

EXAMINATION NO. _____



2015 EXAMINATIONS

ACCOUNTING TECHNICIAN PROGRAMME

PAPER TC12: COMPANY LAW

TUESDAY 1 DECEMBER 2015

**TIME ALLOWED : 3 HOURS
2.00PM - 5.00 PM**

INSTRUCTIONS: -

1. You are allowed **15 minutes** reading time **before the examination begins** during which you should read the question paper and, if you wish, make annotations on the question paper. However, you will **not** be allowed, **under any circumstances**, to open the answer book and start writing or use your calculator during this reading time.
2. Number of questions on paper - 7.
3. **FIVE** questions **ONLY** to be answered.
4. Each question carries 20 marks.
5. Your answers must be supported, where appropriate, by relevant decided cases and statutory provisions.
6. Begin each answer on a fresh page.
7. **DO NOT OPEN THIS PAPER UNTIL YOU ARE INSTRUCTED BY THE INVIGILATOR.**

This question paper contains 4 pages.

This question paper must **not** be removed from the examination hall.

1. (a) Explain **five** advantages of forming a limited company over a partnership. **5 Marks**
- (b) Explain **five** disadvantages of forming a limited company over a partnership. **5 Marks**
- (c) Peter Nyengo was engaged as a promoter by Joseph Zidalo, a sole trader, to form a company to be known as Zidalo & Co. Ltd. In the course of his duty, Peter Nyengo made secret profits of K120,000 from XL Co. Ltd who were suppliers of stationery for his work. This was discovered by Zidalo & Co. Ltd. after it had been formed.

Required:

Explain the action which Zidalo & Co. Ltd may take against Peter Nyengo with regard to the secret profits he made as a promoter for the company. **10 Marks**

(TOTAL: 20 MARKS)

2. (a) Explain the difference between “voluntary liquidation of the company by members” and “voluntary liquidation of the company by creditors”. **8 Marks**
- (b) Section 213(1)(f) of the Companies Act 1984 provides for “just and equitable” as one of the grounds for compulsory liquidation of a company.

Required:

Define the term “just and equitable”.

10 Marks

- (c) At what stage in the process of the company’s winding up does voluntary liquidation and compulsory liquidation deemed to commence? **2 Marks**

(TOTAL : 20 MARKS)

3. (a) State **four** ways in which an individual can become a member of a company limited by shares. **4 Marks**
- (b) Mention **four** ways in which an individual can cease to be a member of a company limited by shares. **4 Marks**
- (c) Mention **four** acts which a company cannot do except by special resolution. **4 Marks**
- (d) The directors of Prime Hotels Ltd (PHL) intend to meet to pass a resolution in respect of some aspects of the company’s affairs. Unfortunately, all the directors are too busy to attend a meeting to discuss the business.

Required:

Advise Company Secretary of PHL on how to go round this problem. **6 Marks**

- (e) Mention and explain the two types of companies as provided for in the Companies Act (1984). **2 Marks**

(TOTAL: 20 MARKS)

4. (a) Define the following terms:
- (i) reduction of capital; **3 Marks**
 - (ii) cancellation of capital. **3 Marks**
- (b) What conditions must be satisfied if a company wishes to reduce its capital and alter its Memorandum or Articles of Association? **3 Marks**
- (c) State and explain three reasons that are acceptable under the Companies Act, for reducing capital. **6 Marks**
- (d) State the provisions in the Companies Act that protect the interests of creditors where a proposed reduction of capital affects the company's creditors. **5 Marks**
(TOTAL: 20 MARKS)

5. (a) According to Company Law, define the term "Memorandum of Association". **5 Marks**
- (b) Mention and explain seven issues which are contained in the Memorandum of Association. **7 Marks**
- (c) Chimtengo Ltd is a company formed for the purpose of manufacturing sugar. The company intends to change its name to Sugar Manufacturing Co. Ltd. The Managing Director of the company has asked you as a legal counsel to advise him on what the company can do in order to effectively change the company's name.

Required:

Advise the Managing Director on **three** methods which the company may use to effectively change its name. **8 Marks**
(TOTAL: 20 MARKS)

6. (a) Chichiri Motors Ltd through Richard, its local director, entered into a contract with Union Tyres Ltd for the purchase of tyres worth K15 million. The articles of Association for Chichiri Motors Ltd, however, did not authorize the directors of the company to enter into contracts involving sums in excess of K10 million without the sanction of an ordinary resolution of a general meeting. No such resolution was passed in this case.

Required:

Advise whether or not Chichiri Motors Ltd are liable to pay Union Tyres Ltd the whole sum of K15 million. **10 Marks**

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- (b) Chichiri Motors Ltd would now like to remove Richard from his office as director for having put the company into unnecessary financial obligations without its sanction and because of the strong rumours circulating that Richard received a bribe from Union Tyres Ltd. The problem, however, is that the Articles of Association of Chichiri Motors Ltd stipulate that Richard is to hold the office of director for ten years and the period has not yet elapsed.

Required:

- (i) Advise whether or not Chichiri Motors Ltd can remove Richard from the office of director before the expiry of ten years. **7 Marks**

- (ii) What procedure would be followed if Richard were to be removed? **3 Marks**
(TOTAL: 20 MARKS)

7. Felix, Edward and Davie, are in a stationery and printing business through a limited private company called FED stationery (Pvt) Limited (FED). The three young men are the shareholders and directors of FED.

During the early years of FED, things went on well. Later, very serious differences rooted in politics arose amongst the three men. They could no longer come together without getting into a serious quarrel usually with Felix on the one hand against Edward and Davie on the other.

When Edward and Davie suggested a meeting with Felix to resolve the issue, Felix declined stating that he could not discuss anything with the two hopeless idiots even if he were dragged to meet them at gunpoint. Surprisingly, the conflicts have not affected the survival of FED, which has become even more prosperous than before.

In January this year Felix wrote Edward and Davie indicating his intention to petition the court for a winding up order. He stated that in the circumstances it was just and equitable that they parted and shared the proceeds and assets of the company.

The response from Edward and Davie was that Felix's position was unattainable arguing that FED could not be wound up while it was a very successful company. The two would rather negotiate with Felix and buy him out of the company.

Required:

With the aid of authorities, state whether on the 'just the equitable' ground, FED can be wound up. **20 Marks**

(TOTAL: 20 MARKS)

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