

EXAMINATION No. _____



2016 EXAMINATIONS

ACCOUNTING TECHNICIAN PROGRAMME

PAPER TC12: COMPANY LAW

TUESDAY 6 DECEMBER 2016

TIME ALLOWED: 3 HOURS
2.00 PM - 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 5 pages.

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

1. (a) State **two** common features between a company limited by shares and a company limited by guarantee. **4 Marks**
- (b) State the **two** types of companies limited by shares. **2 Marks**
- (c) John had twenty (20) lorries which he used to run in partnership with his brother, Peter. Peter started taking accountancy lessons and heard that businesses may be run as companies limited by shares. He persuaded John that they should convert the business from a partnership to a company limited by shares. Eventually they incorporated the partnership into Lonjezo Transport Limited (LTL).

Required:

What are the **six** effects of the incorporation of LTL. **6 Marks**

- (d) Under what circumstances would the veil of incorporation of LTL be lifted
 - (i) under statutory law; **4 Marks**
 - (ii) under common law? **4 Marks**

(TOTAL: 20 MARKS)

2. (a) It was stated by Lord Cairns in *Enlanger v New Sombrero Phosphate Co. (1878)* 3, App Cas. 1218 at 1236 that the promoters of a company “stand undoubtedly in a fiduciary position. They have in their hands the creation and moulding of the company. They have the power of defining how, and when, and in what shape, and under what supervision, it shall start into existence and begin to act as a trading corporation.”

Required:

Explain the **four** consequences of this fiduciary relationship in dealings between the company and its promoters. **8 Marks**

- (b) Under what circumstance does a company issue shares
 - (i) at a premium; **2 Marks**
 - (ii) at a discount? **2 Marks**
- (c) Oriental Communications Limited (OCL) issued shares at a premium, and in compliance with the Companies Act 1984, transferred the premiums on those shares to a “share premium account”.

Required:

Advise the directors of OCL on how the funds in the share premium account may be applied or used. **6 Marks**

- (d) State the **two** advantages that a holder of preference shares may have over a holder of ordinary shares. **2 Marks**

(TOTAL : 20 MARKS)

3. Soche Bank Limited (SBL) intends to go public and list on the Nasolo Stock Exchange. As a requirement, it intends to make an invitation to the public to acquire shares in it. Osman, chairman of the board of directors of SBL, has approached you for advice on the procedure to follow in order to list on the Nasolo Stock Exchange.

Required:

- (a) (i) Explain to Osman the meaning of the word “prospectus”. **2 Marks**
- (ii) State any **five** requirements relating to a prospectus which must be complied with to make the invitation lawful. **10 Marks**
- (b) (i) In what circumstances will SBL be deemed to have made an invitation to the public? **6 Marks**
- (ii) In what circumstances will SBL be deemed not to have made an invitation to the public? **2 Marks**

(TOTAL: 20 MARKS)

4. (a) Outline the rule in Turquand’s case. **9 Marks**
- (b) The rule in Turquand’s case must be considered as being subject to Section 22(1) of the Companies Act 1984 which obliges a company not to carry on business which is restricted.

Required:

Do you agree with this statement? Give reasons for your answer. **4 Marks**

- (c) Despite widespread rumours in the locality that Rose had been removed from the board of directors of Kabula Furnishers Limited (KFL), Jane advanced money to her when the said Rose was offering shares on behalf of KFL. When Jane wanted to find out whether any shares had been allotted to her, there were no records at the registering office of KFL that she had made payment for the shares as Rose had ceased to be a director at the time of the payment. Rose now has no money. Jane would like to recover her money from KFL.

Required:

Advise Jane if she can recover her money from KFL. **7 Marks**

(TOTAL: 20 MARKS)

Continued/.....

5. (a) Define the following terms:
- (i) debenture; **2 Marks**
 - (ii) debenture stock. **2 Marks**
- (b) State the advantage of creating a debenture stock over a debenture. **3 Marks**
- (c) (i) Explain the effect of creating a debenture trust. **3 Marks**
- (ii) Outline the category of any **three** persons disqualified from being appointed as trustees for debenture holders. **3 Marks**
- (d) Shire Telecoms Limited (STL) issued a debenture to Joseph who then transferred it to Rodrick who was not duly registered by STL as a holder of the transferred debenture. A clause was inserted in the debenture that the principal and interest would be payable without regard to any equities between the company and the original or intermediate holder of the debenture. It has just been discovered that Joseph had obtained the debentures from the company by misrepresentation, without paying anything for them. Rodrick now wants to claim the benefits of the debenture. The managing director of STL has just told him that in the circumstance, there is no way he can benefit from the debenture. Rodrick has now come to you for advice on whether or not he can benefit from the debenture.

Required:

Advise Rodrick.

7 Marks

(TOTAL: 20 MARKS)

6. (a) On what grounds may a court order the winding up of a company? **6 Marks**
- (b) Which persons may petition a court to wind up a company? **5 Marks**
- (c) What are the duties of an auditor towards a company? **3 Marks**
- (d) State **three** powers or rights of auditors towards a company? **6 Marks**
- (TOTAL: 20 MARKS)**

Continued/.....

7. (a) What is an Annual General Meeting? **4 Marks**
- (b) Who are the persons entitled to attend and to speak at any general meeting of a company? **5 Marks**
- (a) At a company meeting, a resolution may be decided by voting either by a show of hands or by a ballot.

Required:

- (i) State **two** situations where the Companies Act 1984 prohibits the demand for a poll. **4 Marks**
- (ii) Can the right to demand a poll be excluded by the Articles? **2 Marks**
- (iii) In what circumstances would a provision in a company's Articles be void where it has the effect of denying the right of demand for a poll? **5 Marks**
- (TOTAL: 20 MARKS)**

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