the beneficiaries according to her last will, and other relevant details, follow:

Property	Deceased's share	Value of the full share	Beneficiaries	Other details
House at Hamrun	2/5	Lm76,750	(a) her husband Paul then 65 years old, <i>in usufruct</i> (b) her son John (then 21 years old) <i>in bare ownership</i>	On the date of death, both the deceased and the two beneficiaries (Paul and John) resided at the house in Hamrun

Value of the usufruct as a percentage of the value of the full ownership:

Age of the usufructuary	Percentage of the value of full ownership
where the usufructuary has not completed 20 years of age:	70 per cent
where the usufructuary has completed 20 years of age but not 30 years:	60 per cent
where the usufructuary has completed 30 years of age but not 40 years:	50 per cent
where the usufructuary has completed 40 years of age but not 50 years:	40 per cent
where the usufructuary has completed 50 years of age but not 60 years:	30 per cent
where the usufructuary has completed 60 years of age but not 70 years:	20 per cent
where the usufructuary has completed 70 years of age:	10 per cent

Question C.1: Calculate the duty payable on the deed of declaration *causa mortis*, which is being published today 8 June 2007. Write very brief notes to explain your workings.

Fiscal Legislation 2

C.2

Peter Portelli was born at Pietà in 1970. He resided at (i) Mellieha between 1970 and 1989, (ii) Madrid, Spain between 1989 and 2000; and (iii) Barcelona, Spain between 2000 and 2006. Peter Portelli is a citizen of Malta.

Angélica Rivera was born at Madrid, Spain in 1969. She resided in Spain between 1969 and 2006. She was on holiday in Malta in June/July 2006; and she returned to Malta in November 2006. Angélica Rivera is a citizen of Spain.

Both Peter Portelli and Angélica Rivera have permanent jobs in Malta. All their belongings are now in Malta, and they intend to reside in Malta indefinitely. Given that they are now residing in leased property and that they do not own any place of habitation, they have decided to purchase a house at Gudja, in equal shares between them, for the price of Lm88,750.

Peter Portelli and Angélica Rivera intend to get married to each other in December 2007.

The deed of acquisition of the house at Gudja will be published at the end of September 2007.

Question C.2: Advise whether Peter Portelli and/or Angélica Rivera require a permit under the Immovable Property (Acquisition by Non-residents) Act. Give a brief explanation (based on law) to justify your answer.

C.3 (Continuation of facts from above)

Peter Portelli and Angélica Rivera will purchase the house at Gudja from Stephen Mifsud. The latter has been residing in the house from 1990 till this day. He inherited one-half ($\frac{1}{2}$) undivided share of that house in 1990 (value then attributed to that half was Lm15,000). He purchased the other one-half ($\frac{1}{2}$) undivided share of the house from his cousin in December 2005 for the price of Lm30,000 (in respect of this latter half).

Stephen Mifsud has been advised that the price paid by him in 2005 was too low to consider the optional capital gains tax regime.

Question C.3: Calculate the Property Transfer Tax, if any, which is payable by Stephen Mifsud when he will sell the house at Gudja at the end of September 2007 for the price of Lm88,750. Write very brief notes to explain your workings.

Section D Drafting (20 marks)

D.1 (Continuation of facts from above)

Question D.1: On the basis of the facts outlined in C.3 draft the declaration which will be made in the deed of sale in connection with the Property Transfer Tax liability of Stephen Mifsud.

D.2 (Continuation of facts from above)

Question D.2: Draft a paragraph to indicate on the deed of sale (to be published in September 2007) that the price is Lm88,750, and that the payments on account of the price have or will be made in the following manner:

- Lm4,000 - already paid in May 2007
- Lm74,750 - payable on the deed of sale; and
- Lm10,000 - payable on 1 October 2008, without interest

September 2007

Section C Fiscal Legislation (60 marks)

Carmen Zerafa passed away on 1st June 2007. She was not married and had no children.

Her two sole heirs, in equal shares between them, are two distant relatives, namely (i) Pauline Callus and (ii) John Smith.

Pauline Callus is a citizen of Malta. She was born in Victoria Gozo in 1970. She has been residing together with the deceased in Triq il-Kapuccini, Victoria, Gozo since 1990. She has only travelled abroad for very brief holidays, never exceeding two weeks in any calendar year.

John Smith was born in Manchester, UK, in 1962. He has always resided in the UK. Indeed, he has never travelled outside the UK. He is a citizen of the UK (a member state of the European Union). He is not a citizen of Malta.

Additional details about the property follow:

Property	Deceased's share	Value of the full share	Beneficiaries	Other details
House at Triq il-Kapuccini, Victoria, Gozo	3/5	Lm82,750	<u>Pauline Callus</u> and <u>John Smith</u> , in equal shares between them	On the date of death the deceased <u>Carmen Zerafa</u> and <u>Pauline Callus</u> (one of the beneficiaries) resided at this house. The other beneficiary <u>John Smith</u> resided in Manchester, UK.

Question 1 – Calculate the Duty, if any, under the Duty on Documents and Transfers Act, which Pauline Callus and John Smith will pay on the deed of declaration *causa mortis* which will be published today 6th September 2007. Write *very brief notes* to explain your answer.

Question 2 – Does John Smith require an AIP permit to sanction the devolution *causa mortis* of the house at Victoria, Gozo which occurred upon the death of Carmen Zerafa on 1st June 2007? Explain by reference to legal criteria arising from the *Immovable Property (Acquisition by Non-Residents) Act* and any other related legislation. Inter alia you are expected to indicate (i) whether John Smith is a "non-resident person", and (ii) whether this devolution qualifies under some exemption under the *Immovable Property (Acquisition by Non-Residents) Act*.

Please turn over

(Continuation)

John Smith (abovementioned) has recently negotiated to sell his 3/10 undivided share in the house at Triq il-Kapuccini, Victoria to Pauline Callus (also abovementioned). As already indicated, Pauline Callus resides at this house. She intends to continue residing there. She owns no other immovable property.

The deed of sale will be published in December 2007.

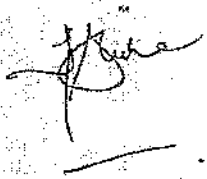
John Smith will receive Lm24,825 as the price for that 3/10 share. Pauline Callus will pay the vendor (i) Lm2,000 on the preliminary agreement, (ii) Lm12,825 on the deed of sale, and (iii) Lm10,000 within a maximum of five years from the date of the deed of sale. No interests will be paid on the balance of the price.

Question 3 – Calculate the Duty (under the Duty on Documents and Transfers Act) payable by Pauline Callus on the deed of sale.

Section D – Drafting (20 marks)

Question 4a – Draft paragraph/s for the deed of sale referred to above (to be published in December 2007), indicating the price, and the payments (made and to be made) in respect of the price.

Question 4b – A house is being sold by a person who resided in it from 1970 till this present day. He purchased that house in 1968. He has been advised that, on the basis of these facts, he is not liable to pay Property Transfer Tax (under the Income Tax Act). However, to benefit from this exemption, the vendor and the notary must make appropriate declarations in the deed of sale. Draft these declarations.



UNIVERSITY OF MALTA

Faculty of Laws

LLD First Year Students - 2007 - 2008 - January Session 2008

CVL 4014 - Fiscal Laws Associated with Immovable Property (4 Credits)

23 January 2008

09:15 to 10:15

1 hour allocated for candidates to answer the examination paper.

- You are required to answer all questions. You may answer in English or in Maltese.
- During the test candidates are not allowed to have any mobile phones and/or memory-resident electronic devices, however, candidates are allowed to use calculators that are not otherwise excluded in terms of this paragraph.

Section A - 25 marks

In terms of an Exemption Order published in 2007 (Exemption from Payment of Duty on Documents and Transfers Order (SL 364.01)) a surviving spouse stands to benefit if he/she inherits from the predeceased spouse a dwelling house which was previously the ordinary residence of the predeceased spouse. This Exemption refers to successions occurring on or after 16 October 2007.

- Is this an absolute exemption? Are there any circumstances in which the surviving spouse would have to pay any related duty causa mortis?
- With specific reference to the 2007 Exemption Order, and in circumstances where the conditions of that Exemption Order apply, is there a legal dead-line within which the surviving spouse is bound to make a declaration causa mortis following the death of the predeceased spouse?
- What consequences, if any, would the surviving spouse suffer if he/she were to make the declaration after the lapse of the dead-line which you indicate as your answer to the previous question?

Section B - 50 marks

Martin Mallia is a Maltese citizen. He was born at Siggiewi on 1 June 1970 and resided there continuously together with his parents for 3 years. In July 1973 he accompanied his parents to Switzerland (which is not an EU State) where they resided continuously till September 2004. Martin Mallia returned to Malta in January 2005 and he resided in Malta continuously since then (except for brief holidays abroad which never cumulatively exceeded 6 weeks in any calendar year).

His fiancée, Albina Lambert (a citizen of Switzerland) visited Malta in March 2006 and subsequently started to reside in Malta from July 2006 onwards.

Martin Mallia and Albina Lambert plan to get married to each other in May 2008 and to reside permanently in Malta.

On 15 September 2007 Martin Mallia and Albina Lambert signed a preliminary agreement to purchase a house at Mosta (outside any AIP special designated area) for the price of Lm78,750 (now equivalent to €183,438.16). The preliminary agreement envisages that the deed of sale will be published on 15 April 2008 (before the date of their marriage). Martin Mallia and Albina Lambert will establish their sole ordinary residence at this house.

- Calculate the provisional duty of documents (in Maltese liri - Lm) which Martin Mallia and Albina Lambert paid when the preliminary agreement was signed on 15 September 2007.
- Advise Martin Mallia and Albina Lambert whether any one or both of them should apply for a permit under the Immovable Property (Acquisition by Non-Residents) Act, giving brief reasons based on law.

Please Turn Over

Section C – 25 marks

Joseph Galea resided continuously at 2, Main Street, Siggiewi from the date when he was born (15 October 1955) till the date when he sold the house on 1 June 2007 for the price of Lm65,500.

He inherited three-fourths ($\frac{3}{4}$) undivided share of this house from his aunt Maria Galea who died on 1 October 2000. In the declaration causa mortis concluded on 1 February 2001 Joseph Galea attributed a value of Lm51,000 in respect of the $\frac{3}{4}$ share (based on a value of Lm68,000 for the full share).

Joseph Galea purchased the remaining one-fourth ($\frac{1}{4}$) undivided share of the house from his cousin on 15 February 2005 for the price of Lm20,000.

- (1) Assuming that Joseph Galea did not consider a possibility to opt for a capital gains tax regime, was he liable to pay any Property Transfer Tax on the deed of sale which was concluded on 1 June 2007? If your answer is in the affirmative, calculate the amount (in Maltese lira – Lm) which he should have paid.
- (2) Did Joseph Galea have a choice to opt to a tax liability under the capital gains tax regime? If your answer is in the affirmative, and assuming that the only deductions availed by him referred to the above-mentioned values of the acquisitions (ignoring any notarial expenses and duty on documents paid in 2001 and 2005 respectively) calculate (in Maltese lira – Lm) the maximum capital gains tax liability of Joseph Galea under the Income Tax Act.



September 2008

Question 2 - (50 marks)

On 20 August 2007 Nazzarena Sammut passed away. In terms of her last will her estate was to be enjoyed in usufruct by her husband George Sammut (who was then 63 years old). Moreover, she appointed her daughter Maria Sammut (who was then 35 years old) as her sole heir.

The only immovable property owned by the deceased consisted of one-third (1/3) undivided share of the house at number 10, St Mary Street, Mqabba. The full share of the house was then valued Lm93,500.

On the date of death Nazzarena Sammut (the deceased), George Sammut (the usufructuary) and Maria Sammut (the heir) resided at that house at Mqabba.

The declaration *causa mortis* was finalised and published on 15 December 2007.

Question: Calculate the duty which was paid on the deed of declaration *causa mortis*. Write very brief notes to explain your workings.

Extract from Subsidiary Legislation 364.06

Second Schedule

Value of the usufruct as a percentage of the value of the full ownership:

Age of the usufructuary	Percentage of the value of full ownership
where the usufructuary has not completed 20 years of age:	70 per cent
where the usufructuary has completed 20 years of age but not 30 years:	60 per cent
where the usufructuary has completed 30 years of age but not 40 years:	50 per cent
where the usufructuary has completed 40 years of age but not 50 years:	40 per cent
where the usufructuary has completed 50 years of age but not 60 years:	30 per cent
where the usufructuary has completed 60 years of age but not 70 years:	20 per cent
where the usufructuary has completed 70 years of age:	10 per cent

June 2009

Section C Fiscal Legislation associated with Immovables (50% of the total marks)

Part C1 – Causa Mortis Declaration

John Brown, a citizen of Canada, established his permanent residence in Malta in 1985. John Brown died testate on 1 March 2009. He was survived by his wife Catherine Brown and his two children Mary Brown and Albert Brown (all three also citizens of Canada). The only immovable properties belonging to the deceased, their values, the beneficiaries according to his last will, and other relevant details, follow:

Property	Deceased's share:	Value of the full share	Beneficiaries	Other details
House at Attard	Owner of one-half (½) undivided share of this house.	€185,750	He bequeathed his one-half (½) share in full ownership to his wife <u>Catherine Brown</u> .	On the date of death, the deceased <u>John Brown</u> and his wife <u>Catherine Brown</u> resided permanently at this house in Attard.
Flat at Qawra	Owner of the full share of this flat.	€92,750	The flat devolved in favour of his two universal heirs, namely his daughter <u>Mary Brown</u> and his son <u>Albert Brown</u> (in equal shares), subject to a life-long usufruct in favour of his daughter <u>Mary Brown</u> .	On the date of death, <u>Mary Brown</u> was 62 years old, and she had been residing permanently at this flat at Qawra since 2001. On the same date, <u>Albert Brown</u> was 60 years old, and resided permanently at Toronto, Ontario, Canada.
Garage at Qawra	Owner of one half (½) undivided share of this garage	€32,500	He bequeathed his one-half (½) share in full ownership to his son <u>Albert Brown</u> .	Details of <u>Albert Brown</u> appear above.

The value of the usufruct is determined as a percentage of the value of the full ownership:

Age of the usufructuary	Percentage of the value of full ownership
where the usufructuary has not completed 20 years of age:	70 per cent
where the usufructuary has completed 20 years of age but not 30 years:	60 per cent
where the usufructuary has completed 30 years of age but not 40 years:	50 per cent
where the usufructuary has completed 40 years of age but not 50 years:	40 per cent
where the usufructuary has completed 50 years of age but not 60 years:	30 per cent
where the usufructuary has completed 60 years of age but not 70 years:	20 per cent
where the usufructuary has completed 70 years of age:	10 per cent

The declaration *causa mortis* was published on 1 June 2009.

Answer **BOTH** questions C1a and C1b (38% of the total marks)

C1a: Calculate the duty *causa mortis* payable by (a) Catherine Brown, (b) Mary Brown, and (c) Albert Brown. Write brief notes to explain.

C1b: State concisely, in a maximum of 15 lines, the date/s and/or circumstances when the duty *causa mortis* is payable by the respective beneficiaries.

Part C2 – Drafting of Declarations

The Immovable Property (Acquisition by Non-Residents) Act (referred hereunder as the AIP law) envisages a number of declarations which must be made in the deed of transfer/acquisition.

Answer **BOTH** questions C2a and C2b (12% of the total marks)

Scenario C2-a

Anthony Attard is a Maltese citizen, and has been residing continuously in Malta for the past 50 years. He is single, and has no children.

Josephine Attard is a citizen of New Zealand, where she was born. She is not entitled to Maltese citizenship. She has been residing in Malta only since 15 September 2006. Josephine's father and Anthony Attard are brothers.

Today (9 June 2009) Anthony Attard transfers by title of donation a small, one-car garage to his niece Josephine Attard.

C2-a: For the purposes of the AIP law draft the declaration which is to be made in the deed (donation of garage) being published today.

Scenario C2-b

Maria Natale is an Italian citizen. She has been residing at a house in Marsascala since 15 March 2001, having inherited that house the previous year. Throughout the past 8 years she has only travelled abroad for brief holidays during the month of August of each year.

Today (9 June 2009) she purchases a small field in the outskirts of Zabbar, trusting that she will manage to grow some vegetables for herself.

C2-b: For the purposes of the AIP law draft the declaration which is to be made in the deed (purchase of field) being published today.

September 2009

Section C

Fiscal Legislation associated with Immovables – (50 marks)

Part C1 – Causa Mortis Declaration

Chiara Cassano and her niece Antonia Cassano, both Italian citizens, visited Malta for the first time in April 2005. Some months later they established their permanent residence in Malta. As a matter of fact in October 2005 they purchased an apartment at Qawra, in equal shares between them.

Chiara Cassano drew up a will in Malta in December 2008. She established a life-time usufruct over her share in the apartment at Qawra in favour of her niece the above-mentioned Antonia Caputi. Further, she appointed as her three universal heirs, in equal shares, her three nieces: (i) the above-mentioned Antonia Cassano, (ii) Alfrada Cassano and (iii) Stefania Cassano. The latter two reside in Naples Italy, and they are both Italian citizens.

Chiara Cassano died on 15 July 2009. On that date Chiara Cassano and Antonia Cassano resided at the apartment at Qawra.

On 15 July 2009 Chiara Cassano (the deceased) was 75 years old. The respective ages of the beneficiaries follow in brackets: Antonia Cassano (62 years old), Alfrada Cassano (59 years old), and Stefania Cassano (55 years old).

The only immovable properties which belonged to the deceased Chiara Cassano were (a) her half share in the apartment at Qawra, and (b) a garage at Bugibba (located just over 1 kilometre away from the apartment at Qawra).

Other details follow:

Property	Deceased's share	Value of the full share
Apartment at Qawra	Owner of one-half (½) undivided share of this apartment.	€205,750
Garage at Bugibba	Owner of the full share of this garage.	€35,750

The value of the usufruct is determined as a percentage of the value of the full ownership:

Age of the usufructuary	Percentage of the value of full ownership
where the usufructuary has not completed 20 years of age:	70 per cent
where the usufructuary has completed 20 years of age but not 30 years:	60 per cent
where the usufructuary has completed 30 years of age but not 40 years:	50 per cent
where the usufructuary has completed 40 years of age but not 50 years:	40 per cent
where the usufructuary has completed 50 years of age but not 60 years:	30 per cent
where the usufructuary has completed 60 years of age but not 70 years:	20 per cent
where the usufructuary has completed 70 years of age:	10 per cent

The declaration *causa mortis* is published today 9 September 2009.

Question C1: Calculate the duty *causa mortis payable by each beneficiary*. Write brief notes to explain your calculations. Further, explain briefly the legal norms that have been applied. (38 marks)

Part C2 – Drafting of Declarations

The Immovable Property (Acquisition by Non-Residents) Act (referred hereunder as the AIP law) and the Income Tax Act (referred hereunder as the ITA law) envisage a number of declarations which must be made in the deed of transfer/acquisition.

Answer **BOTH** questions C2a and C2b – (12 marks)

Scenario C2-a

Mario Mallia has been residing at 1, Main Street, Mellieha since 1965. For many years this house was tenanted by his father. When his father died in 1978 Mario Mallia was recognised as the tenant. In 1990 Mario Mallia purchased the house from the lessor/owner. Mario Mallia continued to reside at this house till this present day.

Mario Mallia has made arrangements to vacate the house this afternoon. Later this evening he will appear on a public deed to sell the house.

Mario Mallia has been informed that he should be exempt from the payment of Property Transfer Tax under the Income Tax Act.

C2-a: For the purposes of the ITA law draft the appropriate declaration which is to be made in the deed of sale being published today.

Scenario C2-b

In 1973 Giuseppe Micallef donated a house at 1, Triq il-Gnejna, ix-Xaghra, Gozo, to his two nephews John and Patrick, brothers Micallef, in equal shares between them.

John Micallef and Patrick Micallef were born in Australia in the early 1950s. They visited Malta only once, in 1973, when they spent three months with their uncles and aunts in Gozo.

Giuseppe Micallef continued to reside at that house till 2005, when he died.

Both John Micallef and Patrick Micallef have confirmed that they are Maltese citizens.

John Micallef has agreed to purchase from Patrick Micallef the latter's half share in the house at Xaghra, Gozo. The deed of sale will be concluded later today.

John Micallef does not intend to reside in Malta. He will continue to reside in Sydney, Australia. Yet since he is now a pensioner it is easier for him to start travelling to Malta say once every two years, and spend some three months each time in the company of his cousins who reside at Xaghra, Gozo.

John Micallef has been informed that he does not need an AIP permit to purchase the half undivided share from his brother Patrick Micallef.

C2-b: For the purposes of the AIP law draft the appropriate declaration which is to be made in the deed being published later today.

University of Malta

Faculty of Laws

LLD First Year, Academic Year 2008 – 2009

CVL4016 – Fiscal Legislation Associated with Immovables

September 2009 Session – 8 ECTS

3 September 2009 – 09:15 to 11:15 hours

Candidates are allowed to use calculators; however, they are not allowed to have any mobile phones and/or memory-resident electronic devices.

Answer all questions

Question 1 – 30 marks

Nicholas Navarro is the owner of a flat at Melleha valued €195,250.

Pauline Pace is the owner of a large garage at Marsa valued €115,550.

Nicholas Navarro and Pauline Pace are both citizens of Malta, aged 24 and 30 respectively. Each one of them was born in Malta, and resided here uninterruptedly, except for brief holidays abroad (of less than 1 month each year) during the past 3 years. Both individuals are single/unmarried. They do not own any other immovable property.

The two individuals agree to exchange today their respective immovable properties; Pauline Pace will also pay an owelty of €79,700 to Nicholas Navarro.

Pauline Pace intends to establish her ordinary residence at the flat in Melleha. Nicholas Navarro will utilise the garage at Marsa to store merchandise.

Calculate the duty (under the Duty on Documents and Transfers Act) which the parties to the exchange will pay on the deed. Write brief notes to explain your calculation and to identify legal norms that have been applied.

Fiscal legislation 2
Question 2 – 40 marks

Anthony Axisa, a Maltese citizen, was born in Malta on 1 February 1976. He lived continuously in Malta till 1 February 1979, when he emigrated to Canada together with his parents. He returned to Malta on 10 March 2006, and he has not been abroad since then.

Barbara Brown is a Canadian citizen. She was born in Toronto, Ontario, Canada in 1981, and she lived there continuously till March 2002. She travelled to Malta on 4 April 2002. She resided continuously in Malta since then.

Anthony Axisa and Barbara Brown decided to get married to each other on 21 November 2009. They plan to continue to reside in Malta.

On 1 June 2009 they entered into a preliminary agreement to purchase jointly (in equal shares) an apartment in a block of flats at Zebbug, Malta. The price of the apartment is €120,000. The deed of purchase will be finalised and published on 1 October 2009. They will establish their matrimonial home and their ordinary residence at that flat. They do not own any other immovable property, whether in Malta or abroad.

Will Anthony Axisa and/or Barbara Brown require an AIP permit to purchase the house at Zebbug, Malta?

Explain by reference to legal criteria arising from the Immovable Property (Acquisition by Non-Residents) Act and any other related legislation. Inter alia you are expected to explain (i) whether Anthony Axisa and (ii) Barbara Brown are "non-resident persons".

UNIVERSITY OF MALTA

Faculty of Laws

LLD First Year - Diploma of Notary Public

CVL4020 – Fiscal Legislation Associated with Immovables

Monday 1 February 2010, from 09:15 am to 11:15 am (2 hours)

-
- This paper is divided into two (2) sections. You are required to answer both questions in each section.
 - You must answer the whole paper in ENGLISH.
 - During the examination, candidates are not allowed to have any mobile 'phones and/or memory-resident electronic devices; however, candidates are allowed to use calculators that are not otherwise excluded in terms of this paragraph.
 - It is recommended that candidates apportion their time according to the marks assigned to each section and, in a general way, not more than 60 minutes on section A, not more than 60 minutes on section B.
-

Answer ALL QUESTIONS IN BOTH SECTIONS

Section A – Inter Vivos Transactions – 50% of total marks

Question 1

Catherine Callus used to reside together with her uncle at Gudja. When her uncle died four months ago she inherited from him a warehouse at Marsa, valued €125,750, and a sum of money. However, she must vacate the house at Gudja, which devolved in favour of Catherine's cousins.

Joseph Borg resides in a house at Mqabba, valued €175,250.

These two persons do not own any other immovable properties.

They agree to exchange the two properties.

Catherine Callus will establish her ordinary residence at the house at Mqabba.

On the date of the deed Joseph Borg will vacate the house at Mqabba, move into rented accommodation, and pay an owlty of €49,500 to Catherine Callus. Henceforth he will carry out his business from the warehouse at Marsa.

Calculate the duty which Catherine Callus and Joseph Borg will pay on the deed of exchange, according to the Duty on Documents and Transfers Act. Your calculation should be accompanied with very brief notes to explain the basis of your calculation. (25 marks)

(Turn Over) ...

Question 2

CVL4020 – Fiscal Legislation Associated with Immovables

Page 1 of 3

Maria Brincat and her brother John Brincat, both unmarried, have been living in the same house at Floriana for the past thirty years.

John Brincat already owns one-half (1/2) undivided share of this house. The other half (1/2) half share belongs to three distant cousins.

Maria Brincat has agreed to purchase from her distant cousins their half undivided share of the house, for the price of €87,350 (established on the basis of a value of €174,700 for the full share). She will continue to reside at that house. She does not own any other immovable property.

Calculate the duty which Maria Brincat will pay on the deed of purchase, according to the Duty on Documents and Transfers Act. Your calculation should be accompanied with very brief notes to explain the basis of your calculation. (25 marks)

Section B – Causa Mortis Transactions – 50% of total marks

Question 3

“Under two separate provisions in the Duty on Documents and Transfers Act the law establishes two distinct scenarios where, following the death of a person, his/her surviving spouse does not pay duty causa mortis immediately after the death, in respect of certain immovable property and/or real rights transmitted by the deceased person in favour of his/her surviving spouse.”

Elaborate on this statement, by identifying only the elements which must be satisfied for each one of these two “exemptions”.

Discuss further whether these “exemptions” are absolute or conditional. (10 marks)

(Turn Over) ...

Question 4

Therese Tonna was the full owner of undivided shares in two immovable properties listed below.

She passed away on 14 December 2009. Her succession was regulated by a will. Therese Tonna was survived by her husband Joseph Tonna (then 62 years old), and her two daughters Anna Tonna (then 35 years old) and Christine Tonna (then 33 years old).

Further details regarding the immovable properties, their values, beneficiaries, etc. follow:

<i>Property</i>	<i>Deceased's share:</i>	<i>Value of the full share</i>	<i>Beneficiaries</i>	<i>Residence on the date of death</i>
House at Mosta	Owner of one-third (1/3) undivided share.	€205,750	<u>Joseph Tonna</u> in usufruct <u>Anna Tonna</u> and <u>Christine Tonna</u> , both in bare ownership, and in equal shares between them.	Ordinary residence of: a. the deceased <u>Therese Tonna</u> ; b. her husband <u>Joseph Tonna</u> ; and c. her daughter <u>Christine Tonna</u>
Flat at Birzebbugia	Owner of one-fourth (1/4) undivided share.	€135,750	<u>Anna Tonna</u> and <u>Christine Tonna</u> , in full ownership, and in equal shares between them	Ordinary residence of <u>Anna Tonna</u>

The declaration *causa mortis* will be finalised and published today 1 February 2010.

Calculate the duty *causa mortis* payable by each beneficiary according to the Duty on Documents and Transfers Act. Your calculations should be accompanied with very brief notes to explain the basis of your calculation. (40 marks)

For ease of reference, it is recalled that the value of the usufruct is determined as a percentage of the value of the full ownership:

<i>Age of the usufructuary</i>	<i>Percentage of the value of full ownership</i>
where the usufructuary has not completed 20 years of age:	70 per cent
where the usufructuary has completed 20 years of age but not 30 years:	60 per cent
where the usufructuary has completed 30 years of age but not 40 years:	50 per cent
where the usufructuary has completed 40 years of age but not 50 years:	40 per cent
where the usufructuary has completed 50 years of age but not 60 years:	30 per cent
where the usufructuary has completed 60 years of age but not 70 years:	20 per cent
where the usufructuary has completed 70 years of age:	10 per cent

UNIVERSITY OF MALTA

Faculty of Laws

LLD First Year - Diploma of Notary Public

CVL4020 - Fiscal Legislation Associated with Immovables

Friday 3 September 2010, from 09:15 am to 11:15 am (2 hours)

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- This paper is divided into two (2) sections. You are required to answer both questions in each section.
 - During the examination, candidates are not allowed to have any mobile 'phones and/or memory-resident electronic devices; however, candidates are allowed to use calculators that are not otherwise excluded in terms of this paragraph.
 - It is recommended that candidates apportion their time according to the marks assigned to each section and, in a general way, not more than 60 minutes on section A, and not more than 60 minutes on section B.
-

Section A - Inter Vivos Transactions - 50% of total marks

Question 1:

Anna Abela and her cousin Salvina Sant, both unmarried, will purchase, in equal and undivided shares between them, a house at Zurrieq, for the price of €128,300.

Anna Abela and Salvina Sant do not own any other immovable property.

Anna Abela plans to move immediately into the house at Zurrieq and to reside there indefinitely.

On the other hand Salvina Sant will not reside at the house at Zurrieq, because for the next five years she will continue to live in Rome, Italy.

Both Anna Abela and Salvina Sant are Maltese citizens. They qualify as "residents of Malta" under the Immovable Property (Acquisition by Non-Residents) Act, because in the past both of them resided in Malta for a continuous period of at least five years, in terms of that Act.

Calculate the duty which Anna Abela and Salvina Sant will pay on the deed of purchase, according to the Duty on Documents and Transfers Act. Your calculation should be accompanied with brief notes to explain the basis of your calculation. (26 marks)

(Turn Over) ...

Question 2

The Duty on Documents and Transfers Act establishes at least five types of inter vivos transfers of immovable property which are exempt from the duty established under that Act.

List any three of these transfers, indicating the precise circumstances in which the exemption is granted. (12 marks)

Question 3

For the purposes of the reduced rate of duty relating to an inter vivos transfer under the Duty on Documents and Transfers Act, in which circumstances would a "garage" qualify as an extension of the "residence"? (12 marks)

Section B -- Causa Mortis Transactions -- 50% of total marks

Question 4

Article 34 of the Duty on Documents and Transfers Act states: "The duty due in accordance with article 32 on declarations shall be rebated to such extent and in such circumstances as may be prescribed."

In what circumstances, and by how much, would the duty be rebated? (10 marks)

(Turn Over) ...

Question 5

Catherine Callus was the full owner of undivided shares in two immovable properties listed below:

She was not married, and her closest surviving relatives were her brother Joseph Callus and her two nieces Maria Callus and Sandra Callus.

Catherine Callus passed away on 15 May 2010. Her succession was regulated by a will.

On the date of death Joseph Callus was 65 years old, Maria Callus was 38 years old, and Sandra Callus was 35 years old.

Further details regarding the immovable properties, their values, beneficiaries, etc. follow:

Property	Deceased's share:	Value of the full share	Beneficiaries	Residence on the date of death
House at Qormi	One-fifth (1/5) undivided share in full ownership	€195,750	<u>Joseph Callus</u> in usufruct <u>Maria Callus</u> in bare ownership.	Ordinary residence of: a. the deceased <u>Catherine Callus</u> ; b. her brother <u>Joseph Callus</u> ; and c. her niece <u>Maria Callus</u> .
Flat at St Paul's Bay	Owner of one-third (1/3) undivided share in full ownership	€145,750	<u>Maria Callus</u> and <u>Sandra Callus</u> , in full ownership, and in equal shares between them	Ordinary residence of her niece <u>Sandra Callus</u>

The declaration causa mortis will be finalised and published today 3 September 2011.

Calculate the duty causa mortis payable by each beneficiary according to the Duty on Documents and Transfers Act. Your calculations should be accompanied with brief notes to explain the basis of your calculation. (40 marks)

For ease of reference, it is recalled that the value of the usufruct is determined as a percentage of the value of the full ownership:

Age of the usufructuary	Percentage of the value of full ownership
where the usufructuary has not completed 20 years of age:	70 per cent
where the usufructuary has completed 20 years of age but not 30 years:	60 per cent
where the usufructuary has completed 30 years of age but not 40 years:	50 per cent
where the usufructuary has completed 40 years of age but not 50 years:	40 per cent
where the usufructuary has completed 50 years of age but not 60 years:	30 per cent
where the usufructuary has completed 60 years of age but not 70 years:	20 per cent
where the usufructuary has completed 70 years of age:	10 per cent

UNIVERSITY OF MALTA

Faculty of Laws

LLD First Year - Diploma of Notary Public

CVL4020 – Fiscal Legislation Associated with Immovables - I

Monday 31 January 2011, from 11:45 am to 1:45 pm (2 hours)

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- This paper is divided into two (2) sections. You are required to answer both questions in each section.
 - During the examination, candidates are not allowed to have any mobile 'phones and/or memory-resident electronic devices; however, candidates are allowed to use calculators that are not otherwise excluded in terms of this paragraph.
 - It is recommended that candidates apportion their time according to the marks assigned to each section and, in a general way, not more than 60 minutes on Section A, not more than 60 minutes on Section B.
-

Section A – Inter Vivos Transactions – 50% of total marks

Question 1

Anthony Borg and his wife Catherine Borg donate a house to their grand-son Francis Borg.

This is the first time Francis Borg is acquiring immovable property, and it is his intention to proceed to occupy this house as his ordinary residence. Francis Borg does not need to obtain a permit under the Acquisition of Immovable Property (by Non-Residents) Act.

The parties will attribute a value of €125,850 to this house. They arrived at this value because the grand-parents bought the land (over which the house is built) some 12 months ago for the price of €55,000; and they spent another €70,850 in costs of construction and other permanent improvement at the same site. They have been advised that more or less costs and values have remained unchanged during the past year.

Calculate the duty payable by Francis Borg under the Duty on Documents and Transfers Act. Your calculation should be accompanied with very brief notes to explain relevant legal considerations and the basis of your calculation. (35 marks)

(Turn Over) ...

Question 2

Catherine Camilleri is the owner of a house situated at Naxxar, valued €161,250. Philip Abela is the owner of a flat at Birzebbugia valued €123,550. They do not own any other immovable property.

The two agree to exchange their respective properties; Philip Abela will also pay to Catherine Camilleri an owelty of €37,700.

Philip Abela intends to establish his ordinary residence at the house at Naxxar. Catherine Camilleri will utilise the flat at Birzebbugia as a summer residence, since she is now residing at her aunt's house.

Catherine Camilleri and Philip Abela do not need to obtain a permit under the Acquisition of Immovable Property (by Non-Residents) Act.

Calculate the duty (under the Duty on Documents and Transfers Act) payable by Catherine Camilleri and Philip Abela on the deed of exchange scheduled to be published today. Your calculation should be accompanied with very brief notes to explain to explain relevant legal considerations and the basis of your calculation. (15 marks)

Section B – Causa Mortis Transactions – 50% of total marks

Question 3

“Article 33 (1) It shall be the duty of every person to whom immovable property is transferred causa mortis, (hereinafter in this article referred to as " transferee causa mortis ") to make a declaration of such transfer by means of a public deed within such term as may be prescribed.”

Discuss briefly the words which are underlined in the previous paragraph. Further, what are the consequences if the transferee causa mortis does not finalise the declaration within the term prescribed by law? (15 marks)

(Turn Over) ...

Question 4

Josephine Gatt was the full owner of undivided shares in two immovable properties listed below.

She passed away on 14 December 2010. Her succession was regulated by a will. Josephine Gatt was survived by her husband Gerald Gatt (then 62 years old), and her two daughters Maria Gatt (then 38 years old) and Stephanie Gatt (then 41 years old).

Further details regarding the immovable properties, their values, beneficiaries, etc. follow:

<i>Property</i>	<i>Deceased's share:</i>	<i>Value of the full share</i>	<i>Beneficiaries</i>	<i>Residence on the date of death</i>
House at Fgura	Owner of one-third (1/3) undivided share.	€135,750	<u>Gerald Gatt</u> in usufruct only; and <u>Maria Gatt</u> and <u>Stephanie Gatt</u> , both in bare ownership, and in equal and undivided shares between them.	Ordinary residence of: a. the deceased <u>Josephine Gatt</u> ; b. her husband <u>Gerald Gatt</u> ; and c. her daughter <u>Maria Gatt</u> .
Flat at Birzebbugia	Owner of one-fourth (1/4) undivided share.	€85,750	<u>Gerald Gatt</u> , <u>Maria Gatt</u> and <u>Stephanie Gatt</u> , in full ownership, in equal and undivided shares.	Ordinary residence of <u>Stephanie Gatt</u>

The declaration causa mortis will be finalised and published today.

Calculate the duty *causa mortis payable by each beneficiary according to the Duty on Documents and Transfers Act*. Your calculations should be accompanied with very brief notes to explain relevant legal considerations and the basis of your calculation. (35 marks)

For ease of reference, it is recalled that the value of the usufruct is determined as a percentage of the value of the full ownership:

<i>Age of the usufructuary</i>	<i>Percentage of the value of full ownership</i>
where the usufructuary has not completed 20 years of age:	70 per cent
where the usufructuary has completed 20 years of age but not 30 years:	60 per cent
where the usufructuary has completed 30 years of age but not 40 years:	50 per cent
where the usufructuary has completed 40 years of age but not 50 years:	40 per cent
where the usufructuary has completed 50 years of age but not 60 years:	30 per cent
where the usufructuary has completed 60 years of age but not 70 years:	20 per cent
where the usufructuary has completed 70 years of age:	10 per cent

8/11/2011

LLD IYR COMPULSORY

UNIVERSITY OF MALTA

Faculty of Laws

LLD First Year - Diploma of Notary Public

CVL4020 - Fiscal Legislation Associated with Immovables - I

Friday 2 September 2011, from 08:00 am to 10:00 am (2 hours)

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- This paper is divided into two (2) sections. You are required to answer both questions in each section.
 - During the examination, candidates are not allowed to have any mobile 'phones and/or memory-resident electronic devices; however, candidates are allowed to use calculators that are not otherwise excluded in terms of this paragraph.
 - It is recommended that candidates apportion their time according to the marks assigned to each section and, in a general way, not more than 60 minutes on Section A, not more than 60 minutes on Section B.
-

Section A - Inter Vivos Transactions - 50% of total marks

Question 1

Christopher Calleja and his fiancée Catherine Camilleri purchase a house at Floriana, today 2 September 2011, for the price of €95,500. They purchase it in equal and undivided shares. It is their intention to proceed to occupy this house at their ordinary residence, soon after their wedding (planned to take place on 15 December 2011).

This is the first time ~~Christopher~~ Calleja is acquiring immovable property. On the other hand, Catherine Camilleri had already acquired the apartment at St Paul's Bay, where she resides at present. She does not plan to alienate that apartment.

Christopher Calleja and Catherine Camilleri do not need to obtain a permit under the Acquisition of Immovable Property (by Non-Residents) Act, in order to purchase the house at Floriana.

Calculate the duty payable by Christopher Calleja and Catherine Camilleri under the Duty on Documents and Transfers Act. Your calculation should be accompanied with brief notes to explain relevant legal considerations and the basis of your calculation (35 marks).

Question 2

According to the Duty on Documents and Transfers Act a deed of partition is considered to be a transfer, and duty under this Act is payable on the value of the immovables which are partitioned. The same Act specifically exempts the payment of duty under this Act in respect of certain partitions. Choose any one of these partitions, and indicate the minimum essential elements which must be satisfied according to law so that a partition of immovables under that type of partition would be exempt from duty under this Act (15 marks).

(Turn Over) ...

Section B – Causa Mortis Transactions – 50% of total marks
Question 3

(a) In which circumstances is the surviving spouse fully exempt from paying duty *causa mortis* in respect of real rights over immovables which he/she inherits from the pre-deceased spouse? (b) In which other circumstances would a surviving spouse inherit real rights over an immovable property from the predeceased spouse, yet the surviving spouse would not pay duty *causa mortis* in respect of those real rights? In both cases identify the essential elements which must be satisfied according to law (15 marks).

Question 4

Joseph Galea was the full owner of undivided shares in two immovable properties listed below. He passed away on 1 June 2011. His succession was regulated by a will. Joseph Galea was survived by his wife Anna Galea (then 67 years old), his son Mario Galea (then 35 years old) and his daughter Stephanie Galea (then 43 years old).

Further details regarding the immovable properties, their values, beneficiaries, etc. follow:

<i>Property</i>	<i>Deceased's share:</i>	<i>Value of the full share</i>	<i>Beneficiaries</i>	<i>Residence on the date of death</i>
House at Birkirkara	Owner of one-fourth (1/4) undivided share	€125,550	<u>Anna Galea</u> in usufruct only; and <u>Mario Galea</u> and <u>Stephanie Galea</u> , both in bare ownership, and in equal and undivided shares between them.	Ordinary residence of: a. The deceased <u>Joseph Galea</u> ; b. His wife <u>Anna Galea</u> ; and c. His son <u>Mario Galea</u> .
Flat at Mellieha	Owner of one-fifth (1/5) undivided share	€92,500	<u>Mario Galea</u> and <u>Stephanie Galea</u> , in full ownership, in equal and undivided shares.	Ordinary residence of his daughter <u>Stephanie Galea</u>

The declaration *causa mortis* will be finalised and published later today 2 September 2011.

Calculate the duty *causa mortis* payable by each beneficiary according to the Duty on Documents and Transfers Act. Your calculations should be accompanied with brief notes to explain relevant legal considerations and the basis of your calculation. (35 marks)

(Turn Over) ...

8/11/2011

LLD IYR COMPULSORY

For ease of reference, it is recalled that the value of the usufruct is determined as a percentage of the value of the full ownership:

<i>Age of the usufructuary</i>	<i>Percentage of the value of full ownership</i>
where the usufructuary has not completed 20 years of age:	70 per cent
where the usufructuary has completed 20 years of age but not 30 years:	60 per cent
where the usufructuary has completed 30 years of age but not 40 years:	50 per cent
where the usufructuary has completed 40 years of age but not 50 years:	40 per cent
where the usufructuary has completed 50 years of age but not 60 years:	30 per cent
where the usufructuary has completed 60 years of age but not 70 years:	20 per cent
where the usufructuary has completed 70 years of age:	10 per cent

UNIVERSITY OF MALTA
FACULTY OF LAWS
LLD I (2011/12)
JANUARY 2012 SESSION OF EXAMINATIONS

CVL4020 – FISCAL LEGISLATION ASSOCIATED WITH
IMMOVABLES - I

MONDAY 30TH JANUARY 2012

9.15AM – 11.15AM

This paper is divided into two (2) sections. You are required to answer both questions in each section.

EACH SECTION MUST BE ANSWERED ON A SEPARATE SCRIPT

During the examination, candidates are not allowed to have any mobile phones and / or memory resident electronic devices; however candidates are allowed to use calculators that are not otherwise excluded in terms of this paragraph.

It is recommended that candidates apportion their time according to the marks assigned to each section and, in a general way, not more than 60 minutes on Section A, and not more than 60 minutes on Section B.

Section A- Inter Vivos transactions – 50% of the total marks

Question 1

Joseph Borg and Josephine Farrugia are engaged and intend to get married and establish their ordinary place of residence in Malta.

They have set their sights on a quaint three bedroomed maisonette in Marsascala which is priced at €112,360. However they are on a tight budget and their decision to buy will depend heavily on all the accessory costs which they will incur over and above the price. For this reason they have approached you, the notary of their choice to ask you to inform them whether they shall have to pay any monies to the Government for this purchase and, if yes, how much.

After you ask them some routine questions it transpires that:

They are both Maltese citizens, have lived in Malta for all their lives, and do not need a permit to buy this property under the Immovable Property (Acquisition by Non-Residents) Act.

Joseph does not own any other immovable property, however Josephine reveals that she bought a small flat some time ago in Wied il-Ghajj which she intends to keep.

Calculate the duty (under the Duty on Documents and Transfers Act) which will be paid by Joseph Borg and Josephine Farrugia on the deed of purchase of the maisonette. Your calculations should be accompanied with brief notes to explain relevant legal considerations and the basis of your calculation (35 marks).

Question 2

Mario Zahra is the owner of a town house situated in Valletta valued at €142,450. Mariella Vella owns a maisonette in Zurrieq valued at €114,233. Each of them does not own any other immovable property.

The two agree to exchange these properties.

Mario intends to establish therein his place of ordinary residence whilst Mariella is currently a full-time translator in Luxembourg and is ordinarily resident there. She intends to rent the house in Valletta to third parties.

Both parties do not need to obtain a permit under the Immovable Property (Acquisition by Non-Residents) Act.

Calculate the duty (under the Duty on Documents and Transfers Act) which will be payable by Mario and Mariella on the deed of exchange which is being published today. Your calculation should be accompanied with very brief notes to explain relevant legal considerations and the basis of your calculation (15 marks).

Section B – Devolutions Causa Mortis - 50% of total marks

Question 3.

(i) In which circumstances is the surviving spouse fully exempt from paying duty causa mortis in respect of real rights over immovables inherited from the pre-deceased spouse?

(ii) There are other circumstances where a surviving spouse who inherits real rights over immovable property from the pre-deceased spouse might not, at first pay duty causa mortis in respect of those real rights. Identify these circumstances.

In both cases (i) and (ii) identify the essential elements which must be satisfied according to law. (15 marks)

Question 4.

Michael Abela was the full owner of undivided shares in the two immovable properties listed below.

He passed away on the 7th December 2011 and his succession is regulated by a will. He is survived by his wife Claire (then 62 years old) and his two daughters Blanche and Charmaine.

Further details regarding the property, values, beneficiaries follow:

Property	Deceased's share	Value of the full share	Beneficiaries	Residence on the date of the death
House at Sliema	Owner of one fourth (1/4) undivided share	€203,450	Claire Abela in usufruct; Blanche Abela and Charmaine Abela in bare ownership in equal shares between them	Ordinary residence of: a. The deceased Michael Abela b. his wife Claire
Flat in Zurrieq	Owner of one half (1/2) undivided share	€124,150	Blanche Abela and Charmaine Abela in full ownership in equal shares between them	Ordinary residence of Blanche Abela

The declaration causa mortis is being finalized and published today.

Calculate the duty causa mortis payable by each beneficiary according to the Duty on Documents and Transfers Act. Your calculations should be accompanied by very brief explanatory notes. (35 marks)

For ease of reference, the value of the usufruct is determined as a percentage of the value of full ownership:

Age of usufructuary	Percentage of the value of full ownership
Where the usufructuary has not completed 20 years of age:	70 percent
Where the usufructuary has completed	60 percent

20 years of age but not 30 years:	
Where the usufructuary has completed 30 years of age but not 40 years:	50 percent
Where the usufructuary has completed 40 years of age but not 50 years:	40 percent
Where the usufructuary has completed 50 years of age but not 60 years:	30 percent
Where the usufructuary has completed 60 years of age but not 70 years:	20 percent
Where the usufructuary has completed 70 years of age:	10 percent

UNIVERSITY OF MALTA
FACULTY OF LAWS
LLD I 2011/2
SEPTEMBER 2012 SUPPLEMENTARY SESSION

**EXAMINATION: CVL4020 – FISCAL LEGISLATION ASSOCIATED WITH
IMMOVABLES -1**

DATE: FRIDAY 7TH SEPTEMBER 2012

TIME: 9:15AM – 11:15AM

This paper is divided into two (2) sections. You are required to answer both questions in each section.

During the examination, candidates are not allowed to have any mobile phones and / or memory resident electronic devices; however candidates are allowed to use calculators that are not otherwise excluded in terms of this paragraph.

It is recommended that candidates apportion their time according to the marks assigned to each section and, in a general way, not more than 60 minutes on section A, and not more than 60 minutes on Section B.

Section A- Inter Vivos transactions – 50% of the total marks

Question 1

Charles Camilleri and Joanne Borg intend to get married and establish their ordinary place of residence in Malta.

After having seen various properties they have found a small house in Birzebugia priced at €110,250 which is to their liking. However they are on a tight budget and their decision to buy will depend heavily on all the accessory costs which they will incur over and above the price. For this reason they have approached you, the notary of their choice to ask you to inform them whether they shall have to pay any monies to the Government for this purchase and, if yes, how much.

After you ask them some routine questions it transpires that:

They are both Maltese citizens, have lived in Malta for all their lives, and do not need a permit to buy this property under the Immovable Property (Acquisition by Non-Residents) Act.

Charles already owns a small flat in Sliema which he intends to keep, whilst Joanne does not own any other immovable property.

Calculate the duty (under the Duty on Documents and Transfers Act) which will be paid by Charles Camilleri and Joanne Borg on the deed of purchase of the house. Your calculations should be accompanied with brief notes to explain relevant legal considerations and the basis of your calculation (35 marks).

Question 2

Philip Agius is the owner of a terraced house situated in Floriana valued at €156,450. Evelyn Vella owns a maisonette in Pembroke valued at €110,345. Each of them does not own any other immovable property.

The two agree to exchange these properties.

Philip intends to establish therein his place of ordinary residence whilst Evelyn is ordinarily resident in Iceland. She intends to rent the house in Floriana to third parties.

Both parties do not need to obtain a permit under the Immovable Property (Acquisition by Non-Residents) Act.

Calculate the duty (under the Duty on Documents and Transfers Act) which will be payable by Philip and Evelyn on the deed of exchange which is being published today. Your calculation should be accompanied with very brief notes to explain relevant legal considerations and the basis of your calculation (15 marks).

Section B – Devolutions Causa Mortis - 50% of total marks

Question 3.

Case (I)

(I) A husband bequeaths by title of legacy to his wife A. A garage situated in Mellieha in full and absolute ownership; and B. The right of usufruct over a block of apartments throughout the lifetime of the wife.

Over and above the wife exercises her entitlement for the right of habitation in the tenement used as the principal place of residence by the wife at the time of the husband's death which tenement was owned jointly by the husband and wife;

With respect to the above facts are there any circumstances in which the wife is fully exempt from paying duty causa mortis?

Case (ii)

(ii) There are other circumstances where a surviving spouse who inherits real rights over immovable property from the pre-deceased spouse might not, at first pay duty *causa mortis* in respect of those real rights. Identify these circumstances.

In both cases (i) and (ii) identify the essential elements which must be satisfied according to law. (15 marks)

Question 4.

Paul Borg was the full owner of undivided shares in the two immovable properties listed below.

He passed away on the 6th June 2012 and his succession is regulated by a will. He is survived by his wife Jean (then 67 years old) and his two daughters Deborah and Annalise.

Further details regarding the property, values, beneficiaries follow:

Property	Deceased's share	Value of the full share	Beneficiaries	Residence on the date of the death
House at Gzira	Owner of one fourth (1/4) undivided share	€201,250	Jean Borg in usufruct; Deborah and Annalise in bare ownership in equal shares between them	Ordinary residence of: a. The deceased Paul Borg b. his wife Claire
Flat in Bugibba	Owner of one half (1/2) undivided share	€114,350	Deborah Borg and Annalise Borg in full ownership in equal shares between them	Ordinary residence of Annalise Borg

The declaration *causa mortis* is being finalized and published today.

Calculate the duty *causa mortis* payable by each beneficiary according to the Duty on Documents and Transfers Act. Your calculations should be accompanied by very brief explanatory notes. (35 marks)

For ease of reference, the value of the usufruct is determined as a percentage of the value of full ownership:

Age of usufructuary	Percentage of the value of full ownership
Where the usufructuary has not completed 20 years of age:	70 percent
Where the usufructuary has completed 20 years of age but not 30 years:	60 percent
Where the usufructuary has completed 30 years of age but not 40 years:	50 percent
Where the usufructuary has completed 40 years of age but not 50 years:	40 percent
Where the usufructuary has completed 50 years of age but not 60 years:	30 percent
Where the usufructuary has completed 60 years of age but not 70 years:	20 percent
Where the usufructuary has completed 70 years of age:	10 percent

UNIVERSITY OF MALTA

Faculty of Laws

LLD First Year - Diploma of Notary Public

CVL4020 – Fiscal Legislation Associated with Immovables - I

Thursday 24 January 2013, from 09:15 am to 11:15 am (2 hours)

NOTES – READ CAREFULLY

- This paper is divided into 3 sections. You are required to answer ALL questions in each Section.
- Separate booklets should be submitted for answers to Section A, Section B and Section C, respectively (three booklets in all).
- During the examination, candidates are not allowed to have any mobile phones and/or memory-resident electronic devices. However, candidates are allowed to use calculators that are not otherwise excluded in terms of this paragraph.
- It is recommended that candidates apportion their time according to the marks assigned to each section.

SECTION A – 25 marks

Charles Camilleri resides together with his parents at Naxxar, in a house belonging to his mother.

Years ago Charles Camilleri purchased from third parties a ground-floor tenement at Floriana, from where he carries out his business activity. On that deed of acquisition he paid duty (under the Duty on Documents and Transfers Act) at the full rate. It should be remarked that to-date Charles Camilleri never acquired any immovable property other than this tenement. Moreover, he has no intention to alienate it in the foreseeable future.

Three years ago John Camilleri, who is the father of Charles, inherited the full share (1/1) of a plot of land situated at Gharghur, then valued €48,750. Subsequently, John Camilleri built a house on this land. Costs of construction and other permanent improvements totalled €98,650.

John Camilleri has now decided to donate the newly-built house at Gharghur (the full share) to his son Charles Camilleri, who will get married in April 2013. Charles Camilleri and his future wife will establish their matrimonial home at this house. The deed of donation will be finalised on 15 March 2013. Charles Camilleri has been advised that he does not need to obtain a permit under the Acquisition of Immovable Property (by Non-Residents) Act.

John Camilleri and Charles Camilleri have consulted the architect responsible for the construction of the house. The architect recommends that the current value of the house can realistically and fairly be based on the value of the land (€48,750), and on the costs of construction (€98,650) – cumulatively €147,400.

Question 1:

Discuss all relevant legal issues for the determination of the duty (under the Duty on Documents and Transfers Act) which is payable on the deed of donation of the house situated at Gharghur. Further, calculate the duty payable by Charles Camilleri under the same law on the deed of donation (25 marks).

Turn Over ...

SECTION B – 25 marks

Recently Nicolette Naudi inherited three-fourths (3/4) undivided share of a house situated at Zurrieq. The three-quarters share of this house is valued €131,775. This figure is based on a value of €175,700 for the full share (1/1) of the property.

Jeanette Jones is the owner of the full share (1/1) of bare, shop premises at Naxxar, valued €96,750.

They do not own any other immovable property.

Today (24 January 2013) these two persons will finalise a deed on which they will exchange these two properties. Jeanette Jones will also pay to Nicolette Naudi an owelty of €35,025.

On the same deed Jeanette Jones will purchase the remaining quarter (1/4) undivided share of the abovementioned house at Zurrieq from the other co-owner, Anthony Attard. The agreed price for the quarter share of the house is €43,925.

Jeanette Jones will establish her ordinary residence at the house at Zurrieq. Nicolette Naudi will open a butcher shop at the premises at Naxxar.

Nicolette Naudi and Jeanette Jones have been advised that they do not need to obtain a permit under the Acquisition of Immovable Property (by Non-Residents) Act.

Question 2:

Discuss all relevant legal issues for the determination of the duty (under the Duty on Documents and Transfers Act) which is payable on the deed of exchange and purchase. Further, calculate the duty payable on this deed (25 marks).

Turn Over ...

SECTION C – 50 marks

Joseph Borg passed away on 1 November 2012. His succession was regulated by a will. Joseph Borg was survived by his wife Catherine Borg (then 64 years old), his daughter Anna Borg (then 38 years old), and his son Peter Borg (then 36 years old). Details regarding the immovable properties comprised in this succession, their values, beneficiaries, etc. appear in the table below. The declaration *causa mortis* will be finalised today 24 January 2013.

Property	Deceased's share:	Value of the full share, in full ownership	Beneficiaries	Residence on the date of death
House at Msida	Owner of one-third (1/3) undivided share.	€165,250	<u>Catherine Borg</u> in full ownership	Ordinary residence of: (a) the deceased <u>Joseph Borg</u> , and (b) his wife <u>Catherine Borg</u> .
Flat at Birzebbugia	Owner of four-fifths (4/5) undivided share.	€145,750	<u>Catherine Borg</u> received the deceased's share in usufruct only. His two children <u>Anna Borg</u> and <u>Peter Borg</u> received the bare ownership, equally between them.	Ordinary residence of his daughter <u>Anna Borg</u> . <u>Peter Borg</u> resides elsewhere, at Melleha.

Question 3:

- 3 (a) In the context of this case study, identify the real right or rights which qualify for an exemption from the payment of duty on the deed of declaration *causa mortis* published today 24 January 2013. Further, elaborate briefly on the essential elements, according to law, which constitute a pre-requisite for such exemption/s in relation to the deed of declaration *causa mortis* published today. (8 marks)
- (b) Calculate the value/s of the real right/s which qualifies/qualify for an exemption from the payment of duty, as aforesaid. Any value/s under this paragraph should be given in relation to each of the beneficiaries, separately. (4 marks)
- (c) Calculate the duty causa mortis which the beneficiaries might have to pay on the deed of declaration *causa mortis* published on 24 January 2013. Annotate your calculations briefly, to allow for an understanding of your methodology; however, you are not required to link the calculations with a reference to the legal requirements underlying the basis of your calculations. (18 marks)
- (d) Describe supervening circumstances (by reference to the essential legal requisites) which might give rise to a liability to pay further *causa mortis* duty by one or more beneficiaries, depending on some future act made by one or more of the beneficiaries. (8 marks)
- (e) Calculate any such further duty causa mortis which one or more of the beneficiaries might have to pay in the future, if that future act/s (described in the preceding paragraph) were to take place. Annotate your calculations briefly, to allow for an understanding of your methodology; however, you are not required to link the calculations with a reference to the legal requirements underlying the basis of your calculations. (12 marks)

Turn Over ...

For ease of reference, it is recalled that the value of the usufruct is determined as a percentage of the value of the full ownership, according to the following schedule:

<i>Age of the usufructuary</i>	<i>Percentage of the value of full ownership</i>
where the usufructuary has not completed 20 years of age:	70 per cent
where the usufructuary has completed 20 years of age but not 30 years:	60 per cent
where the usufructuary has completed 30 years of age but not 40 years:	50 per cent
where the usufructuary has completed 40 years of age but not 50 years:	40 per cent
where the usufructuary has completed 50 years of age but not 60 years:	30 per cent
where the usufructuary has completed 60 years of age but not 70 years:	20 per cent
where the usufructuary has completed 70 years of age:	10 per cent

UNIVERSITY OF MALTA

Faculty of Laws

LLD First Year - Diploma of Notary Public

CVL4020 – Fiscal Legislation Associated with immovables – I

September 2013 Session

Thursday 12 September 2013, from 09:15 am to 11:15 am (2 hours)

NOTES – READ CAREFULLY

- This paper is divided into 3 sections. You are required to answer ALL three Sections.
- Separate booklets should be submitted for answers to Section A, Section B and Section C, respectively (three booklets in all).
- During the examination, candidates are not allowed to have any mobile 'phones and/or memory-resident electronic devices. However, candidates are allowed to use calculators that are not otherwise excluded in terms of this paragraph.
- It is recommended that candidates apportion their time according to the marks assigned to each section.
- STUDENTS MUST CHOOSE TO ANSWER QUESTIONS ACCORDING TO THE TAX REGIME EXISTING BEFORE OR AFTER THE ENACTMENT OF AMENDMENTS INTRODUCED BY ACT III OF 2013. THE DATES (EITHER 15 SEPTEMBER 2012 OR 1 AUGUST 2013) ARE PRECISELY DESIGNED FOR THIS PURPOSE.

SECTION A – 25 marks

Maria Mallia and her brother Mathew Mallia, both unmarried, have been living in the same house at Valletta for the past thirty years.

Mathew Mallia already owns one-half (1/2) undivided share of this house. The other half (1/2) half share belongs to three distant cousins.

Maria Mallia purchased from her distant cousins their half undivided share of the house, for the price of €87,350 (established on the basis of a value of €174,700 for the full share). She continued, and will continue, to reside at that house. She does not own any other immovable property, and she did not need to obtain a permit under the Immovable Property (Acquisition by Non-Residents) Act.

You are requested to double-check the duty paid by Maria Mallia on the deed of purchase.

Choose either Question 1A or Question 1B, and indicate your choice clearly.

Question 1A: - The deed of purchase was finalised and published on 15 September 2012. Calculate the duty which Maria Mallia paid on that deed of purchase, according to the Duty on Documents and Transfers Act, then in force. Your calculation should be accompanied with very brief notes to explain the basis of your calculation. (25 marks)

OR

Question 1B: - The deed of purchase was finalised and published on 1 August 2013. Calculate the duty which Maria Mallia paid on that deed of purchase, according to the Duty on Documents and Transfers Act, then in force. Your calculation should be accompanied with very brief notes to explain the basis of your calculation. (25 marks)

SECTION B – 25 marks

Mark Navarro is the owner of a flat at Qrendi valued €190,250. Peter Portelli is the owner of a garage at Marsa valued €125,550. They do not own any other immovable property.

The two agree to exchange their respective properties; Peter Portelli will also pay to Mark Navarro an amount of €64,700. Peter Portelli intends to establish his ordinary residence at the flat in Qrendi. Mark Navarro will utilise the garage at Marsa to store merchandise.

Mark Navarro and Peter Portelli were advised that they did not need to obtain a permit under the Immovable Property (Acquisition by Non-Residents) Act.

Calculate the duty payable by Mark Navarro and Peter Portelli under the Duty on Documents and Transfers Act.

Choose either Question 2A or Question 2B, and indicate your choice clearly.

Question 2A: - The deed of exchange was finalised and published on 15 September 2012. Discuss all relevant legal issues for the determination of the duty (under the Duty on Documents and Transfers Act) which was payable on that deed of exchange. Further, calculate the duty which was paid on that deed (25 marks).

OR

Question 2B: - The deed of exchange was finalised and published on 1 August 2013. Discuss all relevant legal issues for the determination of the duty (under the Duty on Documents and Transfers Act) which was payable on that deed of exchange. Further, calculate the duty which was paid on that deed (25 marks).

SECTION C – 50 marks

Joseph Zammit died testate. He was survived by his wife Carmen Zammit (then 63 years old), his daughter Anna Zammit (then 34 years old), and his son Pierre Zammit (then 32 years old). Details regarding the immovable properties comprised in this succession, their values, beneficiaries, etc. appear in the table below.

Property	Deceased's share:	Value of the full share, in full ownership	Beneficiaries	Residence on the date of death
House at Msida	Owner of one-third (1/3) undivided share.	€175,250	<u>Carmen Zammit</u> received the deceased's share in usufruct only. His two children <u>Anna Zammit</u> and <u>Pierre Zammit</u> received the bare ownership, equally between them.	Ordinary residence of: (a) the deceased <u>Joseph Zammit</u> ; and (b) his wife <u>Carmen Zammit</u> .
Flat at Birzebbugia	Owner of two-fifths (2/5) undivided share.	€135,750	<u>Carmen Zammit</u> received the deceased's share in usufruct only. His two children <u>Anna Zammit</u> and <u>Pierre Zammit</u> received the bare ownership, equally between them.	Ordinary residence of his daughter <u>Anna Zammit</u> . <u>Pierre Zammit</u> resides elsewhere, at Floriana.
Garage at Marsaxlokk	Owner of one-half (1/2) undivided share.	€35,000	<u>Carmen Zammit</u> , <u>Anna Zammit</u> and <u>Pierre Zammit</u> , in equal and undivided shares among them.	

CHOOSE one only of the following two scenarios. Indicate your choice at the beginning of your answer, and proceed to answer the question which follows:

SCENARIO 3A – Date of death: 1 June 2012; Date of causa mortis declaration: 15 September 2012

OR

SCENARIO 3B – Date of death: 1 June 2013; Date of causa mortis declaration: 1 August 2013

Question common for either Scenario

Question 3: Calculate the duty causa mortis which each of the three beneficiaries might have had to pay on the deed of declaration causa mortis. Annotate your calculations briefly, to allow for an understanding of your methodology, including the legal norms that were applied. (50 marks)

For ease of reference, it is recalled that the value of the usufruct is determined as a percentage of the value of the full ownership, according to the following schedule:

<i>Age of the usufructuary</i>	<i>Percentage of the value of full ownership</i>
where the usufructuary has not completed 20 years of age:	70 per cent
where the usufructuary has completed 20 years of age but not 30 years:	60 per cent
where the usufructuary has completed 30 years of age but not 40 years:	50 per cent
where the usufructuary has completed 40 years of age but not 50 years:	40 per cent
where the usufructuary has completed 50 years of age but not 60 years:	30 per cent
where the usufructuary has completed 60 years of age but not 70 years:	20 per cent
where the usufructuary has completed 70 years of age:	10 per cent

University of Malta – Faculty of Laws

LLD First Year – Diploma of Notary Public

CVL 4020 – Fiscal Legislation Associated with Immovables – 1

Monday 20th January 2014 - 11.45A.M. – 1.45P.M.

This paper is divided into two (2) sections. You are required to answer all questions in each section.

Please answer each section on a different script.

During the examination, candidates are not allowed to have mobile phones or memory resident devices; however candidates are allowed to use calculators that are not otherwise excluded in terms of this paragraph.

Section A Inter Vivos transactions 50% of the Total Marks

Question 1. Joan Busuttli is transferring by title of sale to her daughter Audrey and her husband Peter Camilleri $\frac{1}{3}^{rd}$ of a house which is to be used as spouses' Camilleri ordinary residence valued at €414,959. The land on which the house was built was valued by an architect engaged for the purpose at €290,000 whilst the building cost of the house was €124,959. Joan Busuttli is also transferring the remaining $\frac{2}{3}^{rd}$ of the same property to spouses' Camilleri by title of donation. Calculate the Stamp Duty due on the deed.

35 marks

Question 2.

Calculate the stamp duty due on a deed of transfer of a property, to be used as the purchaser's ordinary residence, by title of temporary emphyteusis for a period of 60 years where the purchaser is paying a consideration of €165,800 and where the initial groundrent of €125 is to be revised upwards every three years by 20% based on the groundrent of the previous year? You should indicate all your mathematical workings. In this regard the following table will be useful.

The Capitalised Groundrent is to be reduced to:-

- (a) twelve per centum (12%) where the term is less than twenty-five (25) years;
- (b) thirty-three per centum (33%) where the term is twenty-five (25) years or more but is less than fifty (50) years;
- (c) sixty-five per centum (65%) where the term is fifty (50) years or more but is less than seventy-five (75) years;
- (d) eighty per centum (80%) where the term is seventy-five (75) years or more but is less than one hundred (100) years.

15 marks

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Section 2

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University of Malta Faculty of Laws

LLD First Year – Diploma of Notary Public

CVL 4020 – Fiscal Legislation Associated with Immovables – 1

Saturday 13th September 2014 9.15am - 11.15am

This paper is divided into two (2) sections. You are required to answer all questions in each section.

During the examination, candidates are not allowed to have mobile phones or memory resident devices; however candidates are allowed to use calculators that are not otherwise excluded in terms of this paragraph.

Section A Inter Vivos transactions 50% of the Total Marks

Question 1. Alfred and Pauline Camilleri are donating to their son Matthew and his wife Josephine a house which is being used as the spouses' ordinary residence. The house was built by spouses Camilleri themselves and has a value of €345,000 whilst the land on which the property was bought has a value of €170,550, and the cost of the construction makes up the difference in value. Calculate the Stamp Duty due on the deed.

35 marks

Question 2.

Calculate the stamp duty due on a deed of transfer of a property, to be used as the purchaser's ordinary residence, by title of temporary emphyteusis for a period of 48 years where the purchaser is paying a consideration of €160,000 and where the initial groundrent of €87 is revisable according to the cost of living index every three years. You should indicate all your mathematical workings. In this regard the following table will be useful.

The Capitalised Groundrent is to be reduced to:-

- (a) twelve per centum (12%) where the term is less than twenty-five (25) years;
- (b) thirty-three per centum (33%) where the term is twenty-five (25) years or more but is less than fifty (50) years;
- (c) sixty-five per centum (65%) where the term is fifty (50) years or more but is less than seventy-five (75) years;
- (d) eighty per centum (80%) where the term is seventy-five (75) years or more but is less than one hundred (100) years.

15 marks

Section B Causa Mortis Transactions 50% of the Total Marks

Question 1. Josephine Borg hereinafter referred to as "the decuius", died on the 20th January 2013 and through her last will she left to her husband John who was 68 years old at the time of her death (a) the usufruct of the matrimonial home in Marsascala and (b) the usufruct of a garage in St Paul's Bay. She also granted unto her daughter Janice who was 38 years old at the time of her mother's death, the usufruct over another house in Gudja, in which Janice had been living for five years prior to the decuius' death, until such time as the said Janice remains single, and she left as her sole heirs all her 4 children namely the abovementioned Janice, William, Peter and Jane.

The said house in Marsascala has a value of €268,500 and was bought during marriage. The garage in St Paul's Bay, which has a value of €14,500 and the house in Gudja which has a value of €245,000 were both inherited by the decuius from her parents and thus belonged to her alone. The decuius had also inherited from her parents two groundrents over some land namely an annual and temporary groundrent of €11.65 for the remaining period of 75 years over a field and a perpetual groundrent of €30 over another field, which groundrents are also being inherited by the heirs.

Calculate the stamp duty on the deed of declaration causa mortis of her property which shall be done today. Outline your calculations with brief notes to explain relevant legal considerations and the basis of your calculations.

The following table is relevant:-

- where the usufructuary has not completed twenty years of age: seventy per cent
- where the usufructuary has completed twenty years of age but not thirty years: sixty per cent
- where the usufructuary has completed thirty years of age but not forty years: fifty per cent
- where the usufructuary has completed forty years of age but not fifty years: forty per cent
- where the usufructuary has completed fifty years of age but not sixty years: thirty per cent
- where the usufructuary has completed sixty years of age but not seventy years: twenty per cent
- where the usufructuary has completed seventy years of age: ten per cent

38 marks

Question 2.

On which property and under what conditions would a disabled person not incur tax causa mortis?

12 marks

University of Malta Faculty of Laws
LLD First Year – Diploma of Notary Public

CVL 4020 – Fiscal Legislation Associated with Immovables – 1

THURSDAY 15th JANUARY 2015

10.30AM - 12.30PM

This paper is divided into two (2) sections. You are required to answer all questions in each section.

During the examination, candidates are not allowed to have mobile phones or memory resident devices; however candidates are allowed to use calculators that are not otherwise excluded in terms of this paragraph.

Section A Inter Vivos transactions 50% of the Total Marks

Question 1. Robert Orkwell owned a piece of land worth €535,000 on which he built three apartments and three garages. He is now donating an apartment and a garage to each of his two sons Larry and Andrea, and their respective spouses Nadine and Dorothy. Larry and Nadine are currently living in another house and intend to continue living there whilst Andrea and Dorothy intend to reside in this apartment being donated to them. Robert had spent the sum of €183,482 building this block. What is the Stamp Duty due on the deed?

35 marks

Question 2.

Calculate the stamp duty due on a deed of transfer of a property, to be used as the purchaser's ordinary residence, by title of temporary emphyteusis for a period of 99 years where the purchaser is paying a consideration of €1,400,875 and where the groundrent of €662 is revisable every four years at a rate of 10% each time. You should indicate all your mathematical workings.

The following table is relevant:-

The Capitalised Groundrent is to be reduced to:-

- (a) twelve per centum (12%) where the term is less than twenty-five (25) years;
- (b) thirty-three per centum (33%) where the term is twenty-five (25) years or more but is less than fifty (50) years;
- (c) sixty-five per centum (65%) where the term is fifty (50) years or more but is less than seventy-five (75) years;
- (d) eighty per centum (80%) where the term is seventy-five (75) years or more but is less than one hundred (100) years.

15 marks

Section B Causa Mortis Transactions 50% of the Total Marks

Question 1. William Agius, who is a widower, dies on the 10th January 2013.

He leaves his heirs the following properties:-

1. His residential home, (acquired 10 years ago) valued at €520,000 to his three children: Darren, Gordon and Edgar.
2. A summer house in Birzebugia, valued at €234,000 to his three children Darren, Gordon and Edgar which is being left subject to the joint and successive usufruct of his two sons Darren and Gordon who are 59 and 61 years old at the time of his death
3. A piece of land in Gozo valued at €20,000 but which is also subject to an annual and perpetual groundrent of €742.50, which is left to his three children but which is subject to the usufruct of his other son Edgar who is 57 years old at the time of William's death
4. A temporary groundrent of €158 over another piece of land for the remaining period of 66 years of €158 which is being left to his son Edgar.

The declaration causa mortis of William's estate was done on the 10th of January 2015. What is the tax due causa mortis? Outline your calculations with brief notes to explain relevant legal considerations and the basis of your calculations.

The following table is relevant:-

- where the usufructuary has not completed twenty years of age: seventy per cent
- where the usufructuary has completed twenty years of age but not thirty years: sixty per cent
- where the usufructuary has completed thirty years of age but not forty years: fifty per cent
- where the usufructuary has completed forty years of age but not fifty years: forty per cent
- where the usufructuary has completed fifty years of age but not sixty years: thirty per cent
- where the usufructuary has completed sixty years of age but not seventy years: twenty per cent
- where the usufructuary has completed seventy years of age: ten per cent

38 marks

Question 2.

What legal provisions can the Commissioner of Inland Revenue rely upon to ensure the collection of duty due as arising out of Chapter 364 of the laws of MALTA?

12 marks

UNIVERSITY OF MALTA

FACULTY OF LAWS

LL.D. I Year

SEPTEMBER 2015 SUPPLEMENTARY EXAMINATIONS

EXAMINATION: CVL4020 – FISCAL LEGISLATION ASSOCIATED WITH IMMOVABLES - 1

DATE: SATURDAY 5TH SEPTEMBER 2015

READING TIME: 10.00AM – 10.05AM

DURATION OF EXAM: 10.05AM – 12.05PM

This paper is divided into two (2) sections. You are required to answer all questions in each section.

During the examination, candidates are not allowed to have mobile phones or memory resident devices; however candidates are allowed to use calculators that are not otherwise excluded in terms of this paragraph.

Students are to answer each section on a different script.

Section A Inter Vivos transactions 50% of the Total Marks

Question 1. Robert O'Connell, and his sons Lawrence and Andrew owned a piece of land between them which they had bought for €750,300 when Robert was already a widower. They have now built this property into two apartments and a penthouse at a construction cost of €222,000. In the first part of the relative public deed Robert is donating his share in one of the apartments to his son Larry who intends to use this property as his own ordinary residence, and in the second part of the same deed he is also donating his share in the other apartment to his other son Andrew who lives elsewhere and will not be using this property as his own residence. In a third part of the same public deed Robert, Lawrence and Andrew are also selling the penthouse to their uncle Dino and his wife Wilma at a price of €465,700 who shall be using this property as his own ordinary residence. What is the total Stamp Duty due on the deed on all three transactions?

35 marks

Question 2.

Calculate the stamp duty due on a deed of transfer of a property, to be used as the purchaser's ordinary residence, by title of temporary emphyteusis for a period of 50 years where the purchaser is paying a consideration of €765450 and where the groundrent of €1500 is revisable every five years at a rate of 8% each time. You should indicate all your mathematical workings.

The following table is relevant:-

The Capitalised Groundrent is to be reduced to:-

- (a) twelve per centum (12%) where the term is less than twenty-five (25) years;
- (b) thirty-three per centum (33%) where the term is twenty-five (25) years or more but is less than fifty (50) years;
- (c) sixty-five per centum (65%) where the term is fifty (50) years or more but is less than seventy-five (75) years;
- (d) eighty per centum (80%) where the term is seventy-five (75) years or more but is less than one hundred (100) years.

15 marks

Section B. Causa Mortis Transactions 50% of the Total Marks

Question 1. Winston Aquilina died on the 1st of June 2012

Through his last will he leaves his half share of the matrimonial home (since this was acquired during his marriage in 2004) as follows to be split as to one half to his wife and the other half of his share between his four children, subject to the usufruct of his wife. The value of the whole of the matrimonial home is €325,000.

The testator also leaves the rest of his property as follows:-

1. He leaves a piece of land worth €2,450,000 to his three sons Damian, Graham and Edward subject to the usufruct of his son Damian who is 60 years old at the time of his death
2. He leaves a farmhouse in Mgarr valued at €612,500 subject to an annual perpetual groundrent of €120 to his daughter Wanda
3. He leaves two annual and perpetual groundrents of €378 and €45 over two properties in Sliema to all his four (4) children.
4. A temporary groundrent of €253 over a house in Sliema for the remaining period of 45 years which is being left to his son Edward.

The declaration causa mortis of William's estate was done on the 1st of September, 2015. What is the tax due causa mortis? Outline your calculations with brief notes to explain relevant legal considerations and the basis of your calculations.

The following table and the table in Section A of this exam paper may be relevant:-

- where the usufructuary has not completed twenty years of age: seventy per cent
- where the usufructuary has completed twenty years of age but not thirty years: sixty per cent
- where the usufructuary has completed thirty years of age but not forty years: fifty per cent
- where the usufructuary has completed forty years of age but not fifty years: forty per cent
- where the usufructuary has completed fifty years of age but not sixty years: thirty per cent
- where the usufructuary has completed sixty years of age but not seventy years: twenty per cent
- where the usufructuary has completed seventy years of age: ten per cent

35 marks

Question 2.

Who may be responsible to make declarations causa mortis with regards to a particular inheritance and discuss briefly whether a deed causa mortis may be done by any person who has no interest in the deceased's estate?

15 marks

**University of Malta
Faculty of Laws**

January/February 2019 Examination Session

CVL5037 FISCAL LEGISLATION ASSOCIATED WITH IMMOVABLES 1

Date: Thursday 31st January 2019

Duration of Examination: 8:30AM-10:35AM

INSTRUCTIONS TO STUDENTS:

This paper is divided into **TWO (2) sections**. You are required to **ANSWER ALL questions in each section**. During the examination, candidates are only allowed to use non-programmable calculators.

Section A: Inter Vivos transactions (50% of the total marks)

Question 1 (35 marks)

Valente Vella had set up a trust in favour of his daughter Mary, who is certified by the authorities as being mentally incapacitated. The trustee of the said trust is his son Alfred, whilst the sole beneficiary of the trust is his daughter Mary. Valente Vella is now transferring by title of donation, an undivided half of a residential property, namely a house, to his son Alfred, who is to hold it as the trustee of the said trust, and the other half of the house is being donated by Valente Vella's to his other son Joseph and his wife Josephine, which property shall be used as the ordinary residence of the abovementioned Mary, Joseph and Josephine. Valente Vella had never transferred anything to his children before this transaction. The Value of this property is EUR1,100,000. Calculate the Stamp Duty due on the deed.

Question 2 (15 marks)

Calculate the stamp duty due on a deed of transfer of a property, to be used as the purchaser's ordinary residence, by title of temporary emphyteusis for a period of 75 years, where the purchaser is paying a consideration of €1,015,800 and where the initial groundrent of €185 is to be revised upwards every four years according to the national minimum wage. You should indicate all your mathematical workings. In this regard the following table will be useful. The Capitalised Groundrent is to be reduced to:-

- (a) twelve per centum (12%) where the term is less than twenty-five (25) years;
- (b) thirty-three per centum (33%) where the term is twenty-five (25) years or more but is less than fifty (50) years;
- (c) sixty-five per centum (65%) where the term is fifty (50) years or more but is less than seventy-five (75) years;
- (d) eighty per centum (80%) where the term is seventy-five (75) years or more but is less than one hundred (100) years.

Section B: Causa Mortis Transactions (50% of the total marks)

Question 3 (35 marks)

Matthew Bonanno (the decuius) has died on the 10th of December 2016 and through his last will he nominates his wife and three children Carlo, Valentino and Francesco as his heirs, in equal shares between them. The Decuius leaves behind him the following property:

- (a) One half (1/2) of his residential home in Zejtun, the whole of which is valued at €545,300 acquired by the decuius and his spouse on the 3rd of July, 2014, which property is being bequeathed as subject to the usufruct of his spouse Emma who survives him and is aged 69 at the time of the decuius' death
- (b) The whole of of a piece of land in Zurrieq the whole of which is valued at €95,000, which property is also being granted by legacy as subject to joint and successive usufruct of his two sons Carlo and Valentino who are aged 33 and 51 years respectively at the time of the decuius' death
- (c) An annuity of €15,000 which is being left to his wife for the remainder of her natural life.

Calculate the stamp duty on the deed of declaration causa mortis of his property which shall be done today the 1st of February, 2019. Outline your calculations with brief notes to explain relevant legal considerations and the basis of your calculations.

The following table is relevant:-

- where the usufructuary has not completed twenty years of age: seventy per cent
- where the usufructuary has completed twenty years of age but not thirty years: sixty per cent
- where the usufructuary has completed thirty years of age but not forty years: fifty per cent
- where the usufructuary has completed forty years of age but not fifty years: forty per cent
- where the usufructuary has completed fifty years of age but not sixty years: thirty per cent
- where the usufructuary has completed sixty years of age but not seventy years: twenty per cent
- where the usufructuary has completed seventy years of age: ten per cent

Question 4 (15 marks)

Outline the legal provisions with regards to the value of groundrent, when this is transferred "inter vivos" and "causa mortis"?

**University of Malta
Faculty of Laws**

January 2020 Examination Session

CVL5037 FISCAL LEGISLATION ASSOCIATED WITH IMMOVABLES I

Date: Wednesday 29th January 2020 **Duration of Examination:** 8:30AM – 10:35AM

INSTRUCTIONS TO STUDENTS:

This paper is divided into **TWO (2) sections**. You are required to **ANSWER ALL questions in each section**. During the examination, candidates are only allowed to use non-programmable calculators.

Section A: Inter Vivos Transactions

Question 1 (35 marks)

Nathan Bonnici, a pensioner who is 80 years old, is donating his share in ownership of three quarters (3/4) of his residence to his son Emanuel and his wife Daniela, who currently reside with Emanuel's father and will continue to use this property as their own ordinary residence. Nathan Bonnici wants to however retain the usufruct over the property he is donating. Nathan Bonnici had never transferred anything to his son before this transaction. The value of the whole of this property is €865,000.

Calculate the Stamp Duty due on the deed. (You may use the table mentioned in Section B, marked with * on page 3, for purposes of answering this section).

Question 2 (15 marks)

Calculate the stamp duty due on a deed of transfer of a house (to be used partly as the purchaser's ordinary residence) and an underlying shop worth respectively €250,300 and €180,200, by title of temporary emphyteusis for a period of 100 years, where the initial annual groundrent of €200 on the house is to be revised upwards every six years according to the cost of living index and where the initial annual groundrent of €135 on the shop is to be revised upwards every three years at the rate of 15% on the previous revisions. You should indicate all your mathematical workings. In this regard the following table will be useful.

The capitalised annual groundrent is to be reduced to:-

- (a) twelve per centum (12%) where the term is less than twenty-five (25) years;
- (b) thirty-three per centum (33%) where the term is twenty-five (25) years or more but is less than fifty (50) years;
- (c) sixty-five per centum (65%) where the term is fifty (50) years or more but is less than seventy-five (75) years;
- (d) eighty per centum (80%) where the term is seventy-five (75) years or more but is less than one hundred (100) years.

Section B: Causa Mortis Transactions

Question 3 (35 marks)

Karm Miller (the decuius) has died on the 20th of January 2018 and through his last will he nominated his children Anabelle, Joseph and Marlene as his heirs, in equal shares between them. The Decuius leaves behind him the following property:-

- (a) His one half (1/2) share of his residential home and an underlying 40 sq.m. garage which he uses to park his cars, which house is valued at €680,000 and which garage is valued at €60,000, which house was acquired by the decuius and his spouse on the 10th March 2013, whilst the garage was acquired by the decuius and his spouse by a separate contract on the 10th April, 2014. This house and garage are being left in usufruct to Karm's wife Giovanna who was 66 years old at the time of the decuius' death and to the subsequent successive usufruct of his daughter Marlene who was 41 years old at the time of the decuius' death.
- (b) The whole of a piece of land in Marsaxlokk valued at €1,100,000 which property is being left by title of legacy to his children Annabelle and Joseph
- (c) An annuity of €4,000 which is being left to his wife for a period of ten years, payable by the heirs
- (d) One third (1/3) of various groundrents the value of the whole of which amount to €1,455.80
- (e) One third (1/3) of a house, the whole of which is valued at €400,000

Calculate the stamp duty on the deed of declaration causa mortis of his property which shall be done today. Outline your calculations with brief notes to explain relevant legal considerations and the basis of your calculations.

* The following table is relevant:-

- where the usufructuary has not completed twenty years (20) of age: seventy per cent (70%)
- where the usufructuary has completed twenty years (20) of age but not thirty years (30): sixty per cent (60%)
- where the usufructuary has completed thirty years (30) of age but not forty years (40): fifty per cent (50%)
- where the usufructuary has completed forty years (40) of age but not fifty years (50): forty per cent (40%)
- where the usufructuary has completed fifty years (50) of age but not sixty years (60): thirty per cent (30%)
- where the usufructuary has completed sixty years (60) of age but not seventy years (70): twenty per cent (20%)
- where the usufructuary has completed seventy years (70) of age: ten per cent (10%)

Question 4 (15 marks)

Identify on which occasions a transfer of property where TRUST property is involved is EXEMPT from tax.

University of Malta
Faculty of Laws

September 2020 Examination Session

CVL5037 FISCAL LEGISLATION ASSOCIATED WITH IMMOVABLES I

Date: Thursday 3rd September 2020 **Duration of Examination:** 8:30AM – 10:35AM

INSTRUCTIONS TO STUDENTS:

This paper is divided into **TWO (2) sections**. You are required to **ANSWER ALL questions in each section**. During the examination, candidates are only allowed to use non-programmable calculators.

Section A: Inter Vivos Transactions

Question 1 (35 marks)

Desmond Agius Marmara, a childless pensioner who is 67 years old, would like to donate his one half ($\frac{1}{2}$) share of a house to his sister Fiona Caruana (who currently resides and will continue to reside with the donor in the said house) and her daughter Katrina Callus and Katrina's husband Adrian Callus, in equal shares between them, namely one third ($\frac{1}{3}$) each. The said house is worth €1,035,000. He would also like to retain the usufruct over his share of the said property until his death. Desmond Agius had never transferred anything to his niece before this transaction.

Calculate the Stamp Duty due on the deed. (You may use the table mentioned in Section B for purposes of answering this section).

Question 2 (15 marks)

Calculate the stamp duty due on a deed of acquisition by title of temporary emphyteusis of a large garden for a period of 85 years, for the consideration of Eur789,560 where the initial groundrent of €2885 on the said garden is to be revised upwards every five years by a rate of 7%. You should indicate all your mathematical workings. In this regard the following table will be useful.

The Capitalised Groundrent is to be reduced to:

- (a) twelve per centum (12%) where the term is less than twenty-five (25) years;
- (b) thirty-three per centum (33%) where the term is twenty-five (25) years or more but is less than fifty (50) years;
- (c) sixty-five per centum (65%) where the term is fifty (50) years or more but is less than seventy-five (75) years;
- (d) eighty per centum (80%) where the term is seventy-five (75) years or more but is less than one hundred (100) years.

Section B: Causa Mortis Transactions

Question 3 (35 marks)

Martin Borg (the decuius) has died on the 20th of February 2016 and through his last will he nominated his children Gordon and Karen, as his heirs, in equal shares between them. The Decuius leaves behind him the following property:-

(A) His three quarters (3/4) share of his residential Apartment and an underlying 65 sq.m. garage which he uses to park his cars, which apartment is valued at €540,000 and which garage is valued at €165,000. One half of the apartment and garage were acquired on the same deed, on the 10th March 2015 and the other quarter share of the apartment and garage were inherited by the decuius from his parents. In his last will Martin declared that this apartment and garage are being left as subject to usufruct in favour of Martin's wife Giovanna who was 68 years old at the time of his death.

(B) The whole of a field in Marsaxlokk valued at €26,000. In his last will Martin declared that this property is subject to the right of usufruct in favour of his son Gordon, 35 years of age.

(C) Two perpetual, non-revisable groundrents. The annual amount of the first groundrent is Eur368 and the annual amount of the second groundrent is Eur423.29. In his last will Martin declared that these groundrents shall be subject to the joint and successive usufruct of his wife Giovanna and Karen who was fifty years old at the time of his death.

Calculate the stamp duty on the deed of declaration causa mortis of his property which shall be done as at the 10th of September, 2020. Outline your calculations with brief notes to explain relevant legal considerations and the basis of your calculations.

The following table is relevant:

- where the usufructuary has not completed twenty years of age: seventy per cent
- where the usufructuary has completed twenty years of age but not thirty years: sixty per cent
- where the usufructuary has completed thirty years of age but not forty years: fifty per cent
- where the usufructuary has completed forty years of age but not fifty years: forty per cent
- where the usufructuary has completed fifty years of age but not sixty years: thirty per cent
- where the usufructuary has completed sixty years of age but not seventy years: twenty per cent
- where the usufructuary has completed seventy years of age: ten per cent

Question 4 (15 marks)

What are the formal requirements required under the Duty on Documents Act for a promise of sale to be valid and which promises of sale do not need to be registered and still retain validity?



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FACULTY OF LAWS
DEPARTMENT OF CIVIL LAW
FEBRUARY 2021 EXAMINATION SESSION

CVL5037 FISCAL LEGISLATION ASSOCIATED WITH IMMOVABLES 1 Thursday, 4th February 2021

Examination time: 08:30 – 10:30 + 15 extra minutes for uploading/downloading.

In case of difficulty during the examination (issues with exam paper, electricity power cut, internet connection, etc), you may contact the Faculty of Laws on the following:

Telephone: 2340 3251; 2340 2780

Email: laws@um.edu.mt

Please note that for immediate feedback it is best to communicate using telephone. Use email only if there are circumstances when the use of telephone is not possible.

Keep your mobile phone handy since important communications during the examination may be communicated by the University through SMS.

By sitting for this examination, I declare that I am aware of the provisions of the regulations regarding conduct during examinations and I pledge to observe them.

Students may not obtain or seek to obtain advantage in an examination, or give or endeavour to give assistance to other students. Students who are found guilty of a breach of the University Assessment Regulations are liable to disciplinary action which may result in the examination being cancelled and other consequences.

Students may be subject to an additional oral examination to safeguard against plagiarism, collusion or other misdemeanours.

With regard to FLOWmulti examinations, you are advised to type directly on WISEflow (and not on MS Word intending to copy and paste on WISEflow).

With regard to FLOWassign examinations, you are advised to upload your work in PDF format.

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INSTRUCTIONS TO STUDENTS:

This paper is divided into **TWO (2) sections**. You are required to **ANSWER ALL questions in each section**. During the examination, candidates are only allowed to use nonprogrammable calculators.

Section A: Inter Vivos Transactions

Question 1 (35 marks)

Natalia Bonello and her sister Emanuela, both childless spinsters, are partitioning two houses between them which were acquired by two separate deeds of sale circa 5 years ago. Natalia and Emanuela had acquired 65% and 35% respectively in House A, whilst House B was acquired by Natalia and Emanuela as to a 50% share each. On the said deed of partition House A which is being assigned to Natalia is valued at €765,500, whilst the value of the house being assigned to Emanuela is valued at €532,500. After the partition Natalia is donating by a separate deed to her sister Emanuela one half of House A, which property is to be used as Emanuela's ordinary residence. Emanuela has never acquired a property as a residence before.

Calculate the Stamp Duty due on the two separate deeds, if any.

Question 2 (15 marks)

Calculate the stamp duty due on a deed of transfer of a property, to be used as the purchaser's ordinary residence, by title of revisable temporary emphyteusis for a period of 33 years, where the purchaser is paying no consideration but where the initial annual groundrent of €593 is to be revised after the first year by 10% and then subsequently according to the cost of living adjustment (COLA) every three years. You should indicate all your mathematical workings. In this regard the following table will be useful.

The Capitalised Groundrent is to be reduced to:-

- (a) twelve per centum (12%) where the term is less than twenty-five (25) years;
- (b) thirty-three per centum (33%) where the term is twenty-five (25) years or more but is less than fifty (50) years;
- (c) sixty-five per centum (65%) where the term is fifty (50) years or more but is less than seventy-five (75) years;
- (d) eighty per centum (80%) where the term is seventy-five (75) years or more but is less than one hundred (100) years.

Section B: Causa Mortis Transactions

Question 3 (40 marks)

Mark Camilleri died on the 31st March, 2020 and through his last will he left the following property to the following persons:

- a) His three quarters (3/4) share of an Apartment, which was used as his ordinary residence, and which apartment had been inherited by him from his aunt on the 5th June, 2011, which share of the said apartment is being left to his wife Marianne who of course also resides in the property. The WHOLE apartment is valued at €220,000.
- b) His one half (1/2) share of a large 6 car garage which was acquired on the 15th March 2014, which garage underlies the said apartment in the same block, which share of the said garage is also being left to his wife. The WHOLE garage is valued at €150,000.
- c) The directum dominium of a temporary groundrent of €189 which will expire in circa 66 years time, which groundrent is being left to his son James.
- d) One half share of another apartment, to his son Alfred, which apartment is subject to the usufruct of Mark's widow, Marianne who was 68 years old at the time of his death but also subject to the subsequent successive usufruct of his other son James who was 40 years old at the time of his death. The WHOLE apartment is valued at €300,000.
- e) The whole of another apartment valued at €280,000 to his son James, who resides and will continue to reside in the said apartment.

Calculate the stamp duty on the deed of declaration causa mortis of Mark Camilleri's property which shall be done today the 2nd of February, 2021. Outline your calculations with brief notes to explain relevant legal considerations and the basis of your calculations.

The following table is relevant:-

- where the usufructuary has not completed twenty years of age: seventy per cent
- where the usufructuary has completed twenty years of age but not thirty years: sixty per cent
- where the usufructuary has completed thirty years of age but not forty years: fifty per cent
- where the usufructuary has completed forty years of age but not fifty years: forty per cent
- where the usufructuary has completed fifty years of age but not sixty years: thirty per cent
- where the usufructuary has completed sixty years of age but not seventy years: twenty per cent
- where the usufructuary has completed seventy years of age: ten per cent

Question 4 (10 marks)

Alexander Borg acquired a property in 1966 together with his wife Ylenia. The couple died both intestate in 1970 and 1971 respectively and were survived by their 5 children, named Andrew, Brian, Catherine, Dominic and Evelyn. Evelyn died in 1978 and was survived by three children Frederick, Gareth and Harry. Dominic died childless and intestate in 1986 and was inherited by his siblings and the children of his predeceased sister Evelyn. Andrew died in the year 2000 and left a will where he left half of his property to his surviving siblings and the other half to the Evelyn's children. What fractions of ownership in the property acquired originally by Alexander and Ylenia do all the members of the surviving family own if they were to sell it?



M.Not
Compulsory Units Past Papers

Fiscal Legislation 2

If you require any further information, have any suggestions or find any mistakes in this publication, do not hesitate to contact us on academic@ghsl.org

7th September 2004

Section C - Fiscal Legislation: (60 marks) - Today two properties will be exchanged by their respective owners. An onwely of Lm4,000 will be paid.

Marsascala flat

- Valued Lm53,550.
- Present owner - Jane Gatt, a Maltese citizen. She is not married. She was born in Malta in 1950. She resided in Malta uninterruptedly since then except for a three year long absence between 1976 and 1979.
- Jane Gatt made use of the Marsascala flat as a summer apartment. Throughout the year she resided at another house at Zabbar. She sold the Zabbar house in May 2004. She intends to establish her sole, ordinary residence at the house at Safi which she acquires by title of exchange. Jane Gatt owns no other immovable property.

Safi house and adjoining garage

- Valued Lm57,550.
- Present owners - Maurice and Mary Green.
- Maurice Green is a citizen of Ireland. He was born in Ireland in 1960. He resided there till 1989. In 1990 he married Mary in Malta. He resided in Malta uninterruptedly since 1992, except for very brief holidays abroad which never exceeded 3 weeks in any given year.
- Mary Green is a citizen of Malta. She was born at Valletta in 1958. She resided in Malta since then, except for an absence of two years between 1990 and 1992, soon after she married Maurice Green.
- Maurice and Mary Green own no other immovable property.

Question C1: In relation to the deed of Exchange only, comment on the applicability of the provisions of the Acquisition of Immovable Property (by Non-Residents) Act, Chapter 246, vis-à-vis (a) Jane Gatt who acquires the property at Safi, and (b) Maurice and Mary Green who acquire the property at Marsascala.

Question C2: Calculate the duty payable on the deed of exchange, under the Duties on Documents and Transfers Act, Chapter 364. Give brief explanations.

Root of title (continued):

Marsascala: Jane Gatt inherited 1/3 of the flat from her mother who died in 1990. She acquired another 1/3 by title of donation from her sister in 1995. She purchased the remaining 1/3 from her other brother in 2003.

Safi: This property has been the ordinary residence of Maurice and Mary Green since 1995. Mary Green inherited 1/4 of the property in 1993. Mary and Maurice Green purchased another 1/2 of the property in 1995. Mary Green inherited the remaining 1/4 of the property in 2003.

Question C3: Calculate the provisional capital gains tax payable on the deed of exchange. Give brief explanations.

Section D - Drafting: (20 marks) - Draft only the following provisions which will appear in a will *unica charta*:

- (i) A paragraph to cancel all prior wills
- (ii) A bequest by the predeceased spouse to the surviving spouse, of 1/4 ownership and 1/4 in usufruct
- (iii) Exemption from the duty of collation

June 2006

Section C Part 2. - Property Transfer Tax and Capital Gains Tax.

20 May 1976 John Borg was born in 1975 at 2, Triq il-Kbira, Naxxar. He resides in this house uninterruptedly till this day.

15 October 2002 John Borg inherited one-half (½) undivided share of this house from his mother. In the declaration *causa mortis* this one-half share was valued Lm22,000.

1 February 2004 John Borg purchased the other one-half (½) undivided share of this house from his father, for the price of Lm24,000.

5 June 2006 John Borg sells the house today for the price of Lm56,500.

Question C6 Calculate the Property Transfer Tax payable by John Borg on the deed of sale published today, in terms of article 5A of the Income Tax Act. Write brief notes to explain your calculation.

John Borg has been informed that his overall tax liability could be much lower than the default Property Transfer Tax, if he were to make a declaration to the Notary during the publication of the deed. The Notary would then record that declaration in the deed. In that case, John Borg would make a provisional payment of capital gains tax.

Question C7 (i) With reference to this particular case only, indicate the legal criteria which permit John Borg to opt for capital gains tax instead of property transfer tax.

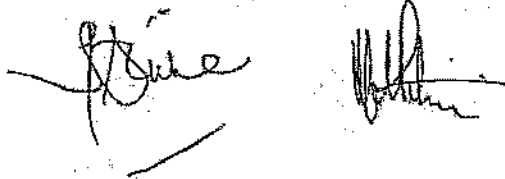
(ii) Calculate the Provisional Capital Gains Tax payable by John Borg on the deed of sale if he were to make that declaration. You should limit your notes to the provisional tax aspect only. Write brief notes to explain your calculation.

Section D Drafting (20 marks)

Paul Portelli is planning to draw up a Will today to distribute his assets following his death. He insists that his daughter Francesca should be the sole owner of all his computer equipment, with all related hardware, software and data, including any future additions and modifications till the date of his death. Anything else should be shared equally among Paul Portelli's three children, namely Joseph, Maria and Francesca. In the event that any one of the named beneficiaries were to predecease their father, their respective children should be entitled to step in as beneficiaries instead of the pre-deceased persons.

Question D1 You are required to draft the following three provisions ONLY, making use of appropriate legal terminology:

- (a) An article to ensure that today's Will cancels any previous Will;
- (b) An article to provide for computer-related equipment (as above); and
- (c) An article to regulate the rest of the testator's estate.



UNIVERSITY OF MALTA

Faculty of Laws

LLD First Year Students – 2005 – 2006 – June Special Session 2006

CVL 4014 – Fiscal Laws Associated with Immovable Property (4 Credits)

14:15 to 15:15

1 hour allocated for candidates to answer the test paper.

are required to answer all questions. You may answer in English or in Maltese.
During the test candidates are not allowed to have any mobile phones and/or memory-resident electronic devices; however, candidates are allowed to use calculators that are not otherwise excluded in the rest of this paragraph.

1 A – AIP and Duty Inter Vivos

1967 Saviour Scicluna was born at Floriana, Malta. He acquired Maltese nationality by birth, given that his parents and grand-parents were all born in Malta.

September 1969 Saviour Scicluna, then still 1½ years old, travelled together with his parents to Canada. His parents have worked and resided there till this present date.

Saviour Scicluna resided together with his parents and never travelled out of Canada till 1 July 2002. He never renounced his Maltese nationality, and he never acquired a nationality of any other country.

2002 Saviour Scicluna arrived in Malta to visit his cousins. Initially he planned to stay here for three months; but eventually he remained in Malta uninterrupted till 1 October 2004.

September 2002 He accepted a two year contract of employment as manager of a hotel operating at St Paul's Bay.

October 2004 Saviour Scicluna returned to Toronto, Canada, and resided there uninterrupted till the end of January 2006.

January 2006 Saviour Scicluna accepted a three year contract of employment as manager of a hotel operating in Taormina, Sicily, Italy. He established his residence in Sicily, but started travelling to Malta almost every two weeks, each time staying in Malta for some 4 or 5 days.

September 2006 Saviour Scicluna concludes a deed of purchase of an apartment at Trig San Gwann, Naxxar, for the price of Lm52,650. He intends to stay at this apartment during his brief, regular visits to Malta (but his principal residence will continue to be in Sicily).

September 2006 Saviour Scicluna signs a preliminary promise of purchase agreement to acquire a garage in the same block of apartments at Trig San Gwann, Naxxar, for the price of Lm6,750. The sale is scheduled to be concluded on 15 September 2006.

The persons who sell the apartment are not the same individuals who will sell the garage to Saviour Scicluna.

Question 1 Does Saviour Scicluna require an AIP permit to purchase the apartment at Naxxar today?

Question 2 Should Saviour Scicluna apply for an AIP permit to purchase the garage at Naxxar?

For your answers to questions 1 and 2 you should explain briefly by reference to legal criteria arising from the Immovable Property (Acquisition by non-residents) Act and any other related legislation.

Question 3 Calculate the duty payable today by Saviour Scicluna on the public deed of purchase of the apartment at Naxxar in terms of the Duty on Documents and Transfers Act.

Question 4 Calculate the duty which Saviour Scicluna will pay on 15 September 2006 on the public deed of purchase of the garage at Naxxar in terms of the Duty on Documents and Transfers Act.

For your answers to questions 3 and 4 write brief notes to explain your calculations.

Please turn over

Section B – Duty causa mortis

Antonia Attard passed away on the 15 April 2006. She is survived by her husband Alfred Attard and two children Francesca and David. In terms of her will, she bequeathed a general life-long usufruct in favour of her husband Alfred Attard, aged 62, and she appointed her two children as universal heirs.

Antonia Attard's estate consists of a two-thirds ($\frac{2}{3}$) undivided share of a house at number 4, Main Street, Zabbar, valued Lm66,700.

On the date of death Antonia Attard was residing at that house together with her husband Alfred and daughter Francesca. Her son David resided elsewhere.

The value of a life-long usufruct bequeathed to a beneficiary aged 62 is calculated at 20% of the value of full ownership.

The deed of declaration *causa mortis* is published today 1 June 2006.

Question 5 - Calculate the *duty causa mortis*, if any, which is payable by the three beneficiaries Alfred Attard, Francesca Attard and David Attard. Write brief notes to explain your answer.

Section C – Property Transfer Tax

Carmelo Cauchi and his wife Rita Cauchi sell the apartment in Triq San Gwann, Naxxar, today for the price of Lm52,550.

Initially they rented the apartment in December 1990.

They have been residing there uninterruptedly since January 1991. They vacated the apartment yesterday (31 May 2006).

Root of title of the apartment:

August 1995 Rita Cauchi inherited the full ownership of one-third ($\frac{1}{3}$) undivided share from her uncle. The $\frac{1}{3}$ share was valued Lm7,500 in the relative declaration *causa mortis* published on 15 December 1995.

December 2001 Rita Cauchi inherited the full ownership of another one-third ($\frac{1}{3}$) undivided share from her uncle. The $\frac{1}{3}$ share was valued Lm9,000 in the declaration *causa mortis* published on 15 March 2002.

January 2004 Carmelo and Rita Cauchi purchased the remaining one-third ($\frac{1}{3}$) undivided share from Rita's father, for the price of Lm10,500 (in respect of the said $\frac{1}{3}$ share).

Question 6 Calculate the property transfer tax, if any, which is payable today 1 June 2006 by the vendors Carmelo Cauchi and Rita Cauchi.

In your answer to question 6 write brief notes to explain your calculations.

UNIVERSITY OF MALTA

Faculty of Laws

LLD First Year Students - 2005 - 2006 - September Special Session 2006

CVL 4014 - Fiscal Laws Associated with Immovable Property (4 Credits)

1 September 2006

09:15 to 10:15 am

1 hour allocated for candidates to answer the test paper.

- You are required to answer all questions. You may answer in English or in Maltese.
- During the test candidates are not allowed to have any mobile 'phones and/or memory-resident electronic devices; however, candidates are allowed to use calculators that are not otherwise excluded in terms of this paragraph.

Section A

Mrs Mary Smith, a British citizen, visited Malta for the first time in July - August 1999. She was then here on holiday for four weeks. During that 1999 holiday she decided to purchase a modest ground-floor maisonette at Marsascala. She intended to return every summer, to spend longer holidays here. She applied for, and obtained, an AIP permit, transferred funds to Malta, and eventually finalised the deed of purchase of the maisonette in December 1999.

Since 1999 Mrs Smith has been visiting Malta regularly, spending not more than 6 weeks in summer and another 2 weeks at Christmas time. She intends to continue following this pattern in the future.

This summer (i.e. in 2006) she decided to purchase a garage which lies immediately adjacent to her maisonette, in the same street at Marsascala. The price of the garage will be Lm15,250. The garage is not subject to any ground-rent. She intends to store various personal belongings in the garage. In due course she might decide to buy a car, and garage it there. At present the maisonette is the only immovable property owned by Mrs Mary Smith in Malta.

Question 1 - Does she need to obtain an AIP permit for the acquisition of the garage? *Explain briefly by reference to legal criteria arising from the Immovable Property (Acquisition by non-residents) Act and any other related legislation.*

Question 2 - Calculate the Duty which Mrs Mary Smith will pay on the deed of purchase, in terms of the Duty on Documents and Transfers Act. *Write very brief notes to explain your calculations.*

Section B

The seller of the abovementioned garage at Marsascala is Mr John Bugeja. He had purchased this garage in 1996 for the price of Lm4,000; and he will sell it now for the price of Lm15,250.

Question 3 - Calculate the Property Transfer Tax payable by Mr John Bugeja on the deed of sale.

Section C

Josephine Abdilla died on 15 June 2006. Then she resided at 2, Main Street, Zabbar. She had two daughters, Carmen Abdilla (who then resided with the deceased in the same house at Zabbar), and Mary Pace (who then resided elsewhere, at Floriana).

Josephine Abdilla owned one-half ($\frac{1}{2}$) undivided share of the house at Zabbar.

Josephine Abdilla left a Will, bequeathing her half share in the house in equal shares between her two daughters Carmen and Mary.

The full share of the house at Zabbar has been valued at Lm92,500. Consequently the deceased's share is valued Lm46,250.

Question 4 - Calculate the duty payable by Carmen Abdilla and by Mary Pace, on the deed of declaration causa mortis which will be published today 1 September 2006. *Write very brief notes to explain your answer.*

UNIVERSITY OF MALTA
LLD First Year
DRAFTING OF NOTARIAL DEEDS

CVL 4009

4 September 2006 0915 to 1015

During the test, candidates are not allowed to have any mobile phones and/or memory-resident electronic devices.

Candidates may answer the test paper in ENGLISH or MALTESE.

Mr Joseph Zammit made a Will in 1990. He does not want to revoke that Will. He only wants to bequeath a car, a Volkswagen Beetle, to one of his children, Mr Paul Zammit. Mr Joseph Zammit knows that he owns only one-half ($\frac{1}{2}$) undivided share of that car; nevertheless, Mr Joseph Zammit wants to bequeath the full share of the car all the same to his son Paul. The future beneficiary of the car (Mr Paul Zammit), was already nominated as a co-heir in the 1990 Will; and he will eventually get the car over and above his share as co-heir.

Question D.1: Draft an introductory paragraph, and a concluding paragraph, for this particular Will which will be published today 4 September 2006, to indicate that the previous Will made in 1990 is not being revoked, and that today's Will must be read in conjunction with the previous Will.

Question D.2: Draft the appropriate provision/s to give effect to the devolution by succession of the car in favour of Mr Paul Zammit.

UNIVERSITY OF MALTA

Faculty of Laws

LLD First Year Students – 2007 – 2008 – September Special Session 2008

CVL 4014 – Fiscal Laws Associated with Immovable Property (4 Credits)

01 September 2008 09:15 to 10:15

1 hour allocated for candidates to answer the test paper.

- You are required to answer all questions. You may answer in English or in Maltese.
- During the test candidates are not allowed to have any mobile phones and/or memory-resident electronic devices; however, candidates are allowed to use calculators that are not otherwise excluded in terms of this paragraph.

Question 1 - (50 marks)

Victor Vella resided at 15, Main Street, Zabbar from 15 January 1980 to 15 December 2007.

Initially he occupied the house by title of lease, and he paid rent on a regular basis to the three co-owners Alfred, Antonia and Angela, brother and sisters Attard, who resided at Ghajnsielem, Gozo.

Victor Vella purchased this house in three stages, as follows:

Date	Seller	Share	Price for the share purchased
30 June 1985	Alfred Attard	1/3	Lm3,600
1 April 2003	Antonia Attard	1/3	Lm12,000
15 September 2006	Angela Attard	1/3	Lm18,000

On 15 December 2007 (before the Euro-changeover) Victor Vella sold the house to Gaetana Gauci, for the price of Lm114,000. He moved out of the house that same day.

Victor Vella was advised to focus entirely on the Property Transfer Tax regime, and not to consider the Capital Gains Tax regime.

Question:

- Consider whether Victor Vella was liable to pay any Property Transfer Tax on the deed of sale which was finalised on 15 December 2007. Your answer should be accompanied with a brief explanation of the salient legal criteria for any liability and/or exemption.
- Further, if you conclude that Alfred Vella was liable to pay any Property Transfer Tax, you should calculate the correct amount which he paid on 15 December 2007.

TURN OVER

UNIVERSITY OF MALTA
Faculty of Laws
LLD First Year
DRAFTING OF NOTARIAL DEEDS - CVL 4009
September Special Session 2008

9th September 2008 – 1 hour

During the test, candidates are not allowed to have any mobile phones and/or memory-resident electronic devices.

Answer ALL questions

D1. A person sells a house which he had purchased in 1989. He resided at that house from February 1990 till this present day. He has been advised that, on the basis of these facts, he is not liable to pay Property Transfer Tax (under the Income Tax Act). However, to benefit from this exemption, appropriate declarations must be made in the deed of sale. **Draft these declarations.** (30 marks)

D2. On an inter vivos deed of acquisition the purchaser factually qualifies to pay part of the duty (under the Duty on Documents and Transfers Act) at the reduced rate of 3.5%. However, to benefit from this reduced rate, appropriate declarations must be made in the deed. **Draft these declarations.** (30 marks)

D3 Draft provisions of a Will, using correct legal terminology, to reflect only the following bulleted issues, which are here expressed in lay-man's language. (40 marks)

- This will be the testator's only Will to regulate his succession.
- The testator's daughter Pauline will receive the ownership of his motor car, over and about her share from the remainder of his assets.
- The testator directs that his three children Agnes, Anthony and Pauline will share the rest of his estate equally, ignoring any previous gratuitous gifts.

Do not draft the opening and conclusion of the will.

University of Malta
Faculty of Laws
LLD First Year, Academic Year 2008 – 2009
CVL4016 – Fiscal Legislation Associated with Immovables
May/June 2009 Session – 8 ECTS
29 May 2009 – 13:00 to 15:00 hours

Candidates are allowed to use calculators; however, they are not allowed to have any mobile phones and/or memory-resident electronic devices.

Answer all questions

Three Acquisitions:

- John Abela and María Debono bought a house at Lija on 15 March 2009 for the price of €225,250. They acquired it in equal and undivided shares between them. They plan to establish their matrimonial home there, in view of their intention to get married to each other on 1 August 2009.
- John Abela (alone) entered into a preliminary agreement to purchase a small summer apartment at Qawra, for the price of €78,540. The deed of purchase was finalised on 30 April 2009.
- John Abela inherited a field at Naxxar from his paternal uncle who died on 15 May 2009.

Background:

John Abela

John Abela was born in 1982 in Melbourne Australia where he resided till November 2005. Early in 2005 his parents died in a traffic accident. Being the only child, and having completed his tertiary education in I.T., John Abela decided to take some time off. He travelled to Malta on 15 November 2005 to meet his relatives for the first time.

John Abela is an Australian citizen. In addition, he obtained Maltese nationality in 2006. He was given a Maltese passport in July 2006.

When he arrived in Malta for the first time in November 2005 John Abela thought that he would stay in Malta for a few months only. He spent a few weeks in a hotel, and then moved into leased accommodation. Early in 2008 he decided that he would settle down permanently in Malta, having by then secured a permanent employment with a Maltese I.T. company. Accordingly he obtained long leave of absence from his job, and travelled to Melbourne Australia on 1 March 2008. There he shipped some of his belongings to Malta, and sold other belongings, including the only immovable property in Australia – the house in Melbourne – which he had inherited from his parents. Eventually he transferred all his money in Australia to his bank account in Malta, and he returned to Malta on 25 June 2008. Apart from this trip to Australia, John Abela resided in Malta continuously since 15 November 2005.

Maria Debono

Maria Debono is a Maltese citizen. She was born in Malta in 1983. She has always resided in Malta, except for a period of 14 months which she spent together with her elder sister in Glasgow, Scotland, UK between October 2004 and November 2005.

Apart from the immovables mentioned in this paper, John Abela and Maria Debono did/do not own any other immovable property.

Question 1 (40 marks) – Immovable Property (Acquisition by Non-Residents) Act

- (a) Did John Abela and/or Maria Debono require an AIP permit to purchase the house at Lija?
- (b) Was John Abela expected at law to apply for, and obtain, an AIP permit before purchasing the apartment at Qawra?
- (c) Did John Abela require an AIP permit to sanction the devolution *causa mortis* in his favour of the field at Naxxar, following the death of his uncle?

In each case (a), (b) and (c) explain by reference to legal criteria arising from the Immovable Property (Acquisition by Non-Residents) Act and any other related legislation. Inter alia you are expected to indicate (i) whether John Abela and (ii) Maria Debono are "non-resident persons".

Question 2 (30 marks) – Duty on Documents and Transfers Act (continuation)

- (a) Calculate the duty (under the Duty on Documents and Transfers Act) which was paid by John Abela and Maria Debono when they purchased the house at Lija.
- (b) Calculate the duty (under the Duty on Documents and Transfers Act) which was paid by John Abela on the deed of purchase of the apartment at Qawra.

Question 3 (30 marks) – Property Transfer Tax (continuation)

John Abela and Maria Debono purchased the above-mentioned house at Lija on 15 March 2009 for the price of €225,250 from Saviour Said, who had been residing in the house since 1980. He acquired the property as follows:

	Share	Title	Date	Value/Price of Share
i.	One-half (1/2)	Purchase	31 July 1995	Lm20,500 = € 47,752.16
ii.	One-fourth (1/4)	Succession	16 January 2007	Lm17,500 = € 40,764.03
iii.	One-fourth (1/4)	Purchase	18 September 2008	€45,000

Saviour Said has decided to avoid opting for any capital gains tax regime, even if circumstances allowed him to do so.

Calculate the **Property Transfer Tax** which was paid by Saviour Said on the deed of sale of the house at Lija in terms of the Income Tax Act. Write brief notes to explain your calculations.

Comment specifically by reference to the law, as to whether Property Transfer Tax is **provisional or final**. What are the implications?

September 2009

Question 3 – Property Transfer Tax

Question 3a – 15 marks

In 1998 Claude Calleja and his sister Christine Calleja purchased a flat at Mellieha in co-ownership for the price of Lm30,000 (now €89,881.20) (in respect of the whole). Throughout the past 11 years they only spent the summer months there. During the rest of the year they continued to reside with their parents.

Claude Calleja has now agreed to sell his half undivided share in this flat to his sister Christine Calleja for the price of €70,000 (in respect of the one-half undivided share). The sale will be concluded today 3 September 2009.

Is Claude Calleja exempt from paying Property Transfer Tax? If this is the case, explain the basis for the exemption.

On the other hand, if there is no exemption, (i) calculate the Property Transfer Tax payable by Claude Calleja. Moreover, (ii) if the law allows for some option, indicate what other tax regime might be applicable, and elaborate on the conditions at law which constitute the basis for that option. Do not proceed to calculate the tax payable under the other tax regime.

Question 3b – 15 marks

George Gerada owned a house at Mqabba. He resided there together with his only son Saviour Gerada.

George Gerada died on 1 January 2009. Saviour Gerada was the sole heir of his father.

His son Saviour Gerada paid the duty causa mortis on 1 June 2009.

Saviour Gerada continued to reside in the house till today.

Later today he will sell the house.

Saviour Gerada has been informed that, if a number of conditions were satisfied, he would be exempt from paying Property Transfer Tax.

List all the essential conditions which should have been satisfied for an exemption from Property Transfer Tax.

UNIVERSITY OF MALTA
Faculty of Laws
LLD First Year - Diploma of Notary Public
Notarial Legislation – CVL4021
May – June 2010 Session
Tuesday 8 June 2010, from 09:15 to 10:15 hours

Answer all four questions

Students are advised to apportion their time proportionately according to the marks allocated to each question.

1. *Certain "non-resident persons" are entitled to acquire a "primary residence" regardless of the provisions of article 4 of the Immovable Property (Acquisition by Non-Residents) Act, Chapter 246 of the Laws of Malta.*

Question 1 (a): Define briefly (i) the "primary residence" in the above-mentioned context; and (ii) the sub-category of "non-resident persons" entitled to acquire a primary residence, as aforesaid. [20 marks]

Question 1 (b): Outline very concisely the essential legal basis for the statement in italics (above). [30 marks]

2. *No property transfer tax is payable when a property had been owned and occupied for a certain number of years before the transfer (hereinafter referred to as the "relevant period"). An extension of this exemption has been granted to specific persons who inherited a place of habitation during the said relevant period.*

Question 2: Identify all the essential elements which must be satisfied for a person to qualify for this exemption, if he/she inherited the immovable during the relevant period. [25 marks]

3. *Donations of immovables made in favour of certain physical persons (individuals) are exempt from property transfer tax, by reason of the relationship between the donor and the donee.*

Question 3: Identify the said relationship between the donor and the donee. [12.5 marks]

4. *The law establishes two distinct circumstances when property transfer tax is chargeable at "12% of the excess, if any, of the transfer value over its acquisition value."*

Question 4: Which are the two cases established by law when property transfer tax is chargeable at 12% of the excess, as aforesaid? [12.5 marks]

UNIVERSITY OF MALTA
Faculty of Laws
LLD First Year - Diploma of Notary Public
Fiscal Legislation Associated with Immovables - 2- CVL4021
September 2010 Session
Monday 6 September 2010, from 09:15 to 10:15 hours (1 hour)

Answer both questions *students may make use of a calculator.*

Students are advised to apportion their time proportionately according to the marks allocated to each question.

Question 1 (50 marks) – Immovable Property (Acquisition by Non-Residents) Act

Christopher Catania will purchase a house at Lija in November 2010. He will then start residing regularly at this house.

Background:

Christopher Catania was born in 1982 in Melbourne Australia. He is an Australian citizen. In addition, he obtained Maltese nationality in 2002. He was given a Maltese passport in June 2002.

Christopher Catania resided in Melbourne Australia till November 2004.

When he arrived in Malta for the first time in November 2004 Christopher Catania thought that he would stay in Malta for a few months only. He spent a few weeks in a hotel, and then moved into leased accommodation. In 2008 he decided that he would settle down permanently in Malta, having by then secured a permanent employment in Malta. He obtained long leave of absence from his job in Malta, and travelled to Melbourne Australia on 1 December 2008. There he shipped some of his belongings to Malta, and sold other belongings, including the only immovable property in Australia – the house in Melbourne – which he had inherited from his parents. Eventually he transferred all his money in Australia to his bank account in Malta, and he returned to Malta on 20 March 2009. Apart from this trip to Australia, Christopher Catania resided in Malta continuously since November 2004.

Apart from the immovables mentioned in this paper, Christopher Catania does not own any other immovable property, whether in Malta or abroad.

Question: Will Christopher Catania require an AIP permit to purchase the house at Lija? Explain by reference to all relevant legal criteria arising from the Immovable Property (Acquisition by Non-Residents) Act and from any other related legislation. Inter alia, examine whether Christopher Catania is a "non-resident person".

Question 2 (50 marks) – Property Transfer Tax

John Zammit has been residing at 1, Main Street, Mellicha since 1980. For many years this house was tenanted by his father. When his father died in 1978 John Zammit was recognised as the tenant. John Zammit acquired the ownership of the house in three stages, as indicated below. John Zammit continued to reside at this house till this present day.

1990 – 15 January	John Zammit inherited 1/3 undivided share of the house from his aunt.	In the declaration causa mortis following the death of John's aunt, the 1/3 share of the house was valued at the equivalent of €27,000
2005 – 25 May	John Zammit purchased 1/2 undivided share of the house	The 1/2 undivided share was bought for the price of €45,000
2009 – 20 February	John Zammit inherited 1/6 undivided share of the house from his uncle	In the declaration causa mortis following the death of John's uncle, the 1/6 share of the house was valued €16,000

John Zammit has made arrangements to vacate the house this afternoon. Later this evening he will appear on a public deed to sell the house for the price of €125,000.

John Zammit has decided not to opt for Capital Gains Tax.

Calculate any Property Transfer Tax (under the Income Tax Act) payable by John Zammit on the deed of sale of the house at Mellicha. Your calculations should be accompanied by appropriate explanations.

UNIVERSITY OF MALTA
Faculty of Laws
LLD First Year - Diploma of Notary Public
CVL4021 – Fiscal Legislation associated with Immovables – 2
May – June 2011 Session
Friday 10 June 2011, from 09:15 to 11:15 hours (2 hours)

- Candidates are not allowed to have any mobile phones and/or memory-resident electronic devices.
 - Candidates are allowed to use simple calculators.
 - Students are advised to apportion their time according to the marks allocated to each question.
-

Answer all five questions

Part ONE

Immovable Property (Acquisition by Non-Residents) Act, Chapter 246 of the Laws of Malta

Question 1 – 36 marks out of 100

Charles Caruana is a Maltese citizen. He was born in Malta on 15 December 1970. He lived continuously in Malta till 1 August 1975, when he emigrated to Australia together with his parents. He resided uninterruptedly in Melbourne Australia till 2006. On 15 January 2006 he travelled back to Malta, this time with his fiancée Barbara Brown. From 15 January 2006 onwards Charles Caruana lived continuously in Malta, except for a training session undertaken in Rome, Italy between 1 November 2009 and 28 February 2010.

Barbara Brown is a citizen of Australia. She was born in Melbourne Australia on 20 November 1975. She travelled to Malta on 15 January 2006. She has lived in Malta since then, except for a 10-day holiday in Rome, Italy in December 2009.

On 10 May 2011 Charles Caruana and his fiancée Barbara Brown bought a first-floor flat at Qawra, St Paul's Bay, for the price of €85,000. They purchased the flat in equal and undivided shares between them. This flat is located outside a special designated area. It forms part of a block of two flats, having one common entrance. The ground-floor of the block consists of a number of garages.

Charles Caruana and Barbara Brown plan to get married to each other on 15 August 2011. They will establish their matrimonial home at this flat situated at Qawra.

Question 1 - Explain by reference to legal criteria arising from BOTH (a) the Immovable Property (Acquisition by Non-Residents) Act, AND (b) any other EU-related legislation, whether Charles Caruana and/or Barbara Brown required an AIF permit to purchase the flat at Qawra. Inter alia you are required to explain whether, according to Chapter 246, (i) Charles Caruana and (ii) Barbara Brown were considered as "non-resident persons" on the date of the deed of purchase – 10 May 2011
– 36% of the marks

Question 2 – 7 marks out of 100

(Continuation of the facts outlined above in Question 1)

Charles Caruana and Barbara Brown will purchase a garage underlying the same block of apartments at Qawra, St Paul's Bay, for the price of €15,000. They have signed a preliminary agreement, and will finalise the deed purchase on 30 June 2011, that is to say before the date of their marriage. They will purchase the garage in equal and undivided shares.

Question - Are there any further considerations, in addition to your answer to Question 1, regarding the capacity of Charles Caruana and Barbara Brown to purchase the garage, taking into consideration both (a) the Immovable Property (Acquisition by Non-Residents) Act, AND (b) any other EU-related legislation? - 7% of the marks

Question 3 - 7 marks out of 100

(Continuation of the facts outlined above in Question 1)

Charles Caruana and Barbara Brown also plan to redeem the annual and perpetual ground-rent of €20 burdening the flat, for the price of €400. They contacted the owners/recipients of the ground-rent, and they agreed to conclude the deed of redemption in October 2011, that is to say after the date of their marriage.

Question - Are there any further considerations, in addition to your answer to Question 1, regarding the capacity of Charles Caruana and Barbara Brown to redeem the ground-rent, taking into consideration both (a) the Immovable Property (Acquisition by Non-Residents) Act, AND (b) any other EU-related legislation? - 7% of the marks

Part TWO

Property Transfer Tax

Question 4 - 20 marks out of 100

John Sammut resides in a house which he inherited from his mother who passed away on 15 November 2009.

Question - Assuming that he sells and vacates the house today 10 June 2011, what are the minimum essential elements which must be satisfied according to law, so that the alienation will be regulated by Property Transfer Tax (article 5A of the Income Tax Act), and yet he will be fully exempt from paying any Property Transfer Tax? In relation to each element you are expected to specify the precise minimum period to which each element must apply. - 20% of the marks

Question 5 - 30 marks out of 100

Maria Mamo is single and has no children. She resides at Qormi, in a house which belongs to her. She also owns another small, vacant house at Floriana, valued €75,000. She is considering whether to donate this house to her nephew Joseph Mamo and his wife Catherine Mamo, in equal and undivided shares between them.

Taking into consideration the root of title indicated in the table below, calculate the Property Transfer Tax, if any, which would be payable on a deed of donation, if this were to be published today? - 30% of the marks

Root of Title of the house at Floriana:

1985 - 15 January	Maria Mamo inherited 1/3 undivided share of the house from her aunt	For succession duty purposes, following the death of Maria's aunt, the 1/3 share of the house was given a value equivalent to €30,000
2003 - 12 April	Maria Mamo purchased 1/6 undivided share of the house	The 1/6 undivided share was bought for a price equivalent to €10,000
2009 - 20 July	Maria Mamo inherited 1/2 undivided share of the house from her uncle	In the declaration causa mortis following the death of Maria's uncle, the 1/2 share of the house was valued €68,000

UNIVERSITY OF MALTA
Faculty of Laws
LLD First Year - Diploma of Notary Public
CVL4021 - Fiscal Legislation associated with Immovables - 2
September 2011 Session
Wednesday 7 September 2011, from 08:00 to 10:00 hours (2 hours)

- Candidates are not allowed to have any mobile phones and/or memory-resident electronic devices.
- Candidates are allowed to use simple calculators.
- Students are advised to apportion their time according to the marks allocated to each question.

Answer all four questions

Part ONE - Immovable Property (Acquisition by Non-Residents) Act, Chapter 246, Laws of Malta

Question 1 - 36 marks out of 100

Paola Parisio is an Italian citizen, and she is single. He was born in Catania, Sicily, Italy on 15 December 1970. She never travelled to Malta prior to this year (2011).

On 6 March 2011 Paola Parisio inherited from Maria Scerri, her maternal aunt (i) one-third (1/3) undivided share of a house at number 6, St Paul Street, St Paul's Bay, and (ii) the full share (1/1) share of a garage at number 45, Main Street, Naxxar.

Paola Parisio travelled to Malta on 1 August 2011, to finalise the declaration causa mortis.

During her brief stay in Malta she decided to retain the house at St Paul's Bay, for holiday purposes only (a presence in Malta of not more than 4 months each year), and she decided:

- (a) to purchase one-half (1/2) undivided share of the house at St Paul's Bay, for the price of €45,000 (in respect of the one-half share), from Stephanie Scerri (the latter having been another co-heir of the late Maria Scerri), and
- (b) to acquire, by title of exchange, the remaining one-sixth (1/6) undivided share of the same house at St Paul's Bay, valued €15,000 (in respect of the one-sixth share), from Joseph Borg (who is a co-owner of the property at St Paul's Bay, but not a co-heir of the late Maria Scerri); and to transfer to the said Joseph Borg, on the same deed of exchange, the garage at Naxxar, valued €15,000 (in respect of the full (1/1) share).

The deed of purchase and the deed of exchange will be finalised on 15 December 2011.

Question 1 - Explain by reference to legal criteria arising from BOTH (a) the Immovable Property (Acquisition by Non-Residents) Act, AND (b) any other EU-related legislation, whether Paola Parisio required/requires an AIP permit:

- i. to inherit the 1/3 share of the house at St Paul's Bay from her aunt on 6 March 2011;
- ii. to purchase 1/2 share of the same house at St Paul's Bay from Stephanie Scerri;
- iii. to acquire, by title of exchange, the remaining 1/6 share of the house at St Paul's Bay from Joseph Borg.

Inter alia you are required to explain whether, according to Chapter 246, Paola Parisio is considered as a "non-resident person" on 6 March 2011, and on 15 December 2011 - 36% of the marks

Question 2 – 14 marks out of 100

Question 2 – By reference to the Immovable Property (Acquisition by Non-Residents) Act, in which circumstances is a “non-resident person” explicitly entitled to acquire immovable property in Malta by title of donation, without requiring a permit – 14% of the marks.

Part TWO - Property Transfer Tax**Question 3 – 20 marks out of 100**

Julian Abela and Catherine (then Cachia) purchased a house at Gudja, in equal and undivided shares, on 1 June 2003. They started residing at this house soon after they got married to each other on 15 December 2003.

On 15 May 2010 Julian Abela and Catherine Abela (nee' Cachia) finalised a deed of personal separation. On that deed, Julian transferred the ownership of his half share in the house to Catherine Abela. On that same date, Julian Abela moved out of the house, while Catherine Abela continued to reside there.

Question 3 – Assuming that Catherine Abela sells and vacates the house today 7 September 2011, what are the minimum essential elements which must be satisfied according to law, so that the alienation will be regulated by Property Transfer Tax (article 5A of the Income Tax Act), and yet she will be fully exempt from paying any Property Transfer Tax? In relation to each element you are expected to specify the precise minimum period to which each element must apply [i.e. date from when, and date up to when] – 20% of the marks

Question 4 – 30 marks out of 100

Anna Zammit is single. She has been residing at a house at Floriana ever since she was born in 1961. She acquired the ownership of the house in stages, as indicated below. She will sell the house for the price of €90,000, and she will vacate it, later today 7 September 2011.

Taking into consideration the root of title indicated in the table below, calculate the Property Transfer Tax, if any, which would be payable by Anna Zammit, on a deed of sale which will be published today? – 30% of the marks

Root of Title of the house at Floriana:

1985 – 15 September	Anna Zammit inherited 1/2 undivided share of the house from her uncle	For succession duty purposes, following the death of her uncle, the 1/2 share of the house was assigned a value equivalent to €35,000
2003 – 12 April	Anna Zammit purchased 1/6 undivided share of the house	The 1/6 undivided share was bought for a price equivalent to €14,000
2009 – 6 May	Anna Zammit inherited 1/4 undivided share of the house from her aunt	For succession duty purposes, following the death of her uncle, the 1/4 share of the house was assigned a value of €21,000
2010 – 20 July	Anna Zammit purchased 1/12 undivided share of the house from her cousin	The 1/12 undivided share was bought for the price of €7,000

UNIVERSITY OF MALTA

FACULTY OF LAWS

LLD I (2011/12)

JUNE 2012 EXAMINATIONS

EXAMINATION: CVL4021 – FISCAL LEGISLATION ASSOCIATED WITH
IMMOVABLES - 2

DATE: TUESDAY 19TH JUNE 2012

TIME: 9:15AM – 11:15AM

Answer all five questions

NB – Write answers to Part 1 on one script and the answers of Part two on another separate script.

Part One

Question 1 – 36 marks out of 100

Dean Borg is a 35 year old Maltese citizen. When he was two years of age his family emigrated to Canada where he resided uninterruptedly till 2006. In February 2006 he travelled back to Malta and has since then continuously lived in Malta.

Elisa Smith is a Canadian citizen, who was born in Ontario on the 1st April 1982, she came over to Malta once in the summer of 2002 for three weeks holiday and after that has been residing uninterruptedly in Malta since January 2008.

On the 20th day of August 2011 whilst still unmarried Dean and Elisa bought a maisonette in Swieqi for the price of €150,000. They bought the maisonette in equal shares between them. The maisonette is situated outside a special designated area, and is subject to an annual perpetual groundrent of €30.

Dean Borg and Elisa Smith plan to get married to each other on the 21st September 2012 and intend to establish their matrimonial home in this maisonette situated in Swieqi.

Question 1 – Explain by reference to legal criteria arising from BOTH (a) The Immovable Property (Acquisition by non Residents) Act, AND (b) any other EU-related legislation, whether Dean Borg and/or Elisa Smith required an AIP permit to purchase the maisonette in Swieqi. Inter alia you are required to explain whether according to Chapter 246 (i) Dean Borg and (ii) Elisa Smith were considered “non-resident persons” on the date of the deed of purchase - 20th day of August 2011 – 36% of the marks.

Question 2 – 7 marks out of 100

(Continuation of the facts outlined above in Question 1)

Dean Borg and Elisa Smith also redeemed the annual and perpetual groundrent of €30 burdening the maisonette for the price of €600, they did this by means of a public deed dated the 30th September 2011.

	Share	Title	Date	Value declared/price of share
i.	One half (1/2)	Purchase	22 nd January 1985	€12,000
ii.	One fourth (1/4)	Succession	18 th May 1990	€5,000
iii.	One fourth (1/4)	Succession	4 th April 2005	€70,000

Calculate the property transfer tax which was paid by Joseph Formosa in terms of the Income tax Act and write brief notes to explain your calculations.

Question – are there any further considerations in addition to your answer in question 1, regarding the capacity of Dean Borg and Elisa Smith to redeem the said groundrent taking into consideration both (a) the immovable Property (Acquisition by non Residents) Act, AND (b) any other EU-related legislation? - 7% of the marks

Question 3 – 7 marks out of 100

During their family planning conversations Dean Borg and Elisa Smith admitted that they had fallen in love with the island of Malta so much that they would have liked not only to live here but also to die and be buried here. For this reason they made an application with the Local Department of Health to acquire a grave site in Santa Marija Addolorata Cemetery. These applications take their time to be processed and they have come to you as notary to ask you if it makes any difference if they acquire this grave site before or after their marriage.

Question – Briefly advise this couple taking into consideration both (a) the immovable Property (Acquisition by non Residents) Act, AND (b) any other EU-related legislation. - 7% of the marks

Part Two - Property Transfer Tax

Question 4 - 20 marks out of 100

James Vella and Emily Caruana bought a house in Sliema in equal shares between them on the 20th January 2004, they got married on the 10th February 2004 and started residing in this house on the 20th May 2004 when the workers had finished carrying out certain improvements to the property. Although married Emily Caruana decided to retain her maiden surname as was her right according to the Civil Code.

Sadly on the 23rd June 2010 James Vella and Emily Caruana signed a deed of personal separation on which deed the share of the house belonging to Emily was assigned to James, on the very same day Emily moved out of the house whilst James continued to use the house as his sole place of ordinary residence.

Question 4 – James Vella was offered a very advantageous price for the house and has come over to your office to see what the property tax implications are before deciding whether to accept to sell or not. Advise him as to what are the minimum essential elements which must be satisfied according to law, so that the sale will be regulated by Property Transfer Tax (Article 5A of the Income Tax Act) and yet James will be fully exempt from paying any Property Transfer Tax. In relation to each element you are expected to specify the precise minimum period to which each element must apply (i.e. date from when and date up to when) - 20% of the marks

Question 5 - 30 marks out of 100

Donald Grech purchased a house in Gzira on the 11th March 2012 for the price of €300,000 from a certain Joseph Formosa. The vendor, Joseph Formosa, had never resided in the said property and he had acquired the said property as follows:

UNIVERSITY OF MALTA

Faculty of Laws

LLD First Year - Diploma of Notary Public

CVL4021 – Fiscal Legislation associated with Immovables – 2

June 2013 Session

Thursday 20 June 2013, from 10:30 to 12:30 hours (2 hours)

NOTES – READ CAREFULLY

- This paper is divided in 3 sections. You are required to answer ALL questions in each Section.
- Separate booklets should be submitted for answers to Section A, Section B and Section C, respectively (three booklets in all).
- During the examination, candidates are not allowed to have any mobile phones and/or other memory-resident electronic devices. However, candidates are allowed to use very simple calculators that are not otherwise excluded in terms of this paragraph.
- It is recommended that candidates apportion their time according to the marks assigned to each section.

Section A - Immovable Property (Acquisition by Non-Residents) Act

No 1 (36 marks out of 100)

Article 4 (1) of "Immovable Property (Acquisition by Non-Residents) Act (hereinafter referred to as "Chapter 246" establishes categorical limitations on the capacity of non-resident individuals to acquire immovable property in Malta. Articles 4 (2), 5 and 6 establish a number of exceptions to the broad, general rule originating from article 4 (1). Yet it is said that Chapter 246 is not comprehensive and exhaustive, and that there are other exceptional circumstances in which certain non-resident individuals are entitled to acquire immovable property in Malta without a permit.

Your answers to the questions below should focus on the exceptions which do not arise from Chapter 246 (hereinafter referred to as the "additional exceptions"), in the context of physical persons acquiring immovable property in Malta.

Questions:

- 1 (a) Who are the individuals/physical persons who can rely on "additional exceptions" which do not arise from Chapter 246 of the Laws of Malta? What would their characteristics be? (6 marks)
- 1 (b) In which circumstances (not specifically envisaged as exceptions in Chapter 246) would these individuals be entitled to acquire immovable property without obtaining a permit? (12 marks)
- 1 (c) Identify the legal basis for these "additional exceptions". How do you reconcile the apparent conflict with Chapter 246, which claims to be comprehensive and exhaustive? (12 marks)
- 1 (d) In the aforesaid additional exceptional cases, are these non-resident individuals obliged to make any related declaration in the deed of acquisition? (6 marks)

No 2 (14 marks out of 100)

Extract from Article 2 of Chapter 246: "*In this Act, unless the context otherwise requires – (omissis) – "resident of Malta" means an individual who is:*

- (a) a citizen of Malta or another Member State who has been resident in Malta for a minimum continuous period of five years at any time preceding the date of acquisition;
- (b) *the spouse, of whatever nationality and wherever resident, of a citizen of Malta or another Member State where such spouses are acquiring together on the same deed;*"

Question 2: Comment on the words in *italics* (specifically, paragraph (b) of the definition of "resident of Malta"), in the context of Chapter 246 of the Laws of Malta. (14 marks)

Section B - Property Transfer Tax (a)

No 3 – 20 marks out of 100

Stefania (then Camilleri) and John Sammut purchased a house at Floriana, in equal and undivided shares between them, in March 2003, for a price now equivalent to €90,000. These two persons married each other on 15 December 2003, and thereupon they established their residence at this house. At one stage relations between the two spouses deteriorated to a point of no return. On 20 February 2012 they entered into a deed of personal separation, in terms of which John Sammut transferred his share of the house to Stefania Sammut, and he vacated that house that same day. Stefania Sammut continued to reside at that house till today.

Later on today 20 June 2013 Stefania Sammut will vacate the house where she resides at Floriana, and she will sell it for the price of €120,000.

Question 3 – (a) What are the essential elements which must be satisfied according to law, so that the alienation will be regulated by Property Transfer Tax (article 5A of the Income Tax Act), and (b) what are the minimum essential elements which must be satisfied according to law so that the vendor Stefania Sammut will be fully exempt from paying any Property Transfer Tax? In relation to “(b)” (i.e. latter part of the question), you are expected to specify the precise minimum period to which each element must apply [i.e. date from when, and date up to when]. (20 marks)

Section C - Property Transfer Tax (b)

No 4 – 30 marks out of 100

Catherine Cremona, who is single and has no children, today donates a field, valued €90,000, to her nephew Daniel Dalli and his wife Dorothy Dalli, in equal shares between them.

The root of title follows:

1990	January 15	She inherited 1/4 undivided share of the field from her uncle.	For succession duty purposes, following the death of her uncle, the 1/4 share of the field was then given a value equivalent to €10,000 (based on a value of €40,000 for the full share)
1992	August 17	She acquired 1/4 undivided share of the field by title of exchange from her cousin	The 1/4 undivided share was then given a value equivalent to €12,000 (based on a value of €48,000 for the full share)
1995	September 30	She acquired 1/6 undivided share of the field by title of donation from her mother	The 1/6 undivided share was then given a value equivalent to €9,000 (based on a value of €54,000 for the full share)
2011	March 12	She inherited 1/3 undivided share of the field from her mother	In the declaration causa mortis following the death of her mother, the 1/3 share of the field was valued €29,000 (based on a value of €87,000 for the full share)

Catherine Cremona has been advised to focus on the Property Transfer Tax regime, and not to consider the Capital Gains Tax regime.

Question 4 – Calculate the Property Transfer Tax, if any, which is payable on the deed of donation. Your calculations should be accompanied with brief notes to explain the rationale and legal basis of your approach. (30 marks)

UNIVERSITY OF MALTA

Faculty of Laws

LLD First Year - Diploma of Notary Public

CVL4021 - Fiscal Legislation associated with Immovables - 2

September 2013 Session

Friday 13 September June 2013, from 09:15 to 11:15 hours (2 hours)

NOTES - READ CAREFULLY

- This paper is divided in 3 sections. You are required to answer ALL questions in each Section.
- Separate booklets should be submitted for answers to Section A, Section B and Section C, respectively (three booklets in all).
- During the examination, candidates are not allowed to have any mobile phones and/or other memory-resident electronic devices. However, candidates are allowed to use very simple calculators that are not otherwise excluded in terms of this paragraph.
- It is recommended that candidates apportion their time according to the marks assigned to each section.

Section A - Immovable Property (Acquisition by Non-Residents) Act

No 1 (36 marks out of 100)

Questions:

- 1 (a) What is the meaning given at law to the term "primary residence" in the context of an acquisition of immovable property in Malta? (8 marks)
- 1 (b) Who are the individuals who can rely entirely on the "primary residence" as the sole basis of their capacity to acquire immovable property in Malta? (8 marks)
- 1 (c) Identify the legal basis for this basis. (14 marks)
- 1 (d) Apart from the "primary residence" purpose, are there any other analogous purposes (which rely on the same legal basis not directly originating from Chapter 246 of the laws of Malta) for which the same category of persons can acquire other immovable property without a permit? (6 marks)

No 2 (14 marks out of 100)

Questions:

- 2 (a) In which circumstance is a "non-resident person" entitled to redeem ground-rent without obtaining a permit under article 6? (7 marks)
- 2 (b) Are there any restrictions on the capacity of a "non-resident person" to acquire immovable property in Malta by title *causa mortis*, under Chapter 246 of the laws of Malta? (7 marks)

/ Turn Over

Section B - Property Transfer Tax (a)

No 3 – 20 marks out of 100

George Galdes (GG) and his wife Josephine Galdes (JG) had been residing together at 1, Main Street, Attard, since they married each other in 1970. They had previously purchased the house, in equal and undivided shares between them, in 1969, for a price then equivalent to €14,000. George Galdes was still residing there when he died on 1 June 2012. In terms of his last will he bequeathed his half share in the house in favour of his wife Josephine Galdes. Josephine Galdes continued to reside at this house till today.

Later on today 13 September 2013 Josephine Galdes will vacate the house at Attard, and she will sell it for the price of €120,000.

Question 3 – What are the minimum essential elements which must be satisfied according to law so that the vendor Josephine Galdes will be fully exempt from paying any Property Transfer Tax? The student is expected to specify the precise minimum period to which each element must apply [i.e. date from when, and date up to when]. (20 marks)

Section C - Property Transfer Tax (b)

No 4 – 30 marks out of 100

Pauline Pace, who is single and has no children, today sells a field, for the price of €96,000, to her cousin Alfred Abela and his wife Anna Abela, in equal shares between them.

The root of title follows:

1990	December 5	She inherited 1/4 undivided share of the field from her uncle	For succession duty purposes, following the death of her uncle, the 1/4 share of the field was then given a value equivalent to €11,000 (based on a value of €44,000 for the full share)
1991	June 17	She purchased 1/4 undivided share of the field from her aunt	The 1/4 undivided share was then purchased for a price then equivalent to €11,000 (based on a value of €44,000 for the full share)
1996	April 3	She acquired 1/6 undivided share of the field by title of donation from her mother	The 1/6 undivided share was then given a value equivalent to €10,000 (based on a value of €60,000 for the full share)
2011	December 2	She inherited 1/3 undivided share of the field from her mother	In the declaration causa mortis following the death of her mother, the 1/3 share of the field was valued €30,000 (based on a value of €90,000 for the full share)

Pauline Pace has been advised to focus on the Property Transfer Tax regime, and not to consider the Capital Gains Tax regime.

Question 4 – Calculate the Property Transfer Tax, if any, which is payable on the deed of sale. Your calculations should be accompanied with brief notes to explain the rationale and legal basis of your approach. (30 marks)

UNIVERSITY OF MALTA
FACULTY OF LAWS
LLD I (2013/14)
MAY/JUNE 2014 EXAMINATION SESSION

STUDY-UNIT: CVL4021 – Fiscal legislation Associated With
Immovables - 2

CREDIT VALUE: 4ECTS

DATE: MONDAY 30th JUNE, 2014

TIME: 9.15a.m -11.15a.m.

INSTRUCTIONS TO CANDIDATES

- This paper is divided in 2 sections. Answer all questions.
- Each question carries the marks indicated in the parenthesis. It is recommended that students apportion time according to the marks assigned to each question.
- During the examination, you are not allowed to have any mobile phones and/or memory-resident electronic devices.
- A simple calculator may be used, if required.
- Questions may be answered in bullet form or in paragraph form.
- Each section is to be answered on a separate booklet. (Two booklets in total)
- This exam paper contains 5 pages in total.

SECTION A: Immovable Property (Acquisition by Non-Residents) Act

Question 1: (40 marks out of 100)

Tom and his childhood friend Anita have decided to establish a business activity in Malta. Tom is a Swiss national who lived for ten years of his childhood in Italy. Anita is a French national, once married to a South African gentleman. They are also considering the possibility of acquiring separate primary residences in Malta.

- (i) Would Tom and Anita qualify as 'residents' in terms of Chapter 246 of the Laws of Malta? Please give your detailed reasons for your replies. (8 marks)
- (ii) What would be required for either of them to establish their primary residence in Malta? Define 'primary residence' in terms of Chapter 246 of the Laws of Malta. (8 marks)
- (iii) Anita inherited a garage from her Maltese uncle a few years back. This garage is subject to an annual and perpetual groundrent of 20 EUR. Explain the implications of Article 4(2), Chapter 246 to the redemption of the groundrent. (5 marks)
- (iv) What difficulties, if any, do you envisage for Tom and Anita to acquire property for the fulfillment of business activities in Malta? (6 marks)
- (v) Would it be possible for them to acquire property for business purposes via a Maltese registered company? Explain the requirements at law for a company to qualify as a 'resident' in terms of Chapter 246 of the Laws of Malta. (6 marks)
- (vi) Jacob is a friend of Tom and Anita. He has a Maltese passport albeit he never lived in Malta during his lifetime. His wife, Martha, is a Chinese national. They would like to acquire an unconverted townhouse in the Gozitan village of Munxar valued at 93,000 EUR to establish therein their primary residence. They intend to carry out extensive conversion works. Explain the implications of the above in terms of Chapter 246 of the Laws of Malta. (7 marks)

Question 2: (10 marks out of 100)

Article 5 of Chapter 246 of the Laws of Malta establishes a list of exceptions to the general rule laid down by Article 4.

- (i) Explain three of the exceptions listed in Article 5. (6 marks)
- (ii) What are the obligations of the Notary publishing a deed in which an exception outlined in Article 5 applies? (4 marks)
-

SECTION B Property Transfers Tax

Question 3: (30 marks out of 100)

Upon the death of his uncle on the 21st November, 1992, Robert Psaila inherited a house in Valletta. Upon the declaration *causa mortis*, the house was valued at the Maltese Lira equivalent of Euro450,000. Robert Psaila married Lilliana nee' Mercieca on the 25th November, 2005, upon which date the newly-weds established their matrimonial home in the house in Valletta. A pre-nuptial Agreement had been entered into before celebration of the marriage pursuant to which the house in Valletta remained paraphernal property to Robert Psaila. From this marriage, Robert and Lilliana Psaila had a daughter, Marie Angie on the 14th February 2009. On the 21st December, 2013 Robert Psaila entered into a contract with his niece Jessica Meilaq and her boyfriend Jesmond Caligari whereby he donated to them jointly the house in Valletta in view of their wedding due to be celebrated on the 7th July, 2014. On the 20th January, 2014 Jessica Meilaq and Jesmond Caligari, jointly acquire a garage measuring 69 square meters located 550 meters away from the house in Valletta. This garage has a value of Euro55,000.

- (i) Briefly explain the regime under the Income Tax Acts applicable with respect to:
- (a) Robert Psaila on the 21st November, 1992
 - (b) Robert Psaila on the 25th November, 2005
 - (c) Lilliana Psaila (nee Mercieca) on the 25th November, 2005
 - (d) Robert Psaila on the 21st December, 2013
 - (e) Jessica Meilaq on the 21st December, 2013

(f) Jesmond Caligari on the 21st December 2013.

(18 marks)

(ii) Please also advise Jessica Mellaq and Jesmond Caligari on their potential tax position as transferors in the event that they decide to sell to a third party the house and garage in Valletta in one and the same deed after the lapse of 8 years from the date of acquisition (assuming they start residing in the house in Valletta upon celebrating their marriage).

(12 marks)

Question 4: (20 marks out of 100)

Michael Sapiano decided to incorporate a company with the name of Sapiano Woodworks Limited for the purpose of conducting his business activities in the field of furniture manufacture. The Company was formed with a share capital of Euro 60,000 divided into 60,000 shares having a nominal value of €1 each. Each share carries one vote. The Company was incorporated with 2 shareholders being Michael Sapiano (59,999 shares) and his wife Magdeleine Sapiano (1 share). Michael Sapiano was the sole director of the Company. The Company never distributed any dividends to the shareholders, and any surplus distributable profits were invested in different pieces of immovable property that the company rented out to third parties, thereby generating an alternative source of revenue into the Company.

Michael Sapiano had three sons and each one of them joined the Company as a carpenter at different instances in the Company's history. Each one of the sons became increasingly involved in the day-to-day management of the Company as time went by. Upon Michael Sapiano's retirement, the business activities of the Company were taken over by the three sons who were appointed to the Board of Directors of Sapiano Woodworks Limited.

The newly appointed Board members decided upon a new marketing strategy to promote their newly launched furniture models. Towards meeting the significant expenditure of this marketing strategy the Board of Directors identified one of the properties acquired by the Company in the year 1988 for sale to third parties and also resolved that a fresh investment into the Company was required. As a result, the property was sold on the 30th March, 2014 for sale proceeds of €250,000. Furthermore 60,000 new shares having a nominal value of €1 each were issued and allotted equally between the three brothers. Each share carried one voting right. Unfortunately the new product line and marketing strategy failed to deliver the

projected returns and the Company ran into financial difficulties. Intent on saving the Company from financial ruin, the Sapiano brothers managed to secure a fresh investment of €100,000 from Mr. Seguna into the Company against the issuance of 100,000 shares having a nominal value of €1 and each carrying 1 vote per share.

(i) Is the sale of the immovable property regulated by the immovable property taxes regime or the capital gains tax regime and what is the tax rate applicable to the transfer value of the sale. (10 marks)

(ii) Briefly explain how the value shifting provisions apply to the above circumstances, providing motivations to your answers. (5 marks)

(iii) In the scenario where subsequent to the issuance of shares to Mr. Seguna, please identify the applicability or otherwise of the de-grouping provisions in the event that Sapiano Woodworks Limited were to transfer another piece of immovable property to another company in which Mr. Seguna is the majority shareholder. (5 marks).

UNIVERSITY OF MALTA
FACULTY OF LAWS
LLD I (2013/14)
SEPTEMBER 2014 SUPPLEMENTARY SESSION OF EXAMINATIONS

STUDY-UNIT: CVL4021 – Fiscal Legislation Associated With
Immovables - 2

CREDIT VALUE: 4 ECTS

DATE: WEDNESDAY 3RD SEPTEMBER 2014

TIME: 10.30am – 12.30pm

INSTRUCTIONS TO CANDIDATES

- This paper is divided in 2 sections. Answer all questions.
- Each question carries the marks indicated in the parenthesis. It is recommended that students apportion time according to the marks assigned to each question.
- During the examination, you are not allowed to have any mobile phones and/or memory-resident electronic devices.
- A simple calculator may be used, if required.
- Questions may be answered in bullet form or in paragraph form.
- Each section is to be answered on a separate booklet. (Two booklets in total)
- This exam paper contains 5 pages in total.

SECTION A: Immovable Property (Acquisition by Non-Residents) Act

Question 1: (40 marks out of 100)

Lee and Kira are both Chinese, married in China, and they have lived in Malta since the 1st July, 2000. For the past 14 years they have always rented property in Malta. They now intend to purchase a residence in Malta. They have chosen a property which they intend to purchase that consists of a second floor maisonette in Birkirkara including its overlying airspace. The asking price for the said property is 120,000 EUR. They would also like to consider the possibility of acquiring a business premises in Malta. They already own a business premises in Italy.

(i) Is it possible for Lee and Kira to purchase the maisonette according to Chapter 246 of the Laws of Malta? Give the reasons for your answers. (9 marks)

(ii) Lee and Kira would like to know whether it would be possible for them to purchase a garage in two years' time. They intend to sign a promise of sale now and complete the final deed in two years' time. This garage is situated within three hundred metres from the said maisonette. What procedure would apply in terms of Chapter 246 of the Laws of Malta for the purchase of the said garage? (8 marks)

(iii) Vanda is a Hungarian friend of Lee and Kira. She has lived most of her life in France, where she worked as an artist. She would like to relocate to Malta. She has found an apartment in Zabbar, valued at 100,000 EUR which she is interested to purchase. Explain what limitations, if any, would apply for Vanda to purchase this Zabbar apartment to establish therein her primary residence in terms of Chapter 246 of the Laws of Malta (8 marks)

(iv) What difficulties, if any, do you envisage for Lee and Kira to acquire property for the fulfilment of business activities in Malta? (3 marks)

(v) Would it be possible for Vanda to acquire a property for the fulfilment of her business activity? She is also considering the possibility of setting up a company for this purpose. Define the requirements for a 'resident' company in terms of Chapter 246 of the Laws of Malta. (5 marks)

(vi) Mirko is a Chinese friend of Lee and Kira. He purchased a property in a Special Designated Area in Malta two years ago. He is now considering the possibility to purchase a character home in Rabat, Gozo. The latter will be his secondary home. Explain if this is possible in terms of Chapter 246 of the Laws of Malta. (7 marks)

Question 2: (10 marks out of 100)

Article 2 of Chapter 246 of the Laws of Malta provides a list of definitions that are crucial for the interpretation of the Immovable Property (Acquisition by Non-Residents) Act.

- (i) Explain the definition of a 'non-resident person' in Article 2. (2marks)
- (ii) When is a trust considered a 'resident' in terms of Article 2? (6 marks)
- (iii) Can a 'resident person' have more than one 'secondary residence' at any one time in terms of Chapter 246 of the Laws of Malta? (2 marks)
-

SECTION B Property Transfers Tax

Question 1: (36 marks out of 100)

Henry Grima received a large sum of money by inheritance from his late grandmother. He invested the funds inherited in the purchase of an apartment in Marsascala on the 12th June, 1992 and established his residence at this apartment. Throughout 1993 Mr. Grima purchased 5 garages of different dimensions in various locations. These garages were rented out to third parties and Mr Grima derived rental income therefrom.

Mr. Grima continued to invest in property and on the 9th July 1997 bought a new apartment and underlying garage in a new complex in Ta' I-Ibragg. Mr. Grima established his residence from 1997 onwards at this new apartment and retained the garage for personal use. Mr. Grima further increased his portfolio of properties by purchasing a villa in Attard on the 22nd November, 2000, a maisonette in Swatar on the 7th January, 2004 and another apartment in Sliema on the 24th March 2007. On the 5th September, 2013 Mr. Grima also inherited from his late father a villa in

Madliena (this villa had been owned and occupied by Mr Grima's father for more than 5 years prior to his demise in 2013).

In 2013, Mr. Grima sold all his properties apart from the apartment in Marsascala where he re-established his residence. The proceeds of the sales of these properties were invested in a large piece of land over which Mr. Grima constructed a block of 22 apartments and 22 underlying garages in Qawra.

A. Please identify which provisions of the Income Tax Acts apply to the different property transfers effected by Mr. Grima in 2012 that is :

- (i) the 5 garages purchased in 1993; (3 marks)
- (ii) the apartment and underlying garage purchased on the 9th July, 1997; (3 marks)
- (iii) the villa purchased on the 22nd November, 2001; (3 marks)
- (iv) the maisonette purchased on the 7th January, 2004; and (3 marks)
- (v) the apartment purchased on the 24th March 2007. (3 marks)
- (vi) the villa inherited from his late father on the 5th September 2013. (3 marks)

B. The block of apartments and garages in Qawra was completed by June 2014 and Mr. Grima decided to retain one of the top floor apartments together with a garage for himself and sell the apartment in Marsascala. Please advise Mr. Grima on the tax implications of selling the apartment in Marsascala in 2014 and establishing his residence in the Qawra apartment. (10 marks)

C. The entire block of apartments and garages was designated as a Special Designated Area in terms of the Immovable Property (Acquisition by Non-Residents) Act. Mr. Grima intends to sell the different apartments and garages within the block. Does Mr. Grima qualify for any one of the optional exclusions in terms of Article 5A ITA? Are there any consequences that Mr. Grima should be aware of when making his tax planning considerations? (8 marks)

Question 2: (14 marks out of 100)

Papermate Company Limited is a leading wholesaler of stationery products and office equipment. They have a warehouse in Marsa where all merchandise is stored before distribution to various outlets across Malta and Gozo, as well as stocking different professional offices.

Over the last 5 years, Papermate Company Limited has experienced an increase in business owing to an increasing market share and the importation of more equipment and merchandise due to increased local market demand. The warehouse in Marsa, owned since inception of the business, is no longer large enough to cater for their storage and stocking requirements and the Board of Directors have taken the decision to purchase a new larger warehouse which is estimated to cater for their requirements for the next 10 years. The purchase price will be funded through a bank loan. The short-term intention is that the bulk of the loan will be repaid out of the sale proceeds upon disposal of the warehouse in Marsa.

- (i) Is Papermate Company Limited entitled to an optional exclusion or a mandatory exemption under Article 5A ITA. (4 marks)
- (ii) What is the tax treatment of the disposal of the original warehouse sold by Papermate Company Limited. Please state the applicable principles. No taxation workings are required. (6 marks)
- (iii) Does Papermate Company Limited benefit from the same tax treatment if it were to transfer the second warehouse without replacing it with a new warehouse for the same purposes within one year from the disposal? (4 marks)
-

UNIVERSITY OF MALTA
FACULTY OF LAWS
LL.D. I
JUNE 2015 EXAMINATIONS

EXAMINATION: CVL4021 – Fiscal Legislation Associated with Immovables - 2

DATE: TUESDAY 23rd JUNE 2015

READING TIME: 10:00AM – 10:05AM

DURATION OF EXAM: 10:05AM – 12:05PM

INSTRUCTIONS TO CANDIDATES

- This paper is divided in 2 sections. Answer all questions.
- Each question carries the marks indicated in the parenthesis. It is recommended that students apportion time according to the marks assigned to each question.
- During the examination, you are not allowed to have any mobile phones and/or memory-resident electronic devices.
- A simple calculator may be used, if required.
- Questions may be answered in bullet form or in paragraph form.
- Each section is to be answered in a separate booklet. (Two booklets in total)
- This exam paper contains 5 pages in total.

SECTION A: Immovable Property (Acquisition by Non-Residents) Act

Question 1: (40 marks out of 100)

Marcus, a Slovakian national and his wife Joanne, a Turkish national have been living in Italy for the past 10 years where they have established their main residence. Marcus works as an electrical engineer in Italy and Joanne has been raising their two children.

During their last visit to Malta, they visited Gozo and they fell in love with a house of character in the quaint village of Sannat, valued at 250,000 EUR. They are thinking of purchasing this house jointly as a summer house where they will spend two summer months every year.

(i) What is the procedure applicable for Marcus and Joanne to be able to purchase the property in Sannat in terms of Chapter 246 of the Laws of Malta? Please give your detailed reasons for your replies. (8 marks)

(ii) Marcus and Joanne have also inquired about the possibility of moving permanently to Malta and establishing their main residence in a palazzo in Birgu. They are considering this step after they would have acquired the property in Sannat. What would be required for them as a married couple to establish their primary residence in Malta and purchase the property in Birgu in terms of the law regulating the Acquisition of Immovable Property by Non-Residents? Define 'primary residence' in terms of Chapter 246 of the Laws of Malta. (8 marks)

(iii) Chris is an Australian citizen who always lived in Australia, although he has visited his relatives in Malta for a few weeks in the past years. Chris is also a fellow engineer and childhood friend of Marcus. Chris has recently been informed that he is the heir of his second cousin Peter who was a Maltese national. In his estate, Peter owned an office located in Valletta and this was the only immovable property owned by Peter. Explain the implications of Chapter 246 to the inheritance of the property in Valletta by Chris. (5 marks)

(iv) Chris is considering the possibility of granting by title of donation unto Marcus only, the office he inherited in Valletta so that Marcus can set up his engineering office and exercise his profession in Malta. This donation will be done after Marcus and Joanne would have already purchased the property in Sannat and the palazzo in Birgu. Joanne will not be included in the donation. Explain the issues, if any, that arise in connection with this donation of immovable property, bearing in mind the provisions of Chapter 246 of the Laws of Malta. (8 marks)

(v) Would it be possible for Chris as an Australian national, to set up a Maltese registered company, in which he will be sole director and sole shareholder and acquire a number of apartments which will be owned by this company in Malta for holiday rental purposes? Explain the requirements at law for a company to qualify as a 'resident' in terms of Chapter 246 of the Laws of Malta. (6 marks)

(vi) During his visit to Malta, Chris visited a converted townhouse in the city centre of Gudja which he fell in love with. The asking price of the property is 129,000 EUR. Chris believes that he will spend another 50,000 EUR to furnish the property and purchase all the required decorations and furnishings. Will it be possible for Chris to purchase this property in terms of Chapter 246 of the Laws of Malta? (5 marks)

Question 2: (10 marks out of 100)

(i) Article 5 of Chapter 246 of the Laws of Malta establishes a list of exceptions to the general rule laid down by Article 4. Explain two of the exceptions listed in Article 5. (5 marks)

(ii) Define a 'non-resident' and 'resident' trust in terms of Chapter 246 of the Laws of Malta. (5 marks)

SECTION B Property Transfers Tax

Question 3: (30 marks out of 100)

Way back in 1990 Michael Bartolo inherited a farmhouse measuring 240 square meters from his parents who passed away within 7 months of one another. Michael Bartolo has lived in the farmhouse all his life and together with his wife and two sons, he continued in the longstanding farming tradition of his family at the farmhouse and adjacent land measuring 875 square meters. As they grew older, both Mr. Bartolo's sons showed an intention that their future did not lie in farming; in fact the elder is a family doctor while the younger is an architect. Without the support of his children on the farm Mr. Bartolo has decided to retire from farming. In fact with the help of his son, Mr. Bartolo decided to develop the farmhouse and adjacent land into a complex of 6 large shops at ground-floor level and nineteen overlying apartments and a penthouse. There will also be 15

lock-up garages at under-ground levels 1 and 2 measuring 69 square meters each as well as another 5 lock-up garages measuring 99 square meters each. The garages will be sold together with the apartments.

Mr. Bartolo wishes to keep the penthouse and a 99 square meter garage for his own personal use and enjoyment together with his wife. He also wishes to donate an apartment and garage measuring 99 square meters to each of his sons. One of the apartments will be donated by Mr. Bartolo to the orphaned daughter of his late sister. All the other apartments and garages will be placed for sale on the open market. The proceeds of all these sales will constitute Mr. Bartolo's pension kitty.

(i) Please explain to Mr Bartolo his tax position in terms of the property transfers tax currently in force with respect to the following transactions:

- a. Mr. Bartolo's ownership of the penthouse and underlying garage;
- b. The donation of the apartment and underlying garage made in favour of his sons;
- c. The donation of the apartment made to his niece;
- d. The sale of each apartment together with a garage to third parties;
- e. The sale of a garage measuring 69 square meters to third parties.

(3 marks each, total of 15 marks)

(ii) Mr. Bartolo has also asked you to advise him on the potential tax liability of his sons in the event of his and his wife's demise and his children's decision to transfer the property to third parties. Make sure your replies are concise but still exhaustive. (10 marks)

(iii) Mr Inguanez has approached you and indicated his intention to purchase one of the apartments and 1 lock up garage for rental purposes, bearing in mind that he already owns other property which serves as his residence. Mr. Inguanez explained that he would consider selling the property in the event that any one of his tenants were to offer him a good price. But towards taking such a decision, Mr. Inguanez seeks your assistance in understanding what his tax position could be in the event of a sale of the property within 4 years from the date of purchase. (5 marks)

Question 4: (20 marks out of 100)

Matthew Pace and Sylvan Cachia have been longstanding friends since early school days. Both have always supported one another throughout their friendship and have grown up practically together. Both have been particularly successful in their respective catering business. Matthew Pace is the sole shareholder of Good Food Limited which in turn owns and operates a

prestigious restaurant. Sylvan Cachia too is the sole shareholder of a company, Corkscrew Limited, that owns and operates a very popular nightclub. Both have decided to join forces and assist one another in delivering a higher value product to their customers. They decided that they shall each transfer to the other 50% of the shares held in their respective companies so that they will have an equal amount of shares and voting rights in the two companies.

Mr. Pace and Mr. Cachia are also considering the option of a third friend, Francis Zahra, investing into the two companies by injecting fresh capital into the two companies for a 50% participation in both companies. This additional capital would allow both companies to refurbish the premises that each company owns.

(i) Briefly advise Mr. Pace and Mr. Cachia on their respective potential tax position under the Income Tax Acts in the event that they effect the share transfers in favour of one another as intended.

Briefly also explain the tax implications applicable in the case that Mr. Zahra effectis his additional investment into Good Food Limited and Corkscrew Limited? (10 marks)

(ii) Zahra Holdings Limited is a family owned immovable property owning company in which Mr. Zahra holds 75% of the shares and voting rights. Zahra Holdings Limited has taken a resolution to sell to Good Food Limited one of its properties adjacent to the restaurant owned by Good Food Limited so that the latter may expand its floor area and seating capacity.

Briefly explain whether the De-Grouping Charges apply would to such transfer, giving reasons for your answer. (10 marks)

UNIVERSITY OF MALTA
FACULTY OF LAWS
LLDI (2014/15)

CVL4021 – FISCAL LAW ASSOCIATED WITH IMMOVABLES 2

Credit Value: 4

September 2015 Examination Session

Wednesday 9th September, 2015

Reading time: 8:30 a.m. – 8:35 a.m.

Exam time: 8:35 a.m. - 10:35 a.m.

INSTRUCTIONS TO CANDIDATES

- This paper is divided in 2 sections. Answer all questions.
- Each question carries the marks indicated in the parenthesis. It is recommended that students apportion time according to the marks assigned to each question.
- During the examination, you are not allowed to have any mobile 'phones and/or memory-resident electronic devices.
- A simple calculator may be used, if required.
- Questions may be answered in bullet form or in paragraph form.
- Each Section is to be answered in a separate booklet. (Two booklets in total)
- This exam paper contains 5 pages in total.

SECTION A: Immovable Property (Acquisition by Non-Residents) Act

Question 1: (40 marks out of 100)

Joseph Borg is a Maltese citizen who was born in Pieta' on the 11th September 1958. In July 1960 his parents emigrated to Australia and he has lived there ever since. His wife, Terry, is an Australian citizen, and they have lived in Australia for all their lives. Last week Joseph and his wife Terry visited Malta and during their trip they decided to acquire an apartment to serve as their holiday home in Saint Paul's Bay. They saw an apartment which they liked, valued 100,000 EUR. This apartment is in shell form state.

(i) What is the procedure applicable for Joseph and Terry to be able to purchase the property in Saint Paul's Bay in terms of Chapter 246 of the Laws of Malta? Will it be possible for them to acquire this property? Please give detailed reasons for your replies. (8 marks)

(ii) Joseph and Terry have also inquired about the possibility of moving permanently to Malta and establishing their main residence in Gozo. Would it be possible for them to acquire their 'primary residence' in Gozo after they would have purchased their holiday home in Saint Paul's Bay? Define 'primary residence' in terms of Chapter 246 of the Laws of Malta. (8 marks)

(iii) Joseph's uncle, Patrick, a Maltese national, lived in Malta for the last 20 years of his life, and he had acquired a house in Mosta and another house in Zebbug, Gozo, where he lived after moving to Malta from Australia. He passed away last July and accordingly to his last will, he appointed Joseph and Joseph's sister Margaret, a Maltese national, as his sole and universal heirs. Explain the implications of Chapter 246 to the inheritance of the property by Joseph and Margaret. (5 marks)

(iv) Joseph and Margaret have decided to partition the property they inherited. Joseph will become full owner of the house in Mosta and Margaret will become full owner of the house in Zebbug, Gozo. Explain the issues, if any, that arise in

connection with this partition of immovable property, bearing in mind the provisions of Chapter 246 of the Laws of Malta. (8 marks)

(v) Explain the requirements at law for a company to qualify as a 'resident' in terms of Chapter 246 of the Laws of Malta. Joseph's wife, Terry and Joseph's sister Margaret are thinking about setting up a company to operate in the floral business in Malta. Is it possible for them to set up a 'resident' company in terms of Chapter 246 of the Laws of Malta if they split the shareholding of the company equally between themselves? (6 marks)

(vi) Joseph and Terry's son Gerald is an Australian citizen and he would like to live in Europe to further his studies in the history of art. He came across an unconverted house in Senglea, valued 190,000 EUR and he intends to refurbish it extensively and make this property his main residence. Gerald already owns an apartment in Italy, which he will now rent to holidaymakers. Do you envisage any difficulties for Gerald to acquire the property in Senglea in terms of Chapter 246 of the Laws of Malta? (5 marks)

Question 2: (10 marks out of 100)

(i) Article 5 of Chapter 246 of the Laws of Malta establishes a list of exceptions to the general rule laid down by Article 4. Explain two of the exceptions listed in Article 5. (5 marks)

(ii) Which declaration/s must the Notary include in the deed when applying an exception from Article 5 of Chapter 246 of the Laws of Malta, to a particular transfer of property? (5 marks)

SECTION B Property Transfers Tax

Question 3: (30 marks out of 100)

Mr and Mrs Coppini own a beautiful bungalow in Marsascala having an area of 300 square meters which includes a two car garage and pool area. The house is surrounded by a garden that measures an additional area of 150 square meters. This

house has, since their marriage 35 years ago, been Mr and Mrs Coppini's matrimonial home, where they have lived and raised their two children. Now that their children have all grown up and taken their own separate path in life, Mr and Mrs Coppini have decided to sell their entire property in Marsascala so as to purchase another property, smaller in size, which is more suitable to their current requirements. You are requested to provide Mr. and Mrs Coppini with your advice as to whether any property transfers tax is payable upon the sale of their property. In providing your advice, please make sure you explain the reasons and motivations behind their tax position as well as advising on any conditions that must be fulfilled so that the optimal tax result is achieved.

(15 marks)

Mr and Mrs Coppini have engaged the services of an estate agent to find a suitable property to live into in the later years of their life. The estate agent has shortlisted some properties which Mr and Mrs Coppini are considering. However, their main concern remains their tax position in the event that they need, for some reason, to sell the property. The shortlisted properties are the following:

- a. A small townhouse in Mqabba (includes a one car garage)
- b. A penthouse in Qawra in a complex of 30 apartment units each having a lock up-garage in the underlying basement levels. The penthouse in Qawra includes its own lock up garage at basement level.
- c. A house in the heart of Sliema with a garage measuring 75 square meters located 600 meters away from the house.

Please identify and briefly explain all potential property tax implications of the eventual sale of each of these properties by Mr and Mrs Coppini.

(15 marks)

Question 4: (20 marks out of 100)

It has become very clear that Mr and Mrs Coppini are quite fiscally sensitive and are now considering other future potential tax liabilities from an estate planning point of view. Mr and Mrs Coppini wish to avoid a situation where upon their demise the new property becomes a fiscal burden on their two children. Towards this end Mr and Mrs Coppini wish your advice in relation to the two potential scenarios:

- a. In the event of the demise of both Mr and Mrs Coppini, the property will devolve to their children *causa mortis*. Mr and Mrs Coppini wish to know what the children's tax position will be in the event that they sell the inherited

property to third parties.

- b. Mr and Mrs Coppini are also considering the alternative of donating the property to their children jointly as soon as their new residence is purchased. Despite the donation, Mr and Mrs Coppini intend to enter into an agreement with both children pursuant to which they will be granted a life-long right of habitation in the property until the demise of the surviving spouse.

Provide Mr and Mrs Coppini with a brief synopsis of the potential tax position of their children upon the demise of both Mr and Mrs Coppini taking into consideration all possible scenarios. You should assume that Mr and Mrs Coppini are aware that fiscal laws relating to immovable property transfers may change in the future and that your brief advice is based on current applicable legislation.

(20 marks)

University of Malta
Faculty of Laws

June 2019 Examination Session

CVL5038 FISCAL LEGISLATION ASSOCIATED WITH IMMOVABLES 2

Date: Friday 21st June 2019

Duration of Examination: 8:30AM–10:35AM

INSTRUCTIONS TO STUDENTS:

This paper is divided in 2 sections. Answer **ALL** questions. Each question carries the marks indicated in the parenthesis. It is recommended that students apportion time according to the marks assigned to each question. A simple calculator may be used, if required. Questions may be answered in bullet form or in or paragraph form. **Each section is to be answered in a separate booklet (two booklets in total).**

SECTION A

Question 1: (40 marks out of 100)

Josef is a Serbian medical student who has been studying at the University of Malta for the past five years. His mother is Italian and his father is Serbian- however Josef only has Serbian nationality. During his years in Malta, Josef met Aida, an Italian student also pursuing the medical course at the University of Malta, and they have been a couple ever since. Josef had inherited a house in Italy from his maternal grandfather which is located in Tuscany. In spite of this, the couple have plans to get married and settled in Malta whilst furthering their medical studies. They have been renting an apartment since their first days in Malta, however the couple now feel it is time to invest in a house which they will eventually make their matrimonial home. They have no specific date when they plan to get married in mind yet. In view of their intentions, they have begun to search for the right property and they were particularly struck by a quaint house of character in Kirkop, as yet unconverted, which is on the market for 230,000 EURO. The couple estimate that to render the house habitable, this will require a minimum further investment of 60,000 EUR.

- a. Please explain the different positions applicable in terms of the Acquisition of Immovable Property by non-Residents' Act, should the couple together elect to purchase the property to establish therein their primary residence. How would the position vary should the property be acquired by Josef by himself or by Aida by herself? Give reasons for your reply. (15 marks)

- b. Aida intends to specialise in podology and she intends to focus on private practice, possibly opening a small clinic focussing specifically on this medical field. Please explain to Aida the different implications in relation to the Acquisition of Immovable Property by non-Residents' Act should she elect to purchase the small clinic in her sole name? (10 marks)
- c. Josef's cousin Umberto and his wife Emiliana are Italian nationals who are also doctors by profession and they are considering the possibility of moving to Malta for good having heard about their cousin's great experience on the island. They are currently property hunting with the intention to acquire a two bedroomed apartment in Saint Julians area. They have particularly liked a modern apartment on the market for 295,000 EUR. Since they have never quite lived in Malta ,but only visited their cousin Josef a couple of times, they are as yet uncertain whether they will ultimately live in Malta and make this their permanent country of residence or whether they will simply visit every so often and keep Malta as their holiday home. Will this be possible bearing in mind the provisions of the Acquisition of Immovable Property by non-Residents' Act? (10 marks)
- d. Umberto and Emiliana are aware that it is very difficult to find parking in Saint Julians area, and they are resolved that should they intend to acquire the apartment they will acquire a one car garage close by, on the market for 25,000 EUR. Do their intentions tally with what is possible in terms of the Acquisition of Immovable Property by non-Residents' Act? Please give the reasons for your reply. (5 marks)

Question 2: (10 marks out of 100)

- a. List two exceptions applicable in terms of Article 5 of the Acquisition of Immovable Property by non-Residents' Act in which cases no restrictions apply for the acquisition of immovable property by non-residents in Malta. (5 marks)
- b. What constitutes a 'resident' individual in terms of the Acquisition of Immovable Property by non-Residents' Act. (5 marks)

SECTION B

Question 3 (25 marks out of 100)

- a. Bradley and Angelique have walked into your office with a very clear objective in mind.... the marriage is no longer stable, and they both want to go separate

ways. They explain to you that they have been married for seven years and have had a wonderful life together. Their marriage has even been enriched with the birth of 4 adorable children of different ages throughout the years but the time has now come for them to go separate ways. Bradley has decided to move to Australia for business purposes whilst Angelique will continue with her dentistry operation in Malta so that the kids can continue their education on the island and finish off what they have already started. Despite the split, Bradley and Angelique have remained on very good terms, especially in the best interest of the kids and have agreed that Bradley will assign to Angelique all his legal interests in the converted farmhouse in the limits of Mellieha so that his children may continue to reside together with their mother in what has been the matrimonial home ever since Bradley and Angelique got married.

Bradley wishes to organise all these affairs in the shortest time possible but not before he has a clear idea of what property transfer taxes he will have to pay with respect to the assignment of his 50% ownership of the farmhouse in favour of his (soon to be) former spouse. Bradley is a curious type of person and wishes to have a clear understanding of the implications. (15 marks)

- b. In view of his decision to move to Australia, Bradley has decided to divest himself of all immovable property owned in Malta and has decided to transfer to Angelique on behalf of their minor children, his late father's house comprising a large back garden. Bradley's father passed away in the last three months and needless to say, Bradley is in a hurry to ensure all his affairs have been taken care of before his departure, but once again Bradley is keen on having a clear understanding of tax implications relating to this transfer. (10 marks)

Question 4 (25 marks out of 100)

- a. Malta Yacht Racing Limited owns a yacht, the M/Y Unreachable, which has been competing in the Rolex Middle Sea Race for the past 5 editions, with a mixture of different results, most notable of which are their two victories in the past two editions. The Board of Directors has discussed the future aspirations of the company with the skipper and the crew and it has been decided that the time is right for a fresh challenge. A decision has been taken...Malta Yacht Racing Limited will compete in the Americas Cup. For this to happen they require a larger and different kind of yacht which unfortunately will not fit in their current hangar where they have for the past 5 years looked after and improved the M/Y Unreachable. This will naturally mean that Malta Yacht Racing Limited will require a new and larger hangar that will accommodate the new yacht. The Board of directors have already identified a hangar possessing the measurements required to accommodate their new yacht.

You have been asked to submit a short report outlining the tax implications of disposing of the current hungar, and acquiring the new hungar. Please ensure that Malta Yacht Racing Limited's Board of Directors have a clear understanding of the motivations to the tax implications outlined in your report. (15 marks)

- b. The Board of Directors of Malta Yacht Racing Limited are quite serious about mounting a serious challenge in the Americas Cup but have noticed that they are short of funds to meet all the financial obligations that need to be met. From the sale of the M/Y Unreachable, the Board has sufficient funds to settle the deposit required for the acquisition of the new yacht, which shall be christened M/Y Bullet. Despite the sale of the old hungar at a good profit, the Board of Directors have reached the conclusion that more funds are required to meet the acquisition price of the new hungar and have requested the 6 shareholders of the company to each contribute an additional €750,000 in share capital in addition to the sharecapital of USD2,500,000 that each shareholder had contributed to the Company at incorporation stage.

You have been asked to concisely highlight and explain the tax implications of the transation from a property transfers tax perspective and advise the Baord accordingly. (10 marks)



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FACULTY OF LAWS
DEPARTMENT OF CIVIL LAW
JUNE/JULY 2020 EXAMINATION SESSION

CVL5038 Fiscal Legislation Associated with Immovables 2

Thursday, 2nd July 2020

Examination time: 8:30am – 10:30am + 60 extra minutes for uploading/downloading.

In case of difficulty during the examination (issues with exam paper, electricity power cut, internet connection, etc), you may contact the Faculty of Laws on the following:

Telephone : 2340 3251; 2340 2780

Email: laws@um.edu.mt

Please note that for immediate feedback it is best to communicate using telephone. Use email only if there are circumstances when the use of telephone is not possible.

Keep your mobile phone handy since important communications during the examination may be communicated by the University through SMS.

You have the option to either type in your answers on a word document or write down your answers on an A4 sheet/s of paper.

Once you have completed the examination, you are to save your answers in pdf format or scan your handwritten answers using Adobe Scan app and Microsoft Office Lens app, and upload them within the time indicated for the examination. **The name you should assign to the file you are going to upload to the VLE dropbox should be the study-unit code.** The VLE will then rename the file automatically to also include your name and surname.

You have been allowed 60 minutes for downloading the examination paper and uploading your responses. **Make sure that you upload the correct document.** If you upload the wrong document, simply upload again and the system will overwrite the document originally submitted.

You may be subject to an additional oral examination to safeguard against plagiarism, collusion or other misdemeanours.

You may not obtain or seek to obtain advantage in an examination, or give or endeavour to give assistance to other students. Students who are found guilty of a breach of the University Assessment Regulations are liable to disciplinary action which may result in the examination being cancelled and other consequences.

By sitting for this examination, you declare that you are aware of the provisions of the regulations regarding conduct during examinations and you pledge to observe them.

INSTRUCTIONS TO STUDENTS:

This paper is divided in 2 sections. Answer **ALL** questions. Each question carries the marks indicated in the parenthesis. It is recommended that students apportion time according to the marks assigned to each question. A **simple calculator** may be used, if required. Questions may be answered in **bullet form** or in or **paragraph form**.

Section A

Question 1: (40 marks out of 100)

Marta is a Slovenian national who lived for most of her life in Australia together with her family particularly due to the diplomatic commitments of her father. In 2018 she visited Malta for the first time as part of an exchange programme organized by her university in Melbourne and soon after finishing her studies in the next following months, she decided to settle in Malta. She immediately rented an apartment in Saint Julians and shortly afterwards met Edward, a Norwegian national working in the gaming industry in Malta, with whom she fell in love.

Edward had been living in Malta for six months and he had already signed a promise of sale agreement to buy an apartment in Swatar before he met Marta and his deed is scheduled to be published in August 2020. The price of the Swatar apartment is 230,000 EUR. Edward could assign half of his rights emanating from the said promise of sale in favour of Marta and thus they would acquire the apartment in Swatar together. Alternatively, Edward is also considering acquiring the apartment by himself as originally planned and in the coming years, Marta would decide whether to acquire her own apartment or alternatively live with Edward in his flat.

Marta's priority, for the time being is acquiring an office to practice her dental profession in Malta. Her cousin Adelaide, an Australian national and also a recently graduated dentist, is keen on the idea of moving to Malta and sharing a practice with her cousin Marta. During Adelaide's last visit to Malta, the cousins saw a number of properties which they could consider as options to set up their clinic. They saw a property in Gzira valued at 190,000 EUR currently in shell form state. It is estimated that another 60,000 EUR would be required to render the office a workable space.

a. What would be the different implications and considerations to bear in mind from the perspective of the Acquisition of Immovable Property by non-Residents' law of the following possible scenarios:

- i. Edward purchasing by himself the property in Swatar; (5 marks)
- ii. Edward assigning part of his rights emanating from his promise of sale agreement in favour of Marta; (5 marks)
- iii. Edward and Marta acquiring jointly the apartment in Swatar; (5 marks)
- iv. Marta acquiring the property to make her dental clinic; (5 marks)
- v. Marta together with Adelaide acquiring the property for their dental clinic together. (5 marks)

b. Marta's father, Albert, a Slovenian national, has visited Marta a couple of times since her permanent move to Malta. He immediately fell in love with the serenity and idyllic setting of Gozo and given that his retirement is shortly coming up, he is seriously considering moving to Gozo to spend his retirement phase in this peaceful setting. Marta's mother, Maureen who is both Slovenian and Romanian national is admittedly not too keen about permanently moving to Gozo since she misses Slovenia and Lake Bled very much and was eager to relocate to their family home in Slovenia after her husband's placement comes to an end.

Albert and Maureen, with the help of a local broker discovered a lovely farmhouse in Qala, Gozo priced at 750,000 EUR and the couple have decided to purchase this property. Before proceeding further they have approached you to discuss the different options available to them - depending on whether they decide to set up their primary home in Gozo or alternatively, on whether they opt to acquire the beautiful Gozo property as a summer house. They would also like to discuss the possibility of making the choice on the intended use of the property after the actual acquisition of the property since they feel uncertain for the time being.

Elaborate the different options applicable in the above scenarios from an Acquisition of Immovable Property by non-Residents' perspective considering what would apply in each case and whether there would be any restrictions on the permitted use of the property by the couple in either scenario. (10 marks)

- c. Albert and Maureen like to plan their affairs in advance and they are concerned about possible difficulties that their three children could eventually face when inheriting the Gozo property. After their demise, they intend to bequest the Gozo property in the name of their three children - Marta, Lorenz and Jacob. The couple have read about the Acquisition of Immovable Property by non-Resident's Act and they are particularly worried about their two sons who live in Brazil and London respectively and have never set foot in Malta. What would you advise Albert and Maureen in the light of their concerns? (5 marks)

Question 2: (10 marks out of 100)

Define a 'resident' of Malta in the light of the Acquisition of Immovable Property by non-Residents' Act. Please give examples of individuals who would qualify as resident and individuals who would qualify as 'non-residents'. Your answer should also include the definition of a resident 'body or other association of persons'.

Section B

Question 3: (30 marks out of 100)

Giorgio Darmanin married his wife Imelda in 1978 and immediately established their matrimonial home in a large villa in Attard. The villa, which comprised extensive gardens surrounding the property, had been donated to Giorgio Darmanin by his parents as a wedding gift a few months before the marriage was contracted. Throughout their marriage Giorgio and Imelda Darmanin acquired other immovable property, such as 4 garages in Marsa close to the racecourse track (where Giorgio kept a number of horses in view of his passion for horse-racing) and a magnificent bungalow in Mellieha which served as the couple's summer residence for a number of years. In recent years, Giorgio and Imelda Darmanin also acquired an apartment in Xlendi which served as their getaway from everyday life. Giorgio and Imelda Darmanin had three children: Carlo, Eduardo and Antonio.

Upon the demise of Giorgio Darmanin, Imelda inherited all the immovable property according to his last will. Imelda intends to plan for her future and has the following plan in mind:

- In view of the fact that Giorgio had shared his passion for horses with his children, Imelda intends to donate a garage to each of her sons;
- Aware that Giorgio shared his passion for horses with his brother Filippo, Imelda intends to donate the 4th garage in Marsa to Filippo, safe in the knowledge that Filippo will, together with his two sons Ernesto and Marco, continue in the family tradition of horse breeding and horse racing;
- Imelda intends to sell the villa in Attard and the Bungalow in Mellieha, make a monetary donation to each of her sons out of the proceeds of the sales and retain a substantial portion of the remainder from the proceeds of such sales as her own pension fund for her later years;
- Wishing to lead a quieter lifestyle and in a property that is easier to manage in her elderly age, Imelda intends to transfer her residence to the apartment in Xlendi.

Before proceeding further with her intended plan, Imelda seeks your advice to understand in a clearer manner her tax position with respect to every transfer that she has outlined to you. In a concise manner, please motivate your advice for Imelda Darmanin's better understanding.

Question 4: (20 marks out of 100)

Carlo Darmanin is aware of his mother's intended sale of the villa in Attard. He is not entirely happy about the prospect of the villa falling in the hands of third parties, since this beautiful property has been within the family for a number of generations. As a result he intends to acquire the property from his mother at such price on the open market as his mother will establish.

Carlo will finance the acquisition of the villa in Attard out of the proceeds of the assignment of a small boutique hotel in Senglea to his estranged wife as part of their consensual divorce settlement. Carlo explains to you that the boutique hotel is owned via a company in which he is the 95% shareholder. His wife will assign the remaining 5% of the shares in favour of Carlo in parallel with the assignment of the boutique hotel in Senglea in her favour. As part of his preparations and calculations relating to the assignment of the boutique hotel and the acquisition of the villa in Attard, Carlo needs your advice in relation to what taxes he will need to pay upon the assignment of the property to his ex-wife. Please motivate your advice in a concise manner.



M.Not
Compulsory Units Past Papers

Examination of Title

If you require any further information, have any suggestions or find any mistakes in this publication, do not hesitate to contact us on academic@ghsl.org

University of Malta

Faculty of Laws

LLD Second Year, Academic Year 2008/2009

Examination of Title, CVL4018

May/June, Credit Value: 4

25th May 2009, 9.15 am to 11.15 am

Answer both Part ONE and Part TWO of this paper

Part ONE [50% of the marks]

You are requested to compile a dossier in respect of a house, in order to ascertain title, and to verify whether the house guarantees any registered liabilities.

The house is situated at 63, Triq il-Kbira, Rabat, Malta. Most probably this property does not fall within a compulsory land registration area.

Peter Pace and his sister Pauline Pace assert that they are the owners of this house. They are 21 and 19 years old, respectively. Both are unmarried. They produce rough notes tracing the ownership of the house over a period of years.

The house was purchased at some time between 1946 and 1956 by the grandfather of the present vendors. His name was Joseph Pace. At the time Joseph Pace was already married to their grand-mother Mary Pace.

Joseph Pace and Mary Pace sold the house to their son William Pace in August 2000.

William Pace died on the 15th March 2007 after a short illness. He was single and had no children. He had made a will dated the 1st December 2006, appointing as his heirs his four nephews and nieces Peter Pace, Pauline Pace, Catherine Cassar and Joseph Cassar, in equal shares.

The late William Pace was the owner of two immovables of equal value, namely the above-mentioned house at Rabat Malta, and an apartment at St Paul's Bay.

On the 20th July 2007 the four heirs concluded the declaration *causa mortis* of the estate of the deceased. On the same day they partitioned the immovables. The house at Rabat Malta was assigned to Peter Pace and to Mary Pace, in

equal and undivided shares between them. The apartment at St Paul's Bay was assigned to Catherine Cassar and to Joseph Cassar, also in equal and undivided shares between them.

Draw up a list of deeds, researches, certificates, and other documents (hereinafter broadly referred to as "documents"), which should be compiled for the dossier on the property at Rabat Malta. The dossier should focus on the title of the property, and on any registered liabilities which it might guarantee. In relation to each document annotate any significant details and explain briefly the reasons why that document is relevant.

Part TWO [50% of the marks]

Part TWO is divided into two sections. Answer both sections. Section A carries 35% of the total marks, while Section B carries 15% of the total marks.

Section A [35% of the marks]

Generally, these questions require short answers. Choose FIVE from this section:

A1. What is the creditor's position if the special privilege over an immovable to which he would otherwise have been entitled is not registered in the time limit laid down by law? [7% of the marks]

A2. In a deed of loan and sale, C gives a loan of €60,000 to D so that the latter may pay V for part of the purchase price of an apartment which D is purchasing from V by means of the same deed. Article 2010 of the Civil Code refers to the requisites to be included in the deed so that a valid cause of preference may be registered in favour of C. Which are these requisites? [7% of the marks]

A3. A credit is secured by a general hypothec over the debtor's present and future property. The creditor is of the opinion that his credit is not adequately secured. What could the creditor do, without the concurrence of the debtor, to ensure that his credit is better secured? [7% of the marks]

A4. X grants a loan to Y which the latter guarantees with a special hypothec on an immovable. The Civil Code lists the particulars that the note of hypothec should contain. Ignoring the details of the creditor and the debtor, state which details the notary must include with regard to (a) the credit, and (b) the cause of preference. [7% of the marks]

A5. Assuming that the registration of a special privilege over an immovable or a special hypothec is not renewed in the Public Registry, what is the maximum period of time during that such registration remains effective. [7% of the marks]

A6. It has been stated that a note of privilege or hypothec is incomplete if it is not read together with any note or notes of reference that may be registered in relation to such note of privilege or hypothec. Is the statement correct? Why? [7% of the marks]

A7. Answer the following four questions, giving very brief explanations for each answer [total of 7% of the marks]

A7. (i) A special hypothec on a house, constituted on the 12th February 2009, is registered in the Public Registry on the 19th February 2009. What is its effective date?

A7. (ii) A special privilege on a garage arises from a notarial deed of the 5th February 2009, and it is registered in the Public Registry on the 2nd March 2009. What is its effective date?

A7. (iii) A charge (special hypothec) on a field is constituted on the 12th February 2009, and an application for its registration is entered in the day-book on the 21st February 2009. The Land Registrar registers the charge on the 24th February 2009. When does the charge become effective?

A7. (iv) A charge (special privilege) on an apartment arises from a deed of the 12th February 2009, and an application for the registration of the charge is entered in the day-book on the 21st February 2009. The Land Registrar registers the charge on the 24th February 2009. When does the charge become effective?

Section B (15% of the marks)

Choose ONE from this section

Either

B1 List the main differences between privileges and hypothecs. [15% of the marks]

Or

B2 What is meant by *diritto di seguito*? What is its importance in the law of guarantees? [15% of the marks]

University of Malta
Faculty of Laws
LLD Second Year
Academic Year 2009 – 2010
May – June 2010 Session
Examination of Title, CVL4018
Wednesday 2 June 2010 - 9.15 am to 11.15 am

Answer both PART ONE and PART TWO of this paper.

Part ONE – [70% of the marks]

1. You are requested to compile a dossier in respect of a house at 2, Misrah San Pawl, Mdina.

The locality where this house is situated was declared as a compulsory Registration Area, under the Land Registration Act, with effect from 1 September 2000 (S.L. 296.10).

The present owners of the house are Publius Portelli and his wife Pauline Portelli. They purchased it on 1 June 2008 when they were already married.

The Land Registrar issued a Certificate of Title in respect of this house, following an application (submitted on 10 June 2008) for first registration of title.

The Certificate of Title has not yet been converted into a "guaranteed title". The dossier will be compiled in order to make up for any "non-guaranteed" element of the land registry certificate of title.

In their deed of purchase dated 1 June 2008 Publius Portelli and Pauline Portelli declared that they were entitled to acquire immovable property in Malta, on the basis that they were citizens of Malta and that they had resided continuously in Malta for at least 5 years.

The deed of purchase dated 1 June 2008 quoted the following root of title:

"The said house used to belong to Anthony Agius and his wife Carmen Agius, who bought it during their marriage by virtue of a deed published by Notary Dr X on 15 February 1961.

"The said Anthony Agius and Carmen Agius died on 20 August 1995 and on 25 September 1997, respectively. Both successions were regulated by virtue of the same Will unica charta published by Notary Dr X on 1 March 1970. In terms of that Will, the said Anthony Agius and Carmen Agius appointed their two children John Agius and Elizabeth Bonnici (wife of Alexander) as their universal heirs.

"The declaration causa mortis in respect of the two successions were published by Notary Dr X on 15 November 1995 and on 15 December 1997, respectively. In both cases one-half undivided share of the above-mentioned house was included among the immovables forming part of each estate.

"Finally, by virtue of a deed of partition entered into by John Agius and Elizabeth Bonnici and published by Notary Dr X on 1 March 1999, the said house was assigned to John Agius."

Elderly neighbours residing in the same square confirm (and are prepared to attest their statements by affidavits) that they assume that Anthony Agius, Carmen Agius, and their two children were/are citizens of Malta, because they recall having all gone together to the polling booths to vote at General Elections on at least two occasions. Neighbours also confirm that throughout their childhood John Agius and Elizabeth Bonnici (then Agius) resided continuously with their parents at the said house, without ever having gone abroad until they were in their teens.

Draw up a list of deeds, researches, certificates, and other documents (hereinafter broadly referred to as "documents"), which should be compiled for the dossier on the property at Mdina Malta. The dossier should focus on the title of the property, and on any registered liabilities which it might guarantee. In relation to each document annotate any significant details, and explain briefly the reasons why that document is relevant. [70 marks]

Part TWO – [30% of the marks]

Answer any two of the following questions

B1. Identify the categories of hypothecs and privileges in respect of which the "diritto di seguito" operates. Further, indicate the circumstances when the "diritto di seguito" operates, and the implications that this feature brings about. [15 marks]

B2. A person borrows a sum of money on a public deed, and guarantees its repayment by means of a special hypothec over a house which belongs to him. The house lies in a compulsory land registration area, and a certificate of title has already been issued for it. Where and how does the notary register the special hypothec/charge, in order to render it effective? [15 marks]

B3. What are the principle differences between hypothecs and privileges, in relation to their origin, in relation to the liabilities which they guarantee, and in relation to ranking? Identify the elements of any one liability which would qualify for a special privilege over an immovable property. [15 marks]

University of Malta
 Faculty of Laws
 LLD Second Year
 Academic Year 2010 – 2011
 May – June 2011 Session
Examination of Title, CVL4018
 Monday 6 June 2011 - 9.15 am to 11.15 am

Answer PARTS ONE, TWO and THREE of this paper.

Part ONE – [60% of the marks] – Answer the following question

A1. The house at 1, Misrah is-Sagqajja, Rabat, Malta (hereinafter referred to as the "house") will be sold on 1 August 2011.

Draw up a list of deeds, researches, certificates, and other documents (hereinafter broadly referred to as "documents"), which should be compiled for the dossier on the property at Rabat, Malta. The dossier should focus on the title of the property, and on any registered liabilities which it might guarantee. These documents will be examined by the purchaser's legal advisor, before the publication of the deed of sale.

In relation to each document annotate any significant details, and explain briefly the reasons why that document is relevant. *[60% of the marks]*

The following table includes relevant information for this purpose.

6	December	1969	Joseph Gatt sold the house to Amabile Attard.
1	March	1973	Amabile Attard sold the house to John Calleja and his sister Anna Calleja (both unmarried), in equal shares between them.
15	February	1986	John Calleja and his sister Anna Calleja appeared on a public deed; the house was assigned to John Calleja by title of partition.
20	March	1999	John Calleja made a public will. He appointed his nephew Nicholas Naudi as his sole heir.
31	May	2000	Nicholas Naudi married Caterina nee' Cuschieri.
1	September	2000	Entry into force of L.N. 144 of 2000, declaring the land occupied by the house as a compulsory land registration area.
15	June	2007	Date of death of John Calleja, single, and never having had any children.
1	September	2007	Nicholas Naudi appeared on a public deed, and made a declaration (for the purposes of the Duty on Documents and Transfers Act) of the immovable property which he inherited from his uncle John Calleja, including the house.
12	September	2007	Nicholas Naudi presented at the Land Registry an application for the first registration of the house, under art 14 of the Land Registration Act (Registration of title to land comprised in a succession). The Certificate of Title has not yet been converted into a guaranteed title.
1	October	2009	Nicholas Naudi started residing in the house together with his wife Caterina Naudi and their two children.

Part TWO – [10% of the marks]

Answer any two from the following three questions

B1. What is the creditor's position if the special privilege over an immovable to which he/she would otherwise have been entitled is not registered in the time limit laid down by law? [5% of the marks]

B2. A credit is secured by a general hypothec over the debtor's present and future property. The creditor is of the opinion that the credit is not adequately secured. What could the creditor do, without the concurrence of the debtor, to ensure that the credit is better secured? [5% of the marks]

B3. Assuming that the registration of a special privilege over an immovable or a special hypothec is not renewed in the Public Registry, what is the maximum period of time during that such registration remains effective. [5% of the marks]

Part THREE – [30% of the marks]

Answer any two from the following three questions

C1. Identify the legal requisites which must be satisfied by a person who asserts his/her title to immovable property on the basis of a 10-year acquisitive prescription. What are the inherent risks associated with the 10-year acquisitive prescription? [15% of the marks]

C2. Identify the categories of hypothecs and privileges in respect of which the "diritto di seguito" operates in relation to immovable property. In which circumstances does the "diritto di seguito" operate? When assessing the liabilities guaranteed by an immovable property, what are the implications of the "diritto di seguito" principle? [15% of the marks]

C3. A person borrows a sum of money on a public deed, and guarantees its repayment by means of a special hypothec over a house which belongs to him/her. The house lies in a compulsory land registration area, and a certificate of title has already been issued for it. Where and how does the notary register the special hypothec/charge, in order to render it effective? [15% of the marks]

University of Malta

Faculty of Laws

LL.D Second Year

Academic Year 2011 – 2012

May – June 2012 Session

Examination of Title, CVL4018

Monday 11 June 2012 - 13:00 to 15:00 hours

Answer Question 1 and Question 2

Questions 1 and 2 are distinct yet interconnected. If your answer for Question 1 deals with issues which are also relevant to Question 2, you may annotate these relevant paragraphs with a brief note in the left-hand margin (#2a, #2b, #2c, etc.). Eventually, when answering Question 2, you may then refer to annotated paragraphs, without copying them anew.

Question 1 – 75% of the marks

Draw up a *template of a dossier* (to reflect relevant deeds, researches, certificates and other documents (hereinafter broadly referred to as "documents"), which should be compiled for an immovable property, according to a range of scenarios, in order to arrive at a correct assessment of the title to the property, and any liabilities which it guarantees.

The point of departure is a specific individual who asserts that he/she is the current owner of an immovable.

The template should encompass the widest range of possible scenarios; however, the following issues should also be addressed:

- i. The place where the immovable is situated, in relation to compulsory land-registration areas.
- ii. Different scenarios, depending on whether or not the immovable is already registered, and the nature of the certificate of title.
- iii. The possibility that at some relevant stage, the immovable devolved by title of succession (covering both intestate and testate succession, as well as universal succession (in favour of the heir/s) and singular succession (in favour of a legatee).
- iv. The possibility that at some relevant stage, the immovable was the subject of a partition, and that it was assigned to one of two co-partitioners.
- v. In relation to the current and previous owners, the range of relevant searches which should be examined and the period/s which should be covered.

In relation to each "document" (as defined above) annotate any significant details, and explain briefly the relevance for the document.

Question 2 – 25% of the marks

The dossier in Question 1 would reflect the prudent, professional approach which is adopted when examining the title to an immovable property. Nevertheless, there are certain issues which continue to constitute "risk areas", despite the most prudent approach. Identify risk areas of this nature, and indicate whether any mitigating measures can be adopted in their regard. Your answer should discuss (amongst others) risks which arose in the light of legal provisions in the Ecclesiastical Entities (Properties) Act – Chapter 358 of the Laws of Malta.

University of Malta
Faculty of Laws
LLD Second Year
Academic Year 2012 – 2013, June 2013 Session
CVL4018 – Examination of Title
Wednesday 26 June 2013 – 9.15 am to 11.15 am

-
- Answer Question 1 and Question 2 of this paper
 - It is recommended that candidates apportion their time according to the marks assigned to each question.
-

Question 1 – [30% of the marks]

Chapter 55 of the laws of Malta and the Examination of Title Regulations 2012 (LN 355/2012 – S.L. 55.06) establish a number of circumstances when a notary would not examine the title to the immovable transferred by virtue of a deed published by that notary. Elaborate on these instances. What measures would the notary take in these cases?

/... Turn Over

Question 2 – [70% of the marks]

This case study refers to the house at 2, Trig I-Imhazen, Mdina (hereinafter referred to as the "house"), which will be sold on 1 October 2013.

Article 84C of Chapter 65 of the Laws of Malta states: *"A notary is empowered to compile documents conducive to establishing both the title to an immovable property and the causes of preference among creditors affecting such title. He has the right to interpret the compiled documents and give advice thereon. ... This process of compilation, interpretation and advice is referred to as "the examination of title" or cognate expressions."*

Draw up a list of deeds, researches, certificates, and other documents (hereinafter broadly referred to as "documents"), which should be compiled for a dossier on the property at Mdina. The dossier should focus on the title of the property, and on any registered liabilities which it might guarantee. These documents will constitute the basis for the report on the title.

In relation to any researches, your answer should include the period which they should cover.

In relation to each document (or group of similar documents) indicate briefly the issues which it/they address.

Finally, outline any risks which will remain unaddressed despite a diligent examination of the title according to law.

The current owner has produced a number of documents. On their basis a tentative root of title has been drawn up, as follows:

A	12	October	1968	Adrian Attard (AA) sold the house to Brian Bartolo (BB)
B	1	June	1975	Brian Bartolo (BB) sold the house to Charles Cassar (CC), who was then single.
C	20	February	1978	Charles Cassar (CC) made a public will. He appointed his nephew and niece, David Dalli (DD) and Elaine Ebejer (EE) (both single), as his only two heirs, in equal shares between them. The will contained no other provisions, other than a revocation of any prior will.
D	1	September	2000	Entry into force of L.N. 144 of 2000, declaring the land occupied by the house as a compulsory land registration area.
E	15	March	2004	Date of death of Charles Cassar (CC), single, and having never had any children.
F	20	July	2004	David Dalli (DD) and Elaine Ebejer (EE) appeared on a public deed, and made a declaration (for the purposes of the Duty on Documents and Transfers Act) of the immovable property which they inherited from their uncle Charles Cassar (CC), including the house at Mdina.
G	30	July	2004	David Dalli (DD) and Elaine Ebejer (EE) presented at the Land Registry an application for the first registration of the house, under art 14 of the Land Registration Act (Registration of title to land comprised in a succession). Ten days later the Land Registrar issued a non-guaranteed title.
H	1	October	2006	David Dalli (DD) and Elaine Ebejer (EE) appeared on a public deed of partition; the house was assigned to David Dalli (DD) by title of partition.
I	9	October	2006	A <i>dealing</i> was registered at the Land Registry, reflecting the assignment by title of partition of the house at Mdina to David Dalli (DD).
J	25	May	2008	David Dalli (DD) married Francesca nee' Frendo (FF). A few days later the couple started to reside at this house.

University of Malta
Faculty of Laws
LLD Second Year
Academic Year 2012 – 2013, September 2013 Session
CVL4018 – Examination of Title
Monday 9 September 2013 – 10.30 am to 12.30 pm

-
- Answer Question 1 and Question 2 of this paper
 - It is recommended that candidates apportion their time according to the marks assigned to each question.
-

Question 1 – [20% of the marks]

Chapter 55 of the laws of Malta and the Examination of Title Regulations 2012 (LN 355/2012 – S.L. 55.06) empowers the notary to examine the title to immovable property.

Discuss the nature of the transaction/s (contained in the deed) which gives/give rise to the notary's obligation to examine the title, but do not elaborate on the circumstances in which the notary is/may be exempt from that obligation.

... Turn Over

Question 2 – [80% of the marks]

This case study refers to the house at 1, Tarag tas-Saqqalja, Rabat, Malta (hereinafter referred to as the "house"), which will be sold on 1 October 2013.

Article 84C of Chapter 55 of the Laws of Malta states: *"A notary is empowered to compile documents conducive to establishing both the title to an immovable property and the causes of preference among creditors affecting such title. He has the right to interpret the compiled documents and give advice thereon. ... This process of compilation, interpretation and advice is referred to as "the examination of title" or cognate expressions."*

Draw up a list of deeds, researches, certificates, and other documents (hereinafter broadly referred to as "documents"), which should be compiled for a dossier on the property at Rabat, Malta. The dossier should focus on the title of the property, and on any registered liabilities which it might guarantee. These documents will constitute the basis for the report on the title.

In relation to any researches, your answer should include the period which they should cover.

In relation to each document (or group of similar documents) indicate briefly the issues which it/they address.

Finally, outline any risks which will remain unaddressed despite a diligent examination of the title according to law.

The current owner has produced a number of documents. On their basis a tentative root of title has been drawn up, as follows:

A	20	December	1969	Raphael Rapa (RR) sold the house to Stephen Sammut (SS)
B	15	July	1975	Stephen Sammut (SS) sold the house to Tancred Testa (TT), who was then single.
C	16	March	1978	Tancred Testa (TT) made a public will. He appointed his nephew and niece, Victor Vella (VV1) and Vanessa Vella (VV2) (both single), as his only two heirs, in equal shares between them. The will contained no other provisions, other than a revocation of any prior will.
D	1	September	2000	Entry into force of L.N. 144 of 2000, declaring the land occupied by the house as a compulsory land registration area.
E	30	April	2004	Date of death of Tancred Testa (TT), single, and having never had any children.
F	20	June	2004	Victor Vella (VV1) and Vanessa Vella (VV2) appeared on a public deed, and made a declaration (for the purposes of the Duty on Documents and Transfers Act) of the immovable property which they inherited from their uncle Tancred Testa (TT), including the house at Rabat, Malta.
G	30	June	2004	Victor Vella (VV1) and Vanessa Vella (VV2) presented at the Land Registry an application for the first registration of the house, under art 14 of the Land Registration Act (Registration of title to land comprised in a succession). Ten days later the Land Registrar issued a non-guaranteed title.
H	10	November	2007	Victor Vella (VV1) and Vanessa Vella (VV2) appeared on a public deed of partition; the house was assigned to Victor Vella (VV1) by title of partition.
I	19	November	2007	A <i>dealing</i> was registered at the Land Registry, reflecting the assignment by title of partition of the house at Rabat, Malta to Victor Vella (VV1).
J	25	October	2008	Victor Vella (VV1) married Yvonne nee' Young (YY). A few days later the couple started to reside at this house.

UNIVERSITY OF MALTA – Faculty of Laws
LLD II YEAR (2013/14)

JUNE 2014 SESSION - WRITTEN EXAMINATION
CREDIT VALUE: 4

CVL4018 – Examination of Title

Monday 9th June 2014, 11:45AM – 1:45PM

INSTRUCTIONS TO CANDIDATES:

CANDIDATES MUST COMPLETE: PART 1, PART 2 AND PART 3.

EXAMINATION PAPER CONSISTS OF 3 PAGES.

* PART 1 (30 Marks) - CHOOSE EITHER QUESTIONS 1.a and 1.b
OR QUESTION 1.c.

* PART 2 (30 marks) - QUESTIONS 2.a and 2.b and 2.c are
COMPULSORY.

* PART 3 (40 marks) - QUESTION 3 is COMPULSORY.

* NOTE: Legal Notice 355/2012 (Examination of Title Regulations) is
referred to as the "Regulations".

* Indicate the number of the question with the relative answer on
the Examination Script.

P.T.O.

PART 1

CHOOSE EITHER QUESTIONS 1.a and 1.b OR QUESTION 1.c

1.a. A notary who publishes a notarial act of transfer of ownership of immovable property or other real rights over such property shall be deemed to have been instructed by the transferee to examine its title. Mention instances in which, although the notary publishes a deed of transfer of ownership of immovable property or real right thereon, the notary is expressly, by law (*ipso iure*), exempt from examining title. [27 marks]

AND

1.b Does the Notary need to mention this exemption and if in the affirmative, where should the exemption be recorded? [3 marks]

[QUESTIONS 1.a and 1.b have a total of 30 marks]

OR

1.c A contract of engagement may be described as a written agreement entered into by the notary and the person engaging him, having the requirements mentioned in Regulation 19 of the Regulations, and includes any amendment thereto. Mention the requirements of the contract of engagement.

[QUESTION 1.c has 30 marks]

PART 2

QUESTIONS 2.a and 2.b are COMPULSORY

2.a What should the Report on Title include (i.e. contents of the Report on Title)? [12 marks]

AND

2.b How should the Report be executed (i.e signed) and for how long it should be retained? [8 marks]

AND

2.c Briefly explain the Report on Title to a person who intends to purchase immovable property and would like you to publish the deed of sale/purchase? [10 marks]

[QUESTIONS 2.a and 2.b and 2.c have a total of 30 marks]

P.T.O.

PART 3

QUESTION 3 is COMPULSORY

- Spouses A and B bought the house numbered 1 in Triq l-Universita', Msida (the "Property"), on the 15/1/1955.
 - A died on the 10th March 2004.
 - B died on the 20th June 2008.
 - By virtue of their last Will, A and B appointed as their universal heirs, their three (3) children X, Y and Z.
 - On the 17/9/2010, the children X, Y and Z entered into a Deed of Partition (*Divizjoni*) whereby they divided various properties which had inherited from their parents, and by virtue of the said Deed of Partition the Property in Msida was assigned to X.
 - X died intestate (without a Will) on the 15th January 2011 and although he was not married he had one son named S.
 - S shall sell the Property to third parties.
3. What 'searches' (as such term is defined in the Regulations) should be collated and examined by the Notary in accordance with the Regulations?

[QUESTION 3 has 40 marks]

END

UNIVERSITY OF MALTA – Faculty of Laws
LLD II YEAR (2013/14)

SEPTEMBER 2014 SESSION - WRITTEN EXAMINATION
CREDIT VALUE: 4

CVL4018 – EXAMINATION OF TITLE

Saturday 6th September 2014

9.15am – 11.15am

INSTRUCTIONS TO CANDIDATES:

CANDIDATES MUST COMPLETE: PART 1, PART 2 AND PART 3.

- PART 1 (30 marks) - CHOOSE EITHER QUESTIONS 1.a and 1.b and 1.c OR 1.d. and 1.e.
- PART 2 (30 marks) - QUESTIONS 2.a and 2.b and 2.c are COMPULSORY.
- PART 3 (40 marks) - QUESTION 3 is COMPULSORY.

The number of marks assigned to each question is an indication of the amount of detail expected.

NOTE:

- Legal Notice 355/2012 (Examination of Title Regulations) is referred to as the "Regulations".
- The Notarial Profession and Notarial Archives Act, Chapter 55 of the Laws of Malta, is referred to as the "Act".
- Please indicate the number of the question with the relative answer on the Examination Script.

EXAMINATION PAPER CONSISTS OF 3 PAGES.

PART 1

(total 30 marks)

1.a. Article 84C(1) of the Act refers to the process of compilation, interpretation and advice, namely the 'examination of title' or cognate expressions. Explain this process and include a reference to the documents to be compiled for the examination of title and their purpose or use. [20 marks]

AND

1.b For how long is the Notary obliged to preserve the documents he compiles? [5 marks]

AND

1.c Who may bring an action against a Notary in connection with the examination of title and what is the period of time within which such action should be brought? [5 marks]

OR

1.d Explain the contents of the Report in terms of the Regulations, the manner in which the Report must be signed, and for how long it must be retained by the Notary. [20 marks]

AND

1.e What, in your opinion, are the advantages and disadvantages of the Report. [10 marks]

PART 2

(total 30 marks)

2.a You have been approached by a person who intends to purchase immovable property. How would you explain the effects and consequences of Article 84C of the Act and the Regulations vis-à-vis the situation existing pre-2013 to such person? [20 marks]

AND

2.b The Regulations expressly list those matters which the Notary is not bound to verify, unless information is available from the searches. What are they? [7 marks]

AND

2.c Mention certain verifications that a diligent Notary should or may choose to make, even though he is not bound to do so in terms of the Regulations. [3 marks]

PART 3

(total 40 marks)

- Spouses A and B bought a property numbered 1 in Triq I-Universita', Msida (the "Property"), from C, by a deed dated 15/1/1980, as subject to the annual and perpetual groundrent mentioned in the deed.
 - The deed dated 15/1/1980 provides that C had acquired the Property from D, by title of perpetual emphyteusis by a deed dated 30/8/1970.
 - A and B redeemed the groundrent burdening the Property by a Schedule of Redemption filed against C on the 30/4/1997.
 - A died intestate on the 20/6/2008.
 - A and B had one daughter X.
 - X was married on the 1/6/2009 and changed her surname to her husband's upon marriage. On the 15/11/2013, X entered into a deed of Personal Separation with her husband, on which deed she reverted to her maiden surname.
3. The Property shall be sold to third parties. What 'searches' (as such term is defined in the Regulations) should be collated and examined by the Notary in accordance with the Regulations?

[40 marks]

END

UNIVERSITY OF MALTA
FACULTY OF LAWS
LLD II YEAR
MAY / JUNE 2015 EXAMINATIONS

CVL4018 – EXAMINATION OF TITLE

DATE: Thursday 25th June 2015

READING TIME: 10:00am – 10:05am

DURATION OF EXAMINATION: 10:05AM – 12:05PM

INSTRUCTIONS TO CANDIDATES:

CANDIDATES MUST COMPLETE: PART 1, PART 2 AND PART 3.

* **PART 1** (Total 35 Marks) - CHOOSE EITHER QUESTIONS 1.a, 1.b and 1.c OR QUESTIONS 1.d and 1.e.

* **PART 2** (Total 30 Marks) - QUESTIONS 2.a and 2.b are COMPULSORY.

* **PART 3** (35 marks) - QUESTION 3 is COMPULSORY.

* Indicate the number of the question with the relative answer on the Examination Script.

NOTE:

- Legal Notice 355/2012, Examination of Title Regulations, is referred to as the "Regulations".
- Chapter 55, Notarial Profession and Notarial Archives Act, is referred to as the "Act".

PART 1

CHOOSE EITHER QUESTIONS 1.a, 1.b, and 1.c OR QUESTIONS 1.d and 1.e.
35 Marks

1.a. When is the notary deemed to have been instructed by the transferee to examine the title to an immovable property in terms of the Act? [4 marks]

1.b Mention the instances in which the notary is *ipso iure* exempt from examining title in accordance with the Regulations. [18 marks]

1.c Explain the declarations to be inserted in the notarial deed in the cases under 1.a and 1.b above. [13 marks]

OR

1.d A prospective buyer wishes to know which are those verifications or checks that will not be made by the Notary (unless information results from the searches). What are they? [18 marks]

1.e Discuss the advantages and disadvantages of the Report on the title to immovable property to be drawn up by the Notary in accordance with the Act and the Regulations [17 marks]

PART 2

QUESTIONS 2.a and 2.b are Compulsory.

30 Marks

2.a What does a 'testamentary search' consist of in terms of the Regulations? [15 marks]

2.b Mention and explain those documents to be obtained by the Notary in case the transferor, or any of his predecessors in title during the prescriptive period, acquired the property *causa mortis* by intestate succession. [15 marks]

PART 3

QUESTION 3 is Compulsory.

35 Marks

- B (who is not married) bought the house numbered 51 in Triq Giovanni Mifsud, Balzan, (the "Property"), by deed of Sale published on the 1/6/2009, from XYZ Properties Limited. On the said deed of Sale the house is indicated as free from groundrent.

- XYZ Properties Limited acquired the divided portion of land on which it constructed the said house, from C, by virtue of a deed of Exchange published on the 1/6/2008. On the deed of Exchange the said land is indicated as being subject to an annual and

perpetual groundrent of €10. A site plan indicating the said land is attached to the deed of Exchange.

- C had acquired the said divided portion of land by deed of Partition (Divizjoni) entered into with his sister D, on the 1/6/2000. On the said deed of Partition the said land is indicated as being subject to an annual and perpetual groundrent of €10. A site plan indicating the said land is attached to the deed of Partition.

The said deed of Partition states that D is legally separated from her husband. D and her husband contracted marriage on the 1/6/1994 and upon marriage D took on her husband's surname; by virtue of a deed of Personal Separation published on the 1/6/1999 D reverted to her maiden surname.

- C and D had acquired the said divided portion of land *causa mortis* from their mother E who died a widow on the 1/6/1975 and whose succession is regulated by a Will dated 1/6/1972 by virtue of which she appointed her two (2) children C and D as her sole universal heirs.

- E had acquired the a very large field, of which the said divided portion of land forms part, when she was already a widow, by a deed of Sale dated 1/6/1965. There is no plan annexed to the 1965 deed.

- B shall sell the Property to A, and A has asked you must collate the searches and examine the title to the Property.

3. What 'searches' (as such term is defined in the Regulations) should be collated and examined by the Notary in accordance with the Regulations? Please also specify periods where applicable.

END

UNIVERSITY OF MALTA
FACULTY OF LAWS
LLD II YEAR
MAY/JUNE 2016 EXAMINATIONS

CVL4018 – EXAMINATION OF TITLE

WRITTEN EXAMINATION - CREDIT VALUE: 4

DATE: FRIDAY 3RD JUNE 2016

READING TIME: 10:00AM – 10:05AM

DURATION OF EXAM: 10:05AM – 12:05PM

INSTRUCTIONS TO CANDIDATES:

CANDIDATES MUST COMPLETE: PART 1, PART 2 AND PART 3.

- **PART 1 (40 marks) - CHOOSE EITHER QUESTIONS 1.a and 1.b and 1.c. OR 1d**
- **PART 2 (40 marks) - QUESTIONS 2.a and 2.b are COMPULSORY.**
- **PART 3 (20 marks) - QUESTION 3 is COMPULSORY.**

The number of marks assigned to each question is an indication of the amount of detail expected.

NOTE:

- **Legal Notice 355/2012 (Examination of Title Regulations) is referred to as the “Regulations”.**
- **The Notarial Profession and Notarial Archives Act, Chapter 55 of the Laws of Malta, is referred to as the “Act”.**

- **Please indicate the number of the question with the relative answer on the Examination Script.**

EXAMINATION PAPER CONSISTS OF 4 PAGES.

PART 1

(total 40 marks)

1.a. As per Article 84C (4) a notary may examine title whenever he is instructed to do so. Mention the situation where, although the notary publishes a deed of transfer of ownership of immovable property or real right thereon, the notary is expressly, by law (*ipso iure*), exempt from examining title. [25 marks]

AND

1.b Does the Notary need to mention this exemption and if in the affirmative, where should the exemption be recorded? [10 marks]

AND

1.c For how long is the Notary obliged to preserve the documents he compiles? [5 marks]

OR

1.d A contract of engagement may be described as a written agreement entered into by the notary and the person engaging him, having the requirements mentioned in Regulation 19 of the Regulations, and includes any amendment thereto. Mention the requirements of the contract of engagement. [40 marks]

PART 2

(total 40 marks)

2.a Explain the contents of the Report in terms of the Regulations, the manner in which the Report must be signed, and for how long it must be retained by the Notary. [30 marks]

AND

2.b What are the advantages and disadvantages of the Report? [10 marks]

PART 3

(total 20 marks)

3. Peter Agius and his wife Carmen Agius nee Apap are jointly buying from Denise Properties ltd a semi basement garage internally numbered two (2), forming part of a larger complex of garages and flats bearing the name XYZ Court numbered ten (10) in Triq l-Isqof Mellieha. On the final deed of sale the purchasers will have the right of use without interruption of the common parts of the garage area of the block. The konvenju was signed on the 12th February 2016 with a view of publishing the contract on the 12th June 2016.

Originally on the site where the garage was built there was a house numbered 80 which was acquired by Julian Abela during his marriage with Denise Abela nee Borg Bonello, by onerous title in virtue of a deed of sale published in the records of Notary J.A. on the 3rd November 1958.

The said Julian Abela died on the 26th July of the year 2010 and in virtue of a will published by notary J.A. on the 2nd April 1992 he left the usufruct on all his property to his wife Denise Abela nee Borg Bonello and nominated as universal heirs his children Peter, John, Maurice and Tony.

The deed of transmission causa mortis was published in the acts of Notary J.A. on the 2nd November 2010.

Subsequently Denise Abela nee Borg Bonello in virtue of a deed of donation in the records of Notary Doctor J.A. on the 14th January 2014 as corrected by another deed on the 13th March of the year 2015 (whereby the deed corrected a mistake in tax calculations), donated by gratuitous title to her 4 children Peter, John, Maurice and Tony equally between them her share of the remaining (1/2) undivided part of the house number 80, in Triq l-Isqof, Mellieha and renounced any rights that she had over the property.

The siblings Abela then formed the company Denise Properties Ltd having all four brothers as directors and transferred the property in question in the

name of the company on the 20th December 2015. The company Denise Properties Ltd. took a loan with a special hypothec over the property to demolish the house number 80 and to develop the complex XYZ Court. The common parts are to remain property of the company Denise Properties Ltd.

The purchasers Peter Agius and his wife Carmen Agius nee Zahra are obtaining a bank loan from a local commercial bank to obtain the necessary funds to acquire this garage.

What searches (as such term is defined in the regulations) should be collated and examined by the Notary in accordance with the Regulations? Please also specify periods where applicable.

END

UNIVERSITY OF MALTA
FACULTY OF LAWS
MA NOTARIAL STUDIES / LL.D. II
MAY/JUNE 2017 EXAMINATIONS

EXAMINATION: CVL5027 EXAMINATION OF TITLE

DATE: TUESDAY 13TH JUNE 2017

DURATION OF EXAM: 10.00AM TO 12.05PM

INSTRUCTIONS TO STUDENTS:

Answer five questions from Part I, five questions from Part II, and Part III. Each question in Part I carries 6 marks, so that 30 marks in all are allocated to five questions. Each question in Part II carries 7 marks, so that 35 marks in all are allocated to five questions. Part III carries 35 marks.

Part I

- a) List all the instances when a Notary is ipso iure exempted from examining the title in terms of the Regulations.
- b) Is the Notary obliged to examine the title on behalf of a creditor? In which circumstances can the Notary do so?
- c) Can a Notary examine the title on behalf of the Creditor and the transferee at the same time?
- d) List the exemptions in relation to the examination of title of property within a compulsory registration area in terms of the Land Registry Act.
- e) Within which period can a competent person bring an action against a Notary in terms of the Act? From when does this period start to run?
- f) When is a Notary bound to verify when an issue relates to a building permit?
- g) What declaration does one need to put in a deed when another Notary or Advocate has examined the title?
- h) What should a contract of engagement contain?

(30 marks in all)

Part II

- a) In which circumstances should a preliminary report be made if at all?
- b) What is considered according to the Regulations to be a good title capable of transferring ownership?
- c) Which are the three prescriptive periods mentioned in the Regulations?
- d) What elements should exist for the 10 year prescriptive period to be effective?

- e) If the title is of a legacy but in the prescriptive period there is no vesting in the possession, what should a Notary tell his client according to the Rules?
- f) What documents should be compiled in case of a transmission causa mortis which is Testate and in the case of Intestacy?
- g) Define "authenticated copy" according to the rules.
- h) When is the Notary considered to have acted with due diligence.

(35 marks in all)

Part III

A Notary is engaged to publish a deed where the Vendors have acquired from their father who had died in 2005. The father had acquired this property by virtue of a partition of the Estate of his parents. This partition was published in 1970.

In the partition it is stated that this particular property is free and unencumbered. However, the Notary knows that that area is one where there are a lot of temporary groundrents.

How should a Notary proceed in his report according to the Rules? In your answer discuss whether the Notary should advise further action in order to ascertain a good title.

In discussing this issue also point out the major defects of the Examination of Title system as it is today.

(35 marks in all)

University of Malta
Faculty of Laws
May/June 2018 Examinations

CVL5027 – Examination of Title

Friday 8th June 2018

Duration of Examination: 8:30 am to 10.35am

INSTRUCTIONS TO STUDENTS:

Answer all questions from Section A and all questions from Section B.

Section A (5 marks each question)

- i. What changes would you suggest to the Law regulating Examination of Title in order to make it more effective?
- ii. What powers does the Notary have in terms of Article 84C(1) of Chapter 55 of the Laws of Malta?
- iii. Can these powers be delegated?
- iv. Does the Notary need specific instruction in order to examine title on the publication of a deed transferring immovable property?
- v. What does the second proviso of Article 84C (5) of Chapter 55 say?
- vi. When is the Notary deemed to have acted with due diligence?
- vii. Which are the declarations the Notary is required to make in the deed in relation to the Examination of Title?
- viii. For how long is the Notary bound to preserve the documents forming part of the examination of title? And from when does this period start to run?
- ix. Who can bring an action against a Notary alleging any act or omission in connection with the examination of title?
- x. How much time must elapse before the action brought against the Notary is time-barred? And from when does this period start to run?

Section B (5 marks each question)

- i. What is the definition of a “document” according to Legal Notice 355 of 2012?
- ii. According to Rule 12, where an immovable is subject to an emphyteutical concession what should a Notary do in the ambit of examining the Title?
- iii. Is the Notary bound to go beyond the prescriptive period where an exact reference to an emphyteutical concession results?
- iv. What is the scope of a contract of engagement to examine title and in which circumstances is it used?
- v. Saving the provisions of the Legal Notice, an official Public Registry search which is not in terms of the Public Registry (Inspection and Searches) Regulations shall be excluded from the scope of these (LN355) regulations. Which are the two exceptions to this?
- vi. How “old” must a search be for the Notary not to be obliged to update it?
- vii. What does the Notary have to do when there is a discrepancy between an official search and a copy of a notarial act forming part of the searches?
- viii. What is the procedure to be followed where the succession is governed by a will executed abroad?
- ix. According to Rule 13, to what extent does the Notary’s responsibility for the examination of title reach?
- x. What is the Notary NOT bound to verify according to Rule 15?

**University of Malta
Faculty of Laws**

June 2019 Examination Session

CVL5027 EXAMINATION OF TITLE

Date: Monday 17th June 2019

Duration of Examination: 8:30AM - 10:35AM

INSTRUCTIONS TO STUDENTS:

Answer all questions from Section A and all questions from Section B. Answers in Section A need only consist of short points, whereas more elaborate answers are expected in Section B.

Section A (5 marks each question)

1. Is the Notary obliged to examine the title on behalf of a creditor?
2. List the instances when a Notary is ipso iure exempted from examining the title in terms of the relevant regulations.
3. Does a Notary need to verify if there are issues relating to a building permit?
4. Does the Notary need specific instruction in order to examine title on the publication of a deed transferring immovable property?
5. How 'old' must a search be for the Notary not to be obliged to update it?
6. In terms of the Examination of Title Regulations, what is the procedure to be followed when a property devolves by title of succession?
7. What powers does the Notary have in terms of Article 84C(1) of Chapter 55 of the Laws of Malta?
8. Can the powers of the Notary, under Article 84C(1) of Chapter 55 of the Laws of Malta, be delegated to another notary?
9. Within what period can a competent person bring an action against a Notary in terms of Chapter 55?
10. For the purpose of the relevant regulations, a Land Registry official search shall be deemed to be valid for how many months prior to the date of publication of a notarial act?

Section B (25 marks each question)

11. On the 1st April 2019 Ned and Catelyn spouses Stark (42 and 40 years of age respectively) have entered into a promise of sale agreement with Jaime Lannister and his wife Cersei Lannister on the house numbered four (4) named 'Winterfell' in Kingslanding Road in Bubaqra Zurrieq. Ned Stark is going to apply for a Bank Loan from the Iron Bank C1234 registered in Valletta.

Spouses Lannister had acquired the house from Jon Snow on the 5th March 2011.

John Snow had acquired his property (which at the time was listed as number 40) by a deed of sale published on the 1st June 1970 by Stannis Baratheon who on the deed of sale Mr. Baratheon imposed a perpetual ground rent of Lm 5. On the contract of 2011 it was listed as freehold due to it being redeemed by a contract published on 5th September 1982

Please list in detail the searches that the Notary in question has to compile in order to ascertain a good legal title to the property together with all the documents that are required by the Notary in his search. In ALL cases refer to the publishing notary of any contract as Notary Tyrion Borg.

12. On the 2nd July 2059 Theon Greyjoy entered into a promise of sale agreement with Arya, Sansa, Bran, Rickon and Rob siblings Stark to purchase the house numbered four (4) named 'Winterfell' in Kingslanding Road in Bubaqra Zurrieq. Theon does not need a bank loan to acquire such property.

Arya, Sansa, Bran, Rickon and Rob inherited their parents Ned and Catelyn following their death in a traffic accident on the 25th January 2040 and according to their last will and testament published on the 1st January 2020 had left each other (the surviving spouse) as the heirs with substitution in favour of their children in case both of them were deceased.

Ned and Catelyn Stark had acquired the aforementioned property by a deed of sale published on the 5th August 2019 from Jaime and Cersei spouses Lannister.

Please list in detail the searches that the Notary in question has to compile in order to ascertain a good legal title to the property together with all the documents that are required by the Notary in his search. In ALL cases refer to the publishing notary of any contract as Notary Tyrion Borg.



Accountancy Skills for the Legal Profession

If you require any further information, have any suggestions or find any mistakes in this publication, do not hesitate to contact us on academic@ghsl.org

UNIVERSITY OF MALTA
FACULTY OF LAWS
MA ADVOCACY/ MA NOTARIAL STUDIES/ LL.D. III YEAR
JUNE 2017 EXAMINATIONS

EXAMINATION: LAW5038 – Accountancy Skills for the Legal Profession

DATE: 8th June 2017

DURATION OF EXAMINATION: 10.00 AM to 12.05 PM

INSTRUCTIONS TO STUDENTS:

EXAMPLE: Choose any TWO (2) of the following questions:

All questions carry equal marks

Pocket electronic calculators are allowed

01 A summary of the Winners Football Club is shown below. From it, and the additional information, you are to construct an income and expenditure account for the year ended 31 December 20X6, and a balance sheet as at that date.

Cash Book Summary			
Balance at 1.1.20X6	1,440	Purchase of equipment	380
Collections at matches	4,218	Rent for pitch	1,600
Sale of refreshments	<u>5,520</u>	Printing and stationery	104
		Secretary's expenses	220
		Repairs to equipment	210
		Groundsman's wages	6,400
		Miscellaneous expenses	96
		Balance at 31.12.20X6	<u>2,168</u>
	<u>11,178</u>		<u>11,178</u>

Further information:

- (i) At 1.1.20X6 equipment was valued at £2,000.
- (ii) Depreciate all equipment 25 per cent for the year 20X6.
- (iii) At 31.12.20X6 rent paid in advance was £400.
- (iv) At 31.12.20X6 there was £25 owing for printing.

Q2 You are to study the following financial statements for two businesses, Alpha Limited and Beta Limited, operating in the same industry and then answer the questions which follow.

<i>Financial Statements</i>			
Trading Profit & Loss Account	Alpha		Beta
Sales		555,000	750,000
<i>Less Cost of Sales</i>			
Opening Stock	100,000		80,000
Add Purchases	200,000		320,000
	300,000		400,000
<i>Less Closing Stock</i>	60,000		70,000
		240,000	330,000
Gross profit		315,000	420,000
<i>Less Expenses</i>			
Depreciation	5,000		15,000
Wages, salaries and commission			
	165,000		220,000
Other expenses	45,000		35,000
		215,000	270,000
Net profit		100,000	150,000
<i>Balance Sheets</i>			
<i>Fixed Assets</i>			
Equipment at cost	50,000		100,000
<i>Less Depreciation to date</i>			
	40,000		30,000
		10,000	70,000
<i>Current Assets</i>			
Stock	60,000		70,000
Debtors	125,000		100,000
Bank	25,000		12,500
	210,000		182,500
<i>Current Liabilities</i>			
Creditors	(104,000)		(100,500)
<i>Working Capital</i>		106,000	82,000
<i>Capital Employed</i>		116,000	152,000
<i>Financed by</i>			
Opening Capital	76,000		72,000
Add Net profit	100,000		150,000
	176,000		222,000
<i>Less Drawings</i>	60,000		70,000
		116,000	152,000

Required:

(2a) Calculate the following ratios for each business (20 Marks):
(i) gross profit as percentage of sales; (ii) net profit as percentage of sales; (iii) expenses as percentage of sales; (iv) stock turnover; (v) rate of return of net profit on capital employed (vi) current ratio; (vii) acid test ratio; (viii) debtor/sales ratio; (ix) creditor/purchases ratio.

(2b) Drawing upon all your knowledge of accounting, comment upon the differences and similarities of the accounting ratios for *Alpha* and *Beta*. Which business seems to be the most efficient? Give possible reasons. (30 Marks)

Q03 Discuss the importance of ratio analysis of accounting statements in as far as these aid lawyers in advising their clients with respect to possible filing of court proceedings in respect of collection of debts.

Q04 Explain the various types of analysis which may possible help lawyers give proper advice to various classes of possible clients. Give reasons for your answers.

University of Malta
Faculty of Laws

LAW5038 – Accountancy Skills for the Legal Profession

Thursday 14th September 2017

Duration of Examination: 10.00AM to 12.05PM

INSTRUCTIONS TO STUDENTS:

EXAMPLE: Choose any TWO (2) of the following questions:

All questions carry equal marks

Pocket electronic calculators are allowed

Q1 Borg & Associates, a law firm, has been operating for a number of years. Dr. Borg, the managing partner, has recently decided to try and expand the firm's foreign client base. To that effect he has decided that the firm's annual profit and loss account should include a separate computation of the income generated from his foreign clients, in addition to the income generated from local sources.

To this effect, He has instructed his accountant to prepare an income and expenditure account for the year ending 31 December 2016, showing clearly the income generated from foreign sources and local sources.

The figures relating to the beginning and end of 2016 are as follows

Revenue		31 December 2015	31 December 2016
		€	€
	Local Debtors receivable	15564	16397
	Foreign Debtors receivable	27539	32565
Expenditure:			
	Office Rent Owing	1825	3650
	Utilities (W & E) Owing	309	560
	Office Expenses Owing	1060	1373
	Secretarial Expenses Owing	2658	3218
	Telephone, Mobile & Internet Owing	300	500

Car Repairs & Maintenance Owing	297	468
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Additional information include:

	€
Amounts received from Local clients during 2016	378965
Amounts received from foreign clients during 2016	486724
Amount paid for rent during 2016	20075
Amount paid for Utilities (W&E) during 2016	4730
Amount paid for Office Expenses during 2016	3782
Amount paid for Secretarial Expenses during 2016	20515
Amount paid for Telephone, Mobile & Internet during 2016	3840
Amount paid for Car Repairs & Maintenance during 2016	1465

The vehicle was purchased for €60000 on 2 January 2013, it had been decided that depreciation should be provided with the rate of 20% per annum using the straight line method.

Some local clients are untraceable and it has been decided to write off their debts totalling to 7325 as bad debts.

It has also been decided to create a provision for Bad Debts amounting to 5% of the debtors figure as at 31 December 2016.

You are required to:

Prepare a profit and loss account for Dr. Borg for the year ending 31 December 2016 taking the above into consideration, showing separately and clearly the amount of revenue generated from local and foreign sources. *All workings are to be clearly shown.*

Q-02:

Cash flow problems have always been a problem with various businesses which may have tended to overreach themselves. What indicators are usually used to identify whether or not a particular business is actually experiencing cash flow problems or could be facing such problems in the near future? How may these indicators help both the businesses themselves, the creditors of the business as well as the lawyers assisting the said creditors, assess the future viability of that same business?

Q-03

'The Capital Gearing Ratio is a very important ratio which may give a clear indication of the state of present and future financial viability of a particular business'. Do you agree and why? How important do you consider the Capital Gearing ratio in giving a clear indication of the present and future financial viability of a particular business? Assess the importance of this ratio to a lawyer who is to give advice to his client whether to proceed judicially or not against a debtor.

Q-04

It has been said that interpreting accounts using ratios has only limited utility in view of the fact that ratios tend to deal with trends rather than hard facts. Why should a lawyer keep the limitations of accounting ratios in mind when advising clients?

University of Malta
Faculty of Laws

LAW5038 - Accountancy Skills for the Legal Profession

Date: Friday 2nd February 2018

Duration of Examination: 8.30AM – 10.35AM

Two questions are to be answered

All questions carry equal marks

Students are reminded to use clear and concise English, with an emphasis on neatness and orderly presentation of material.

Small pocket calculators are permitted.

Question 1

A.Abela, B.Borg and C.Camilleri are lawyers exercising their profession in partnership. They share profits and losses equally.

The following information is available for the year ending 31 December 2017:

	€
Professional Fees received	310,000
Professional Fees due on 1 January 2017	45,000
Professional Fees due on 31 December 2017	60,000
Provision for Bad Debts at 1 January 2017	4,500
Interest received	12,000
Interest due to be received	3,000
Fees - Legal Procurators disbursed	76,000
Fees - Legal Procurators due 1 January 2017	18,000
Fees - Legal Procurators due 31 December 2017	12,000
Stationery	26,450
Stationery due 1 January 2017	4,660
Stationery due 31 December 2017	5,120
Car Repairs	17,650
Car Repairs due 31 December 2017	350
Office Rent	50,000
Office Rent due 1 January 2017	15,000
Office Rent due 31 December 2017	18,000
Internet & Communication Expenses	3,100
Internet & Communication Expenses due 31 December 2017	500
Salaries	73,990
Office expenses	13,000
Office expenses due 31 December 2017	2,000
Insurance	15,000
Insurance prepaid 1 January 2017	3,000
Insurance prepaid 31 December 2017	6,000

P.T.O.

Notes :

Provision for Bad Debts is to stand at 10% of Debtors;

You are to prepare:

- a) Income and Expenditure (Profit and Loss Account) taking the above in account; (30 Marks)
- b) Profit and Loss Appropriation Account showing clearly the amount by way of profit to which each partner would be entitled to; (5 Marks)
- c) The partners share profits and losses equally. Some of the partners feel that this is unfair because they feel that they contribute more towards the partnership than other partners. Suggest ways through which this situation may be addressed in order to possibly avoid conflicts between the partners at a later stage. (15 Marks) (Total 50 Marks)

Question 2:

Ratio analysis of accounting statements have been said to indicate trends rather than prove facts. How far do you consider this statement as true? What is the relevance of ratio analysis of accounting statements from the point of view of lawyers who are briefed to advise clients on the advisability of commencing court proceedings after allegations of improper conduct from the part of a company (director/s of a company which is a debtor to the lawyer's client) has been accused with fraud. (50 Marks)

Question 3:

Lawyers face various classes of clients with different requirements, such as creditors, potential investors as well as victims of various 'white collar' crime, among others. Explain the various types of analysis which may possible help lawyers give proper advice to various classes of possible clients. Give reasons for your answers. (50 Marks)

University of Malta
Faculty of Laws
January/February 2019 Examination Session

LAW5038 ACCOUNTANCY SKILLS FOR THE LEGAL PROFESSION

Date: Friday 8th February 2019

Duration of Examination: 8:30AM – 10:35AM

INSTRUCTIONS TO STUDENTS:

Students are to answer **TWO (2)** QUESTIONS. All questions carry equal marks.

Small pocket calculators with only basic functions are allowed to be utilised during the examination.

All workings are to be clearly shown.

Students are reminded of the need for orderly, clear and neat presentation as well as of the use of clear, idiomatic English in their answers.

1. Help & Charity is a philanthropic organisation which runs a shelter for the homeless. Its primary source of income is donations from various organisations as well as a grant by the Government amounting to two hundred and fifty thousand (€250,000) Euro which the Government has undertaken to pay on an annual basis. Its revenue for the current year amounted to:

Donations:

Pledged at the beginning of the year – €60,000

Received during the year – €198,000

Pledged at the end of the year – €76,000.

Government Grant:

Pending to be received at the beginning of the year – €25,000

Received during the year – €225,000

Pending still pending to be received at the end of the year – €50,000.

Other information:

The value of kitchen utensils and other fixed assets at the beginning of the period amounted to €40,000, whilst the total depreciation on all the fixed assets at the same date amounted to €12,000. Disbursements for the purchase of fixed assets (which were all entered in one fixed assets account) during the year were as follows (all of them were paid by cash):

Purchase of kitchen utensils – €8,000,

Purchase of fast blast freezer – €15,000,

Purchase of heavy-duty cooker – €12,000.

The annual depreciation which is to be provided for the current year is to amount to twenty per cent (20%) on the total cost of all assets (including the ones purchased during the current year).

Amount to be paid for food items at the beginning of the year – €21,000

Amount spent on food during the year, all of which were paid in cash – €320,000

Amount still to be paid for food items at the end of the year – €26,000

The organisation has had to commission a secretary on a part time basis to be able to take care of all the paperwork required for administration purposes. She is paid a monthly honorarium. At the beginning of the year, the organisation still had to pay her €400, whilst €800 was still due to the secretary concerned and still had to be paid by the end of the current year. The amount paid in cash for secretarial expenses during the year amounted to €9,200.

During the year maintenance expenses amounting to €7,200 were paid in cash, with €950 relating to the previous year and €1,160 still to be paid at the end of the year.

The organisation also underwrote an insurance policy against personal injury which may occur at the shelter. It paid €3,000 for insurance during the current year. There was a prepayment in respect of insurance at the beginning of the year of €500 and a prepayment of €700 at the end of the year.

Assume that all disbursements and receipts were made and received on 1 December 2018 and that they were all on a cash basis except for the Government Grant which was forwarded by cheque.

You are to:

- (a) Prepare for the current year:
 - i. the fixed asset account, (4 marks)
 - ii. the donations account, (3 marks)
 - iii. the Government grant account, (3 marks)
 - iv. the food account, (3 marks)
 - v. the Secretarial expenses account, (3 marks)
 - vi. the Maintenance expenses account, (3 marks)
 - vii. the Insurance account, (3 marks)
 - viii. the Provision for depreciation account, (6 marks)
 - ix. the income and expenditure account; (7 marks)

- (b) Consider the accounts you compiled in (a) and give your recommendations as to how the shelter may perhaps be run in a more efficient manner. (15 marks)
2. You are to consider the financial statements available on the next page (page 4) for two businesses, *Remote* and *Proximity*, operating in the same industry, and then answer the questions which follow.

<i>Financial Statements</i>				
<i>Trading Profit and Loss Accounts for the year ending 2018</i>				
	<i>Remote</i>		<i>Proximity</i>	
Sales		555,000		750,000
<i>Less Cost of Sales</i>				
Opening Stock	100,000		80,000	
Add Purchases	200,000		320,000	
	300,000		400,000	
<i>Less Closing Stock</i>	60,000		70,000	
		240,000		330,000
Gross profit		315,000		420,000
<i>Less Expenses</i>				
Depreciation	5,000		15,000	
Wages, salaries and commission	165,000		220,000	
Other expenses	45,000		35,000	
		215,000		270,000
Net profit		100,000		150,000
<i>Balance Sheets as at 31 December 2018</i>				
	<i>Remote</i>		<i>Proximity</i>	
<i>Fixed Assets</i>				
Equipment at cost	50,000		100,000	
<i>Less Depreciation to date</i>	40,000		30,000	
		10,000		70,000
<i>Current Assets</i>				
Stock	60,000		70,000	
Debtors	125,000		100,000	
Bank	25,000		12,500	
	210,000		182,500	
<i>Current Liabilities</i>				
Creditors	-104,000		-100,500	
<i>Working Capital</i>		106,000		82,000
<i>Capital Employed</i>		116,000		152,000
<i>Financed by</i>				
Opening Capital	76,000		72,000	
Add Net profit	100,000		150,000	
	176,000		222,000	
<i>Less Drawings</i>	60,000		70,000	
		116,000		152,000

Required:

- (a) Calculate the following ratios for *each* business:
- i. gross profit as percentage of sales, (3 marks)
 - ii. net profit as percentage of sales, (3 marks)
 - iii. expenses as percentage of sales, (3 marks)
 - iv. expenses as a percentage of gross profit, (3 marks)
 - v. rate of stock turnover, (3 marks)
 - vi. rate of return of net profit on capital employed, (3 marks)
 - vii. current ratio, (3 marks)
 - viii. acid test ratio, (3 marks)
 - ix. debtor/sales ratio, (3 marks)
 - x. creditor/purchases ratio. (3 marks)
- (b) Drawing upon all your knowledge of accounting, comment upon the differences and similarities of the accounting ratios for *Remote* and *Proximity*. Which business seems to be the most efficient? Give possible reasons. (20 marks)
3. Lawyers are sometimes faced with questions from their clients as to whether they should proceed judicially against their debtors. The accounts of a particular debtor for the past three years are available. Given this scenario, discuss the importance and ultimate relevance of ratio analysis of accounting statements in as far as these aid lawyers in advising their clients with respect to the possible filing of court proceedings in respect of collection of debts.
4. 'Accounting ratios may be used to give an indication of possible impropriety as to how a business is being managed.' Explain in what circumstances may ratio analysis be utilised in order to enable a lawyer to perceive when the commissioning of accounting experts may possibly be warranted in the case of a client who is a partner in a business and is suspecting that his partner is defrauding him. Give reasons for your answers.

University of Malta
Faculty of Laws

January 2020 Examination Session

LAW5038 ACCOUNTANCY SKILLS FOR THE LEGAL PROFESSION

Date: Monday 3rd February 2020

Duration of Examination: 8:30AM – 10:35AM

INSTRUCTIONS TO STUDENTS:

TWO (2) questions are to be chosen.

All questions carry equal marks.

The use of non-programmable electronic calculators is **permitted**.

1. B. Deguara, N. Abela and C. Farrugia are lawyers exercising their profession under the name of DAF Advocates in partnership between them. They agree that interest of their capitals should accrue at the rate of 5%, while no interest on drawings should be charged. All profits and losses are to be shared between the partners in the ratio of 2:2:1.

The following information is available for the year ending 31 December 2019:
(refer to pages 2 and 3)

		€
Capital Accounts - 1 January 2019		
B. Deguara	85,000	
N. Abela	85,000	
C. Farrugia	<u>35,000</u>	205,000
Professional Fees received		390,000
Professional Fees due on 1 January 2019		24,000
Professional Fees due on 31 December 2019		30,000
Provision for Bad Debts at 1 January 2019		7,500
Interest received		12,000
Interest due to be received 31 December 2019		3,000
Bad Debts Recovered during 2019		4,730
Fees - Legal Procurators disbursed		91,000
Fees - Legal Procurators due 1 January 2019		6,000
Fees - Legal Procurators due 31 December 2019		8,000
Office expenses		13,000
Office expenses due 31 December 2019		2,000
Car Repairs		14,870
Car Repairs due 31 December 2019		850
Office Rent		75,000
Office Rent due 1 January 2019		5,000
Office Rent due 31 December 2019		5,000
Stationery		25,780
Stationery due 1 January 2019		4,660
Stationery due 31 December 2019		3,490
Internet & Communication Expenses		6,300
Internet & Communication Expenses due 31 December 2019		700
Salaries		87,960
Insurance		13,750
Insurance prepaid 1 January 2019		2,000
Insurance prepaid 31 December 2019		4,000

Notes:

It was decided to adjust the Provision for Bad Debts to amount to 10% of Debtors;

Unfortunately some of the debtors have proved to be irrecoverable and thus it was decided to write off their accounts. The amount of debtors which proved to be bad amounted to €7,850.

You are to prepare:

- (a) Provision of Bad Debts Account for the year ending 31 December 2019; (10 marks)
 - (b) Bad Debts Account; (5 marks)
 - (c) Bad Debts Recovered Account; (5 marks)
 - (d) Profit and Loss and Profit and Loss Appropriation Account showing clearly the amount by way of profit to which each partner would be entitled to by way of interest on capital and share of profit; (15 marks)
 - (e) The partner, C. Farrugia, who has in fact contributed the least amount by way of capital, feels that he is giving much more time to the firm than the other partners. He strongly thinks that such a situation cannot be allowed to persist and would like your opinion as to what type of equitable proposal he may make to the other partners in order to address this issue and at the same time avoid potential conflict as he is quite happy to be a partner. Can you suggest some kind of solution whereby the situation described above would be settled in a way which would be acceptable to all partners? If so, what would be your advice in this regard? (15 marks)
2. *(For the purpose of this question you may assume that the accounts of the past four years relating to the business of the debtor are available):*

Clients of lawyers and notaries sometimes ask (and expect rightly or wrongly) meaningful advice in respect of whether they should proceed judicially against a particular debtor. In order to give this advice, the lawyer or notary, maybe even in conjunction with an accountant, may sometimes have to conduct research into the past (accounting wise) of the debtor concerned. Discuss how ratio analysis may help the lawyer or notary to indicate to the client whether the present circumstances actually warrant judicial action or whether it is simply throwing 'good money after bad'. Discuss also the limitations of ratio analysis in this context. (50 marks)

3. *'Nowadays more than ever, lawyers and notaries are expected to fulfil a crucial role in the prevention of 'white collar' crime such as fraud, including corporate fraud, and money laundering'. Non compliance in this regard may well put them at risk of being held responsible on a professional liability level. Facing various classes of clients with different requirements, such as creditors, potential investors as well as victims of various 'white collar' crime, as well as facing increasing reporting requirements from the part of various regulatory authorities, only seems to put the lawyers and notaries at more risk'.*

Explain the various types of analysis which may possibly help lawyers give proper advice to various classes of possible clients with respect to the potential legal ramifications of situations faced by the various users with different requirements, including non strict compliance with requests from regulatory authorities. Give reasons for your answers, emphasising in particular the limits, including ethical ones relating to client confidentiality, which lawyers and notaries are expected to adhere to in dealing with these types of situations.

(50 marks)



FACULTY OF LAWS
FEBRUARY 2021 EXAMINATION SESSION

LAW5038 Accountancy Skills for the Legal Profession

Thursday, 11th February 2021

Examination time: 08:30 – 10:30 + 15 extra minutes for uploading/downloading.

In case of difficulty during the examination (issues with exam paper, electricity power cut, internet connection, etc), you may contact the Faculty of Laws on the following:

Telephone: 2340 3251; 2340 3753

Email: laws@um.edu.mt

Please note that for immediate feedback it is best to communicate using telephone. Use email only if there are circumstances when the use of telephone is not possible.

Keep your mobile phone handy since important communications during the examination may be communicated by the University through SMS.

By sitting for this examination, I declare that I am aware of the provisions of the regulations regarding conduct during examinations and I pledge to observe them.

Students may not obtain or seek to obtain advantage in an examination, or give or endeavour to give assistance to other students. Students who are found guilty of a breach of the University Assessment Regulations are liable to disciplinary action which may result in the examination being cancelled and other consequences.

Students may be subject to an additional oral examination to safeguard against plagiarism, collusion or other misdemeanours.

With regard to FLOWmulti examinations, you are advised to type directly on WISEflow (and not on MS Word intending to copy and paste on WISEflow).

With regard to FLOWassign examinations, you are advised to upload your work in PDF format.

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INSTRUCTIONS TO STUDENTS:

Students are to answer ALL questions.

Question 1

TURGIEN plc is a globally renowned manufacturer of construction equipment. The statement of financial position as at 31 December 2020, 2019 and 2018 are presented below

	2020 €000s	2019 €000s	2018 €000s
ASSETS			
NON-CURRENT ASSETS			
Property, Plant & Equipment at net book value	28,732	21,958	21,194
Investment Properties at revalued amount	10,142	9,251	8,543
	38,874	31,209	29,737
CURRENT ASSETS			
Inventories	40,078	40,954	27,008
Trade Receivables	31,859	25,487	21,463
Cash at bank	10,452	7,250	5,098
	82,389	73,691	53,569
Total Assets	121,263	104,900	83,306
EQUITY & LIABILITIES			
Amounts attributable to the owners of the company			
Ordinary Share Capital	20,000	20,000	20,000
Revaluation Reserve	3,141	2,250	1,542
Retained Earnings	66,857	52,345	33,211
	89,998	74,595	54,753
Non-Current Liabilities			
Bank borrowings	2,000	500	1,500
3.25% Bonds	5,500	8,500	8,500
	7,500	9,000	10,000
Current Liabilities			
Trade payables	15,145	14,627	13,808
Taxation	1,013	952	891
Bank Overdraft	7,607	5,726	3,854
	23,765	21,305	18,553
Total Equity and Liabilities	121,263	104,900	83,306

and the profit and loss account for the respective years disclosed the following results:

	2020 €000s	2019 €000s	2018 €000s
Sales	165,241	160,423	155,605
Cost of Sales	(105,428)	(102,458)	(101,486)
Gross Profit	59,813	57,965	54,119
Administrative expenses	(25,100)	(17,129)	(18,754)
Selling & Distribution expenses	(17,425)	(10,541)	(10,995)
Operating Profit	17,288	30,295	24,370
Interest Charges	(1,124)	(858)	(968)
Profit before taxation	16,164	29,437	23,402
Taxation	(1,652)	(10,303)	(8,191)
Profit after taxation	14,512	19,134	15,211

Using the information given above you are required to calculate the following profitability, liquidity and efficiency ratios for both 2020, 2019 and 2018:-

- (1) Gross Profit Margin
- (2) Net Profit Margin
- (3) ROCE (managers' perspective)
- (4) Working Capital Ratio
- (5) Acid Test Ratio
- (6) Gearing Ratio (Total Financial Debt)
- (7) Debtor Days

N.B. with the exception of (7), above, present your answers up to two decimal places.

(21 Marks)

You are also required to comment on the ratios calculated indicating what type of comparison is involved here.

(9 Marks)

Question 2

Foreign entrepreneurs intend to setup a Maltese company at some future date subject to financing by Maltese banks. LAWLAW Limited will specialise in the marketing of drilling equipment necessary for the oil exploration industry. After approaching a local retail bank, the manager in charge of corporate finance has requested that the company submits a cash budget for the first six months of operation.

The directors of LAWLAW Limited have listed below what cash inflows and outflows are relevant for the purpose of drawing up this cash budget. This budget will identify what sort of overdraft facility is necessary for the company to operate.

- a. The company will be registered with an initial capital of €500,000 which figure will have to be included in the cash budget.
- b. Given the continuous technological advancements in the industry, the company will have to install an ACAD manufacturing system costing € 250,000. The directors have opted for the reducing balance method of depreciation at the established rate of 25%. The equipment will be paid for in full in the first month of operations.
- c. After having finalised all the necessary set-up procedures and carried out a mini market survey, sales of the equipment may commence in mid-March. According to the market survey which is budgeted to cost €35,000 (this will be paid for in February), it is envisaged that the following sales figures will be achieved:

	€
March	150,000
April	225,000
May	275,000
June	395,000

- d. Direct Material Costs of production which will have to be paid for in the month they are incurred are envisaged to be as follows

	€
January	99,900
February	110,500
March	121,000
April	133,000
May	140,000
June	154,000

- e. A 30 day credit period will be allowed to customers
- f. Salaries and wages to be paid out to employees will amount to €65,000 per month. These will be paid out in the month they are incurred.
- g. Legal and accountancy fees in connection with this overdraft facility will amount to €20,000 and will be paid for in May.
- h. Factory rent amounting to € 72,000 per annum will be paid for quarterly in advance, with the first payment being effected in January.
- i. Water and Electricity are estimated to be €60,000 per annum payable quarterly in arrears at the beginning of the month following each quarter e.g. January - March will be paid at the beginning of April.
- j. The closing stock of equipment for resale will amount to €175,000.

You are required to prepare: a cash budget for the six months January – June 2022

(35 Marks)

Question 3 - Please refer to **Appendix I** available on Page 6

PAJU Limited has €800,000 to invest. The company is considering two investment projects A and B but only has sufficient cash to accept one of them. The projected cash flows of the two potential investments are presented below. The directors have asked for your help and advice in reaching a decision on which investment project to accept. PAJU Limited has a cost of capital of 9%.

	A	B
	€000s	€000s
Initial Investment	(800)	(800)
Cash Inflows year 1	250	150
Cash Inflows year 2	300	250
Cash Inflows year 3	200	300
Cash Inflows year 4	200	240
Cash Inflows year 5	150	200
Cash inflow from sale of the investment at the end of year 5	100	150

Using the above information you are required to calculate the following:

- (i) Payback Period
- (ii) Accounting Rate of Return
- (iii) Net Present Value

(24 Marks)

Furthermore, based on your calculations for the above briefly discuss which project should be selected by the directors, providing a justification for your recommendation.

(11 Marks)

Appendix I

Periods of n	Discount rate as a percentage									
	1%	2%	3%	4%	5%	6%	7%	8%	9%	10%
1	0.9901	0.9804	0.9709	0.9615	0.9524	0.9434	0.9346	0.9259	0.9174	0.9091
2	0.9803	0.9612	0.9426	0.9246	0.9070	0.8900	0.8734	0.8573	0.8417	0.8264
3	0.9706	0.9423	0.9151	0.8890	0.8638	0.8396	0.8163	0.7938	0.7722	0.7513
4	0.9610	0.9238	0.8885	0.8548	0.8227	0.7921	0.7629	0.7350	0.7084	0.6830
5	0.9515	0.9057	0.8626	0.8219	0.7835	0.7473	0.7130	0.6806	0.6499	0.6209
6	0.9420	0.8880	0.8375	0.7903	0.7462	0.7050	0.6663	0.6302	0.5963	0.5645
7	0.9327	0.8706	0.8131	0.7599	0.7107	0.6651	0.6227	0.5835	0.5470	0.5132
8	0.9235	0.8535	0.7894	0.7307	0.6768	0.6274	0.5820	0.5403	0.5019	0.4665
9	0.9143	0.8368	0.7664	0.7026	0.6446	0.5919	0.5439	0.5002	0.4604	0.4241
10	0.9053	0.8203	0.7441	0.6756	0.6139	0.5584	0.5083	0.4632	0.4224	0.3855
11	0.8963	0.8043	0.7224	0.6496	0.5847	0.5268	0.4751	0.4289	0.3875	0.3505
12	0.8874	0.7885	0.7014	0.6246	0.5568	0.4970	0.4440	0.3971	0.3555	0.3186
13	0.8787	0.7730	0.6810	0.6006	0.5303	0.4688	0.4150	0.3677	0.3262	0.2897
14	0.8700	0.7579	0.6611	0.5775	0.5051	0.4423	0.3878	0.3405	0.2992	0.2633
15	0.8613	0.7430	0.6419	0.5553	0.4810	0.4173	0.3624	0.3152	0.2745	0.2394
16	0.8528	0.7284	0.6232	0.5339	0.4581	0.3936	0.3387	0.2919	0.2519	0.2176
17	0.8444	0.7142	0.6050	0.5134	0.4363	0.3714	0.3166	0.2703	0.2311	0.1978
18	0.8360	0.7002	0.5874	0.4936	0.4155	0.3503	0.2959	0.2502	0.2120	0.1799
19	0.8277	0.6864	0.5703	0.4746	0.3957	0.3305	0.2765	0.2317	0.1945	0.1635
20	0.8195	0.6730	0.5537	0.4564	0.3769	0.3118	0.2584	0.2145	0.1784	0.1486
21	0.8114	0.6598	0.5375	0.4388	0.3589	0.2942	0.2415	0.1987	0.1637	0.1351
22	0.8034	0.6468	0.5219	0.4220	0.3418	0.2775	0.2257	0.1839	0.1502	0.1228
23	0.7954	0.6342	0.5067	0.4057	0.3256	0.2618	0.2109	0.1703	0.1378	0.1117
24	0.7876	0.6217	0.4919	0.3901	0.3101	0.2470	0.1971	0.1577	0.1264	0.1015
25	0.7798	0.6095	0.4776	0.3751	0.2953	0.2330	0.1842	0.1460	0.1160	0.0923



PAST PAPERS

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Section A Part Two:

Answer ONE question only:

A.2.1 (a) List the professions which in terms of Article 3 of Notarial Law are inconsistent with the notarial profession. (b) Discuss the rationale of the law. (20 marks)

A.2.2 (a) When are witnesses required to be present during the publication of a notarial act? (b) What are the qualifications of witnesses established by Article 27 of Notarial Law? (c) What is the role of witnesses during the publication of a notarial act? (20 marks)

A.2.3 Articles 31, 32 and 33 of Notarial Law refer to three different types of acts commonly referred to as atypical notarial acts. Discuss. (20 marks)

September
2003

Section B Registration of Acts and Titles (60 marks)

- Answer ONE question from Part One of this Section and ONE question from Part Two of this Section.
- The amendments introduced by Act IV of 1995, which have not yet come into force, should for the purposes of this examination/to be considered as if they are in force.

Section B Part One

Answer ONE question only:

B.1.1 Discuss which laws are inapplicable with regard to land registrable in the Land Registry. (45 marks)

B.1.2 Compare and contrast the nature and effects of a title and a guaranteed title. (45 marks)

B.1.3 What does the law mean by "overriding interests"? What are their effects on a title and a guaranteed title? Discuss briefly four of the overriding interests listed in the Land Registration Act. (45 marks)

Section B Part Two

Answer ONE question only:

B.2.1 Distinguish between compulsory and declaratory registration areas. (15 marks)

B.2.2 (a) Very briefly state what a caution against first registration of title to land is. (b) How is such a caution lodged with the Land Registrar? (c) What remedy does the cautioner have against a decision of the Land Registrar in relation to such a caution? (15 marks)

Please go to the next page

11th June 2004

Section B Registration of Acts and Titles (60 marks)

- A correct answer will be marked positively, while an incorrect one will be marked negatively.
- The amendments introduced by Act IV of 1995, which have not yet come into force, should for the purposes of this examination to be considered as if they are in force.

B1. The Maltese Land Registration Act 1981 is largely modelled on the English Land Registration Act 1925. True/False

B2. For the purposes of the Land Registration Act 1981, "land" includes building and other construction or works. True/False

B3. Where the Land Registration Act applies, all the provisions of any law relative to enrolment of acts and registration of hypothecs/privilegias in the Public Registry cease to be operative. True/False

B4. X purchased a house on the 6th June 1979. The area where the house is situated was declared to be a compulsory registration area as from the 1st January 2004. X is obliged to apply for first registration of title to his house. True/False

B5. On the 1st July 1995 Symphony Galore, an association of classical music enthusiasts, purchased the premises it uses for its activities. On the 1st May 2004, the Minister responsible for the Land Registry issued an order in the Gazette obliging all unincorporated associations (like Symphony Galore) to apply for the registration of title to their immovable property in the Land Registry between the 1st June 2004 and 30th June 2004. Those responsible for Symphony Galore have been advised that they are obliged to apply within the time laid down in the order. The advice is sound. True/False

B6. X purchased a garage on the 26th June 1998. It was comprised within a compulsory registration area on the 1st January 2003. On Easter Day of this year (11th April) X took final solemn vows as a Franciscan Capuchin without having made a will or a formal renunciation by notarial deed. Application for registration of title is obligatory. True/False

B7. Considering again the facts in question B6, state who (if any) of the following is obliged to apply for registration:

- B7(One) X's universal heirs upon intestacy or
- B7(two) the Franciscan Capuchin Order or
- B7(three) nobody at all.

B8. A title which is not guaranteed is coterminous with a title at Civil Law. True/False

B9. To lodge a caution against first registration of title, the cautioner must file an application requesting the Land Registrar to caution the land, a sworn declaration indicating the cautionable interest and a plan identifying the land drawn up in terms Land Registry Rules. True/False

B10. If a caution lodged against first registration of title to land is registered by the Land Registrar, the cautioner secures for himself the right to be informed by the Land Registrar of any intended application and is given thirty days to appear and oppose any intended registration with regard to the land in question. True/False

B11. The Land Registrar has given a decision regarding a caution with which the cautionee disagrees. Which of the following four answers B11 (one), B11 (two), B11 (three) or B11 (four) is correct?

B11 (one) The cautionee does not have any remedy; or

B11 (two) The cautionee may seek redress by application to the Civil Court (Voluntary Jurisdiction Section); or

B11 (three) He may seek judicial review by the Civil Court First Hall; or

B11 (four) He may appeal to the Court of Appeal.

B12. Following a deed of sale of land by X to Y, an application for first registration of title to the land is lodged at the Land Registry on the 15th May 2004, and on the 23rd May 2004 a title is issued in the name of Y. Which of the following three B12 (one), B12 (two) or B12 (three) is the effective date of registration?

B12 (one) 15th May 2004 or

B12 (two) 23rd May 2004 or

B12 (three) a date other than these two.

B13. Considering the facts in the preceding question B12, if there is no caution or other act interrupting prescription, when will the Registrar convert the title into a guaranteed title?

B13 (one) 15th May 2014 or

B13 (two) 23rd May 2014 or

B13 (three) a date other than these two.

B14. Indefeasibility of a guaranteed title means that it can only be defeated in terms of the Civil Code. True/False

B15. A guaranteed title is the same as a title at Civil Law. True/False

B16. In 1865 land was granted on perpetual emphyteusis. One of the conditions of the grant prohibited the building on the land of any property that would be used for commercial purposes. The developed property was registered with a guaranteed title in 1990, and the proprietor of the property has been advised that the guaranteed title has cancelled the effects of all the terms and conditions of the original grant. You have been asked to give a second opinion. Do you endorse the first opinion? Yes/No

B17. On the 6th March 2002, land was registered with a guaranteed title in the name of X. X has recently been approached by Y who has shown him a contract Y had entered into with the original owner of the land by virtue of which Y was given the right to utilize the land for shooting birds during two months of the year. Assuming that the contract between Y and the original owner is a valid one, is the guaranteed title subject to Y's rights? Yes/No

B18. "Any person who in good faith and under a title capable of transferring ownership possesses an immovable thing for a period of ten years acquires the title thereof." (article 2140 of the Civil Code). Which of the following is not a "*justus titulus aquisitionis*" in terms of this article?

B18 (one) sale or

B18 (two) exchange or

B18 (three) lease or

B18 (four) emphyteutical concession?

B19. The Roman Catholic Church in Malta transferred to the Government of Malta most of the immovable property it had which the Church was not and did not intend using for pastoral purposes. Which of the following four is the law:

- B19 (one) Ecclesiastical Entities (Properties) Act 1992 or
- B19 (two) Ecclesiastical Entities Act 1992 or
- B19 (three) Mortmain Act 1992 or
- B19 (four) Roman Catholic Church (Transfer of Properties) Act 1992.

B20. The Parish Church of Senglea has decided to purchase premises to be used for the teaching of catechism to young children. Has the Parish Church of Senglea the capacity under Civil Law to purchase immovable property without any condition? Yes/No

B21. In his will X bequeathed a house to the Parish Church of Msida so that it may be used as the residence of the Parish Priest. The universal heirs of X have refused to vest the Parish Church of Msida with the house arguing that the Parish Church of Msida does not have the legal capacity to acquire by title of succession. Are the universal heirs correct? Yes/No

B22. X has agreed to purchase property from the Government of Malta through the Joint Office and the contract is scheduled for the 17th June 2004. The notary has conducted a search at Land Registry where he finds that the property is not registered. May he proceed with the publication of the deed? Yes/No

B23. Land was registered with a guaranteed title on the 1st July 1997 in the name of A who, on the 1st May 2004, entered into a six-month preliminary agreement with B for the sale to B of the land. Since B suspects that A will enter into a preliminary agreement with somebody else for the sale of the same land, he has sought advice.

Apart from other requirements in terms of any other law, what do you think should be done in the name of B so that third parties may be informed of the existence of the preliminary agreement? Choose one of the following:

- B23 (one) Apply for the registration of the preliminary agreement in the Public Registry or
- B23 (two) Lodge a caution in the Land Registry against a dealing or B23 (three) Register the preliminary agreement at the Attorney General's Office or
- B23 (four) file a copy of the preliminary agreement at the Notarial Archives.

B24. X purchased land in 1975. It became comprised within a compulsory registration area in 1999 and it is not registered. X has entered into an eight-month preliminary agreement with Y for the sale to Y of the land. Since Y suspects that X will enter into a preliminary agreement with somebody else for the sale of the same land, he has sought advice.

Apart from other requirements in terms of any other law, what do you think should be done in the name of Y so that third parties may be informed of the existence of the preliminary agreement? Choose one of the following:

- B24 (one) Apply for the registration of the preliminary agreement in the Public Registry or
- B24 (two) Lodge a caution in the Land Registry against first registration or
- B24 (three) Register the preliminary agreement at the Attorney General's Office or
- B24 (four) file a copy of the preliminary agreement at the Notarial Archives.

B25. In the first part of a notarial deed published on the 30th May 2004, bank B gives a loan of Lm30,000 to its client P who, in the second part of the deed, purchases a maisonette from seller S. In the first part of the deed, P delegates B to pay the sum given on loan directly to S in the second part of the deed as part of the purchase price of the maisonette. Which guarantee arises in favour of B out of the Civil Code? Choose the correct one:

- B25 (one) a general hypothec or
- B25 (two) a special hypothec or
- B25 (three) a special privilege or
- B25 (four) the benefit of separation of estates.

B26. By a deed in the records of Notary A of the 15th May 2004, X constituted in favour of Y a special hypothec on X's house number 256 Triq it-Tajjar Msida, and the notary registered the special hypothec in the Public Registry on the 1st June 2004. What is the effective date of the special hypothec? Choose from the following:

- B26 (one) 15th May 2004 or
- B26 (two) 1st June 2004 or
- B26 (three) a date other than these two.

B27. A special privilege on 109 Triq il-Martri Maltin Vittoriosa belonging to X arose from a deed in Notary A's records of 1st April 2004 and Notary A registered the special privilege in the Public Registry on 19th May 2004. What is the effective date of the special privilege? Choose from the following:

- B27 (one) 1st April 2004 or
- B27 (two) 19th May 2004 or
- B27 (three) a date other than these two.

B28. A special privilege on 88 Triq il-Sikka Marsaxiokk belonging to X arose from a deed in Notary A's records of 6th April 2004 and Notary A has realized that he has not yet registered the special privilege in the Public Registry. Today, he rushes to the Public Registry to file the note of special privilege, but is informed that he cannot do so. May he register the special privilege? Yes/No

B29. From searches in the Public Registry it transpires that A purchased immovable property in 1992 on which he constituted a special hypothec in favour of B in 1998. A is today selling the property. The sale will automatically cancel the effects of the special hypothec. True/False.

B30. From searches in the Public Registry it transpires that X purchased immovable property in 1990 on which he constituted a special hypothec in favour of Y in 1995. X is today selling the property. The sale will automatically cancel the effects of the special hypothec. True/False.

B31. From searches in the Public Registry it transpires that X purchased from Y immovable property in 1990 and a special privilege was registered in Y's favour for the balance of price. X is today selling the property. The sale will automatically cancel the effects of the special privilege. True/False.

B32. In Malta a conventional special hypothec may only be constituted by means of a notarial deed. True/False

B33. A conventional special hypothec is not effectual unless it is registered in the Public Registry. True/False

B34. In terms of the Land Registration Act, a general hypothec is called a charge. True/False

B35. X enjoys a general hypothec against Y for a sum Y owes him. X is not very happy with this guarantee and he has been told that, in terms of the Civil Code, he has the right to better guarantee his credit by registering in his favour and without Y's knowledge a special privilege in addition to the general hypothec. Is this true? Yes/No

B36. Land is registered in the name of S with title number 24000025. S sold the land to P by a deed of the 15th April 2004, and on the deed P bound himself to pay the balance of price of Lm25,000 to S within three years from date of deed. The notary who published the deed applied for the registration of the charge in the Land Registry on the 28th May 2004, and on the 11th June 2004 the Land Registrar registered the charge with regard to title number 24000025.

Which of the following is the effective date of the charge?

B36 (one) 15th April 2004 or

B36 (two) 28th May 2004 or

B36 (three) 11th June 2004 or

B36 (four) a day other than the three already mentioned.

B37. Property is registered in the name of A with title number 87000021. A has entered into two contracts of loan. Creditor C1 has lent him the sum of Lm10,000 for A's personal commitments, while creditor C2 has lent him Lm15,000 also for his personal commitments. In each of the deeds A constituted in favour of C1 and C2 respectively a charge on the the property. Both C1 and C2 apply in the Land Registry on the same day and at different times for the registration of the charge in their favour. Does this affect their ranking? Yes/No

B38. A caution is equivalent to a title which is guaranteed. True/False

B39. Land registered with a guaranteed title is subject to all overriding interests for a period of ten years from effective date of the guaranteed title. True/False

B40. According to statistics issued by the Land Registry in March 2004, by the end of 2003 almost 90% of land in Malta had been registered. True/False

> Please go to sections C and D

7th September 2004

Section B Registration of Acts and Titles (60 marks)

You are to bear in mind, if and where applicable, the amendments to the Land Registration Act that have not yet come into force.

Answer ONE set of questions:

EITHER:

B.1.1 Consider the laws which are inapplicable with regard to land registrable in the Land Registry. (45 marks)

And

B.1.2 Who may be registered as proprietor of registered land? (15 marks)

OR

B.2.1 Compare and contrast the nature and effects of a title and a guaranteed title. (45 marks)

And

B.2.2 Distinguish between compulsory and declaratory registration areas. (15 marks)

OR

B.3.1 What are "overriding interests"? What is their effect on a guaranteed title? Discuss briefly four of the overriding interests listed in the law. (45 marks)

And

B.3.2 State two cases where a caution may be lodged against a dealing with registered land. Very briefly state how a caution against a dealing with registered land is lodged with the Land Registrar. What remedy does the cautioner have against a decision of the Land Registrar in relation to such a caution? (15 marks)

Continued on the following page

June 2005

Section B Registration of Acts and Titles (60 marks)

- A correct answer will be marked positively, while an incorrect one will be marked negatively.
- Even if some amendments introduced by Act VII of 1995 have not come into force, they should, for the purposes of this section, be considered as if they are in force.

B1. When the Maltese Land Registration Act was introduced in 1981, it was largely modelled on the English Land Registration Act 1925. (a) True or (b) False.

B2. The amendments to the Land Registration Act 1981 effected by Act VII of 1995 are largely modelled on the new English Land Registration Act of 1993. (a) True or (b) False.

B3. A system of land registration is primarily based on (a) a verbal description of the property or (b) a plan or (c) neither one nor the other.

B4. Napoleon introduced the first cadastral system in Europe primarily (a) to give comfort to landowners or (b) to complement the Civil Code or (c) to raise revenue or (d) to complement the Notarial Law or (e) none of the said answers.

B5. Sir Robert Torrens was the first to introduce land registration in (a) England and Wales or (b) in one of the States of Australia or (c) in one of the States of the United States of America or (d) in none of the places already mentioned.

B6. The main aim of land registration is (a) to give comfort to landowners or (b) to complement the Civil Code or (c) to raise revenue or (d) to complement the Notarial Law.

B7. For the purposes of the Land Registration Act 1981, "land" includes building and other construction or works. (a) True or (b) False.

B8. In the normal run of cases, when a person applies for first registration of title to the Land Registrar grants such person (a) a title which is not guaranteed or (b) a guaranteed title or (c) neither one nor the other.

B9. Where the Land Registration Act applies, all the provisions of any law relating to enrolment of acts and registration of hypothecs/privileges in the Public Registry cease to be operative. (a) True or (b) False or (c) May be.

B10. X is the owner of a house he purchased on 15 December 1978. The area where the house is situated was declared a compulsory registration area as from the 1 January 2005. Is X obliged to apply for first registration of title to his house? (a) Yes or (b) No or (c) He may decide to do whatever he likes.

B11. On 1 July 1995 Poetry Unlimited, an association of teachers and readers of Don Quixote poems, purchased the premises the association uses for its literary activities. The property is not in a compulsory registration area. On 1 June 2005, the Minister responsible for the Land Registry issued an order in the Gazette obliging all unincorporated associations (like Poetry Unlimited) to apply between 1 July 2005 and 31 October 2005 for the registration in the Land Registry of the title to the immovable properties belonging to such associations. The Minister responsible for Poetry Unlimited has the following options:

- (a) they should apply for registration of title in the Land Registry as stated in the order;
- (b) they are not obliged to apply for registration of title in the Land Registry since the time period given in the order is too short; or
- (c) they should file a note of enrolment in the Public Registry given that the property is not in a compulsory registration area.

2. It is generally correct to say that a title which is not guaranteed is coterminous with a title at Civil Law. (a) True or (b) False.

3. The requisites for lodging of a caution against first registration of title to land are the following:

- (a) an application in the prescribed form requesting the Land Registrar to caution the land;
- (b) a sworn declaration indicating the cautionable interest of the cautioner;
- (c) a cautionable interest;
- (d) a declaration by the Civil Court (Voluntary Jurisdiction Section) confirming the cautionable interest;
- (e) a plan identifying the land drawn up in terms Land Registry rules;

Which one of the above is not a requisite?

4. The Land Registrar has given a decision regarding a caution with which the cautioner disagrees and would like to pursue the matter further. Which of the following four answers is correct?

(a) The cautioner may seek redress by application to the Civil Court (Voluntary Jurisdiction Section); or

(b) He may seek judicial review from the Civil Court First Hall; or

(c) He may appeal to the Court of Appeal; or

(d) The Land Registrar's decision is final.

5. Following a deed of sale of land by L to M published on 7 May 2005, an application for registration of title to the land was filed at the Land Registry on 19 May 2005, and on 26 May 2005 a title was issued in the name of M. Which of the following is the effective date of registration? (a) 7 May 2005; or (b) 19 May 2005; or (c) 26 May 2005.

6. Considering the facts in the preceding question B15, if there is no application for extinction of prescription or other caution having the same effect in the Land Registry, when can the Registrar convert the title into a guaranteed title? (a) 7 May 2015; or (b) 19 May 2015; or (c) 26 May 2015.

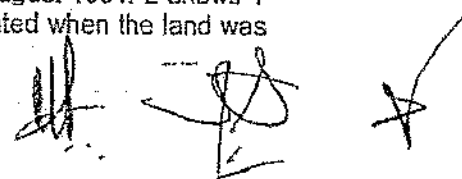
7. Indefeasibility of a guaranteed title means that it can only be defeated in terms of (a) the Code or (b) the Land Registration Act or (c) the Land Valuation Ordinance or (d) the Unimproved Land (Valuation) Ordinance.

8. A guaranteed title is the same as a title at Civil Law. Which of the following is correct? (a) Yes or (b) No or (c) Yes, but there is more to it.

9. In 1877 land was granted on perpetual emphyteusis. One of the conditions of the grant required the building on the land of any property that would be used as a shop. The unimproved property was registered with a guaranteed title on 28 June 1990, and the proprietor of the property has been advised that the guaranteed title has cancelled the effects of the terms and conditions of the original grant. (a) True or (b) False.

10. On 22 July 1992, barren land was registered with a guaranteed title in the name of L. Yesterday 5 June took some friends with him on the land for a picnic. All of a sudden H, a stranger, enters the land and politely asks L and his friends to leave so that he could engage in a game of tennis. He also shows L a copy of a deed by virtue of which the original owner of the land had granted the right to H to shoot birds from the land during June of each year. Assuming that the contract between H and the original owner is a valid one, is L's guaranteed title subject to H's rights? (a) Yes or (b) no or (c) neither one nor the other.

11. On 22 July 1992, barren land was registered with a guaranteed title in the name of L. Yesterday 5 June took some friends with him on the land for a picnic. All of a sudden T, a stranger, enters the land and politely asks L and his friends to leave since the land is subject to a lease agreement in his favour for fifteen years from 15 August 1991. L shows T a copy of his guaranteed title and argues that any lease agreement was terminated when the land was registered.



registered with a guaranteed title. Assuming that the contract of lease is a valid one, is the lease subject to T's rights? (a) Yes or (b) no or (c) neither one nor the other.

B22. The Roman Catholic Church in Malta transferred to the Government of Malta most of the immovable property it had which the Church was not and did not intend using for pastoral purposes. Which of the following is the law? (a) The Ecclesiastical Entities Act 1992 or (b) The Ecclesiastical Entities (Properties) Act 1992 or (c) The Transfer of Properties Act 1992 or (d) The Mortmain Act 1992.

B23. The Government department obliged to register the properties which the Church transferred to the Government in terms of the correct answer to the preceding question B22 is (a) the Lands Department or (b) the Joint Office or (c) the Estate Management Division.

B24. The Government department referred to in your correct answer to the preceding question B23 applied on 26 May 2005 for the registration of a property transferred to the Government by the Roman Catholic Church in terms of the law referred to in your correct answer to question B22 above. The Land Registrar issued the title on 6 June 2005. What is the effective date of registration? (a) 1 October 1992 or (b) 18 February 1994 or (c) 18 February 1994 or (d) 26 May 2005 or (e) 6 June 2005.

B25. The Parish Church of St Joseph the Worker in Birkirkara has decided to purchase premises to be used for the teaching of catechism to young children. Has this parish the capacity under Civil Law to purchase immovable property without any condition? (a) Yes or (b) No.

B26. In his will X bequeathed a house to the Parish Church of Gudja so that it may be used as the residence of the Parish Priest. The universal heirs of X have refused to vest the Parish Church of Gudja with possession of the house arguing that the Parish Church of Gudja does not have the legal capacity to acquire by title of succession. Are the universal heirs correct? (a) Yes or (b) No.

B27. On 28 June 1990 land was registered in the name of X with guaranteed title number 21300523. On 30 April 2005 X entered into a ten-month preliminary agreement with Y for the sale to Y of the land. Since Y suspects that X will enter into a preliminary agreement with somebody else for the sale of the same land, he has sought advice.

Apart from other requirements in terms of any other law, what do you think should be done in the name of Y so that third parties may be informed of the existence of the preliminary agreement? Choose one of the following:

- (a) apply for the registration of the preliminary agreement in the Public Registry or
- (b) lodge a caution against a dealing in the Land Registry or
- (c) file a copy of the preliminary agreement at the Notarial Archives or
- (d) file a copy of the preliminary agreement in the Registry of the Civil Court, First Hall

B28. X purchased land in 1975. It became comprised within a compulsory registration area in 1999 and it is not registered. X has entered into an eight-month preliminary agreement with Y for the sale to Y of the land. Since Y suspects that X will enter into a preliminary agreement with somebody else for the sale of the same land, he has sought advice.

Apart from other requirements in terms of any other law, what do you think should be done in the name of Y so that third parties may be informed of the existence of the preliminary agreement? Choose one of the following:

- (a) apply for the registration of the preliminary agreement in the Public Registry or
- (b) lodge a caution in the Land Registry against first registration or
- (c) register the preliminary agreement at the Attorney General's Office or
- (d) file a copy of the preliminary agreement at the Notarial Archives.

29. Which one of the requisites of the ten-year acquisitive prescription of immovable property is out of place? (a) *iustus titulus acquisitionis* (b) detention (c) possession (d) good faith (e) ten years.

330. By a deed published on 15 May 2005, V sold to P a flat for the price of Lm35,000 out of which P paid on the deed the sum of Lm20,000 and P bound himself to pay the balance to V with interest at 5% per annum within five years from date of deed. What guarantee on the flat does V have in terms of the Civil Code? Choose the correct one: (a) a general hypothec or (b) a special hypothec or (c) a special privilege or (d) a general privilege or (e) the benefit of separation of estates.

331. In the first part of a notarial deed published on 20 May 2005, bank B gave a loan of Lm40,000 to its client P who, in the second part of the deed, purchased a maisonette from vendor V. In the first part of the deed, P delegated B to pay the sum given on loan directly to V in the second part of the deed as part of the purchase price of the maisonette. What guarantee on the maisonette does B have in terms of the Civil Code? Choose the correct one: (a) a general hypothec or (b) a special hypothec or (c) a special privilege or (d) a general privilege or (e) the benefit of separation of estates.

B32. By a deed of Notary X of 11 May 2005, X constituted in favour of Y a special hypothec on X's house number 123 Triq l-Istudenti Ghawdxin l-Insida, and the notary registered the special hypothec in the Public Registry on 6 June 2005. When is the special hypothec effective? Choose the correct one: (a) 11 May 2005 or (b) 6 June 2005 or (c) a date other than these two.

B33. A special privilege on 21 Triq il-Hidma ta' l-Ghadu Città Vittoriosa belonging to X arose from a deed in Notary A's records of 3 April 2005 and Notary A registered the special privilege in the Public Registry on 26 May 2005. When is the special privilege effective? Choose the correct one: (a) 3 April 2005 or (b) 26 May 2005 or (c) a date other than these two.

B34. A special privilege on 96 Triq il-Fjuri San Gwann belonging to X arose from a deed in Notary A's records of 2 April 2005 and Notary A has today realized that he did not register the special privilege in the Public Registry. He may do one of the following: (a) register the special privilege on the immovable or (b) register a special hypothec thereon or (c) register a special legal hypothec thereon or (d) register a general legal hypothec.

B35. From searches in the Public Registry it transpires that A purchased immovable property in 1990 on which he constituted a special hypothec in favour of B in 1998. A is today selling the property. The sale will automatically cancel the effects of the special hypothec. (a) True or (b) False.

B36. From searches in the Public Registry it transpires that X purchased from Y immovable property in 1992 and a special privilege was registered thereon in Y's favour in terms of law. X is today selling the property. The sale will automatically cancel the effects of the special privilege. (a) True or (b) False.

B37. In terms of the Land Registration Act, a general hypothec is called a charge. (a) True or (b) False.

B38. A general hypothec is registered in favour of X against Y for a sum Y owes him. X is not very happy with this guarantee and he has been told that, in terms of the Civil Code, he has the right to better guarantee his credit by registering in his favour and without Y's knowledge one of the following two: (a) a special privilege in addition to the general hypothec or (b) a special hypothec in addition to the general hypothec. Which is correct (a) or (b)?

B39. Land is registered in the name of V with title number 12000123. V sold the land to P by a deed of 20 April 2005, and on the deed P bound himself to pay the balance of price of Lm50,000 to V within four years from date of deed. The notary who published the deed applied for the registration of the charge in the Land Registry on 24 May 2005, and on the 3 June 2005 the Land Registrar registered the charge with regard to title number 12000123.

June 2006

- A45. A secret will is enrolled in the Public Registry. (a) True or (b) False.
- A46. A private writing in Spanish is valid. (a) True or (b) False.
- A47. A private writing in Arabic is valid. (a) True or (b) False.
- A48. A private writing in Russian is valid. (a) True or (b) False.
- A49. The notary must give the parties to a notarial deed the original act. (a) True or (b) False.
- A50. A deed of sale is enrolled in the Public Registry so that it may have effect vis-à-vis the parties to the deed. (a) True or (b) False.

Section B Registration of Acts and Titles (60 marks)

- *A correct answer will be marked positively. An incorrect answer or no answer at all will be marked negatively. If you have any doubt as to the correct answer to a question, it is advisable that you answer it nonetheless.*
- *Even if some amendments introduced by Act VII of 1995 have not come into force, they should, for the purposes of this section of the examination, be considered as if they are in force.*

B1. When the Maltese Land Registration Act was introduced in 1981, it was largely modelled on one of the following laws: (a) the English Land Registration Act 1925; or (a) the South Australian Land Registration Act 1890 or (b) the North Carolina Registration of Acts law 1976. The answer is 1a or 1b or 1c.

B2. The amendments to the Land Registration Act 1981 effected by Act VII of 1995 are largely modelled on the Italian cadastral system introduced by Legge 247 del 1991. (a) True or (b) False. The answer is 2a or 2b.

B3. A system of land registration is based primarily on (a) a verbal description of the property or (b) a plan or (c) neither one nor the other. The answer is 3a or 3b or 3c.

B4. A public registry is based primarily on (a) the *nominatim* system or (b) a plan or (c) neither one nor the other. The answer is 4a or 4b or 4c.

B5. A cadastral system exists primarily (a) to give comfort to landowners or (b) to raise revenue or (c) to provide statistics to a statistics office or (d) none of the said answers. The answer is 5a or 5b or 5c or 5d.

B6. Sir Robert Torrens was the first to introduce land registration in (a) England and Wales or (b) in one of the States of Australia or (c) in one of the regions of Italy or (d) in none of the places already mentioned. The answer is 6a or 6b or 6c or 6d.

B7. The main aim of land registration is (a) to give comfort to landowners or (b) to raise revenue or (c) to provide statistics to a statistics office or (d) none of the said answers. The answer is 7a or 7b or 7c or 7d.

B8. For the purposes of the Land Registration Act 1981, "land" includes building and other construction or works. (a) True or (b) False. The answer is 8a or 8b.

B9. In the normal run of cases, when a person applies for first registration of title to land, the Land Registrar grants such person (a) a title which is not guaranteed or (b) a guaranteed title or (c) neither one nor the other. The answer is 9a or 9b or 9c.

B10: Where the Land Registration Act applies, all the provisions of any law relative to enrolment of acts and registration of hypothecs/privileges in the Public Registry cease to be operative. (a) True or (b) False or (c) May be. The answer is 10a or 10b or 10c.

B11: A is the owner of a house he purchased on 15 December 1978. The area where the house is situate was declared a compulsory registration area as from the 1 January 2006. A has asked you whether he is obliged to apply for first registration of title to his house? (a) Yes or (b) No or (c) He may decide to do whatever he likes. The answer is 11a or 11b or 11c.

B12: On 1 September 1995 the San Gwann Football Club purchased the premises it uses to store old football memorabilia. The store is not in a compulsory registration area. On 1 June 2006, the Minister responsible for the Land Registry issued an order in the Gazette obliging all football clubs to apply between 1 September 2006 and 31 December 2006 for the registration in the Land Registry of the title to any immovable property belonging to football clubs. San Gwann Football Club has the following options:

- 12a: it should apply for registration of title in the Land Registry as stated in the order, or
- 12b: it is not obliged to apply for registration of title in the Land Registry since the time period given in the order is too short, or
- 12c: it should file a note of enrolment in the Public Registry, given that the property is not in a compulsory registration area.

The answer is 12a or 12b or 12c.

B13: A title which is not guaranteed is by and large equivalent to a title at Civil Law. (a) True or (b) False. The answer is 13a or 13b.

B14: The requisites for lodging a caution against first registration of title to land are the following:

- 14a: an application in the prescribed form requesting the Land Registrar to caution the land;
- 14b: a sworn declaration indicating the cautionable interest of the cautioner;
- 14c: a cautionable interest;
- 14d: a declaration by the Civil Court First Hall confirming the cautionable interest;
- 14e: a plan identifying the land, drawn up in terms Land Registry rules;

Which one of the above is not a requisite?

The answer is 14a or 14b or 14c or 14d or 14e.

B15: The Land Registrar has given a decision regarding a caution with which the cautioner disagrees. The cautioner would like to pursue the matter further.

Which one of the following answers is correct?

- 15a: The cautioner may appeal to the Land Registry Appeals Board; or
- 15b: The cautioner may seek redress by application to the Civil Court (Voluntary Jurisdiction Section); or
- 15c: He may seek judicial review by the Civil Court First Hall; or
- 15d: He may appeal to the Court of Appeal; or
- 15e: The Land Registrar's decision is final.

The answer is 15a or 15b or 15c or 15d or 15e.

B16: Following a deed of sale of land by V to P published on 10 May 2006, an application for registration of title to the land was filed at the Land Registry on 20 May 2006, and on 30 May 2006 a litta was issued in the name of P. Which of the following is the effective date of registration? (a) 10 May 2006; or (b) 20 May 2006; or (c) 30 May 2006. The answer is 16a or 16b or 16c.

B17: Considering the facts in the preceding question B16, if there is no application in the Land Registry for the interruption of prescription or other caution having the same effect,

when must the Land Registrar convert the title into a guaranteed title? (a) 10 May 2016, or (b) 20 May 2016, or (c) 30 May 2016. The answer is 17a or 17b or 17c.

B18. Indefeasibility of a guaranteed title means that it can only be defeated in terms of (a) the Civil Code or (b) the Land Registration Act or (c) the Land Valuation Ordinance or (d) the Public Registry Act. Which one is correct? The answer is 18a or 18b or 18c or 18d.

B19. On 6 May 1908 land was granted on perpetual emphyteusis from that date. One of the conditions of the grant prohibited the building on the land of any property for commercial purposes. The *utile dominium perpetuum* was registered in the name of X with a guaranteed title on 14 September 1991, and X has been advised that the guaranteed title has cancelled the effects of all the terms and conditions of the original emphyteutical grant. Was the advice (a) good at law or (b) not good at law? The answer is 19a or 19b.

B20. On 29 August 1992, barren land was registered with a guaranteed title in the name of X. Yesterday, X took his family for an outing and visited his land where, to his surprise, he noticed T, a trapper, enjoying his pastime. While informing T that the land belonged to X, X invited T not to return to the place. T gave X a copy of a deed by virtue of which the original owner of the land had granted the right to T to trap birds during the months of April, May and June of each year. Assuming that the contract between T and the original owner is 8 years one, is X's guaranteed title subject to T's rights? (a) Yes or (b) no. The answer is 20a or 20b.

B21. On 22 July 1992, a house burdened with a pious burthen of Lm1 for the celebration of Holy Masses was registered for the first time in the Land Registry in the name of A with a guaranteed title. When the application for first registration was made, A's notary forgot to state in the application form that the property is subject to the pious burthen. A lawyer has advised A that he need not pay the pious burthen since the guaranteed title wiped out the obligation to do so. His advice is (a) good at law or (b) not good at law? The answer is 21a or 21b.

B22. On 22 July 1990 H purchased a house during his marriage with his wife W and the house formed part of the community of acquests. It was registered with a guaranteed title on the 3 August 1990 in the name of H as used to happen before 1 December 1993. W died in 1991 and was inherited by her three children X, Y and Z. The property is being sold today and it has transpired from an official search effected in the Land Registry that the title is registered in the name of H. In view of the mirror principle, the sale may be effected by H without the need for the three children to be parties to the deed. This is (a) true or (b) false. The answer is 22a or 22b.

B23. The Parish Church of Senglea has decided to purchase from you premises to be used as a youth centre. Has this parish the capacity under Civil Law to purchase immovable property without any condition? (a) Yes or (b) No. The answer is 23a or 23b.

B24. X who died on 1 May 2006 bequeathed a house to the Parish Church of Msida so that it may be used as the residence of the Parish Priest. The universal heirs of X have refused to vest the Parish Church of Msida with possession of the house arguing that the Parish Church of Msida does not have the legal capacity to acquire immovable property by title of succession. Are the universal heirs correct? (a) Yes or (b) No. The answer is 24a or 24b.

B25. There is more to a guaranteed title than a title at Civil Law. (a) True or (b) False. The answer is 25a or 25b.

B26. On 28 June 1991 land was registered in the name of A with guaranteed title number 61000012. On 15 March 2006, A entered into a one-year preliminary agreement with B for the sale to B of the land, and the preliminary agreement was duly registered with the Commissioner of Inland Revenue. Since B suspects that A will enter into a preliminary agreement with somebody else for the sale of the same land, he has sought advice.

Apart from other requirements in terms of any other law, what do you think should be done in the name of B so that he safeguards his rights as far as possible? Choose one of the following:

- (a) apply for the registration of a stop-notice at MEPA or
- (b) lodge a caution against a dealing in the Land Registry or
- (c) inform the Notarial Archives by a simple letter or
- (d) file a note of enrolment in the Public Registry.

The answer is 26a or 26b or 26c or 26d.

B27. A purchased land in 1971. It became comprised within a compulsory registration area in 1998 and it is not registered. On 20 April 2006, A entered into one-year preliminary agreement with B for the sale to B of the land, and the preliminary agreement has been duly registered with the Commissioner of Inland Revenue. Since B suspects that A will enter into a preliminary agreement with somebody else for the sale of the same land, he has sought advice.

Apart from other requirements in terms of any other law, what do you think should be done in the name of B so that he safeguards his rights as far as possible? Choose one of the following:

- (a) apply for the registration of a stop-notice at MEPA or
- (b) lodge a caution against a dealing in the Land Registry or
- (c) inform the Notarial Archives by simple letter or
- (d) file a note of enrolment in the Public Registry.

The answer is 27a or 27b or 27c or 27d.

B28. Possession means (a) detention of a thing or (b) detention of a thing in good faith or (c) detention of a thing *uti dominus* or (d) detention of a thing in bad faith.

The answer is 28a or 28b or 28c or 28d.

B29. Which one of the requisites of the ten-year acquisitive prescription of immovable property is out of place? (a) *iustus titulus adquisitionis* (b) detention (c) possession (d) good faith (e) ten years.

The answer is 29a or 29b or 29c or 29d or 29e.

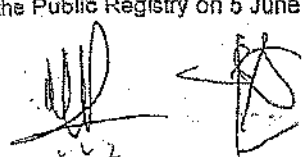
B30. By a deed published on 25 May 2006, V sold to P a house for the price of Lm50,000 out of which P paid on the deed the sum of Lm40,000 and P bound himself to pay the balance to V with interest at 6% per annum within two years from date of deed. What guarantee on the flat does V have in terms of the Civil Code? Choose the correct one: (a) a special hypothec or (b) a general hypothec or (c) a special privilege or (d) a general privilege or (e) a pledge.

The answer is 30a or 30b or 30c or 30d or 30e.

B31. In the first part of a notarial deed published on 29 May 2006, bank B gave a loan of Lm30,000 to its client P who, in the second part of the deed, purchased a flat from vendor V. In the first part of the deed, P delegated B to pay the sum given on loan directly to V in the second part of the deed as part of the purchase price of the flat. What guarantee on the flat does B have in terms of the Civil Code? Choose the correct one: (a) a special hypothec or (b) a general hypothec or (c) a special privilege or (d) a general privilege or (e) a pledge.

The answer is 31a or 31b or 31c or 31d or 31e.

B32. By a deed of Notary N of 20 May 2006, D constituted in favour of C a special hypothec on D's house, and the notary registered the special hypothec in the Public Registry on 5 June



2006. When is the special hypothec effective? Choose the correct date: (a) 20 May 2006 or (b) 5 June 2006 or (c) a date other than these two.

The answer is 32a or 32b or 32c.

B33. A special privilege on house number 15 Triq il-Hidma Msida belonging to D arose from a deed in Notary N's records of 1 April 2006 and Notary N registered the special privilege in the Public Registry on 19 May 2006. When is the special privilege effective? Choose the correct date: (a) 1 April 2006 or (b) 19 May 2006 or (c) a date other than these two.

The answer is 33a or 33b or 33c.

B34. A special privilege on house number 23 Triq il-Poeta Nazzjonali Zebbug Malta belonging to D arose from a deed in Notary N's records of 3 April 2006, and Notary N has today realized that he did not register the special privilege in the Public Registry. He may do one of the following: (a) register the special privilege on the house or (b) register a special hypothec thereon or (c) register a special legal hypothec thereon or (d) register a general legal hypothec.

The answer is 34a or 34b or 34c or 34d.

B35. D purchased immovable property in 1985 on which he constituted a special hypothec in favour of C in 1997. D is today selling the property. The sale will automatically cancel the effects of the special hypothec. (a) True or (b) False. The answer is 35a or 35b.

B36. D purchased from C immovable property in 1998 and the special privilege that arose in terms of law was registered thereon in C's favour. D is today selling the property. The sale will automatically cancel the effects of the special privilege. (a) True or (b) False. The answer is 36a or 36b.

B37. D constituted a general hypothec in favour of C in warranty of a loan of Lm10,000 which C had given to D. C has now realised that the general hypothec does not adequately cover the loan and has sought your advice. You advise him: (a) to register another general hypothec in addition to the first one; or (b) to register a special hypothec on D's house in addition to the general hypothec; or (c) to register a special privilege on D's house in addition to the general hypothec.

The answer is 37a or 37b or 37c.

B38. A special hypothec is registered in the Public Registry with progressive number H1234 of 1999. The debtor has now paid the creditor, and the latter has appeared on a notarial deed by virtue of which he gave his consent for the total cancellation of note number H1234 of 1999. In the Public Registry, the notary registers (a) another note of hypothec called a reverse-hypothec or (b) a note of reference known as a note of cancellation. The answer is 38a or 38b.

B39. In terms of the Land Registration Act, a general hypothec is called a charge. (a) True or (b) False. The answer is 39a or 39b.

B40. A house is registered in the name of S with title number 87654321. S sold the house to P by a deed of 3 May 2006, and on the deed P bound himself to pay the balance of price of Lm40,000 to S within four years from date of deed with interest at 4% per annum. Notary N, who published the deed, applied for the registration of the charge in the Land Registry on 25 May 2006 and on the 2 June 2006 the Land Registrar registered the charge with regard to title number 87654321. Which of the following is the effective date of registration of the charge? (a) 3 May 2006 or (b) 26 May 2006 or (c) 2 June 2006.

The answer is 40a or 40b or 40c.

B41. A warehouse is registered in the name of D with title number 35412378. By a deed of Notary N of 17 May 2006; C gave D a loan of Lm10,000 so that D might purchase merchandise. As a guarantee, D constituted a charge in favour of C over the warehouse. Notary N applied for the registration of the charge in the Land Registry on 31 May 2006, and on 5 June 2006 the Land Registrar registered the charge on title number 35412378. Which is the effective date of the charge? (a) 17 May 2006 or (b) 31 May 2006 or (c) 5 June 2006.

The answer is 41a or 41b or 41c.

B42. Two special hypothecs on the same garage are registered on the same day in the Public Registry. Hypothec 1 is registered at 9 am while Hypothec 2 is registered at 11 am. Which of the following is correct? (a) Hypothec 1 ranks first or (b) Hypothec 2 ranks first or (c) Hypothec 1 and Hypothec 2 have equal ranking.

The answer is 42a or 42b or 42c.

B43. Applications for the registration of two charges (in this case both equivalent to special hypothecs) on the same property are entered in the day-book as follows: Charge 1 at 9 am with progressive number 2222 and Charge 2 at 11 am with progressive number 2229. Which of the following is correct? (a) Charge 1 ranks first or (b) Charge 2 ranks first or (c) Charge 1 and Charge 2 have equal ranking.

The answer is 43a or 43b or 43c.

B44. By virtue of a special law, the Roman Catholic Church in Malta transferred to the Government of Malta most of the immovable property it had which the Church was not and did not intend using for pastoral purposes. Which of the following is the law? (a) the Roman Catholic Church (Property Transfer) Act 1992 or (b) the Ecclesiastical Entities Act 1992 or (c) the Ecclesiastical Entities (Properties) Act 1992 or (d) the Land Acquisition (Public Purposes) Ordinance.

The answer is 44a or 44b or 44c or 44d.

B45. The Government of Malta applied on 27 May 2006 for the registration of a property transferred to it by the Roman Catholic Church in terms of the law referred to in your correct answer to question B44 above. The Land Registrar issued the title on 5 June 2006. When is the effective date of registration of the title? (a) 1 October 1992 or (b) 18 February 1993 or (c) 18 February 1994 or (d) 27 May 2006 or (e) 5 June 2005.

The answer is 45a or 45b or 45c or 45d or 45e.

Please go to page 10 for section C

UNIVERSITY OF MALTA
LLD First Year
REGISTRATION OF ACTS AND TITLES
CVL 4013 [4 credits]

4 September 0915 to
2006 1015

During the test, candidates are not allowed to have any mobile 'phones and/or memory-resident electronic devices.

Candidates may answer the whole paper in ENGLISH or MALTESE.

Answer ONE question from Part One of this Section and ONE question from Part Two of this Section.

You are to bear in mind, if and where applicable, the amendments to the Land Registration Act that have not yet come into force.

Section B Part One

Answer ONE question only:

B.1.1 Consider the laws which are inapplicable with regard to land registerable in the Land Registry. (75% of the marks)

B.1.2 Compare and contrast the nature and effects of a title and a guaranteed title. (75% of the marks)

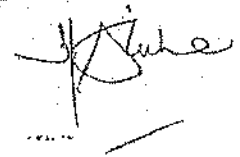
B.1.3 What are "overriding interests"? What is their effect on a guaranteed title? Discuss briefly four of the overriding interests listed in the law. (75% of the marks)

Section B Part Two

Answer ONE question only:

B.2.1 Distinguish between compulsory and declaratory registration areas. (25% of the marks)

B.2.2 What is a caution against first registration of title to land? How is such a caution lodged with the Land Registrar? What remedy does the cautioner have against a decision of the Land Registrar in relation to such a caution? (25% of the marks)



UNIVERSITY OF MALTA
LLD First Year
REGISTRATION OF ACTS AND TITLES

CVL 4013 [4 credits]

6th September 0915 to
2006 1015

During the test, candidates are not allowed to have any mobile 'phones and/or memory-resident electronic devices.

Candidates may answer the whole paper in ENGLISH or MALTESE.

Registration of Acts and Titles

You are to bear in mind, if and where applicable, the amendments to the Land Registration Act that have not come into force.

Answer any ONE of the following sets of questions:

EITHER

1.1 Consider the laws that are inapplicable with regard to land registrable in the Land Registry. (75% of the marks) and

1.2 What is a caution? Very briefly state how a caution against first registration of title to land is lodged with the Land Registrar. What remedy does the cautioner have against a decision of the Land Registrar in relation to such caution? (25% of the marks)

OR

2.1 To what extent, if at all, is it true to say that a guaranteed title is based on the mirror principle? (75% of the marks) and

2.2 What is the day-book? Why is it important? (25% of the marks)

OR

3.1 Discuss the nature of "overriding interests"? Discuss any six of the overriding interests listed in the law. (75% of the marks) and

3.2 Distinguish between compulsory and declaratory land registration areas. (25% of the marks)

UNIVERSITY OF MALTA
LLD First Year
REGISTRATION OF ACTS AND TITLES

Special Session

CVL 4013 [4 credits]

15 September 2006

0915 to 1015

During the test, the candidate is not allowed to have any mobile 'phones and/or memory-resident electronic devices.

The candidate may answer the whole paper in ENGLISH or MALTESE.

You are to bear in mind, if and where applicable, the amendments to the Land Registration Act that have not yet come into force.

Answer any TWO questions.

1. Discuss the fundamental difference between a public registry and a land registry. (50% of the marks)
2. What do you understand by the "mirror principle" in systems of land registration? To what extent, if at all, is Maltese law on land registration based on this principle? (50% of the marks)
3. Discuss the laws that cease to be operative whenever immovable property falls within a compulsory registration area? (50% of the marks)
4. What is a "caution"? What is a "cautionable interest"? Discuss the instances where a caution may be lodged against first registration of title to land and against a dealing with registered land. (50% of the marks)

should the notary take? (a) correct the original and enter his initials in the margin, or (b) make a footnote (*postilla*) to the deed and thus correct it, or (c) publish a correctory deed.

B47. Any annexe to a notarial act, which is not mentioned in the act or is not duly signed, shall not be considered as forming part of the act, except in so far as the truth of its contents results from the act itself. (a) True or (b) False or (c) True but subject to conditions.

B48. The notary may give his clients the original copy of a private writing. (a) True or (b) False.

A49. A person who is under the age of 25 cannot be appointed notary. (a) True or (b) False.

A50. Upon reaching the age of 72, notaries automatically cease to perform their functions. (a) True or (b) False.

June

2007

Section B Registration of Acts and Titles (60 marks)

- Answer all questions.
- A correct answer will be marked positively, while an incorrect one will be marked negatively.
- If you think that there may be two answers to a question, you are to decide which of the two is the more likely answer, and give that as the only answer.
- Even if some amendments introduced by Act VII of 1995 have not come into force, they should, for the purposes of this section, be considered as if they are in force.

B1. Napoleon introduced the first cadastral system in Europe *primarily* (a) to give certainty to landowners or (b) to complement the Civil Code or (c) to raise revenue or (d) to complement the Notarial Law or (e) none of the said answers. The answer is 1(a) or 1(b) or 1(c) or 1(d) or 1(e).

B2. Sir Robert Torrens was the first to introduce a system of land registration (a) in England and Wales or (b) in one of the States of Australia or (c) in one of the States of the United States of America or (d) in none of the places already mentioned. The answer is 2(a) or 2(b) or 2(c) or 2(d).

B3. The present system of registration of acts of transfer of immovable property was set up by (a) the Cadastral Act 1927 or (b) the Public Registry Act 1927 or (c) the Surveys Act 1927. The answer is 3(a) or 3(b) or 3(c).

B4. When the Maltese Land Registration Act was introduced in 1981, it was largely based on one of the following laws: (a) the English Land Registration Act 1925; or (b) the South Australia Land Registration Act 1890 or (c) the New South Wales Land Act 1883 or (d) the Louisiana Land Registration Act 1938 or (e) the Quebec amendments to the Civil Code of 1977. The answer is 4(a) or 4(b) or 4(c) or 4(d) or 4(e).

B5. The Land Registration Act 1981 was extensively amended by Act VII of 1995. The latter is based on (a) the English Land Registration (Amendment) Act 1994 or (b) the Italian Legge Cadastale (legge 259 del 1993) or (c) local experience. The answer is 5(a) or 5(b) or 5(c).

B6. A system of land registration is *primarily* based on (a) a plan or (b) a note of enrolment or (c) neither one nor the other. The answer is 6(a) or 6(b) or 6(c).

B7. The *main* aim of land registration is (a) to tax property or (b) to complement the Civil Code or (c) to give certainty to landowners or (d) to complement the Notarial Law. The answer is 7(a) or 7(b) or 7(c) or 7(d).

B8. With a few exceptions, following the amendments of 1995 to the Land Registration Act, when a person applies for first registration of title to land, the Land Registrar grants such person (a) a title which is not guaranteed or (b) a guaranteed title or (c) an absolute title or (d) a semi-absolute title. The answer is 8(a) or 8(b) or 8(c) or 8(d).

B9. You have just obtained your warrant as a notary and have published a deed of sale by X to Y for the price of Lm30,000 of a horse used for racing. You are unaware whether registration of the deed of sale in a registry is necessary so that the sale may have effect with regard to third parties. Which of the following laws do you have to consult to be dispel your doubts? (a) the Civil Code or (b) the Horses Ordinance 1959 or (c) the Horses Registry Act 1990. The answer is 9(a) or 9(b) or 9(c).

B10. X has donated to Y by public deed a painting valued Lm5,000. Is registration of the transfer in the Public Registry compulsory? (a) Yes or (b) No. The answer is 10(a) or 10(b).

B11. Applications submitted at the Land Registry for first registration of title to land are entered progressively in (a) the log book or (b) the cadastral book or (c) the Grundbuch or (d) the day-book. The answer is 11(a) or 11(b) or 11(c) or 11(d).

B12. Applications submitted at the Land Registry for charges on registered titles are entered progressively in (a) the log book or (b) the cadastral book or (c) the Grundbuch or (d) the day-book. The answer is 12(a) or 12(b) or 12(c) or 12(d).

B13. Where the Land Registration Act applies, certain provisions of the Civil Code, the Code of Organization and Civil Procedure and of any law relative to the registration in the Public Registry of certain transfers, of special hypothecs and of certain special privileges inconsistent with the Land Registration Act cease to be operative. (a) True or (b) False or (c) May be. The answer is 13(a) or 13(b) or 13(c).

B14. A purchased a house on the 3 January 1972. The area where the house is situated was declared a compulsory registration area as from the 1 April 2007. A is obliged to apply for first registration of title to his house. (a) Yes or (b) No or (c) He may decide to do whatever he likes. The answer is 14(a) or 14(b) or 14(c).

B15. In 1990, university law students and some of their teachers formed an association styled *Friends of the Civil Code* with the aim of promoting the better understanding of our Civil Law tradition through lectures, seminars and publications. The association became so popular that on 6 March 2005, it purchased from the parents of one of the students the premises it uses for its activities. The property is not in a compulsory registration area. On 1 June 2007, the Minister responsible for the Land Registry issued an Order in the Gazette directing all unincorporated associations (like *Friends of the Civil Code*) to apply between 1 July 2007 and 31 October 2007 for the registration in the Land Registry of the title to the immovable properties belonging to such associations. Those responsible for *Friends of the Civil Code* have the following options:

- (a) they should apply for registration of title in the Land Registry as stated in the Order; or
- (b) they are not obliged to apply for registration of title in the Land Registry since the time period given in the Order for registration is too short; or
- (c) they should file a note of enrolment in the Public Registry given that the property is not in a compulsory registration area; or
- (d) they should both apply for registration of title in the Land Registry and file a note of enrolment in the Public Registry.

The answer is 15(a) or 15(b) or 15(c) or 15(d).

B16. It is generally correct to say that a title which is not guaranteed is coterminous with a title at Civil Law. (a) True or (b) False. The answer is 16(a) or 16(b).

B17. To lodge a caution against first registration of title to land, the following is necessary:

- (a) an application in the prescribed form requesting the Land Registrar to caution the land;
- (b) a sworn declaration indicating the cautionable interest of the cautioner;
- (c) a cautionable interest;
- (d) a declaration by the Civil Court First Hall confirming the cautionable interest;
- (e) a plan, drawn up in terms Land Registry rules, identifying the land.

Which one of the above is not a requisite?

The answer is 17(a) or 17(b) or 17(c) or 17(d) or 17(e).

B18. To lodge a caution against a dealing with registered land, the following is necessary:

- (a) an application in the prescribed form requesting the Land Registrar to caution the registered land;
- (b) a sworn declaration indicating the cautionable interest of the cautioner;
- (c) a cautionable interest;
- (d) a declaration by the Civil Court First Hall confirming the cautionable interest;
- (e) a plan, drawn up in terms Land Registry rules, identifying the land.

Which one of the above is not a requisite?

The answer is 18(a) or 18(b) or 18(c) or 18(d) or 18(e).

B19. When a cautioner lodges a caution against first registration, he is at the same time applying for first registration of title to land. (a) True or (b) False. The answer is 19(a) or 19(b).

B20. The Land Registrar has given a decision regarding a caution with which the cautioner disagrees and he would like to pursue the matter further.

Which of the following four answers is correct?

- (a) The Land Registrar's decision is final; or
- (b) The cautioner may seek directions from the Civil Court (Voluntary Jurisdiction Section); or

- (c) He may seek judicial review from the Civil Court First Hall; or
(d) He may appeal to the Court of Appeal.
The answer is 20(a) or 20(b) or 20(c) or 20(d).

B21. On 13 May 2007, Notary N published a deed whereby Y purchased a house from X. The notary filed an application for first registration of title to the house at the Land Registry on 23 May 2007, and on 1 June 2007 a title was issued in the name of Y. Which of the following is the effective date of registration? (a) 13 May 2007; or (b) 23 May 2007; or (c) 1 June 2007. The answer is 21(a) or 21(b) or 21(c).

B22. Considering the facts in the preceding question B21, if there is no application in the Land Registry for the interruption of prescription or other caution having the same effect, when is the Land Registrar expected to convert the title into a guaranteed title? (a) 13 May 2017; or (b) 23 May 2017; or (c) 1 June 2017. The answer is 22(a) or 22(b) or 22(c).

B23. In the case mentioned in B21 and B22, is the Land Registrar in duty bound to convert the title into a guaranteed title? (a) Yes or (b) No The answer is 23(a) or 23(b).

B24. Indefeasibility of a guaranteed title means that it can only be defeated in terms of (a) the Civil Code or (b) the Notarial Law or the Land Registration Act or (c) the Land Valuation Ordinance or (d) the Developed Land (Valuation) Ordinance or (e) the Code of Organization and Civil Procedure. Which one is correct? The answer is 24(a) or 24(b) or 24(c) or 24(d) or 24(e).

B25. A guaranteed title is the same as a title at Civil Law. Which of the following is correct? (a) Yes or (b) No or (c) Yes, but there is more to it. The answer is 25(a) or 25(b) or 25(c).

B26. In 1899 land was granted on perpetual emphyteusis. Although the grant allowed the development of the land in any way, it prohibited the building on the land of any property that would be used as warehouses. The developed property was registered with a guaranteed title on 15th June 1994. The proprietor of the land has been advised that the guaranteed title has cancelled the effects of all the terms and conditions of the original grant. (a) True or (b) Likely or (c) False. The answer is 26(a) or 26(b) or 26(c).

B27. On 6 June 1990 a house, subject to a yearly pious burden of Lm2 to be used as stipend for the celebration of Holy Masses, was registered with a guaranteed title for the first time in the Land Registry in the name of X. When the application for first registration was made, the notary applying for registration forgot to state in the application form that the property is subject to the pious burden. X has been advised that he need not pay the pious burden since the guaranteed title wiped out the obligation to pay. His advice is (a) good at law or (b) not good at law? The answer is 27(a) or 27(b).

B28. On 10 October 1992, barren land was registered with a guaranteed title in the name of A who on 8 May 2007 took some friends with him on the land to admire the country and sea views. All of a sudden H, a hunter, entered the land and politely asked A and his friends to leave so that he could engage in his pursuit. He also showed A a copy of a deed by virtue of which the original owner of the land had granted the right to H to shoot birds from the land during April and May of each year. Assuming that the contract between H and the original owner is a valid one, is A's guaranteed title subject to H's rights? (a) Yes or (b) No or (c) Possibly. The answer is 28(a) or 28(b) or 28(c).

B29. Rural land is registered with a guaranteed title in the name of A who yesterday 7 June took some friends on the land for a picnic. L, the lessee of the land, enters the land and politely asks A and his friends to leave since the land is subject to a lease which terminates on 14 August 2010. A shows L his guaranteed title and argues that any lease agreement was terminated when the land was registered with a guaranteed title. Assuming that the contract of lease is a valid one, is the guaranteed title subject to L's rights? (a) Yes or (b) no or (c) Possibly. The answer is 29(a) or 29(b) or 29(c).

B30. The Government department obliged to apply for registration of title to the properties the Government of Malta acquired in terms of the Ecclesiastical Entities (Properties) Act is (a) the Lands Department or (b) the Joint Office or (c) the Estate Management Division or (d) the Land Registry or (e) the Notarial Archives. The answer is 30(a) or 30(b) or 30(c) or 30(d) or 30(e).

B31. The Government department referred to in your correct answer to the preceding question B30 applied on 15 May 2007 for the registration of one such property. The Land Registrar issued the title on 28 May 2007. When is the effective date of registration? (a) 1 October 1992 or (b) 18 February 1993 or (c) 18 February 1994 or (d) 15 May 2007 or (e) 28 May 2007 or (f) none of these answers. The answer is 31(a) or 31(b) or 31(c) or 31(d) or 31(f).

B32. The *Societas Doctrinae Christianae* (MUSEUM) is purchasing premises at Msida to be renamed "St George Preca" so that its members may teach catechism to children and adolescents. The Superior General has asked you whether the parish has the capacity under Civil Law to purchase immovable property without any condition. There are three possible answers: (a) Yes or (b) No or (c) Yes, but subject to the conditions listed in the Mortmain Law. The answer is 32(a) or 32(b) or 32(c).

B33. A purchased land in 1966. It became comprised within a compulsory registration area in 2000 and it is not registered. On 17 April 2007, A entered into an eight month preliminary agreement with B for the sale to B of the land, and the preliminary agreement has been duly registered with the Commissioner of Inland Revenue. Since B suspects that A will enter into a preliminary agreement with somebody else for the sale of the same land, he has sought advice.

Apart from other requirements in terms of any other law, what do you think should be done in the name of B so that his rights may be safeguarded as best as possible? Choose one of the following:

- (a) apply for the registration of a stop-notice at MEPA or
- (b) lodge a caution against first registration in the Land Registry or
- (c) register an annotation at the Notarial Archives or
- (d) file a note of enrolment in the Public Registry.
- (e) report the case to the Attorney General.

The answer is 33(a) or 33(b) or 33(c) or 33(d) or 33(e).

B34. On 2 October 1992, land was registered in the name of A with guaranteed title number 61000012. On 15 March 2007, A entered into an eight month preliminary agreement with B for the sale to B of the land, and the preliminary agreement was duly registered with the Commissioner of Inland Revenue. Since B suspects that A will enter into a preliminary agreement with somebody else for the sale of the same land, he has sought advice.

Apart from other requirements in terms of any other law, what do you think should be done in the name of B so that his rights may be safeguarded as best as possible? Choose one of the following:

- (a) apply for the registration of a stop-notice with MEPA or
- (b) lodge a caution against a dealing in the Land Registry or
- (c) register an annotation at the Notarial Archives or
- (d) file a note of enrolment in the Public Registry or
- (e) report the case to the Attorney General.

The answer is 34(a) or 34(b) or 34(c) or 34(d) or 34(e).

B35. Which one of the requisites of the ten-year acquisitive prescription of immovable property is out of place? (a) *iustus titulus acquisitionis* (b) detention (c) possession (d) good faith (e) ten years. The answer is 35(a) or 35(b) or 35(c) or 35(d) or 35(e).

B36. By a deed published on 4 May 2007, S sold to P a flat for the price of Lm50,000 out of which P paid on the deed the sum of Lm30,000 and P bound himself to pay the balance to S with interest at 4% per annum within four years from date of deed. What guarantee on the flat does S have in terms of the Civil Code? Choose the correct one: (a) a general hypothec or (b) a special hypothec or (c) a special privilege or (d) a general privilege or (e) the benefit of separation of estates. The answer is 36(a) or 36(b) or 36(c) or 36(d) or 36(e).

B37. In the first part of a notarial deed published on 5 May 2007, bank B gave a loan of Lm40,000 to its client P who, in the second part of the deed, purchased a flat from seller S. In the first part of the deed, P delegated B to pay the sum given on loan directly to S in the second part of the deed as part of the purchase price of the immovable. What guarantee on the immovable does B have in terms of the Civil Code? Choose the correct one: (a) a general hypothec or (b) a special hypothec or (c) a special privilege or (d) a general privilege or (e) the benefit of separation of estates. The answer is 37(a) or 37(b) or 37(c) or 37(d) or 37(e).

B38. By a deed of Notary N of 11 May 2007, A constituted in favour of B a special hypothec on A's house number 376 Triq il-Hida San Gwann, and the notary registered the special hypothec in the Public Registry on 6 June 2007. When is the special hypothec effective? Choose the correct one: (a) 11 May 2007 or (b) 6 June 2007 or (c) a date other than these two. The answer is 38(a) or 38(b) or 38(c).

B39. A special privilege on 17 Triq il-Migja tal-Papa Città Senglea belonging to A arose from a deed in Notary N's records of 17 April 2007, and Notary N registered the special privilege in the Public Registry on 6 June 2007. When is the special privilege effective? Choose the correct one: (a) 17 April 2007 or (b) 6 June 2007 or (c) a date other than these two. The answer is 39(a) or 39(b) or 39(c).

B40. A special privilege on 111 Triq il-Patrijiet Kapuccini Marsa belonging to A arose from a deed in Notary N's records of 2 April 2007 and Notary N has today realized that he did not register the special

privilege in the Public Registry. He may do one of the following: (a) register the special privilege on the immovable or (b) register a special hypothec thereon or (c) register a special legal hypothec thereon or (d) register a general legal hypothec or (e) register a general privilege.
The answer is 40(a) or 40(b) or 40(c) or 40(d) or 40(e).

B41. X purchased a garage in 1995. In 1998 he constituted a special hypothec on the garage in favour of Y. X is today selling the property. The sale will automatically cancel the effects of the special hypothec. (a) True or (b) False or (c) Unlikely. The answer is 41(a) or 41(b) or 41(c).

B42. In 1992, X purchased a house from Y and a special privilege was registered thereon in Y's favour in terms of law. X is today selling the property. The sale will automatically cancel the effects of the special privilege. (a) True or (b) False or (c) Unlikely. The answer is 42(a) or 42(b) or 42(c).

B43. A general hypothec is registered in favour of Y against X for a sum X owes him. Y is not very happy with this guarantee and he has been told that, in terms of the Civil Code, he has the right to better guarantee his credit by registering in his favour and without X's knowledge one of the following: (a) a special privilege in addition to the general hypothec or (b) a special hypothec in addition to the general hypothec or (c) a special benefit in addition to the general hypothec. Which is the correct one (a) or (b) or (c)? The answer is 43(a) or 43(b) or 43(c).

B44. In terms of the Land Registration Act, a general hypothec is called a charge. (a) True or (b) False. The answer is 43(a) or 43(b).

B45. Land is registered in the name of S with title number 18000012. S sold the land to P by a deed of 17 April 2007, and on the deed P bound himself to pay the balance of price of Lm35,000 to S within four years from date of deed with interest at 5% *per annum*. The notary who published the deed applied for the registration of the charge in the Land Registry on 28 May 2007, and on the 4 June 2007 the Land Registrar registered the charge with regard to the said title. Which of the following is the effective date of the charge? (a) 17 April 2007 or (b) 28 May 2007 or (c) 4 June 2007 or (d) a date other than those mentioned.
The answer is 45(a) or 45(b) or 45(c) or 45(d).

B46. Land is registered in the name of A with title number 22000019. By a deed of Notary N of 16 May 2007, B gave A a loan of Lm7,000 so that A could purchase a boat. As a guarantee, A constituted a charge in favour of B over the said land with title 22000019. The notary applied for the registration of the charge in the Land Registry on 25 May 2007, and on 6 June 2007 the Land Registrar registered the charge on the said title. Which of the following is the effective date of the charge? (a) 16 May 2007 or (b) 25 May 2007 or (c) 6 June 2007 or (d) a date other than those mentioned.
The answer is 46(a) or 46(b) or 46(c) or 46(d).

B47. Two special hypothecs on a house are registered on the same day in the Public Registry. Hypothec 1 with progressive number 9733 is filed at 8 am, while Hypothec 2 with progressive number 9810 is filed at 10 am. Which of the following is correct? (a) Hypothec 1 ranks first or (b) Hypothec 2 ranks first or (c) Hypothec 1 and Hypothec 2 have equal ranking or (d) none of the said answers is correct. The answer is 47(a) or 47(b) or 47(c) or 47(d).

B48. Applications for the registration of two charges (in this case both equivalent to special hypothecs) on the same land are entered in the day-book as follows: Charge 1 at 8 am with progressive number 2100 and Charge 2 at 11 am with progressive number 2177. Which of the following is correct? (a) Charge 1 ranks first or (b) Charge 2 ranks first or (c) Charge 1 and Charge 2 have equal ranking or (d) none of the said answers is correct. The answer is 48(a) or 48(b) or 48(c) or 48(d).

B49. Land registered with a guaranteed title is subject to all overriding interests for a period of twenty years from effective date of the guaranteed title. (a) True or (b) False. The answer is 49(a) or 49(b).

B50. H purchased a house on 9 October 1990, during his marriage with his wife W, and the house formed part of the community of acquists. It was registered with a guaranteed title on the 17 April 1991 only in the name of H in terms of the law as it stood before 1 December 1993. W died in 1992 and was inherited by her three children. The property is being sold today and it has transpired from an official search effected in the Land Registry that the title is registered in the name of H. It was argued that in view of the mirror principle, the sale may be effected by H without the need for the three children to be also parties to the deed. This is (a) True or (b) False. The answer is 50(a) or 50(b).

September 2007

Section B Registration of Acts and Titles (60 marks)

You are to bear in mind, if and where applicable, the amendments to the Land Registration Act that have not come into force.

Answer any ONE of the following sets of questions:

EITHER

B.1.1 Consider the laws that are inapplicable with regard to land registrable in the Land Registry. (45 marks) and

B.1.2 What is a caution? Very briefly state how a caution against first registration of title to land is lodged with the Land Registrar. What remedy does the cautioner have against a decision of the Land Registrar in relation to such caution? (15 marks)

OR

B.2.1 To what extent, if at all, is it true to say that a guaranteed title is based on the mirror principle? (45 marks) and

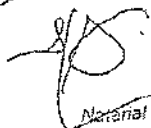
B.2.2 What is the day-book? Why is it important? (15 marks)

OR

B.3.1 Discuss the nature of "overriding interests"? Discuss any six of the overriding interests listed in the law. (45 marks) and

B.3.2 Distinguish between compulsory and declaratory land registration areas. (15 marks)

Please go to page 3



June 2009

Section B Registration of Acts and Titles (25% of the total marks)

- Answer all questions.
- A correct answer will be marked positively.
- An incorrect answer or no answer will be marked negatively.
- If you have any doubt as to the correct answer to a question, it is advisable that you answer it nonetheless.

B1. The Maltese Land Registration Act, as originally enacted in 1981, is a simplified version of one of the following laws: (a) the English Land Registration Act 1925; or (b) the South Africa (Pretoria) Land Usage and Registration Act 1929; or (c) the South Dakota Land Registration Act 1932 or (d) the South Australia Land Registration Act 1910. Which is the correct one?

B2. The amendments to the Land Registration Act 1981 introduced by Act VII of 1995 are largely based on one of the following (a) the amendments made to the Italian cadastral law by virtue of the *legge 342 del 1992*; or (b) the English Land Registration (Amendment) Act 1993; or (c) the South Australia Land Registration (Amendment) Act 1994; or (d) local experience. Which is the correct one?

B3. A public registry is based *primarily* on (a) an index of names and surnames; or (b) a map; or (c) neither one nor the other. Which is the correct answer?

B4. The *main* aim of land registration is (a) to give comfort to landowners; or (b) to raise revenue; or (c) to provide statistics to a statistics office; or (d) to register all forms of acts and titles. Which is the correct answer?

B5. In the normal run of cases, when a person applies for first registration of title to land, the Land Registrar grants such person (a) a title which is not guaranteed; or (b) a semi-guaranteed title; or (c) a guaranteed title; or (d) a guaranteed title known as type A. Which is the correct answer?

B6. A is the owner of a house he purchased on 10 January 1980. The area where the house is situate was declared a compulsory registration area as from 1 April 2009. A, who does not want to make unnecessary expenses, has asked you whether he is *obliged* to apply for first registration of title to his house. (a) Yes; or (b) No; or (c) there is no hard and fast rule. Which is the correct answer?

B7. On 1 September 1995 the Sliema Flora Association, a non-governmental organization, purchased the premises it uses as its centre. The premises are not in a compulsory registration area. On 1 April 2009, the Minister responsible for the Land Registry issued an order in the Gazette obliging all NGOs like Sliema Flora Association to apply between 1 July 2009 and 31 December 2009 for the registration in the Land Registry of the title to any immovable property belonging to them. The Sliema Flora Association has asked you for your opinion, and you have stated the following:

7a. the Association should apply for registration of title in the Land Registry as stated in the order; or

7b. it is not obliged to apply for registration of title in the Land Registry since the time laid down in the order should have been one year rather than six months; or

7c. it should inform the Attorney General's office that it owns the property.

Which is the correct answer?

B8. On 15 May 1990 X purchased a garage in Birkirkara. On 1 July 1998, the area where the garage is situate became a compulsory land registration area. On 6 April 2000, X took vows (at times also referred to as solemn vows), including the vow of poverty as a cloistered nun in the Order of the Poor Clares at their convent in St Julians. A, B and C, the three universal heirs of X, have entered into a preliminary agreement for the sale of the garage to L, and from a search the notary has conducted in the Land Registry, it has transpired that the garage is not registered in the Land Registry. What action should be taken? Choose the correct answer:

- 8a. An application for first registration of title in the name of X is filed in the Land Registry before the publication of the deed, or
8b. An application for first registration of title in the name of A, B and C is filed in the Land Registry before the publication of the deed, or
8c. An application for first registration of title in the name of L is filed in the Land Registry after the publication of the deed.

B9. It is *generally* correct to say that a title which is not guaranteed is coterminous with a title at Civil Law. (a) True; or (b) False. Which is the correct answer?

B10. The requisites for lodging a caution against first registration of title to land are the following:

- 10a. an application in the prescribed form requesting the Land Registrar to caution the land;
10b. a sworn declaration indicating the cautionable interest of the cautioner;
10c. a cautionable interest;
10d. a declaration by a Court of Voluntary Jurisdiction confirming the cautionable interest;
10e. a map identifying the land, drawn up in terms Land Registry Rules.

Which one of the above is not a requisite?

B11. The Land Registrar has given a decision regarding a caution with which the cautionee disagrees. The cautionee has asked you for your opinion as to what he could do to challenge the decision. Which one of the following answers is correct?

- 11a. The cautionee may appeal to the Land Registry Appeals Board; or
11b. The cautionee may seek redress from the Ombudsman; or
11c. The cautionee may seek judicial review by the Civil Court First Hall; or
11d. The cautionee may appeal to the Court of Appeal; or
11e. The cautionee cannot do anything since the Land Registrar's decision is final.

B12. Following a deed of sale of a garage by John Vella to Joseph Borg published on 18 May 2009, an application for first registration of title to the garage was filed at the Land Registry on 25 May 2009, and on 1 June 2009 a title was issued in the name of Joseph Borg. Which of the following is the effective date of registration? (a) 18 May 2009; or (b) 25 May 2009; or (c) 1 June 2009.

B13. Considering the facts in the preceding question B12, if there is no application in the Land Registry for the interruption of prescription or other caution having the same effect, when must the Land Registrar convert the title into a guaranteed title? (a) 18 May 2019; or (b) 25 May 2019; or (c) 1 June 2019.

B14. Alfred Camilleri has purchased from the Government of Malta freehold land which is in a compulsory land registration area but which has not yet been registered for the first time. Following an application for first registration, the Land Registrar issues in favour of Alfred Camilleri (a) a possessory title; or (b) a title which is not guaranteed; or (c) a qualified title; or (d) a guaranteed title. Which is the correct answer?

B15. Peter Mifsud has sold to the Government of Malta freehold land which is in a compulsory land registration area but which has not yet been registered for the first time. Following an application for first registration, the Land Registrar issues in favour of the Government of Malta (a) a possessory title; or (b) a title which is not guaranteed; or (c) a qualified title; or (d) a guaranteed title. Which is the correct answer?

B16. The Government of Malta applied on 27 May 2009 for the registration of an immovable which had been transferred to it in terms of the Ecclesiastical Entities (Properties) Act 1992. The Land Registrar issued the title on 5 June 2009. When is the effective date of registration of the title? (a) 1 October 1992; or (b) 18 February 1993; or (c) 18 February 1994; or (d) 27 May 2009; or (e) 5 June 2009. Which is the correct answer?

B17. The Provincial of the Maltese Province of the Order of Preachers (Dominicans) has commissioned you to apply in the Land Registry in terms of the Ecclesiastical Entities (Properties) Act for the registration in the name of the Maltese Province of its seven churches, seven convents and a school which in terms of that law the Province had retained on the appointed day. On 15 May 2009 you applied in the name of the Province for the registration of the title to these immovables. On 29 May 2009, the Land Registrar issued in the name of the Maltese Province titles to the various immovables. Which is the effective date of registration? (a) 1 October 1992; or (b) 18 February 1993; or (c) 18 February 1994; or (d) 15 May 2009; or (e) 29 May 2009.

B18. X, who died on 15 April 2009, bequeathed by title of legacy a house to the new Parish Church of Swatar so that it may be used as the residence of the parish priest. The universal heirs of X have argued that the Parish Church of Swatar does not have the capacity at Civil Law to acquire immovable property by title of succession. Are the universal heirs correct? (a) Yes; or (b) No.

B19. Indefeasibility of a guaranteed title means that it can only be defeated in terms of (a) the Public Registry Act; or (b) the Land Registration Act; or (c) the Civil Code; or (d) the Registered Titles (Quashing) Act 1981. Which is the correct answer?

B20. By a notarial deed of 11 January 1902, the owner of S (the servient tenement) constituted in perpetuity in favour of the owner of D (the dominant tenement) the servitude of *altius non tollendi* above a certain height. In 1990, S was registered with a guaranteed title in the Land Registry, and the property is shortly to be sold. The present owner of S has been advised that the guaranteed title has wiped off the effects of the servitude. Is the advice (a) good at law; or (b) bad at law?

B21. In January 1993, a large tract of land was registered with a guaranteed title in the name of A who, on 15 September 2008, sold it to B, in whose name it was registered a fortnight later. On 30 October 2008, B took his family for an outing and visited his land where, to his surprise, H a hunter was enjoying his pastime. Informing H that the property was registered in B's name, B warned him not to return to the land again. H, on his part, showed B a copy of a deed by virtue of which A had granted the right to H to hunt during the autumn months of each year. Assuming that the contract between A and H is still in force, is B's guaranteed title subject to H's rights? (a) Yes; or (b) no; or (c) possibly.

B22. On 17 July 1990 H purchased a warehouse during his marriage with his wife W, and the immovable formed part of the community of acquests. On 15 March 1991 it was registered with a guaranteed title in the name of H as used to be done before the family law came into force on 1 December 1993. W died in 1992 and was inherited by A, B, C, D and E, the five sons of H and W. The warehouse is being sold today and it has transpired from an official search carried out at the Land Registry that the title is registered in the name of H. H has been advised that in view of the mirror principle, H may sell the property without the need for the heirs of W to be parties to the deed. Is the advice (a) good at law; or (b) bad at law?

B23. Following a deed of sale of land between A and B, the notary who published the deed has applied for first registration of title to the land in the name of B. The Land Registrar has now informed B and the notary that part of the land is already registered in the name of C with a title which is not guaranteed. Which of the following is correct?

23a. B should take no action and allow the Registrar to take any remedial administrative action himself; or

23b. B may lodge a caution against C with regard to the part of the land that has already been registered in C's name; or

23c. B should ask the Land Registry Complaints Board to investigate the matter.

B24. Which one of the requisites of the ten-year acquisitive prescription of immovable property is out of place? (a) a title capable of transferring ownership; or (b) detention, or (c) possession, or (d) good faith, or (e) ten years.

B25. On 18 May 2009, D constituted in favour of C a special hypothec on D's warehouse, and the notary who published the deed registered the special hypothec in the Public Registry on 8 June 2009. When is the special hypothec effective? Choose the correct date: (a) 18 May 2009 or (b) 8 June 2009 or (c) a date other than these two.

B26. A special privilege on house number 22 Triq il-Kubrit Gudja belonging to D arose from a deed in Notary N's records of 5 April 2009, and Notary N filed a note for the registration of the special privilege in the Public Registry on 28 May 2009. When is the special privilege effective? (a) 5 April 2009; or (b) 28 May 2009; or (c) a date other than these two.

B27. A special privilege on house number 78 Triq il-Kejja Rabat Malta belonging to D arose from a deed in Notary N's records of 6 April 2009, and Notary N has today realized that he has not yet filed the note in the Public Registry. He may file one of the following notes for registration of: (a) a special privilege on the house; or (b) a special hypothec thereon; or (c) a special legal hypothec thereon; or (d) a general legal hypothec.

B28. A garage, registered in the name of V with title number 12345678, was sold to P by a deed of 7 May 2009. On the deed, P bound himself to pay the balance of price of €10,000 to V within two years from date of deed without interest. The notary who published the deed applied for the registration of the charge in the Land Registry on 1 June 2009, and on the 5 June 2009 the Land Registrar registered the charge with regard to the said title. Which of the following is the effective date of registration of the charge? (a) 7 May 2009; or (b) 1 June 2009; or (c) 5 June 2009.

B29. Two special hypothecs on the same maisonette are filed on the same day in the Public Registry. Hypothec 1 with number H8990 is filed at 930 am while Hypothec 2 with number H9057 is filed at 11 am. Which of the following is correct? (a) Hypothec 1 ranks first; or (b) Hypothec 2 ranks first; or (c) Hypothec 1 and Hypothec 2 have equal ranking.

B30. Applications for the registration of two charges (both being special hypothecs) on the same garage are entered in the day-book on the same day as follows: Charge 1 at 930 am with progressive number 3636, and Charge 2 at 1100 am with progressive number 3665. If the Land Registrar registers both charges, which of the following is correct? (a) Charge 1 ranks first; or (b) Charge 2 ranks first; or (c) Charge 1 and Charge 2 have equal ranking.

September 2009

Section B

Registration of Acts and Titles – (25 marks)

Answer both Part ONE and Part TWO

Part ONE:

Choose any ONE question from this part:

B.1.1 Compare and contrast the nature and effects of a title and a guaranteed title. (13 marks)

B.1.2 What does the "mirror principle" mean in the context of land registration? (13 marks)

B.1.3 What are "overriding interests"? What is their effect on a guaranteed title? Discuss briefly five of the overriding interests listed in the law. (13 marks)

Part TWO:

Choose any THREE questions from this part:

B.2.1 Which properties are registerable in the Land Registry in terms of the Ecclesiastical Entities (Properties) Act? Who applies for registration of title? What is the effective date of registration? (4 marks)

B.2.2 Consider the following two cases:

(a) Two special hypothecs on property X belonging to debtor A are registered in the Public Registry on the same day. The one in favour of creditor B1 is registered at 8 am, and the one in favour of creditor B2 at 9 am. Which ranks first and why? **AND**

(b) Two charges (equivalent to special hypothecs) are registered on the same day on property Y belonging to debtor D, which is registered in the Land Registry with title number 12345678. The application for the charge in favour of creditor C1 is lodged at 10 am, and the charge in favour of creditor C2 at 11 am. Which ranks first and why?

[(a) and (b) 4 marks]

B.2.3 Distinguish between compulsory and declaratory registration areas. (4 marks)

B.2.4 How is a caution against first registration of title to land lodged in the Land Registry? (4 marks)

B.2.5 D purchased from C immovable property in 2002, and the special privilege that arose thereon in terms of law was registered in the Public Registry in C's favour in the period of time required by law. D is today selling the property. Does the sale automatically cancel the effects of the special privilege? Briefly state why. (4 marks)

University of Malta
Faculty of Law
CVL4013 Registration of Acts and Titles

6th September 2010 0915am to 1015am

- Answer both Section A and Section B.
- During the examination, candidates are not allowed to have any mobile phones and/or memory-resident electronic devices.

Section A (60 marks)

Answer question A1 or A2 or A3:

A1 To what extent, if at all, is the Maltese Land Registration Act based on the "mirror principle"? (60 marks)

A2 Compare and contrast the nature and effects of a title and a guaranteed title. (60 marks)

A3 (a) To what extent, if at all, do "overriding interests" affect a guaranteed title? (25 marks)

(b) Analyse any five of the overriding interests listed in the Land Registration Act? (35 marks)

Section B (40 marks)

Answer TWO questions from this section:

B1 Distinguish between compulsory and declaratory registration areas. (20 marks)

B2 What is the role of land registration in the context of the Ecclesiastical Entities (Properties) Act? (20 marks)

B3 (a) What is a caution? (5 marks)

(b) How is a caution lodged against first registration of title to land? (10 marks)

(c) What remedy does the cautioner have against a decision of the Land Registrar with regard to such a caution? (5 marks)

please turn over

continued from previous page

- B4 (a) When does succession open? (5 marks)**
(b) Which documents together prove how a deceased person's succession is governed? (10 marks)
(c) What application could be filed in Court if it is thought advisable to have a Court declaration as to who are the universal heirs of the deceased? (5 marks)
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University of Malta

Faculty of Laws

CVL4013 Registration of Acts and Titles

Written Examination June Session
9 June 2011 0915 am to 1015 am

- Answer all questions.
- Each question carries 2.5 marks.
- A correct answer will be marked positively, that is you will score 2.5 marks.
- An incorrect answer, or no answer at all, will be marked negatively, that is 2.5 marks will be deducted.
- There is only one correct answer to each question. If you think that there may be two or more correct answers to the same question, you are to decide which one is the likely answer, and give that as the only answer.
- When answering the questions, you should indicate the number of each question and near it the letter corresponding to the correct answer to such question. You should not write any explanatory notes.
- During the examination, candidates are not allowed to have any mobile 'phones and/or memory-resident electronic devices, including calculators

(1) The following transactions must *ad validitatem* be embodied in a notarial act: (a) the exchange of a house and a yacht; (b) the donation of a site for a grave; (c) the promise to sell and the promise to buy a penthouse; (d) an emphyteutical concession; (e) the transfer of a garage by title of *datio in solutum*. Which one of such transactions is **out of place**?

(2) Before the coming into force of the Land Registration Act, what was the only means of publicity available for the benefit of third parties regarding the sale of a house from X to Y? (a) a note of enrolment filed at the Land Valuation Office; or (b) a note of enrolment filed at the Notarial Archives; or (c) a note of enrolment filed at the Attorney General's Office; or (d) a note of enrolment filed in the Public Registry. Which is the correct one?

(3) Before the following Civil law issues had been successfully tackled, it was very difficult for a system of land registration to be introduced in Malta: (a) the *diritto di seguito* inherent in the general hypothec; (b) *laesio enormis*; (c) legal redemption (*irkupru legali*); (d) pledge. One of them is **out of place**. Which?

(4) When the Maltese Land Registration Act was enacted in 1981, it was largely modelled on one of the following laws: (a) the English Land Registration Act 1925; or (b) the South Australian Land Registration Act 1890; or (c) the Ontario Land Registration Act 1969; or (d) the New England Land Registration Act 1912. Which one?

(5) Act VII of 1995 amending the Land Registration Act 1981 (a) was largely modelled on the amendments to the Italian cadastral law introduced by law 133 of 1990; or (b) was based on the amendments introduced in England by the Land Registration Amendment Act 1993; or (c) was generally inspired by the Ontario Land Registration Amendment Act 1990; or (d) addressed various land registration issues which had arisen in Malta since the coming into force of the Land Registration Act 1981. Which one?

(6) A cadastral system exists primarily (a) to give comfort to landowners; or (b) to raise revenue; or (c) to provide statistics to a statistics office; or (d) to help Local Councils manage land use. Which one is correct?

(7) Sir Robert Torrens was the first to introduce land registration in (a) England and Wales; or (b) in one of the States of Australia; or (c) in one of the provinces of Canada; or (d) in one of the States of the United States of America; or (e) in South Africa. Which one is correct?

(8) The main aim of land registration is (a) to give comfort to landowners; or (b) to raise revenue; or (c) to provide statistics to a statistics office; or (d) to help Local Councils manage land use. Which one is correct?

(9) In the normal run of cases, when a person applies for first registration of title to land, the Land Registrar grants such person one of the following: (a) a title which is not guaranteed; or (b) a guaranteed title; or (c) an absolute title; or (d) a possessory title. Which one is correct?

(10) The ideal land registration system is based on the following: (a) the indefeasibility of the guaranteed title; (b) the rectification of the register/Government indemnity; (c) the overriding interests; (d) the mirror principle. One of them is out of place. Which?

(11) A is the owner of a house he purchased on 22 March 1980. On 15 December 2010 the Minister responsible for the Land Registry issued an Order declaring the area where the house is situated to be a compulsory registration area as from 1 January 2011. A has asked you whether, pursuant to the Order, he is obliged to apply for first registration of title to his house: (a) Yes; or (b) No. Which is correct?

(12) On 7 December 2000 the Gudja Snooker Club purchased the premises it uses for its activities. The premises are not in a compulsory registration area nor are they registrable for any other reason. However, on 1 June 2011, the Minister responsible for the Land Registry issued an Order in the Gazette requesting all sports clubs to apply between 1 August 2011 and 31 December 2011 for the registration in the Land Registry of title to any immovable property belonging to sports clubs. The Gudja Snooker Club has sought your advice. The correct advice you give is one of the following:

(a) since all the requisites of the law have been satisfied, it should apply for registration of title in the Land Registry as stated in the Order; or

(b) since the time period given in the Order is too short, it is not obliged to apply for registration of title in the Land Registry; or

(c) since sports clubs cannot be the subject of such an Order, it is not obliged to apply for registration of title in the Land Registry; or

(d) since the property is not in a compulsory registration area, a note describing the property should be filed with the Registrar of Non-Government Organizations.

(13) On 22 July 1994 Alfred, a bachelor, purchased a flat in Birkirkara. On 1 October 1997, the area where the flat is situate became a compulsory registration area. Alfred entered the Capuchin Franciscan Order in September 1999 and on 6 October 2004 Alfred (now Brother Alfred) took vows (sometimes referred to as solemn vows), including the vow of poverty. On 15 April 1999, he had made a will appointing as his three universal heirs his brothers Anthony, Brian and Charles. On 15 May 2011, Anthony, Brian and Charles entered into a preliminary agreement for the sale of the flat to James. A search at the Land Registry has shown that the flat is not registered in that registry. What action should be taken? The correct answer is one of the following:

- (a) An application for first registration of title in the name of Brother Alfred should be filed in the Land Registry before the publication of the notarial act; or
- (b) An application for first registration of title in the name of Anthony, Brian and Charles should be filed in the Land Registry before the publication of the notarial act; or
- (c) An application for first registration of title in the name of Brother Alfred and in the name of Anthony, Brian and Charles should be filed in the Land Registry before the publication of the notarial act; or
- (d) An application for first registration of title in the name of James should be filed in the Land Registry after the publication of the notarial act.

(14) Land at Birkirkara known as *tal-Fatati* was never registerable in the Land Registry. Today the President of the Republic issued a Declaration in terms of the Land Acquisition (Public Purposes) Ordinance that the absolute ownership of such land was required for a public purpose. What action, if any, should the Commissioner of Land (as the competent authority) take? Choose one of the following:

- (a) He is bound to apply in the Land Registry for first registration of title to the land within six months from today; or
- (b) He is bound to apply in the Land Registry for first registration of title to the land within three months from today; or
- (c) He is bound to file a note of enrolment in the Public Registry within fifteen days from today giving all the relevant details; or
- (d) He is bound to file a note in the Notarial Archives within two months from today including a plan of the land; or
- (e) He need not do anything.

(15) The requisites for lodging a caution against first registration of title to land are the following:

- (a) an application in the prescribed form requesting the Land Registrar to caution the land;
- (b) a cautionable interest;
- (c) a sworn declaration indicating the cautionable interest of the cautioner;
- (d) a declaration by the Land Registry Tribunal confirming the cautionable interest;
- (e) a plan identifying the land, drawn up in terms of the relevant Land Registry rules.

Which one of the above is **not** a requisite?

(16) The Land Registrar has given a decision regarding a caution with which the cautioner disagrees. The cautioner would like to pursue the matter further and has sought your advice. You advise one of the following. Which?

- (a) The cautioner may seek redress by application to the Civil Court (Voluntary Jurisdiction Section); or
- (b) He may appeal to the Land Registry Tribunal; or
- (c) He may appeal to the Administrative Law Tribunal; or

- (d) He may seek judicial review by the Civil Court First Hall; or
(e) He may appeal to the Court of Appeal.

(17) The procedure referred to in your correct answer to question 16 must be initiated within the period of time mentioned hereunder to be calculated from the date on which notice was given of the Land Registrar's decision: (a) seven days; or (b) twelve days; or (c) twenty days; or (d) a period of time other than what is mentioned in the other answers. Which one is correct?

(18) On 17 May 2011 a notarial act was published by virtue of which Victor Camilleri sold a house to Paul Borg. On 30 May 2011, an application for first registration of title to the house was filed at the Land Registry, and on 6 June 2011 a title was issued in the name of Paul Borg. Which of the following is the effective date of registration? (a) 17 May 2011; or (b) 30 May 2011; or (c) 6 June 2011; or (d) a date other than the ones given in the other answers to this question. Choose the correct one.

(19) Considering the facts in the preceding question 18, if there is no application in the Land Registry for the interruption of prescription or other caution having the same effect, when must the Land Registrar convert the title into a guaranteed title? (a) 17 May 2021; or (b) 30 May 2021; or (c) 6 June 2021; or (d) a date other than the ones given in the other answers to this question. Choose the correct one.

(20) Indefeasibility of a guaranteed title means that it can only be defeated in terms of (a) the Civil Code; or (b) the Public Registry Act; or (c) the Land Valuation Ordinance; or (d) the Land Registration Act; or (e) the Indefeasibility of Titles Act. Which is the correct one?

(21) By a notarial act of the 15 June 1873 A, as the owner of plot of land L1, subjected such land to the servitude not to build higher than one storey in favour of B as the owner of the adjoining plot of land L2. The notarial act was duly registered in the Public Registry. In the course of the years, both L1 and L2 were transferred various times by onerous title and they were ultimately inherited by X and Y respectively. In 1990 and 1992, the Land Registrar issued guaranteed titles with regard to both L1 and L2 in the respective names of X and Y. Neither certificate of title mentions the servitude constituted in 1873. X is selling L1 to a developer who plans to build a seven-storey complex with five storeys above street level. You are advising the developer. What advice would you give him? Choose the correct one:

- (a) Since the servitude was constituted over a hundred years ago, it is no longer effective and, consequently, whatever appears or does not appear on the certificate of title is immaterial. The developer may therefore purchase and develop the land as he may wish. or
(b) The grant of the guaranteed title has cancelled all the effects of the servitude. The developer may therefore purchase and develop the land as he may wish. or
(c) Since all servitudes continue to affect a guaranteed title notwithstanding the fact that there is no reference to them in the certificate of title, the land will still be affected by the servitude. He should not buy.

(22) X read in a newspaper an offer for the sale of ten tumoli of barren land in the limits of Mellieha. Considering that the price was reasonable, X purchased the land without going on site to check whether anyone was occupying it. Following the publication of the notarial act of sale, the notary applied for first registration of title to the land in X's name, and the Land Registrar granted him a guaranteed title on 15 July 1992. Some time later, X emigrated to Canada without having ever gone on site. Last year, Y alleged that since he had been possessing such land for a continuous

period of thirty years, uninterruptedly, peaceably, openly and unequivocally he had become its owner and is now seeking registration in his name of the full ownership of the land at the Land Registry. X, who has returned from Canada, opposes such claim. Assuming that Y really possessed the land for the period and in the manner he claims, which one of the following is correct?

- (a) X's guaranteed title can never be defeated by Y's claims;
- (b) It is debatable whether X's guaranteed title can ever be defeated by Y's claims;
- (c) X's guaranteed title is subject to Y's rights.

(23) On 20 June 1887 land was granted on perpetual emphyteusis with effect from that date. One of the conditions of the grant prohibited the building on the land of any property for commercial purposes. The *utile dominium perpetuum* was registered in the name of A with a guaranteed title on 14 September 1991, and A has been advised that the guaranteed title has cancelled the effects of all the terms and conditions of the original emphyteutical grant. At law, the advice is (a) probably good; or (b) certainly good; or (c) probably bad; or (d) certainly bad. Which one is the correct answer?

(24) On 25 March 1990 H purchased a garage during his marriage with his wife W, and the garage formed part of the community of acquests between H and W. The Land Registrar granted a guaranteed title on 20 December 1990 and, as he used to do prior to 1 December 1993, he did so in the name of H. In 1992 W died intestate and, in terms of the law of succession as it then stood, her four children A, B, C and D inherited her equally between them. The garage is being sold today. It has transpired from an official search conducted at the Land Registry that the title is registered in the name of H. H has been advised to go ahead with the sale of the garage without the need for the four children to be parties to the notarial act. At law, the advice is (a) probably good; or (b) certainly good; or (c) probably bad; or (d) certainly bad. Which one is correct?

(25) The Parish of Kalkara has decided to purchase premises to be used as a Parish Centre. The Parish Priest has been given the following advice:
(a) The Parish may purchase without any condition; or
(b) The Parish may purchase on condition that the Civil Court (Voluntary Jurisdiction Section) gives its authorization; or
(c) The Parish may purchase on condition that the notary publishing the notarial act informs the Attorney General of the publication of the act within fifteen days of the date of such transfer.
Which one is correct?

(26) X who died on 1 February 2011 bequeathed a house to the Parish Church of Manikata so that it may be used as the residence of the Parish Priest. The universal heirs of X have refused to vest the Parish Church of Manikata with possession of the house arguing that the Parish Church of Manikata does not have the legal capacity to acquire immovable property by title of succession. Are the universal heirs correct? The answer is (a) Yes; or (b) No. Which of the two answers is correct?

(27) On 10 May 1994 a house was registered in the name of Vanni Borg with guaranteed title number 121234345. On 15 April 2011, Vanni Borg signed an eighteen month preliminary agreement with Patrick Cauchi for the sale to the latter of the house, and the preliminary agreement was duly registered with the Commissioner of Inland Revenue. Patrick Cauchi suspects that Vanni Borg could enter into a preliminary agreement with somebody else for the sale of the same house. Accordingly, he has sought your advice.

Apart from any other requirement in terms of any other law, what do you think should be done in the name of Patrick Cauchi so that, as far as possible, his rights may be safeguarded? Choose **one** of the following:

- (a) file a note of enrolment in the Public Registry; **or**
- (b) apply for MEPA to issue a stop-notice; **or**
- (c) lodge a caution against a dealing in the Land Registry; **or**
- (d) lodge a complaint with the Land Registrar by formal letter.

(28) The ten-year acquisitive prescription of immovable property has the following requisites: (a) *iustus titulus acquisitionis*; (b) a notary's written endorsement of the title; (c) *detentio uti dominus*; (d) good faith; (e) ten years. Which **one** is out of place?

(29) **One** of following is **not** a *iustus titulus acquisitionis* of immovable property: (a) sale; (b) *datio in solutum*; (c) succession by universal title; (d) exchange. Which is the **one**?

(30) By a notarial act published on 18 April 2011, Vendor sold to Purchaser a warehouse for the price of €100,000 out of which the Purchaser paid on the act the sum of €70,000 and he bound himself to pay the balance to the Vendor with interest at 4% *per annum* within three years from date of the notarial act. Assuming that the note was filed in the Public Registry in terms of law, what guarantee on the warehouse does the Vendor have in terms of the Civil Code? Choose the correct **one**: (a) a special hypothec; **or** (b) a general hypothec; **or** (c) a special privilege; **or** (d) a general privilege; **or** (e) a pledge.

(31) A notarial act was published on 10 May 2011. In the first part of the notarial act, bank B gave a loan of €70,000 to its client P who, in the second part of the act, purchased a flat from vendor V. In the first part of the act, P delegated B to pay the sum given on loan directly to vendor V in the second part of the notarial act as part of the purchase price of the flat. Assuming that the note was filed in terms of law, what guarantee on the flat does B have in terms of the Civil Code? Choose the correct **one**: (a) a special hypothec; **or** (b) a general hypothec; **or** (c) a special privilege; **or** (d) a general privilege; **or** (e) a pledge.

(32) By virtue of a notarial act of 12 May 2011, A constituted in favour of B a special hypothec on A's garage, and the notary filed a note of special hypothec in the Public Registry on 9 June 2011. When is the special hypothec effective? Choose the correct date: (a) 12 May 2011; **or** (b) 9 June 2011; **or** (c) a date other than these two.

(33) A special privilege on garage number 318 Triq il-Gebel Ixhal Santa Venera belonging to D arose from a notarial act of 2 April 2011, and the notary has today realized that he has not yet filed the note in the Public Registry. He is doing so today. He may validly file a note of **one** of the following: (a) a special privilege on the garage; **or** (b) a special hypothec thereon; **or** (c) a special legal hypothec thereon; **or** (d) a general legal hypothec.

(34) X purchased a maisonette in 1990 on which he constituted a special hypothec in favour of Y in 1995 to guarantee a loan Y granted X. X is today selling the property. The sale will automatically cancel the effects of the special hypothec. This is (a) probable; **or** (b) possible; **or** (c) false; **or** (d) true. Which is the correct answer?

(35) A maisonette is registered in the name of Darren Vella with title number 876543210. By a notarial act of 10 May 2011, Charles Borg gave Darren Vella a loan

of €30,000 for the latter to be able to pay for a consignment of electronic equipment. As a guarantee, Darren Vella constituted a charge in favour of Charles Borg over the maisonette. On 26 May 2011, the notary applied in the Land Registry for the registration of the charge, and on 1 June 2011 the Land Registrar registered the charge on title number 876543210. When is the charge effective? Choose the correct answer: (a) 10 May 2011; or (b) 26 May 2011; or (c) 1 June 2011; or (d) or a date other than those given in the other answers.

(36) Two special hypothecs on the same immovable belonging to Daniel Borg are registered on the same day in the Public Registry. Hypothec 1 in favour of C1 is registered at 8 am while Hypothec 2 in favour of C2 is registered at 11 am. Which one of the following is correct? (a) Hypothec 1 and Hypothec 2 confer equal ranking on C1 and C2; or (b) Hypothec 1 confers first ranking on C1; or (c) Hypothec 2 confers first ranking on C2.

(37) Applications for the registration of two charges (both equivalent to special hypothecs) on the same immovable with title number 242424245 are entered in the day-book on the same day as follows: Charge 1 in favour of Creditor 1 at 8 am with progressive number 3232 and Charge 2 in favour of Creditor 2 at 11 am with progressive number 3290. Which one of the following is correct? (a) Charge 1 and Charge 2 confer equal ranking on Creditor 1 and Creditor 2; or (b) Charge 1 confers first ranking on Creditor 1; or (c) Charge 2 confers first ranking on Creditor 2.

(38) In 1947 the Congregation of Nuns of St Joseph of the Apparition validly purchased land at Mqabba on which the Congregation built a school which it still owns and runs for such purpose. The Congregation was informed that, according to the provisions of a special law, the title to the school should be registered in the Congregation's name in the Land Registry. Which one of the following is correct?

- (a) The Congregation itself should apply for first registration of title to the school; or
- (b) The Curia should apply in the name of the Congregation for first registration of title to the school; or
- (c) The Joint Office should apply in the name of the Congregation for first registration of title to the school; or
- (d) The Attorney General should apply in the name of the Congregation for first registration of title to the school.

(39) In terms of your correct answer to question 38, application was duly made on 25 May 2011 for registration of title to the school in the name of the Congregation. The Land Registrar issued the title on 9 June 2011. Which of the following is the effective date of registration? Choose one: (a) 1 October 1992; or (b) 18 February 1993; or (c) 18 February 1994; or (d) 25 May 2011; or (e) 9 June 2011.

(40) There is a proposal that the present list of thirteen overriding interests affecting a guaranteed title be reduced to four. If this were to become law, how would the guaranteed title change? Choose one: (a) it would become stronger; or (b) it would become weaker; or (c) it would not change at all.

University of Malta

Faculty of Laws

CVL4013 Registration of Acts and Titles

4 credits

13th September 2011 1145 to 1245

- Answer **all** questions.
- Each question carries 2.5 marks.
- A correct answer will be marked positively, that is you will score 2.5 marks.
- An incorrect answer, or no answer at all, will be marked negatively, that is 2.5 marks will be deducted.
- There is only **one** correct answer to each question. If you think that there may be two or more correct answers to the same question, you are to decide which one is the likely answer, and give that as the **only** answer.
- When answering the questions, you should indicate the number of each question and near it the letter corresponding to the correct answer to such question. You should **not** write any explanatory notes.
- During the examination, candidates are not allowed to have any mobile phones and/or memory-resident electronic devices, including calculators.

(1) The following transactions must on pain of nullity be embodied in a notarial act: (a) the exchange of a house and a warehouse; (b) the donation of a site for a grave; (c) the promise to sell and buy a flat; (d) an emphyteutical concession. Which one of such transactions is out of place?

(2) Before the coming into force of the Land Registration Act, what was the only means of publicity available for the benefit of third parties regarding the sale of a garage from A to B? (a) a note of enrolment filed at the Land Valuation Office; or (b) a note of enrolment filed at the Notarial Archives; or (c) a note of enrolment filed at the Attorney General's Office; or (d) a note of enrolment filed in the Public Registry. Which is the correct one?

(3) Before the following Civil law issues had been successfully tackled, it was very difficult for a system of land registration to be introduced in Malta: (a) the *diritto di seguito* inherent in the general hypothec; (b) *laesio enormis*; (c) lease. Which one of them is out of place.

(4) When the Maltese Land Registration Act was enacted in 1981, it was largely modelled on one of the following laws: (a) the English Land Registration Act 1925; or (b) the South Australian Land Registration Act 1890; or (c) the Ontario Land Registration Act 1969. Which one?

(5) Act VII of 1995 amending the Land Registration Act 1981 (a) was largely modelled on the amendments to the Italian cadastral law introduced by law 133 of 1990; or (b) was based on the amendments introduced in England by the Land

Registration Amendment Act 1993; or (c) addressed various land registration issues which had arisen in Malta since the coming into force of the Land Registration Act 1981. Which one is correct?

(6) A cadastral system exists primarily (a) to give comfort to landowners; or (b) to raise revenue; or (c) to provide statistics to a statistics office. Which one is correct?

(7) Sir Robert Torrens was the first to introduce land registration in (a) England and Wales; or (b) in one of the States of Australia; or (c) in one of the provinces of Canada. Which one is correct?

(8) The main aim of land registration is (a) to give comfort to landowners; or (b) to raise revenue; or (c) to provide statistics to a statistics office. Which one is correct?

(9) In the normal run of cases, when a person applies for first registration of title to land, the Land Registrar grants such person one of the following: (a) a title which is not guaranteed; or (b) a guaranteed title. Which one is correct?

(10) The ideal land registration system is based on the following: (a) the indefeasibility of the guaranteed title; (b) the rectification of the register/Government indemnity; (c) the overriding interests; (d) the mirror principle. One of them is out of place. Which one?

(11) X is the owner of a house he purchased on 25 June 1977. On 19 April 2011 the Minister responsible for the Land Registry issued an Order declaring the area where the house is situated to be a compulsory registration area as from the 1 June 2011. X has asked you whether, pursuant to the Order, he is obliged to apply for first registration of title to his house: (a) Yes; or (b) No. Which is correct?

(12) On 18 May 2005 the Dingli Baseball Club purchased the premises it uses for its activities. The premises are not in a compulsory registration area nor are they registrable for any other reason. However, on 19 May 2011, the Minister responsible for the Land Registry issued an Order in the Gazette requesting all sports clubs to apply between 1 July 2011 and 31 December 2011 for the registration in the Land Registry of the title to any immovable property belonging to sports clubs. The Dingli Baseball Club has sought your advice. The correct advice you give is one of the following:

(a) since all the requisites of the law have been satisfied, it should apply for registration of title in the Land Registry as stated in the Order; or
 (b) since the time period given in the Order is too short, it is not obliged to apply for registration of title in the Land Registry; or
 (c) since sports clubs cannot come within the purview of such an Order, it is not obliged to apply for registration of title in the Land Registry

(13) The following are members of some of the male religious orders present in Malta: (a) a Franciscan Minor, (b) a Franciscan Capuchin, (c) a Salesian of Don Bosco, and (d) a Dominican. On 1 July 2000 all of them took final vows in their respective orders. Who is the member of the religious order who in terms of the constitutions of his Order does not take the vows referred to in our Civil Code?

(14) The following are members of some of the female religious orders present in Malta: (a) a cloistered nun of the Order of St Claire, (b) a nun of the Order of the Sacred Heart, (c) a nun of the Order of St Joseph of the Apparition, and (d) a nun of the Order of St Dorothy. On the 1 November 2002 all of them took final vows in their

respective orders. Who is the member of the religious order who in terms of the constitutions of her Order takes the vows referred to in our Civil Code?

(15) The member of the Order referred to in your correct answer to question 14 had purchased a flat on 15 May 1996, and on 1 June 1997 the area where the flat is situate became a compulsory registration area, although she was unaware of this. On 19 March 1999 she made a will, by virtue of which she appointed as her universal heirs equally between them her three sisters, given that her parents were deceased. The following is what should have been done after 1 November 2002, the date when she took her final vows: (a) the three sisters should have applied to the Land Registrar for the first registration of the flat in their names; or (b) the three sisters should have filed a note of enrolment in the Notarial Archives informing third parties that they were the universal heirs of their sister; or (c) neither one nor the other.

(16) Land at Mellieha known as *tal-Qtates* was never registerable in the Land Registry. Today the President of the Republic issued a Declaration in terms of Land Acquisition (Public Purposes) Ordinance that the absolute ownership of such land was required for a public purpose. What action, if any, should the Commissioner of Land, as the competent authority, take? Choose one of the following:

- (a) He is bound to apply within six months from today to the Land Registrar for first registration of title to the land; or
- (b) He is bound to apply within three months from today to the Land Registrar for first registration of title to the land; or
- (c) He need not do anything.

(17) The requisites for lodging a caution against first registration of title to land are the following:

- (a) an application in the prescribed form requesting the Land Registrar to caution the land;
- (b) a cautionable interest;
- (c) a sworn declaration indicating the cautionable interest of the cautioner;
- (d) a declaration by the Land Registry Tribunal confirming the cautionable interest;
- (e) a plan identifying the land, drawn up in terms of the relevant Land Registry rules.

Which one of the above is **not** a requisite?

(18) The Land Registrar has given a decision regarding a caution with which the cautionee disagrees. The cautionee has sought your advice. Which one of the following is the correct advice?

- (a) The cautionee may seek redress by application to the Civil Court (Voluntary Jurisdiction Section); or
- (b) He may appeal to the Administrative Law Tribunal; or
- (c) He may appeal to the Court of Appeal.

(19) The procedure referred to in your correct answer to question 18 must be initiated within the period of time mentioned hereunder to be calculated from the date on which notice was given to the cautionee of the Land Registrar's decision: (a) seven days; or (b) twelve days; or (c) twenty days. Which one is correct?

(20) On 27 June 2011 a notarial act was published by virtue of which Anthony Abela sold a penthouse to Brian Borg. On 9 July 2011, an application for first registration of title to the house was filed at the Land Registry, and on 16 July 2011 a title was issued in the name of Brian Borg. Which of the following is the effective date of

registration? (a) 27 June 2011; or (b) 9 July 2011; or (c) 16 July 2011; or (d) a date other than the ones given in the other answers to this question. Choose the correct one.

(21) Considering the facts in the preceding question 20, if there is no application in the Land Registry for the interruption of prescription or other caution having the same effect, when must the Land Registrar convert the title into a guaranteed title? (a) 27 June 2021; or (b) 9 July 2021; or (c) 16 July 2021; or (d) a date other than the ones given in the other answers to this question. Choose the correct one.

(22) Indefeasibility of a guaranteed title means that it can only be defeated in terms of (a) the Civil Code; or (b) the Public Registry Act; or (c) the Land Registration Act. Which is the correct one?

(23) By a notarial act of 19 March 1888 X, as the owner of plot of land L1, subjected such land to the servitude not to build higher than one storey in favour of Y as the owner of the adjoining plot of land L2. The notarial act was duly registered in the Public Registry. In the course of the years, both L1 and L2 were transferred various times by onerous title and they were ultimately inherited by Michael and James respectively. The Land Registrar issued guaranteed titles with regard to both properties: in 1990 he did so regarding L1 by issuing the title in the name of Michael, and in 1992 regarding L2 with such title in the name of James. Neither title mentions the servitude constituted in 1888. Michael is selling L1 to a developer who plans to build an eight-storey complex with six storeys above street level. You are advising the developer. What advice would you give him? Choose the correct one:

(a) Since the servitude was constituted over a hundred years ago, it is no longer effective and, consequently, whatever appears or does not appear on the certificate of title is immaterial. The developer may therefore purchase and develop the land as he may wish. or

(b) The grant of the guaranteed title has cancelled all the effects of the servitude. The developer may therefore purchase and develop the land as he may wish. or

(c) Since all servitudes continue to affect a guaranteed title notwithstanding the fact that there is no reference to them in the certificate of title, the land will still be affected by the servitude. He should not buy.

(24) X purchased five tumoli of land without going on site to check whether anyone was occupying the land. Following the publication of the notarial act of sale, the notary applied for first registration of title to the land in X's name, and the Land Registrar granted him a guaranteed title on 10 May 1986. Some time later, X emigrated to Australia without having ever gone on site. Last year, Y alleged that since he had been possessing such land for a continuous period of thirty years, uninterruptedly, peaceably, openly and unequivocally he had become its owner and is now seeking registration in his name of the full ownership of the land at the Land Registry. X, who has returned from Australia, opposes such claim. Assuming that Y really possessed the land for the period and in the manner he claims, which one of the following is correct?

(a) X's guaranteed title can never be defeated by Y's rights; or

(b) it is debatable whether X's guaranteed title can ever be defeated by Y's rights; or

(c) X's guaranteed title is subject to Y's rights.

(25) On 26 June 1879 land was granted on perpetual emphyteusis with effect from that date. One of the conditions of the emphyteutical grant prohibited the building on the land of any property for commercial purposes. The perpetual *utile dominium* was

registered at the Land Registry in the name of A with a guaranteed title on 2 October 1993, and A has been advised that the guaranteed title has cancelled the effects of all the terms and conditions of the original emphyteutical grant. At law, the advice is (a) definitely good; or (b) definitely bad. Which is the correct answer?

(26) On 25 March 1990 Henry purchased a house during his marriage with his wife Winnie, and the house formed part of the community of acquests between them. The Land Registrar granted a guaranteed title on 20 December 1990 and, as he used to do prior to 1 December 1993, he did so in the name of Henry. In 1994 Winnie died intestate and, in terms of the law of succession as it then stood, her five children A, B, C, D and E inherited her equally between them. The flat is being sold today. It has transpired from an official search conducted at the Land Registry that the title is registered in the name of Henry. Henry has been advised to go ahead with the sale of the flat without the need for the five children to be parties to the notarial act. At law, the advice is (a) probably good; or (b) certainly good; or (c) probably bad; or (d) definitely bad. Which one is correct?

(27) The Parish of Msida has decided to purchase premises to be used as a Parish Centre. The Parish Priest has been given the following advice:

- (a) The Parish may purchase without any condition; or
- (b) The Parish may purchase on condition that the Civil Court (Voluntary Jurisdiction Section) gives its authorization; or
- (c) The Parish may purchase on condition that the notary publishing the notarial act informs the Attorney General of the publication of the act within fifteen days of the date of such transfer.

Which one is correct?

(28) On 10 May 1993 a house was registered in the name of Giovanni Vella with guaranteed title number 543210123. On 15 April 2011, Giovanni Vella signed a twelve month preliminary agreement with John Zammit for the sale to the latter of the house, and the preliminary agreement was duly registered with the Commissioner of Inland Revenue. John Zammit suspects that Giovanni Vella might sell the same house to somebody else. Accordingly, he has sought your advice.

Apart from any other requirement in terms of any other law, what do you think should be done in the name of John Zammit so that, as far as possible, his rights may be safeguarded? Choose one of the following:

- (a) file a note of enrolment in the Public Registry; or
- (b) lodge a caution against a dealing in the Land Registry; or
- (c) lodge a complaint with the Land Registrar by formal letter.

(29) The Government of Malta acquired a particular immovable by virtue of the Ecclesiastical Entities (Properties) Act, and an application for first registration of title thereto was filed on the 31 August 2011 in the name of the Government of Malta, and today 13 September 2011 the Land Registrar registered the immovable. Who filed the application for first registration of title to the immovable? (a) *Din l-Art Helwa*; or (b) the Joint Office; or (c) the Antiquities Department; or (d) the Archivist of the Notarial Archives.

(30) With reference to the facts of question 29, which of the following is the effective date of registration? (a) 1 October 1992; or (b) 18 February 1993; or (c) 18 February 1994; or (d) 31 August 2011; or (e) 13 September 2011.

(31) The ten-year acquisitive prescription of immovable property has the following requisites: (a) *iustus titulus acquisitionis*; (b) a notary's written endorsement of the title; (c) *detentio uti dominus*; (d) good faith; (e) ten years. Which one is out of place?

(32) Vendor sold to Purchaser a warehouse for the price of €100,000 out of which Purchaser paid on the notarial act the sum of €60,000, and he bound himself to pay the balance to the Vendor with interest at 3% *per annum* within four years from date of the notarial act. Assuming that the note was filed in the Public Registry within the period required by law, what guarantee on the warehouse does the Vendor have in terms of the Civil Code? Choose the correct one: (a) a special hypothec; or (b) a general hypothec; or (c) a special privilege; or (d) a general privilege; or (e) a pledge.

(33) In the first part of a notarial act, Bank B gave a loan of €60,000 to its client Purchaser P who, in the second part of the act, purchased a flat from Vendor V. In the first part of the act, P delegated B to pay the sum given on loan directly to V in the second part of the notarial act as part of the purchase price of the flat. Assuming that the note was filed in the Public Registry within the period required by law, what guarantee on the flat does B have in terms of the Civil Code? Choose the correct one: (a) a special hypothec; or (b) a general hypothec; or (c) a special privilege; or (d) a general privilege; or (e) a pledge.

(34) By virtue of a notarial act of 12 August 2011, A constituted in favour of B a special hypothec on A's garage, and the notary filed a note of special hypothec in the Public Registry on 9 September 2011. When is the special hypothec effective? Choose the correct date: (a) 12 August 2011; or (b) 9 September 2011; or (c) a date other than these two.

(35) A special privilege on garage number 67 Triq il-Melh, Mellieha belonging to D arose from a notarial act of 11 July 2011, and the notary has today realized that he has not yet filed the note in the Public Registry. He is doing so today. He may validly file a note of one of the following: (a) a special privilege on the garage; or (b) a special hypothec thereon; or (c) a special legal hypothec thereon; or (d) a general legal hypothec.

(36) A purchased a house in 1990 on which he constituted a special hypothec in favour of B in 1999 to guarantee a loan B granted A. A is today selling the property. The sale will automatically cancel the effects of the special hypothec. This is (a) probable; or (b) possible; or (c) false; or (d) true. Which is the correct answer?

(37) A house is registered in the name of Alfonso D'Alfonso with title number 112233445. By a notarial act of 10 July 2011, David DeGabriele gave Alfonso D'Alfonso a loan of €30,000 for the latter to be able to pay for a consignment of gold. As a guarantee, Alfonso D'Alfonso constituted in favour of David DeGabriele a charge over the house. On 24 July 2011, the notary applied at the Land Registry for the registration of the charge, and on 1 August 2011 the Land Registrar registered the charge on title number 112233445. When is the charge effective? Choose the correct answer: (a) 10 July 2011; or (b) 24 July 2011; or (c) 1 August 2011; or (d) a date other than those given in the other answers.

(38) Two special hypothecs on the same immovable belonging to Joan are registered on the same day in the Public Registry. Hypothec 1 in favour of C1 is registered at 8 am, while Hypothec 2 in favour of C2 is registered at 10 am. Which one of the following is correct? (a) Hypothec 1 and Hypothec 2 confer equal ranking on C1 and

C2; or (b) Hypothec 1 confers first ranking on C1; or (c) Hypothec 2 confers first ranking on C2.

(39) Applications for the registration of two charges (both equivalent to special hypothecs) on the same immovable with title number 313233345 are entered in the day-book on the same day as follows: Charge 1 in favour of Creditor 1 at 8 am with progressive number 1212, and Charge 2 in favour of Creditor 2 at 10 am with progressive number 1331. Which one of the following is correct? (a) Charge 1 and Charge 2 confer equal ranking on Creditor 1 and Creditor 2; or (b) Charge 1 confers first ranking on Creditor 1; or (c) Charge 2 confers first ranking on Creditor 2.

(40) There is a proposal that the present list of thirteen overriding interests affecting a guaranteed title be reduced to three. If this were to become law, how would the guaranteed title be affected? Choose one: (a) it would become stronger; or (b) it would become weaker; or (c) there would not be any change at all.

University of Malta

Faculty of Laws

LLD First Year Diploma of Notary Public

CVL4013 Registration of Acts and Titles

Written Examination June Session

5 June 2012 1030 am to 1130 am

- Answer **all** questions.
- Each question carries 2.5 marks.
- A correct answer will be marked positively, that is you will score 2.5 marks.
- An incorrect answer, or no answer at all, will be marked negatively, that is 2.5 marks will be deducted.
- There is only **one** correct answer to each question. If you think that there may be two or more correct answers to the same question, you are to decide which one is the likely answer, and give that as the **only** answer.
- When answering the questions, you should indicate the number of each question and, next to it, the letter corresponding to the correct answer to such question. You should **not** write any explanatory notes.
- During the examination, candidates are not allowed to have any mobile 'phones and/or memory-resident electronic devices, including calculators.

(1) A client informs you that his father, now deceased, had purchased a field in the limits of Mosta in 1957 but he does not recall who was the notary receiving the notarial act and the exact date of its publication. Where should he effect a search to obtain the details? Choose one of the following: (a) in the Land Valuation Office; or (b) in the Land Registry; or (c) in the Public Registry; or (d) in the Cadastral Office; or (e) at the Attorney General's Office.

(2) When the Maltese Land Registration Act was enacted in 1981, it was largely modelled on **one** of the following laws: (a) the New South Wales Land Act 1883; or (b) the South Australia Land Registration Act 1890; or (c) the English Land Registration Act 1925; or (d) the Louisiana Land Registration Act 1938; or (e) the Quebec amendments to the Civil Code of 1977. Which is the correct answer?

(3) The Land Registration Act 1981 was extensively amended by Act VII of 1995. The latter is based on (a) the English Land Registration (Amendment) Act 1993; or (b) the Italian legge cadastale (legge numero 259 del 1992); or (c) local experience. Which is the correct answer?

(4) With a few exceptions, following the amendments of 1995 to the Land Registration Act, when a person applies for first registration of title to land, the Land Registrar grants such person (a) a title (which is not guaranteed); or (b) a

guaranteed title; or (c) an absolute title; or (d) a possessory title. Which is the correct answer?

(5) Applications submitted at the Land Registry for first registration of title to land are entered progressively in (a) the log-book; or (b) the cadastral book; or (c) the grundbuch; or (d) the day-book; or (e) the note-book. Which is the correct answer?

(6) Applications submitted at the Land Registry for the registration of charges are entered progressively in (a) the log-book for charges; or (b) the cadastral book for charges; or (c) the grundbuch for charges; or (d) the day-book for charges; or (e) the note-book for charges. Which is the correct answer?

(7) Anthony Borg purchased a house from Matthew Cassar on 23 July 1979. The area where the house is situated was declared by an Order of the Minister responsible for the Land Registry to be a compulsory registration area as from 1 March 2012. No application for the registration of the house in the Land Registry had ever been made for any reason. Is Anthony Borg bound to apply for first registration of title to his house? (a) He is not bound to do so; or (b) He is bound to do so by 31 August 2012; or (c) He is bound to do so by 31 December 2012. Which is the correct answer?

(8) In 1990, some enthusiastic university law students and their Civil Law lecturers formed an association which they styled *Focus on the Ius Commune*. The declared aim of the association was to promote the better understanding of our civilian tradition through lectures, symposia, workshops and publications. The association became so popular that on 6 June 2009, it purchased from the parents of one of the students the premises it uses for its activities. The property is not in a compulsory registration area nor has it been registered for any other reason. On 1 May 2012, the Minister responsible for the Land Registry issued an Order in the Gazette directing all associations (like *Focus on the Ius Commune*) to apply between 1 June 2012 and 30 September 2012 for the registration in the Land Registry of the title to immovable properties belonging to such associations. Those responsible for *Focus on the Ius Commune* have the following options:

(a) they are obliged to apply for first registration of title in the Land Registry as stated in the Order, but the period of time stated therein is immaterial; or

(b) they are obliged to apply for first registration of title in the Land Registry as stated in the Order since the period of time for registration given therein is in terms of law; or

(c) they are not obliged to apply for first registration of title in the Land Registry as stated in the Order since the period of time for registration given therein is too short; or

(d) they are obliged to apply for first registration of title in the Land Registry as stated in the Order, but they are also obliged to file a note of enrolment in the Public Registry.

Which is the correct answer?

(9) It has been stated that a title which is not guaranteed is coterminous with a title at Civil Law. Which is the correct answer? (a) true, as stated; or (b) though true as stated, there is much more to it than that; or (c) false, as stated.

(10) To lodge a caution against first registration of title to land, the cautioner must see to the following:

- (a) an application in the prescribed form requesting the Land Registrar to caution the land;
- (b) a sworn declaration indicating the cautionable interest of the cautioner;
- (c) a cautionable interest;
- (d) a declaration by the Court of Revision of Notarial Acts confirming the cautionable interest;
- (e) a plan, prepared in terms Land Registry rules, identifying the land.

Which one of the above is **not** a requisite?

(11) To lodge a caution against a dealing with registered land, the cautioner must see to the following:

- (a) an application in the prescribed form requesting the Land Registrar to caution the registered land;
- (b) a sworn declaration indicating the cautionable interest of the cautioner;
- (c) a cautionable interest;
- (d) a declaration by the Court of Revision of Notarial Acts confirming the cautionable interest;
- (e) a plan, prepared in terms Land Registry rules, identifying the land.

Which one of the above is **not** a requisite?

(12) The Land Registrar has given a decision regarding a caution and notice of such decision has been given to the cautioner. The cautioner disagrees and he would like to pursue the matter further. Which one of the following is correct?

- (a) The cautioner may seek directions from the Civil Court (Voluntary Jurisdiction Section); or
- (b) He may seek judicial review by the Civil Court First Hall; or
- (c) He may appeal to the Court of Appeal; or
- (d) He may appeal to the Minister responsible for the Land Registry.

(13) In your correct answer to the preceding question 12, what is the period of time, to start running from the date when notice is given of the Land Registrar's decision, within which the cautioner may pursue the matter further:

- (a) 10 days therefrom; or
- (b) 12 days therefrom; or
- (c) 15 days therefrom; or
- (d) 20 days therefrom.

Which one is the correct answer?

(14) On 15 May 2012, Notary N published a deed by virtue of which Alfred Azzopardi sold a house to Bernard Briffa. On 23 May 2012, the notary filed an application at the Land Registry in the name of Bernard Briffa for first registration of title to the house, and on 5 June 2012 a title was issued in the name of Bernard Briffa. Which **one** of the following is the effective date of registration? (a) 15 May 2012; or (b) 23 May 2012; or (c) 5 June 2012 or (d) a date other than those already mentioned.

(15) Consider again the facts in the preceding **question 14** and your correct answer thereto. If there is no application in the Land Registry for the interruption of prescription or other caution having the same effect with regard to such title, when is the Land Registrar expected to convert the title into a guaranteed title? Choose the correct one: (a) 15 May 2022; or (b) 23 May 2022; or (c) 5 June 2022; or (d) a date other than those already mentioned.

(16) In the case mentioned in the previous **questions 14 and 15**, does the Land Registrar have the option whether to convert the title into a guaranteed title or not? (a) Yes, he has the option; or (b) No, he does not have such an option.

(17) Indefeasibility of a guaranteed title means that it can only be defeated in terms of (a) the Civil Code; or (b) the Notarial Law; or (c) the Code of Organization and Civil Procedure; or (d) the Land Registration Act; or (e) the General Provisions (Quashing of Titles) Act. Which of the answers is the correct one?

(18) Referring to overriding interests, an English judge very colourfully remarked that "it should not be imagined that amongst the conglomeration of rights and interests included within the statutory list there lurk strange monsters unknown to unregistered conveyancing". The learned judge has thus stated correctly English law and, indirectly, Maltese law. However, in practice, **one** of the following overriding interests is under our law a lurking monster ready to wreak havoc on those who are not careful enough. Identify such overriding interest from this short list: (a) a clearly marked right of way; or (b) a clearly visible window overlooking third party property; (c) *altius non tollendi* in favour of a tenement against an adjacent one; or (d) a visible rainwater pipe running from the roof of a tenement onto the yard of a third party's underlying tenement.

(19) In 1873 land was granted on perpetual emphyteusis. Although the grant allowed its development in any way, it prohibited the building thereon of any property for use as warehouses. The developed property was registered with a guaranteed title on 1 June 1993. The proprietor of the land has been advised that the guaranteed title has cancelled the effects of all the terms and conditions of the original grant. The advice is: (a) probably good at law; or (b) good at law; or (c) probably bad at law; or (d) bad at law. Which is the correct answer?

(20) On 26 June 1990 a house, subject to a yearly pious burthen of €5 to be used as stipend for the celebration of Holy Masses, was registered for the first time with a guaranteed title in the Land Registry in the name of John Vella. When the application for first registration was made, the notary applying for registration forgot to state in the application form that the property is subject to such pious burthen. John Vella has been advised that he need not pay the pious burthen since the

guaranteed title removed the obligation to do so. The advice is (a) probably good at law; or (b) good at law; or (c) probably bad at law; or (d) bad at law. Which is the correct answer?

(21) On 11 November 1992, barren land was registered with a guaranteed title in the name of Colin Camilleri who on 18 April 2012 took some friends with him on the land to admire the country and sea views. All of a sudden Harry Borg, a hunter, entered the land and politely asked Colin and his friends to leave so that Harry might engage in his pastime without being of any danger to Colin and his friends. To prove his alleged rights, Harry showed Colin an authenticated copy of a notarial act by virtue of which the original owner of the land had granted the right to Harry to hunt birds on such land during April and May of each year. Assuming that the contract between the original owner and Harry is still valid, is Colin's guaranteed title subject to Harry's rights? The answer is: (a) Definitely yes; or (b) Possibly yes; or (c) Definitely no.

(22) The Male Section of the *Societas Doctrinae Christianae* (MUSEUM) is purchasing premises at Swatar to be renamed "Dar it-Tagħlim Nisrani" so that its members may teach catechism to children and adolescents. The Superior General has asked you whether the MUSEUM is subject to the provisions of the Mortmain Act. (a) Yes, or (b) No.

(23) The Parish of Qrendi has decided to purchase premises to be used as a Parish Centre. The Parish Priest has been given the following advice:
(a) The Parish may purchase without any condition; or
(b) The Parish may purchase on condition that the Civil Court (Voluntary Jurisdiction Section) gives its authorization; or
(c) The Parish may purchase on condition that the notary publishing the notarial act informs the Attorney General of the publication of the notarial act within fifteen days of the date of such transfer.

Which is the correct answer?

(24) On 18 June 1991 H purchased a house during his marriage with his wife W, and the house formed part of the community of acquets between H and W. The Land Registrar granted a guaranteed title on 10 April 1992 and, as he used to do prior to 1 December 1993, he did so in the name of H. In 1994 W died intestate and, in terms of the law of succession as it then stood, her five children A, B, C, D and E inherited her equally between them. The house is being sold in a month's time. It has transpired from an official search conducted at the Land Registry that the title is registered in the name of H. H has been advised to go ahead with the sale of the house without the need for A, B, C, D and E to be parties to the notarial act of sale. At law, the advice is (a) probably good; or (b) certainly good; or (c) probably bad; or (d) certainly bad. Which one is correct?

(25) The following are members of some of the male religious Orders present in Malta: (a) a Franciscan Conventual; (b) a Dominican (Order of Preachers); (c) a Salesian of Don Bosco; (d) a Franciscan Minor; (e) a Carmelite; and (f) a Franciscan Capuchin. On 1 January 2000 all of them took final vows in their respective Orders. Who is the member of the religious Order who, in terms of the Constitutions of his Order, did not take the vows referred to in our Civil Code?

(26) The following are members of some of the female religious Orders present in Malta: (a) a nun of the Order of the Franciscan Sisters of the Heart of Jesus; (b) a cloistered nun of the Order of St Clare; (c) a nun of the Order of the Sacred Heart; (d) a nun of the Order of St Joseph of the Apparition; and (e) a nun of the Order of St Dorothy.

On 1 January 2000 all of them took final vows in their respective Orders.

Who is the member of the religious Order who, in terms of the Constitutions of her Order, took the vows referred to in our Civil Code?

(27) On 22 June 1996 Angela Gatt, whose parents were deceased, purchased a garage in Birkirkara. On 1 July 1998, the area where the garage is situated was declared a compulsory registration area. On 2 October 1999 Angela made a will where she appointed as her universal heirs her three brothers, Joseph, John and James. On 16 April 2004 she took vows (sometimes referred to as solemn vows) including the vow of poverty in the Order which is your correct answer to the preceding question 26. On 18 May 2012, the three brothers entered into a preliminary agreement for the sale of the garage to Mario Vella. From a search in the Land Registry it transpires that the garage is not registered in that registry. What action should be taken? The correct answer is one of the following:

(a) An application for first registration of title in the name of Angela Gatt (today Sister Angela Gatt), should be filed in the Land Registry before the publication of the notarial act of sale; or

(b) An application for first registration of title in the name of Joseph, John and James brothers Gatt as universal heirs of their sister should be filed in the Land Registry before the publication of the notarial act of sale; or

(c) An application for first registration of title in the name of Sister Angela Gatt, formerly Miss Angela Gatt, and in the name of her three brothers should be filed in the Land Registry before the publication of the notarial act of sale; or

(d) An application for first registration of title in the name of Mario Vella should be filed in the Land Registry after the publication of the notarial act of sale.

(28) Land at Zebbug Malta known as *tal-Infetti* was never registerable in the Land Registry. On 15 May 2012 the President of the Republic issued a Declaration in terms of the Land Acquisition (Public Purposes) Ordinance that the absolute ownership of such land was required for a public purpose. What action, if any, should the Commissioner of Land (as the competent authority) take? Choose one of the following:

(a) He is bound to apply in the Land Registry for first registration of title to the land within six months from 15 May 2012; or

(b) He is bound to apply in the Land Registry for first registration of title to the land within three months from 15 May 2012; or

(c) He is bound to file a note of enrolment in the Public Registry within thirty days from 15 May 2012 giving all the relevant details; or

(d) He is bound to file a note in the Notarial Archives within three months from 15 May 2012 including a plan of the land.

(29) In 1955 the Maltese Province of the Society of Jesus validly purchased land in Mosta on which the said Province built a large house which it uses to conduct therein spiritual retreats. The Province still owns the house and still runs it for such purpose. The Province has been informed that, according to the provisions of a special law, the title to the retreat house should be registered in the Province's name in the Land Registry. Which one of the following is correct?

- (a) The Province itself should apply for first registration of title to the retreat house; or
- (b) The Archbishop's Curia should apply in the name of the Province for first registration of title to the retreat house; or
- (c) The Joint Office should apply in the name of the Province for first registration of title to the retreat house; or
- (d) The Attorney General should apply in the name of the Province for first registration of title to the retreat house; or
- (e) The Chief Notary to Government should apply in the name of the Province for first registration of title to the retreat house.

(30) In terms of your correct answer to the preceding question 29, application was duly filed on 23 May 2012 for registration of title to the retreat house in the name of the Province. The Land Registrar issued the title on 5 June 2012. Which one of the following is the effective date of registration? (a) 1 October 1992; or (b) 18 February 1993; or (c) 18 February 1994; or (d) 23 May 2012; or (e) 5 June 2012.

(31) By a notarial act published on 10 April 2012, Vendor sold to Purchaser a penthouse for the price of €200,000, out of which the Purchaser paid on the act the sum of €120,000 and bound himself to pay the balance to the Vendor with interest at 6% *per annum* within four years from date of the notarial act. A note was filed in the Public Registry on the 30 May 2012 containing the guarantee on the penthouse granted by the Civil Code to the Vendor. Which one is the correct guarantee: (a) a special hypothec; or (b) a general hypothec; or (c) a special privilege; or (d) a general privilege; or (e) the benefit of separation of estates.

(32) Consider the facts in the preceding question 31. The guarantee filed in the Public Registry in terms of your correct answer to that question ranks in terms of one of the following: (a) from 10 April 2012; or (b) from 30 May 2012; or (c) neither of the dates mentioned, but according to the order of priority established by law.

(33) A notarial act was published on 10 May 2012. In the first part of the notarial act, bank B gave a loan of €60,000 to its client P who, in the second part of the act, purchased a flat from vendor V. In the first part of the act, P delegated B to pay the sum given on loan directly to vendor V in the second part of the notarial act as part of the purchase price of the flat. Assuming that the note was filed in terms of law, what guarantee on the flat does B enjoy in terms of the Civil Code? Choose the correct one: (a) a special hypothec; or (b) a general hypothec; or (c) a special privilege; or (d) a general privilege; or (e) the benefit of separation of estates.

(34) By virtue of a notarial act of 18 May 2012, A constituted in favour of B a special hypothec on A's garage, and the notary filed in the Public Registry on 5 June 2012 a note of special hypothec on the garage. From which date does the hypothec rank?

Choose the correct date: (a) 18 May 2012; or (b) 5 June 2012; or (c) a date other than these two.

(35) A special privilege on terraced house number 123 Triq il-Globigerina Santa Lucia, belonging to D, arose from a notarial act of 1 April 2012, and the notary has today realized that he has not yet filed the note in the Public Registry. He is doing so today 5 June 2012. He may validly file a note of one of the following: (a) a special legal privilege on the terraced house; or (b) a special legal benefit thereon; or (c) a special legal hypothec thereon; or (d) a general legal hypothec.

(36) Consider the facts mentioned in the preceding question 35. The guarantee filed in the Public Registry in terms of your correct answer to that question ranks in terms of one of the following: (a) from 1 April 2012; or (b) from 5 June 2012; or (c) neither of the dates mentioned.

(37) A warehouse is registered in the name of Abraham Degiorgio with title number 86868686. By a notarial act of 18 May 2012, John Camilleri granted Abraham Degiorgio a loan of €40,000 for the latter to be able to pay for a consignment of white goods he is importing from China. As a guarantee, Abraham Degiorgio constituted a charge in favour of John Camilleri over the warehouse. On 29 May 2012, the notary applied in the Land Registry for the registration of the charge, and on 5 June 2012 the Land Registrar registered the charge on title number 86868686. When is the charge effective? Choose the correct answer: (a) 18 May 2012; or (b) 29 May 2012; or (c) 5 June 2012; or (d) or a date other than those given in the other answers.

(38) Two special hypothecs on the same immovable property belonging to Anthony Demanuele are registered on the same day in the Public Registry. Hypothec 1 in favour of C(reditor) 1 is registered at 8 am while Hypothec 2 in favour of C(reditor) 2 is registered at 10 am. Which one of the following is correct? (a) Hypothec 1 and Hypothec 2 confer equal ranking on C1 and C2 respectively; or (b) Hypothec 1 confers first ranking on C1; or (c) Hypothec 2 confers first ranking on C2.

(39) Applications for the registration of two charges (both equivalent to special hypothecs) on the same immovable with title number 13213213 are entered in the appropriate Land Registry book on the same day as follows: Charge 1 in favour of C(reditor) 1 at 8 am and Charge 2 in favour of C(reditor) 2 at 10 am. Which one of the following is correct? (a) Charge 1 and Charge 2 confer equal ranking on C 1 and C 2 respectively; or (b) Charge 1 confers first ranking on C1; or (c) Charge 2 confers first ranking on C2.

(40) If the legislator were to reduce to two the number of overriding interests affecting a guaranteed title, how would the quality of the guaranteed title change? Choose one: (a) it would become stronger; or (b) it would become weaker; or (c) it would not change at all.



L-Università
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FACULTY OF LAWS
DEPARTMENT OF CIVIL LAW
JUNE/JULY 2020 EXAMINATION SESSION

CVL5026 Registration of Acts and Titles

Friday, 12th June 2020

Examination time: 1:00pm – 3:00pm + 60 extra minutes for uploading/downloading.

In case of difficulty during the examination (issues with exam paper, electricity power cut, internet connection, etc), you may contact the Faculty of Laws on the following:

Telephone: 2340 3251; 2340 2780

Email: laws@um.edu.mt

Please note that for immediate feedback it is best to communicate using telephone. Use email only if there are circumstances when the use of telephone is not possible.

Keep your mobile phone handy since important communications during the examination may be communicated by the University through SMS.

You have the option to either type in your answers on a word document or write down your answers on an A4 sheet/s of paper.

Once you have completed the examination, you are to save your answers in pdf format or scan your handwritten answers using Adobe Scan app and Microsoft Office Lens app, and upload them within the time indicated for the examination. **The name you should assign to the file you are going to upload to the VLE dropbox should be the study-unit code.** The VLE will then rename the file automatically to also include your name and surname.

You have been allowed 60 minutes for downloading the examination paper and uploading your responses. **Make sure that you upload the correct document.** If you upload the wrong document, simply upload again and the system will overwrite the document originally submitted.

You may be subject to an additional oral examination to safeguard against plagiarism, collusion or other misdemeanours.

You may not obtain or seek to obtain advantage in an examination, or give or endeavour to give assistance to other students. Students who are found guilty of a breach of the University Assessment Regulations are liable to disciplinary action which may result in the examination being cancelled and other consequences.

By sitting for this examination, you declare that you are aware of the provisions of the regulations regarding conduct during examinations and you pledge to observe them.

INSTRUCTIONS TO STUDENTS:

The **name of the Notary** should be **Luca Andrea Grech**. The **signature**, wherever applicable should reflect "**L A Grech**". **Do not use your personal names.**

You may add any information in your reply if the question does not include certain facts.

Documents attached (on VLE):

- Deed of Loan and Sale and Cancellation in the Records of Notary Luca Andrea Grech of the 14th June 2020, including 3 plans P1 being a floor plan, P2 and P3 being both elevation plans.
 - Deed of Declaration Causa Mortis in the Records of Notary Elisa Borg of the 11th May 2020, including insinwa ref I 1234/2020
 - Land Registry Site Plan
-

On the 14th day of June, 2020, Josianne Abela, an unmarried flight attendant who currently resides in Marsaskala, acquired an apartment in Msida from siblings Susanne Bonello and Mario Attard. The vendors had inherited the apartment from their late father Thomas Attard.

Ms. Abela financed the acquisition of the apartment in part by means of a loan she obtained from HSBC Bank Malta p.l.c. to whom she offered as security the hypothecs described in the deed of loan and sale. On the same day, she also settled an outstanding loan which she had taken from Bank of Valletta p.l.c in order to consolidate all her finances with one bank.

The Vendors had asked a friend of the family, Notary Elisa Borg, to publish a deed declaration causa mortis, in order to declare the value of the immovable inherited by them. Notary Borg, accepted to publish the declaratory deed and register the same at the Public Registry and Land Registry. The deed was published on the 11th May, 2020.

From an official search carried out at the Public Registry, it resulted that the declaratory deed was enrolled in the Public Registry on the 12th day of May, 2020 under Ins no I 1234/2020.

From an official search carried out at the Land Registry by Notary Grech, it resulted that the Msida property falls within a compulsory land registration area and to date, no registrations have been made. The area where the Msida property is located, became a compulsory land registration area since the 1st July, 2012.

You are to prepare all the documentation required in order to register the transfers, liabilities and cancellations at both the Public Registry and the Land Registry.

You do not need to prepare the First Schedule Form for this question.



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FACULTY OF LAWS
DEPARTMENT OF CIVIL LAW
SEPTEMBER 2020 EXAMINATION SESSION

CVL5026 Registration of Acts and Titles

Monday, 14th June 2020

Examination time: 10:00am – 12:00pm + 60 extra minutes for uploading/downloading.

In case of difficulty during the examination (issues with exam paper, electricity power cut, internet connection, etc), you may contact the Faculty of Laws on the following:

Telephone: 2340 3251; 2340 2780

Email: laws@um.edu.mt

Please note that for immediate feedback it is best to communicate using telephone. Use email only if there are circumstances when the use of telephone is not possible.

Keep your mobile phone handy since important communications during the examination may be communicated by the University through SMS.

You have the option to either type in your answers on a word document or write down your answers on an A4 sheet/s of paper.

Once you have completed the examination, you are to save your answers in pdf format or scan your handwritten answers using Adobe Scan app and Microsoft Office Lens app, and upload them within the time indicated for the examination. **The name you should assign to the file you are going to upload to the VLE dropbox should be the study-unit code.** The VLE will then rename the file automatically to also include your name and surname.

You have been allowed 60 minutes for downloading the examination paper and uploading your responses. **Make sure that you upload the correct document.** If you upload the wrong document, simply upload again and the system will overwrite the document originally submitted.

You may be subject to an additional oral examination to safeguard against plagiarism, collusion or other misdemeanours.

You may not obtain or seek to obtain advantage in an examination, or give or endeavour to give assistance to other students. Students who are found guilty of a breach of the University Assessment Regulations are liable to disciplinary action which may result in the examination being cancelled and other consequences.

By sitting for this examination, you declare that you are aware of the provisions of the regulations regarding conduct during examinations and you pledge to observe them.

INSTRUCTIONS TO STUDENTS:

The **name of the Notary** should be **Notary Elisa Mae Attard**. The **signature**, wherever applicable should reflect "**Not E M Attard**". **Do not use your personal names.**

You may add any information in your reply if the question does not include certain facts.

Documents attached (on VLE):

- Deed of Loan and Sale in the Records of Notary Elisa Mae Attard of the 21st July, 2020 includes one (1) plan namely document "D" and the List of Movable Items namely document "G" ONLY.

N.B. Documents A, B, C, E and F quoted in the deed are for drafting purposes only.

- Land registry Site Plan of property in Triq ix-Xatt Gzira.
-

On the 21st day of July, 2020, **M & H Abela Limited**, a limited liability company registered in Malta with registration number C3830 acquired a tenement in Gzira from siblings Anthony Michael *sive* Tony Privitera and Judith Paula Margaret Privitera. The vendors had inherited the property from their late parents Carmelo and Franciska Privitera. The Declaration Causa Mortis of Carmelo Privitera was made by virtue of the deed in the Records of Notary Mark Coppini 20th March 2012 and the Declaration Causa Mortis of Franciska Privitera was made by virtue of the deed in the Records of Notary Mark Coppini 19th September 2013.

The Purchaser financed the acquisition of the property in part by means of a loan it obtained from HSBC Bank Malta p.l.c. to whom it offered as security the hypothecs described in the deed of loan and sale.

From an official search carried out at the Land Registry by the publishing Notary, it resulted that the Gzira property falls within a compulsory land registration area.

You are to prepare all the documentation required in order to register the transfers and liabilities at both the Public Registry and the Land Registry.

You are also to prepare the First Schedule Form for this question.