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Spring Semester 2021

FOUNDATIONS AND TRUSTS

21 June 2021

15:00–17:00

General notes:

- Please check at receipt of the exam the number of questions. The examination contains three questions.
- Write your answers directly into the document "Answer_Module_XXXXXXXXXX" and save it locally on your computer with your Student ID number.
- Write your Student ID number and your Examination serial number in the header on page 2.
- For submission/upload, save the document with your Student ID number as a PDF file according to the example and upload it. Example: Answer_criminology_17301002.pdf
- You are responsible for uploading the exam in time. You will not be made aware of this.

Notes on marking

When marking the exam each question is weighted separately. Points are distributed to the individual questions as follows:

Question 1	33.3%
Question 2	33.3%
Question 3	33.3%
Total	100%

We wish you a lot of success!

Question 1 (33.3%)

Sitting in front of you is 80-year-old, Zurich based entrepreneur Hansjörg Schwarz (HJS). He would like to give back a (yet undetermined) portion of his fortune to society and support the field of “technological innovations in science” at his alma mater, the University of Zurich. He is considering setting up a foundation but is interested in a comprehensive advice.

Question: Please describe the strategic issues you would discuss with your client in order to best meet his objectives.

Note: **The case is deliberately open. The idea is to discuss the relevant strategic points and to name the arguments for potential decisions.**

Question 2 (33.3%)

You are being approached by A-list celebrity Gregor Goah (37) who has recently taken up legal domicile in Zurich, Switzerland. Mr Goah is a citizen of South Africa, where most of his family still reside, and travels extensively for work; in particular, he spends a large portion of his professional life in New York City (USA). Mr. Goah is – at present – unmarried and has no children but informs you that “you never know what the future holds”. Over the past couple of years, Mr. Goah has enjoyed tremendous professional success and has accumulated a substantial fortune. He is now seeking your wealth planning advice.

Mr. Goah wishes to set up a structure through which a relatively large portion of his assets can be managed professionally without his immediate involvement. It is important to him that the structure be flexible enough to account for changing life circumstances but also provide a certain “safety net” for himself as well as his existing family members in South Africa (especially in case of his premature death), particularly his mother and siblings. Furthermore, Mr. Goah is interested in charitable giving.

Mr. Goah tells you that all his famous friends “have trusts”. He wonders whether setting up a trust is possible in Switzerland (he has heard that its legal system is “different from the USA and South Africa”) and how this would work exactly. Furthermore, he would like to know whether a trust would even make sense for someone in his situation and what such a structure would ideally look like.

Question: Please discuss how you would address Mr. Goah’s questions and concerns, flagging any issues that may affect his planning decisions.

Note: Please exclude any tax considerations.

Question 3 (33.3%)

Adam Smith is a US citizen who moved to Switzerland 20 years ago. He is married to a Swiss wife and has two adult children (both are US and Swiss citizens). While the daughter is resident in Switzerland, the son is resident in the US. Adam is not very close to his son and fears that he would spend all the funds he will inherit. He therefore wants to make sure that his son does not receive his share in Adam's estate outright. Adam heard that he could transfer his assets into a trust or a foundation for this purpose.

Adam Smith would transfer his bank accounts as well as his Swiss family home to the trust or the foundation during his lifetime. He would be the first beneficiary during his lifetime. Upon his death, his wife and children will become beneficiaries. It is up to the trustee to decide upon distributions to them (if, when and how much).

Question 1: Adam Smith would like to know whether he could use a trust or a foundation.

Question 2: How would you explain him the difference between the two structures and what would be the better choice for him?

Question 3: Could he use a Swiss foundation?

Question 4: Adam Smith would like to keep a power of revocation in case the law changes and the trust/foundation is no longer the preferred vehicle. What are the implications of a revocation right?

Question 5: He would like to know what the tax implications are if he transferred his bankable assets to an irrevocable and discretionary foundation in Liechtenstein. He would be a beneficiary and he would also like to keep a power to amend the foundation documents.

Question 6: Can he transfer his Swiss family home to a trust/foundation?

Note: **Please also make tax law considerations where suitable and applicable.**