

Tutorial Letter 101/3/2018

LEGAL ASPECTS IN ACCOUNTANCY

AUE1601

Semester 1 and 2

Department of Auditing

IMPORTANT INFORMATION

Please register on myUnisa, activate your myLife e-mail address and make sure that you have regular access to the myUnisa module website, as well as your group website.

Note: This is an online module and therefore it is available on myUnisa. However, in order to support you in your learning process, you will also receive some study material in printed format.

BARCODE

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1 INTRODUCTION

Dear Student

Welcome to the **ONLINE** module AUE1601. We shall do our best to make your study of this course interesting and rewarding. You will be well on your way to success if you start studying early in the semester and decide to do your assignments properly.

You must be registered for a myLife e-mail address and register on myUnisa to be able to access your study material, submit assignments, gain access to the Library functions and various learning resources, download study material, “chat” to your lecturers and fellow students about your studies and the challenges you encounter, and participate in online discussion forums.

Tutorial letters will be posted to students. However, we encourage you to utilise the online learning platform. All the learning material is available on myUnisa with useful links to assist you in mastering a perceived difficult subject like auditing. In this module you will be guided through the content by working through the learning units either on myUnisa or the printed version.

We hope that you will have a very enjoyable and successful semester of study.

1.1 To get started on myUnisa

Based on a Unisa decision, for this module you will only receive a printed study guide and Tutorial Letter 101 (this tutorial letter). The other tutorial letters of less than 20 pages are not printed and are electronically available on myUnisa. You must be registered on myUnisa to be able to access study material, submit your assignments, gain access to the Library functions and various learning resources, to “chat” to your lecturer or teaching assistant and fellow students about your studies and the challenges that you might encounter, and to participate in online discussion forums, blogs or self-assessments.

In addition to registering on myUnisa, it is crucial that you activate your myLife e-mail address, as all your official correspondence regarding this module will be sent to your myLife address and not your private e-mail address. Please consult the *Study @ Unisa* publication for more information on the activation of your myLife e-mail address as well as obtaining access to the myUnisa module site.

Go to the website <https://my.unisa.ac.za> and log in with your student number and password. You will see **AUE1601** in your row of modules, in the orange bar across the top of the webpage.

1.2 How to study this module online

This module is taught online — this means that it is a different experience from some of your other modules at Unisa.

- **This means that all your study material and learning activities are online, on myUnisa.** Printed material will be provided. However, you will benefit from utilising the online platform.

- **Attempt to submit all of your assignments online.** If you submit your assignments online, make sure that you submit them on myUnisa in the required format (**PDF**). (Remember: submitting your assignments online is **faster and safer** than by post.)
- **This means that most of the communication between yourself and the university also happens online** — by e-mail, in the discussion forums and through the **Questions and Answers** tool. The semester period is very short; therefore communicating with you online is the most effective way to cover all the learning material.

2 PURPOSE AND OUTCOMES FOR THE MODULE

The purpose of this module is to enable students to gain insight into aspects of the Companies Act No 71 of 2008, as amended by the Companies Amendment Act, No 3 of 2011, the Companies Regulations 2011, Close Corporations Act No 69 of 1984, as amended and other legislation of importance to accountants. The learning outcome for this module is that students should be able to comprehend and apply the different topics prescribed in this module.

3 LECTURERS AND CONTACT DETAILS

3.1 Lecturers' information

Your lecturers for this module are:

Ms S Malan

You may contact the lecturer in the following ways:

Tel: +27 12 429 4846
E-mail: malans@unisa.ac.za

Ms AM du Preez

You may contact the lecturer in the following ways:

Tel: +27 12 429 3383
E-mail: dpreeam@unisa.ac.za

Course co-ordinator:

Prof HJ Theron +27 12 429 4364
E-mail: therohj@unisa.ac.za

Please do not hesitate to contact the lecturer(s) by e-mail, telephonically or personally (by prior arranged appointment only), should you experience specific problems regarding the **content of the module**. Please have your study material open online when you contact us. Please note that enquiries with regard to matters not relating to the **content of the module** (e.g. myUnisa or myLife access, enquiries in respect of examination dates, examination venues, etc) must **not be directed to your lecturer** but should be directed to the relevant department. The contact details are available in the *Study @ Unisa* brochure (www.unisa.ac.za).

3.2 Department

Department of Auditing:

If you wish to write to us, you should address your letters to:

The Module Leader: AUE1601
 Department of Auditing
 PO Box 392
 Unisa
 0003

Secretary:

Tel: +2712 429 4707

Departmental webpage:

<http://www.unisa.ac.za/Default.asp?Cmd=ViewContent&ContentID=194>

3.3 College

College related undergraduate enquiries should be directed to: +2712 429 4211 or Casenquiries-undergraduate@unisa.ac.za

3.4 University

If you need to contact Unisa about matters **not related to the content** of this module, please consult the brochure *Study @ Unisa*, which you should have received with your study material. In this document you will find the contact details of various administrative departments. If you did not receive this document and you have access to the internet, you can find it on myUnisa under the 'Resources' option. Remember to always have your student number ready when making an enquiry.

Please ensure that you contact the correct section or department for each enquiry as this will result in a speedy resolution of the enquiry.

The contact details are:

E-mail addresses:



- info@unisa.ac.za for general enquiries
- study-info@unisa.ac.za for application and registration-related enquiries (prospective and registered students)
- international@unisa.ac.za for international students (registration-related enquiries)
- assign@unisa.ac.za for assignment enquiries
- exams@unisa.ac.za for examination enquiries
- despatch@unisa.ac.za for study material enquiries
- finan@unisa.ac.za for student account enquiries
- gaudeamus@unisa.ac.za for graduation enquiries
- myUnisaHelp@unisa.ac.za for assistance with myUnisa
- myLifeHelp@unisa.ac.za for assistance with myLife e-mail accounts
- aegrotats@unisa.ac.za for aegrotat exams

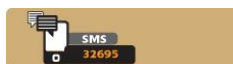
- remark@unisa.ac.za for remarking of papers
- recheck@unisa.ac.za for rechecking of papers
- condiscipuli@unisa.ac.za for fellow student names
- counselling@unisa.ac.za for student counselling and career development
- vospresc@unisa.ac.za for enquiries about prescribed books

Library

The *Study @ Unisa* booklet, which is part of your registration package, lists all the services offered by the Unisa library.

General library catalogue enquiries	bib-oasis@unisa.ac.za
Library web co-coordinator	bib-web@unisa.ac.za
Inter-library loans enquiries	libr-ill@unisa.ac.za
Enquiries about subject databases	bib-dbase@unisa.ac.za
Library information desk	bib-help@unisa.ac.za
Enquiries about training presented by the Library	bib-oplei@unisa.ac.za
Send a question to the Library staff	bibrefq@unisa.ac.za

SMS numbers:



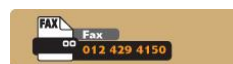
Send an SMS to 32695 for more information on how to contact Unisa via SMS (only for students within the borders of South Africa). Students will receive an auto-response SMS with the various SMS options. Standard SMS rates apply.

Students can also SMS enquiries directly to:

- 43578 for applications and registrations*
- 43584 for assignments*
- 43584 for examinations*
- 43579 for study material*
- 31954 for student accounts*
- 43582 for myUnisa and myLife*

* The SMS number is only for students residing in South Africa. International students are urged to make use of the e-mail address info@unisa.ac.za.

Fax number:



Fax enquiries to +2712 429 415

Online address <http://my.unisa.ac.za>
 Unisa website <http://www.unisa.ac.za>

Other means of contacting the University are:

Physical address

University of South Africa
 Preller Street
 Muckleneuk
 Pretoria
 City of Tshwane

Postal address

University of South Africa
 PO Box 392
 Unisa
 0003

NB: Lecturers cannot assist you with registration, payments, module codes, examinations, etc. These are administrative issues, which should be discussed with the relevant sections.

4 RESOURCES

4.1 Prescribed books

You should obtain a copy of the Companies Act 71 of 2008 and the Companies Regulations of 2011. You should **either** purchase a copy **or** download it electronically – you do **not** need to do both. The link of the Companies Act and the Companies Regulations will be made available on *myUnisa*. You can also purchase a printed version of this Act:

- *LexisNexis, 2017. Auditing: legislation and standards. Second edition.*

Please consult the list of official booksellers and their addresses listed in *Study @ Unisa*.

Please note:

It is **essential** that you have the **prescribed textbooks at your disposal. We suggest that you try to obtain the books as soon as possible.**

4.2 Recommended books

There are no recommended books for this module.

4.3 Electronic reserves (e-reserves)

The Companies Act 71 of 2008 and the Companies Regulations of 2011 are available electronically.

4.4 Library services and resources information

For brief information go to: <http://www.unisa.ac.za/static/myunisa/Content/documents/study-at-Unisa2017-brochure.pdf>

For more detailed information, go to the Unisa website: <http://www.unisa.ac.za/>, and click on Library.

For research support and services of personal librarians, go to: <http://www.unisa.ac.za/Default.asp?Cmd=ViewContent&ContentID=7102>.

The Library has compiled numerous library guides:

- Find recommended reading in the print collection and e-reserves - <http://libguides.unisa.ac.za/request/undergrad>.
- Request material - <http://libguides.unisa.ac.za/request/request>.
- Postgraduate information services - <http://libguides.unisa.ac.za/request/postgrad>.
- Finding, obtaining and using library resources and tools to assist in doing research - http://libguides.unisa.ac.za/Research_Skills.
- How to contact the Library/find us on social media/frequently asked questions - <http://libguides.unisa.ac.za/ask>.

5 STUDENT SUPPORT SERVICES

For student support services, you are referred to the *Study @ Unisa* brochure. Please also visit myUnisa for announcements and additional information resources.

Telecentres

Free computer and internet access

Unisa has entered into partnerships with establishments (referred to as telecentres) in various locations across South Africa to enable you (as a Unisa student) free access to computers and the internet. This access enables you to engage in e-tutoring activities and signature courses, etc. Please note that any other activity outside of those listed are for your own cost e.g. printing, photocopying, etc. For more information on the telecentre nearest to you, please visit www.unisa.ac.za/telecentres.

6 STUDY PLAN

You are responsible for pacing yourself; that means that you should spread your studies evenly throughout the semester.

Also use the *Study @ Unisa* brochure for general time management and planning.

7 PRACTICAL WORK AND WORK-INTEGRATED LEARNING

There is no practical work for this module.

8 ASSESSMENT

8.1 Assessment plan

Assignments and learning

Assignments assess your progress and learning and must be submitted before the due dates. As you do the assignments, study the reading texts, consult other resources, and discuss the work with fellow students or tutors, you are actively engaged in learning.

Compulsory assignment

You are required to **submit Assignment 01 and Assignment 02 before the due date**. Admission will be obtained by submitting Assignment 01 or Assignment 02 and not based on the marks you obtain for it. **No admission will be considered if you did not submit one of these two assignments before the due date.**

The **marks you obtained** for Assignment 01 **and** Assignment 02 will contribute towards your year mark.

General remarks

- (a) Assignment 01 is included in this tutorial letter, but is also available on myUnisa.
- (b) The assignments must be submitted on or before the due date to obtain admission to the examination. Make sure that it is marked as "01" or "02".
- (c) It is in your own interest to **retain a copy of proof that the assignment (number 01 and/or 02) was submitted** so that you can produce this in the event that there should afterwards be any dispute concerning whether or not the assignment was received.
- (d) A **year mark** of 20% will contribute to your final mark. The marks that you obtain for Assignment 01 and Assignment 02 will contribute towards your year mark for the module. The final mark is calculated as follows:

5% x mark obtained for Assignment 01, plus

15% x mark obtained for Assignment 02

80% x mark obtained in the examination (sub-minimum of 40%)

The sub-minimum of 40% implies that if you obtain a mark of less than 40% in the examination, your year mark will not be taken into account.

IMPORTANT:

TO GET ADMISSION TO THE EXAMINATION, YOU MUST SUBMIT ASSIGNMENT 01 OR ASSIGNMENT 02 BEFORE THE DUE DATE.

YOUR MARKS FOR BOTH ASSIGNMENTS 01 AND 02 WILL BE USED TO DETERMINE YOUR YEAR MARK.

Plagiarism

Plagiarism is the act of taking words, ideas and thoughts of others and passing them off as your own. It is a form of theft, which involves a number of dishonest academic activities.

my Studies @ Unisa Disciplinary Codes (2011) is given to all students at registration. Students are advised to study the Code, especially Chapter 3: 1.18 and 1.19. Also please read the University's Copyright Infringement and Plagiarism Policy.

All your assignments must be your own work. You will receive 0% for your whole assignment if it's deemed that plagiarism was committed in any part of the assignment and you may also be subject to disciplinary proceedings by the University.

Everyone must obtain the required skills to ensure that you will be able to make a valuable contribution in the workplace.

PLEASE NOTE: Enquiries about assignments must be addressed to assign@unisa.ac.za.

8.2 Assignment numbering

General assignment numbers

Assignments are numbered consecutively per module, starting from 01.

Unique assignment numbers

In addition to the general assignment number (such as 01), each assignment has its **own unique assignment number** (such as 102717). This number must be written on the mark-reading sheet or assignment cover page in the designated area.

8.3 Due dates for assignments

Refer to the following table for the unique assignment numbers and due dates applicable to the assignments that you have to submit:

Assignment	FIRST SEMESTER Due date if you are registered for the first semester	SECOND SEMESTER Due date if you are registered for the second semester
Assignment 01 (5 % of year mark)	13 March 2018 Unique assignment number: 884176 Multiple-choice questions	21 August 2018 Unique assignment number: 794385 Multiple-choice questions
Assignment 02 (15 % of year mark)	3 April 2018 Unique assignment number: 881112 Written assessment	11 September 2018 Unique assignment number: 754934 Written assessment

8.4 Submission of assignments

You may submit written assignments and assignments done on mark-reading sheets either by post or electronically via myUnisa. We strongly **recommend** that students **submit the assignments electronically via myUnisa** (in **PDF**) instead of posting them.

To submit assignments using myUnisa:

- Go to <http://my.unisa.ac.za>.
- Enter your student number and password.
- Select the module.
- Click on assignments in the left-hand menu.
- Click on the assignment number you want to submit.
- Follow the instructions on the screen.

Assignments posted should be addressed to: (**only** if you are **unable** to submit it electronically)

- The Registrar
- PO Box 392
- Unisa
- 0003

Important: By submitting your assignment you confirm that you accept and will adhere to the terms of the plagiarism declaration included in paragraphs 8.5.2 (Semester 1) and 8.5.4 (Semester 2) respectively. Please note:

- If you are found to be in violation of the plagiarism declaration you will receive 0% for the assignment.
- If you copied **all or a portion** of your assignment from someone else, both you and the person you copied from will receive 0% for the assignment.
- If you worked together in a study group, remember that you still have to submit your **own work**, written in your **own words**. If any similar-looking/worded assignments are found it will be considered to be a violation of the declaration and you will receive 0% for the assignment.
- The **plagiarism declaration** holds you accountable for completing your assignment on your own.

8.5 Assignments

8.5.1 Semester 1: *Compulsory Assignment 01*

NB: This assignment is due on 13 March 2018.

Instructions:

- (1) Write the correct unique assignment number in the six blocks provided on the mark-reading sheet.

- (2) Write the ordinary assignment number (01) in the two blocks provided on the mark-reading sheet.
- (3) Consult *Study @ Unisa* for an example of how a computer mark-reading sheet should be filled in.
- (4) If you do not follow these instructions, the computer will reject your answer sheet and it will be returned to you unmarked. Also consult *Study @ Unisa* when you answer multiple-choice assignments.

Special instructions for answering Assignment 01

- (1) This assignment consists of 14 multiple-choice questions.
- (2) This assignment covers topics 1–6 of the study guide (as indicated in brackets next to each question).
- (3) If you honestly attempt the assignment **after** first studying the prescribed study material, you will reap the benefits. If you copy the solution with the aim to obtain a high year mark, do not be surprised if you fail the examination despite an excellent year mark.

ASSIGNMENT 01: MULTIPLE-CHOICE QUESTIONS

UNIQUE ASSIGNMENT NUMBER FOR THE FIRST SEMESTER:
884176

DATE OF SUBMISSION

First semester: 13 March 2018

QUESTION 1

21 marks

REQUIRED

Answer questions 1 to 14 by selecting the **one** alternative that you consider the most correct answer to the relevant question. Mark the corresponding digit on myUnisa or on the mark-reading sheet. Answer the subsections of the questions in number sequence, for example:

1. 1
2. 3

(1½ marks per question)

1. Which one of the following statements regarding voting and shareholders' meetings is **false** in terms of the Companies Act 71 of 2008, as amended? **(Topic 3)**
 - 1 Voting on any matter at a shareholders' meeting may be conducted by polling the persons present who are entitled to exercise voting rights on that matter.

- 2 On a show of hands, a person will only have one vote, irrespective of the number of shares he or she holds or represents.
- 3 On a poll, any member (including his proxy) is entitled to exercise all the voting rights attached to the shares held or represented by that person.
- 4 A shareholder of a company may only appoint an individual that is a shareholder of that company as a proxy to participate in and speak and vote at a shareholders' meeting on behalf of the shareholder.

2. The liquidity and solvency tests are used, inter alia, for the following:

- a) Financial assistance to directors
- b) Capitalisation of shares
- c) Distribution of dividends
- d) Share capital reduction
- e) Sale of the greater part of a company's assets

Which one of the following alternatives above is **correct**? (**Topic 6**)

- 1 Options b, c, d and e.
- 2 Options a, b, c and d.
- 3 All of the options are correct.
- 4 Only option e.

3. A company may not indemnify a director against liability arising from for example: (**Topic 4**)

- a) Wilful misconduct or breach of trust by the director
- b) The director acting without the necessary authority
- c) Reckless trading
- d) Fraudulent acts of the director

Which one of the following alternatives above is **correct**?

- 1 Examples a, b, c, and d
- 2 None of the examples
- 3 Only example d
- 4 Examples a, c and d

Question 4 and 5: (Topic 2)

The following details pertain to two unrelated companies.

	Armstrong (Pty) Ltd	Sunnyside (Pty) Ltd
(a) Expenses	R 55 million	R 23 million
(b) Turnover	R 97.4 million	R 26.8 million
(c) Employees at the start of the year	132	32
(d) Employees at the end of the year	116	48
(e) Average number of employees for the year	124	40
(f) Amounts owed to third party liabilities	R 55 million	R23 million
(g) Individuals (all shareholders) with a direct or indirect interest in the company's shares	15	4
(h) Assets held in a fiduciary capacity	R 4 million	R5 million
(i) Annual Financial Statements compiled independently	No	Yes

4. What information in (a) – (h) from the above table for Armstrong (Pty) Ltd and Sunnyside (Pty) Ltd should have been used to calculate the public interest score?

- 1 (a) (b) (e) (f)
- 2 (b) (e) (f) (g)
- 3 (b) (d) (f) (g)
- 4 (e) (f) (g) (h)

5. Based on the information presented in the table for Armstrong (Pty) Ltd and Sunnyside (Pty) and your own calculations:

Which one of the following options is correct?

- 1 Sunnyside (Pty) Ltd should be audited.
- 2 Armstrong (Pty) Ltd and Sunnyside (Pty) should both be reviewed.
- 3 Armstrong (Pty) Ltd should be audited.
- 4 Armstrong (Pty) Ltd should be reviewed.

6. In terms of the Companies Act 71 of 2008, which one of the following company names would be permissible? **(Topic 1)**
- 1 Government Suppliers (Pty) Ltd
 - 2 Xenophobic Contractors Limited
 - 3 Mobile Group123 (Pty) Ltd
 - 4 Bling Bling Company
7. Which one of the following statements is **false** regarding pre-incorporation contracts? **(Topic 1)**
- 1 Pre-incorporation contracts must be in writing.
 - 2 If within three months the company has neither ratified nor rejected the contract, the contract will be deemed ratified.
 - 3 If the company in whose name the pre-incorporation contract has been entered is not subsequently incorporated, the company will remain liable for any liabilities as a result of the pre-incorporation contract.
 - 4 If the pre-incorporation contract is ratified, it will be enforceable against the company as if the company was a party to the contract.
8. Which one of the following statements is **correct** regarding non-profit companies? **(Topic 1)**
- 1 They are incorporated for public benefit; they have a maximum of three directors; they apply their assets and income to enhance their goals.
 - 2 They are incorporated for public benefit; they have a minimum of three directors; they apply their assets and income to enhance their goals.
 - 3 They are incorporated for public benefit; they have a minimum of three directors; they apply their assets and income to enhance their goals; their income is distributable amongst their incorporators.
 - 4 None of the above.
9. Which one of the following situations is **in compliance** with the requirements of the Companies Act 71 of 2008, as amended? **(Topics 1 & 3)**
- 1 Harvey and Spector are going to register a new company, namely Suits Ltd. They are going to be the only directors of the company.
 - 2 Black-list Ltd will have a shareholders' meeting on 30 June 2016. The notice of the shareholders' meeting was delivered to each shareholder on 20 June 2016.

- 3 The shareholders' meeting of Mentalist Ltd, held on 30 June 2016, was conducted successfully. As per the minutes of the meeting, a voting quorum of persons holding 30% of all the voting rights entitled to be exercised in respect of at least one matter, was present.
- 4 NCIS Ltd was newly incorporated on 30 June 2014. The date of the first financial year-end as set out in the company's notice of incorporation is 31 Augustus 2015. The first annual general meeting will be held on 15 December 2016.

10. Which one of the following statements regarding voting and shareholders' meetings is **false** in terms of the Companies Act? **(Topic 3)**

- 1 If there is only one class of shares, those shares must have voting rights in respect of all voting matters.
- 2 Every share has associated with it one general voting right, subject to the provisions of the Companies Act or the memorandum of incorporation.
- 3 If there is more than one class of shares, the memorandum of incorporation must provide that all classes must have voting rights in respect of all voting matters.
- 4 Subject to any other law, the memorandum of incorporation may establish any particular class of shares, that is, rights that confer special, conditional or limited voting rights.

11. Which one of the following persons will be allowed to be appointed as a director of Disney Ltd? **(topic 4)**

- 1 Ms Snow White: She is an unemancipated minor and meets all the criteria of the memorandum of incorporation.
- 2 Ms Elsa: She is a rehabilitated insolvent, who has recently turned 18 years of age. She has previously been found guilty of not paying her parking tickets on time, and was fined R500.
- 3 Ms Aurora: She has previously been removed as a director due to misconduct involving untruthfulness. She has never been found guilty of anything involving theft or fraud.
- 4 None of the above persons will be allowed to be appointed as a director of Disney Ltd.

12. Which one of the following situations might constitute **reckless trading** in terms of section 22 of the Companies Act? **(Topic 1)**

- 1 Company X is factually insolvent. The company, however, entered into a lease agreement for a very expensive fleet of company vehicles for its directors.
- 2 Company X is factually insolvent. Three of its four directors subsequently embarked on an extensive overseas trip as part of their annual bonuses.

- 3 Company X is factually insolvent. The directors of the company subsequently decided to take out a rather large loan from ABC-loans, in order to try and salvage Company X's financial position.
- 4 All of the above situations might constitute reckless trading.
- 13.** Which one of the following duties listed below is **not** the duty of the Companies Secretary? **(Topic 5)**
- 1 Ensure that minutes of all meetings (shareholders, directors, board committees and audit committee) are properly recorded.
- 2 Makes submissions to the board on any matter concerning accounting policies, financial control, records, and reporting of the company.
- 3 Provide directors with guidance with regard to their duties, responsibilities and powers.
- 4 Make directors aware of any relevant law.
- 14.** Bruce Wayne entered into a written rental agreement to rent a building in Johannesburg in the name of Robin Limited. The company Robin Limited does not exist yet; however, it is envisaged that it will be incorporated in terms of the Companies Act 71 of 2008. Which one of the following statements is false? **(Topic 1)**
- 1 Bruce Wayne is not liable for the rental agreement if Robin Limited is never incorporated.
- 2 Bruce Wayne is liable for the rental agreement if Robin Limited is incorporated and the board of directors of Robin Limited rejects the rental agreement.
- 3 Bruce Wayne is not liable for the rental agreement if Robin Limited, after its incorporation, enters into a rental agreement on the same terms as the rental agreement that Bruce Wayne has entered into.
- 4 If within three months after the date on which Robin Limited was incorporated, the board has not rejected the rental agreement, Robin Limited will be regarded to have ratified the rental agreement and the liability of Bruce Wayne regarding the rental agreement will be discharged.

---X---

8.5.2 Semester 1: Compulsory Assignment 02 (if student did not submit Assignment 01)

Instructions

- (1) Consult *Study @ Unisa* for instructions on how to submit written assignments.

Special instructions for answering this assignment

- (1) This assignment covers the whole syllabus.
- (2) All questions must be answered.
- (3) **Only selected questions will be marked.**
- (4) Where discussion is required, structure your answer in point format, limiting each paragraph to one statement.
- (5) Do not copy and paste directly from the Companies Act, interpret the theory and apply it to the question.
- (6) You are reminded that your assignments must be your own work.

By submitting your assignments, you confirm that you accept and will adhere to the terms of the **plagiarism declaration**. Please note:

- If you are found to be in violation of the declaration, you will receive 0% for Assignment 02.
- If you copied **all or a portion** of your assignment from someone else (including tutors, online study group, etc.), both you and the person(s) you copied from will receive 0%. If any similar-looking/worded assignments are found it will be considered to be a violation of the declaration.

This declaration holds you accountable for completing your assignment **on your own**.

PLAGIARISM DECLARATION:

By submitting AUE1601 assignment 02, I declare that:

- I have read the Unisa Students' Disciplinary Code;
- I know what plagiarism is, that plagiarism is wrong and that disciplinary steps can be taken against me if I am found guilty of plagiarism;
- This assignment, submitted by myself, is my own work and that I have referenced all the sources that I have used;
- I have not allowed any other student to copy my work;
- I know that if I am found to be in violation of this declaration I will receive 0% for the assignment involved.

Please note: You do not have to submit the declaration. By submitting any AUE1601 assignment, you automatically declare that you adhere to all the above with regard to the specific assignment.

ASSIGNMENT 02: ESSAY-TYPE QUESTIONS

**UNIQUE ASSIGNMENT NUMBER FOR THE FIRST SEMESTER:
881112**

DATE OF SUBMISSION

First semester: 3 April 2018

QUESTION 1**16 marks**

In terms of the Companies Act 2008, some provisions of the Act are regarded as “alterable provisions” and others are “unalterable provisions”. Consider the following provisions of the Act.

1. The shareholders of a public company must appoint an audit committee.
2. The board of a company must call a meeting of directors if 25% of the directors of a board consisting of at least 12 directors require it to do so, or two directors in any other case.
3. A person who is an unrehabilitated insolvent is disqualified from being appointed a director of a company.
4. The shares of a company will not have a nominal or par value.
5. If a company has more than two shareholders, a meeting of shareholders may not begin unless at least three shareholders are present and holders of 25% of the voting rights are present.
6. For an ordinary resolution to be approved by the shareholders, it must be supported by more than 50% of the voting rights exercised on the resolution.
7. For a special resolution to be approved by the shareholders, it must be supported by at least 75% of the voting rights exercised on the resolution.
8. The quorum for a directors meeting is a majority of the directors present at the meeting.
9. Every share issued by a company has associated with it an irrevocable right of the shareholder to vote on any proposal to amend the preferences, rights, limitations and other terms associated with that share.
10. If a director is present at a meeting to consider a matter in which that director has a personal financial interest, the director must leave the meeting after disclosing his interest in the matter.

(Source: Adapted from Graded Questions on Auditing 2014: Question 13.9)

REQUIRED

Marks

- 1.1 Explain the difference between an **alterable provision** and an **unalterable provision** of the Companies Act 2008. (2)
- 1.2 Indicate whether each of the provisions listed above (1 to 10) is alterable or unalterable. Where a provision is alterable, describe briefly, what alteration to the provision can be made. (16)

QUESTION 2

44 marks

You are a trainee auditor at ABC Auditors Incorporated (Inc) and have been assigned to the audit of Teknifast Ltd, the holding company of a group of companies which manufactures, wholesales and retails a range of fasteners, joiners and adhesives. All companies in the group have significant net worths but like most companies experience liquidity problems from time to time.

1. The group structure is as follows:

- 1.1 Teknifast Ltd's holdings in subsidiaries
- 1.1.1 Metalmatch (Pty) Ltd 80%
 - 1.1.2 Nutsenbolts (Pty) Ltd 58%

2. Directors

Teknifast Ltd (Pty) Ltd	Metalmatch (Pty) Ltd	Nutsenbolts (Pty) Ltd
Jones	Jones	Wilson
Bolden	Donovan	Campo
Sepeng	Dravid	
Donovan	Singh	

3. ABC Auditors Inc holds the appointment of auditor of all companies in the group with the exception of Nutsenbolts (Pty) Ltd. Prior to becoming a subsidiary, Nutsenbolts (Pty) Ltd was owned by Wilson and Campo, (the two existing directors), and Berk. Berk, Wilson and Campo have each retained a 14% shareholding and it was informally agreed that for as long as they remained as shareholders, the company would retain its own auditors. Co-operation between yourselves and the other firm of auditors has always been very professional.

4. Company Secretary

Alex Fergoosen is the company secretary of Teknifast Ltd and is responsible for secretarial matters for all companies in the group.

It is the policy of your firm that on all audits, transactions and matters that have statutory implications be referred to an experienced, senior member of the holding company's audit team.

The following transactions/matters have been referred to you:

- (i) A loan of R500 000 made by Metalmatch (Pty) Ltd to Donovan at the prime interest rate. (11)
- (ii) A loan of R1.2 million made by Metalmatch (Pty) Ltd to Bouncers (Pty) Ltd, a company recently formed by Ambrose and his business partner (who is in no way connected with the group) to manufacture glue resins. Ambrose owns 76% of the shares and his partner 24%. (6)
- (iii) A loan of R4 million by Teknifast (Pty) Ltd to Bolden to purchase an apartment (flat) in Detroit, USA. Bolden is the technical director of Teknifast (Pty) Ltd and is required to spend approximately a week each month in Detroit. Bolden also has a house in Johannesburg. (6)
- (iv) The minutes of a meeting of the directors of Teknifast Ltd (the group holding company) indicated that the directors of Teknifast Ltd were intent on removing Campo from his position as director of Nutsenbolts (Pty) Ltd prior to the expiry of his term of office. The reason stated in the minutes was that he did not appear to support the "Teknifast Group" corporate identity although his performance as a director was very satisfactory. Nutsenbolts (Pty) Ltd's memorandum of incorporation does not include any special provision that gives any person powers to remove a director. (10)

5. **The memorandum of incorporation** of all companies in the group stipulate that when making loans or providing assistance to directors, the requirements of the Companies Act 2008 must be satisfied. No additional restrictions or requirements are included.

REQUIRED	Marks
2.1 Discuss ABC Auditors Inc's right of access in respect of the accounting records, financial statements, books and documents of Nutsenbolts (Pty) Ltd.	(6)
2.2 Indicate the conditions that must be satisfied by Alex Fergoosen, the company Secretary of Teknifast Ltd , with regard to his residency and his professional qualification .	(3)
2.3 Discuss the legality/permissibility of each of the loans described from (i) to (iii) above in terms of the Companies Act 2008.	(23)
Communication skills: Clarity of expression and logical flow of arguments	(1)
2.4 Discuss the procedures that must be followed to achieve Teknifast Ltd's intention to remove Campo from his position of director of Nutsenbolts (Pty) Ltd.	(10)
Communication skills: Clarity of expression and logical flow of arguments	(1)

(Source: Adapted from Graded questions on Auditing 2016: Question 13.14)

QUESTION 3

16 marks

Castings CC is a close corporation that imports fishing equipment. The CC has eight members all of whom have approximately the same members' interest. Martin Orvis, the managing member of the CC, has become aware of amendments to the Close Corporations Act and the promulgation of the new Companies Act 2008, and feels that the CC should be converted to a company. He therefore asked you to attend a meeting of the members to answer various questions that the members had. You agreed and at the meeting at which all the members were present, the following questions were put to you.

REQUIRED	Marks
3.1 Martin Orvis asked whether it was now compulsory for close corporations to convert to companies .	(2)
3.2 Clark Jackson asked what the procedure was to convert .	(6)
3.3 Jason Fiddle enquired as to whether the new company would be a public or private company , and that as he didn't really understand the difference , could you explain it by giving three differences.	(8)

(Source: Adapted from Graded questions on Auditing 2016: Question 13.22)

---X---

8.5.3 Semester 2: Compulsory Assignment 01

NB: This assignment is due on 21 August 2018.

Instructions

- (1) Write the correct unique assignment number in the six blocks provided on the mark-reading sheet.
- (2) Write the ordinary assignment number (01) in the two blocks provided on the mark-reading sheet.
- (3) Consult *Study @ Unisa* for an example of how a computer mark-reading sheet should be filled in.
- (4) If you do not follow these instructions, the computer will reject your answer sheet and it will be returned to you unmarked. Also consult *Study @ Unisa* when you answer multiple-choice assignments.

Special instructions for answering Assignment 01

- (1) This assignment consists of 14 multiple-choice questions.
- (2) This assignment covers the topics of the study guide as indicated in brackets next to each question.

- (3) If you honestly attempted the assignment **after** first studying the prescribed study material, you will reap the benefits. If you copied the solution with the aim to obtain a high year mark, do not be surprised if you fail the examination despite an excellent year mark.

ASSIGNMENT 01: MULTIPLE-CHOICE QUESTIONS

**UNIQUE ASSIGNMENT NUMBER FOR THE SECOND SEMESTER:
794385**

DATE OF SUBMISSION

Second semester: 21 August 2018

QUESTION 1

18 marks

REQUIRED

Answer questions 1 to 14 by selecting the **one** alternative that you consider to be the most correct answer to the relevant question. Mark the corresponding digit on myUnisa or on the mark-reading sheet. Answer the subsections of the questions in number sequence, for example:

1. 1
2. 3

(1½ marks per question)

1. Which one of the following statements is **false** in terms of the Companies Act? (**topic 1 & 3**)
 - 1 The Companies Act provides for the formation and incorporation of profit companies and non-profit companies.
 - 2 A profit company is a company incorporated for the purpose of financial gain for its shareholders.
 - 3 A non-profit company is allowed to distribute its income to its incorporators, members, directors, officers or persons related to any of them, with no requirements to be met.
 - 4 The memorandum of incorporation of a private company prohibits it from offering any shares to the public.
2. Iron-Man Ltd's public interest score is calculated at 150 for the 2018 financial year and its financial statements are externally compiled. Iron-Man Ltd does not have to have its annual financial statements audited for the 2017 financial year. (**topic 2**)
 - 1 True.
 - 2 False.

3. The rights and limitations attached to shares which are stated in the company's memorandum of incorporation can never be altered. **(topic 3)**
- 1 False.
 - 2 True.

4. The following extract is from BA Barista Limited's annual financial statements at 31 December 2017:

	2016 R
ASSETS	
Total non-current assets	4 000 000
Total current assets	<u>5 000 000</u>
	<u>9 000 000</u>
EQUITY AND LIABILITIES	
Total non-current liabilities	6 000 000
Total current liabilities	<u>9 000 000</u>
	<u>15 000 000</u>

Which one of the following statements is **true** in terms of the Companies Act 71 of 2008, as amended? **(topic 1 & 3)**

- 1 It appears that BA Barista Limited will be able to pay its debts as they become due in the ordinary course of business for a period of 12 months.
 - 2 The assets of BA Barista Limited fairly valued, equal or exceed the liabilities of BA Barista Limited fairly valued.
 - 3 BA Barista Limited does not satisfy the solvency and liquidity test.
 - 4 BA Barista Limited is entitled to declare an appropriate dividend at the next shareholders meeting.
5. Which one of the following statements is **true** in terms of the Companies Act? **(Topic 1, 2 & 5)**
- 1 A memorandum of incorporation and a record of its directors, form part of the company records that must be maintained by every company.
 - 2 A private company does not need to be audited at all.
 - 3 The annual financial statements of a public company must be audited only if so determined by its public interest score.
 - 4 The annual financial statements of a public company must be audited by the head of its audit committee.

6. Which one of the following situations will lead to the **non-compliance** with the Companies Act? (**Topic 2**)
- 1 Ping Pong Limited's financial year-end is 28 February 2018. The company prepared and completed its annual financial statements on 31 May 2018.
 - 2 The financial statements for the financial year-end 28 February 2018 of Ping Pong Limited are not going to be audited or independently reviewed as it is the first financial year of Ping Pong Limited.
 - 3 Financial statements of Ping Pong Limited must not be false, misleading or incomplete. Any person of Ping Pong Limited who is party to the preparation, approval, dissemination or publication of financial statements which are materially false or misleading will be guilty of an offence.
 - 4 The first financial year of Ping Pong Limited commenced on 1 May 2017 (the date on which the company was registered, as stated in its registration certificate). The first financial year of Ping Pong Limited ends on 28 February 2018, as set out in the Notice of Incorporation.
7. Indicate which one of the following lists of factors that **contribute** to the calculation of the public interest score of a company, is correct: (**Topic 2**)
- 1 Assets; turnover; beneficial interest holders (e.g. shareholders); liabilities.
 - 2 Assets; turnover; beneficial interest holders (e.g. shareholders); average number of employees; number of audit committee members.
 - 3 Turnover; beneficial interest holders (e.g. shareholders); average number of employees; third-party liabilities.
 - 4 Assets held in fiduciary capacity; turnover; beneficial interest holders (e.g. shareholders); average number of employees; third-party liabilities.
8. Indicate which one of the following statements in terms of the Companies Act regarding the **duties** of the **company secretary** is **correct**: (**Topic 5**)
- 1 Making the directors aware of any changes in the Companies Act; ensuring that a copy of the company's annual financial statements is sent to every person who is entitled to it; keeping minutes of all shareholders' meetings, board meetings, board committee meetings and audit committee meetings.
 - 2 Making the directors aware of any law relevant to the company; ensuring that a copy of the company's annual financial statements is sent to every person who is entitled to it; ensuring that minutes of all shareholders' meetings, board meetings, board committee meetings and audit committee meetings are kept.
 - 3 Making the directors aware of any law relevant to the company; typing the company's annual financial statements; ensuring that minutes of all shareholders' meetings, board meetings, board committee meetings and audit committee meetings are kept.

- 4 Making the directors aware of any law relevant to the company; ensuring that a copy of the company's annual financial statements is sent only to the directors; ensuring that minutes of all shareholders' meetings, board meetings, board committee meetings and auditors' meetings are kept.
9. Iron-Man Ltd has a subsidiary, Y-Men (Pty) Ltd. Y-Men (Pty) Ltd may **not** hold more than 10% of any class of shares of Iron-Man Ltd, and may not exercise any voting rights attached to those shares. **(Topic 3)**
- 1 True.
 - 2 False.
10. Which one of the following statements is **true** with regard to the sale of the greater part of a company's assets? **(Topic 6)**
- 1 The directors may not dispose of the greater part of the assets of a company without an ordinary resolution taken by the shareholders.
 - 2 The directors need to give 10 business days' notice to the shareholders, to inform them of the decision to sell the assets, after it has been sold.
 - 3 Notice to the shareholders must include a written summary of the terms of the transaction regarding the assets being sold.
 - 4 Before the sale of the greater part of a company's assets may take place, it should first be determined whether the company is solvent and liquid.
11. Which one of the following statements is **false** with regard to a compliance officer who is appointed in terms of an employee share scheme? **(Topic 3)**
- 1 The compliance officer is required to provide a written statement to any employee who received an offer of specified shares in terms of the employee share scheme, setting out full particulars of the nature of the transaction.
 - 2 It is necessary for documents containing information regarding the written statements to employees in terms of employee share schemes to be filed within 20 days after the establishment of the respective employee share scheme.
 - 3 The compliance officer is required to provide a written statement to any employee who received an offer of specified shares in terms of the employee share scheme, setting out information relating to the company.
 - 4 The compliance officer who is appointed in terms of an employee share scheme does not have the responsibility for the administration of the respective employee share scheme.
12. Which one of the following persons **may** be appointed as a director? **(Topic 4)**
- 1 A body corporate.

- 2 A person who was convicted of perjury in New Zealand and who was imprisoned for one year without the option of a fine, but who completed the sentence four years ago.
 - 3 A seventeen-year-old minor who is unemancipated.
 - 4 A rehabilitated insolvent.
- 13.** Indicate the correct quorum for a meeting of directors before a vote may be called, where the company has eleven directors? **(Topic 4)**
- 1 Three directors.
 - 2 Five directors.
 - 3 Six directors.
 - 4 Seven directors.
- 14.** Indicate which one of the following statements in terms of the Companies Act regarding the **duties** of the **audit committee** is **not correct**: **(Topic 5)**
- 1 To pre-approve any proposed agreement with the auditor for the provision of non-audit services to the company.
 - 2 To determine the fees to be paid to the auditor and the auditor's terms of engagement.
 - 3 To appoint an independent registered auditor.
 - 4 To make submissions to the board on any matter concerning the company's accounting policies, financial control, records and reporting.

---X---

8.5.4 Semester 2: Compulsory Assignment 02 (if student did not submit Assignment 01)

Instructions

- (1) Consult *Study @ Unisa* for instructions on how to submit written assignments.

Special instructions for answering this assignment

- (1) This assignment covers the whole syllabus.
- (2) All questions must be answered.
- (3) **Only selected questions will be marked.**
- (4) Where discussion is required, structure your answer in point format, limiting each paragraph to one statement.

- (5) Do not copy and paste directly from the Companies Act, interpret the theory and apply it to the question.
- (6) You are reminded that your assignments must be your own work.

By submitting your assignments, you confirm that you accept and will adhere to the terms of the **plagiarism declaration**. Please note:

- If you are found to be in violation of the declaration, you will receive 0% for Assignment 02.
- If you copied **all or a portion** of your assignment from someone else (including tutors, online study group, etc.), both you and the person(s) you copied from will receive 0%. If any similar-looking/worded assignments are found it will be considered to be a violation of the declaration.

This declaration holds you accountable for completing your assignment **on your own**.

PLAGIARISM DECLARATION:

By submitting AUE1601 assignment 02, I declare that:

- I have read the Unisa Students' Disciplinary Code;
- I know what plagiarism is, that plagiarism is wrong and that disciplinary steps can be taken against me if I am found guilty of plagiarism;
- This assignment, submitted by myself, is my own work and that I have referenced all the sources that I have used;
- I have not allowed any other student to copy my work;
- I know that if I am found to be in violation of this declaration I will receive 0% for the assignment involved.

Please note: You do not have to submit the declaration. By submitting any AUE1601 assignment, you automatically declare that you adhere to all the above with regard to the specific assignment.

ASSIGNMENT 02: ESSAY-TYPE QUESTIONS

**UNIQUE ASSIGNMENT NUMBER FOR THE SECOND SEMESTER:
754934**

DATE OF SUBMISSION

Second semester: 11 September 2018

QUESTION 1**40 marks**

I-Roll Limited ("I-Roll") was established to assist with the management of the new electronic toll system ("e-toll") in South Africa. The main responsibilities of I-Roll are the contracting, administration and managing of all e-toll customer accounts. The company therefore manages all e-toll transaction processing and clearing. In instances of non-payment by e-road users, I-Roll also implements the fining and debt collection process.

I-Roll is financially healthy with a turnover for the current financial year of R9.5 million. After taking into account the matters for discussion below, the company's current assets will amount to R5 million and its current liabilities to R2.5 million. The company's net asset value will be R5 million.

Below is an extract of the minutes of the meeting of the board of directors of I-Roll held on 30 June 2018:

Attendees:

Bonolo Avenue, managing director
Sarah Lane, chairman, independent non-executive director
Cornelius Toll, marketing director
Waseem Crossing, financial director and holds 60% of I-Roll's shares

Matters for discussion:

1. Minnesh Crossing, son of Waseem Crossing is experiencing severe cash flow problems and applied for a long-term loan from I-Roll. The loan of R1 million to Minnesh Crossing was approved and granted. The loan was granted after the directors of the board evaluated that all the conditions and restrictions in respect of the granting of financial assistance as set out in the Memorandum of Incorporation of I-Roll were satisfied. This is the first time this type of loan has been approved and granted since the incorporation of I-Roll. On 20 July 2018 a notice of the adopted board resolution was sent to all the shareholders of the company. No special resolution by shareholders was previously obtained for approving loans to directors or related parties.
2. Allegations recently emerged against Bonolo Avenue regarding his involvement in a money laundering operation. Bonolo Avenue has not yet been found guilty; however, the board requested Bonolo Avenue to voluntarily resign as a director as his involvement in the scheme may bring I-Roll into disrepute. Bonolo refused this request and pleaded his innocence with the board of directors.

REQUIRED

Marks

- 1.1 Explain whether Minnesh Crossing is a related party of Wasseem Crossing in terms of the Companies Act. (3)
- 1.2 Describe the Companies Act requirements that should be considered for the granting of the loan to Minnesh Crossing. Structure your answer according to the following headings: (23)
- 1.2.1 Granting of a loan to a person related to a director. (4)
 - 1.2.2 Authorisation to approve loans to related parties. (2)
 - 1.2.3 Requirements to give notice to approve loans to related parties. (6)
- 1.3 Discuss whether the granting of the loan to Minnesh Crossing was legal or not, with reference to the Companies Act requirements in 1.2 above. (10)
- Communication skills:** Clarity of expression and logical flow of arguments (1)
- 1.4 Describe the process and requirements to remove a director in terms of the Companies Act. (14)

QUESTION 2

50 marks

Barking Mad Limited (“Barking Mad”) is a veterinarian pharmaceutical company that specialises in the development and manufacturing of vaccines and medicine for domestic animals and livestock. Barking Mad is an industry leader in the scientific research, development, manufacture and sale of quality, proven veterinary pharmaceutical products.

Rinus Terrier, the founder and the financial director of Barking Mad, has a significant equity interest of 75% in Anamalia (Proprietary) Limited (“Anamalia”).

Barking Mad holds a 90% interest in Multivet Limited (“Multivet”).

The following extract is from Barking Mad’s annual financial statements at 30 June 2018:

	2018
	R
ASSETS	
Total non-current assets	4 000 000
Total current assets	5 000 000
	<u>9 000 000</u>
LIABILITIES	
Total non-current liabilities	6 000 000
Total current liabilities	9 000 000
	<u><u>15 000 000</u></u>

The following extract is also from Barking Mad's notes to the annual financial statements for the financial year-end of 30 June 2017:

	2018
	R
8. SHARE CAPITAL	
Authorised share capital	
100 000 ordinary shares	100 000
Issued share capital	
80 000 ordinary shares	80 000

You are a trainee auditor and is busy with studies on the Companies Act. Rinus Terrier presented the following proposed matters to you for your evaluation:

2.1 Matter 1:

The board of directors of Barking Mad will approve a decision to issue 30 000 shares to Anamalia. The board has determined that if the share issue takes places, the shares will be issued at the current market value of the shares.

REQUIRED**Marks**

Discuss the legality, of the 30 000 shares to be issued to Anamalia in terms of the requirements of the Companies Act, under the following headings:

(24)

- Authority of the Board to issue shares. **(2)**
- Authorised shares available for issue. **(7)**
- Consideration for the shares. **(4)**
- Share issue to Anamalia. **(4)**
- Voting requirements for a special resolution to be approved by shareholders. **(1)**
- Notice of the shareholders meeting. **(2)**
- Requirements for a shareholders' meeting quorum. **(3)**

Communication skills: Clarity of expression and logical flow of arguments **(1)**

2.2 Matter 2:

You may assume that the issue of the 30 000 shares in Matter 1 did not take place.

The board of directors of Barking Mad will approve a share buyback of 80 000 of the issued shares of Barking Mad as follows: 80 000 shares will be acquired by Barking Mad so that there would no longer be any shares of Barking Mad in issue.

REQUIRED**Marks**

2.2.1 Describe in detail the Companies Act requirements related to a company acquiring its own shares in a share buyback. **(10)**

2.2.2 From the information in the scenario, indicate whether or not the acquisition of the Barking Mad shares by Barking Mad is legal, in terms of the Companies Act requirements. Structure your answer according to the following points:

Solvency and liquidity requirements. **(5)**

Number of Barking Mad shares acquired in the share buyback. **(3)**

Number of Barking Mad shares acquired by Barking Mad. **(2)**

Matter 3:

Rinus Terrier is considering expanding his business and starting another company. He has already entered into a new lease agreement with a third party for premises for his new company. He is unsure about the requirements of the Companies Act regarding pre-incorporation contracts.

REQUIRED**Marks**

Explain to Rinus Terrier the Companies Act requirements concerning pre-incorporation contracts. **(12)**

9 OTHER ASSESSMENT METHODS

An examination paper which serves as a self-evaluation assessment is provided below as part of this tutorial letter.

Special instructions and remarks regarding the answering of this assessment opportunity

It is advised that you complete this assessment opportunity under examination conditions within two hours without consulting your study material.

After having completed this, you should compare your answers with the key in Tutorial Letter 202. This assessment opportunity **must not** be sent to the university.

Tutorial material for this assessment opportunity

This assessment opportunity deals with the entire contents of this module.

Purpose of this assessment opportunity

The purpose of this assessment opportunity is to serve as a revision of the study material as a whole; at the same time it is an indication of the standard which can be expected in the examination.

Below, find a previous examination paper that serves as a self-assessment assignment.

This paper consists of the following questions and main topics:

QUESTION	MAIN TOPIC	MARKS
1.	Categories of companies, Public interest score, Type of engagement, Company records, Appointment of auditor, Removal of director from the board.	50
2.	Issuing of shares, Consideration of shares, Financial assistance, Disposal of major part of company's assets, Solvency and liquidity tests, Business rescue, Whistle-blowers.	<u>50</u>
		<u>100</u>

NOTE:

The main objective of the examination is to test a candidate's knowledge and ability to apply the study material, although the examiners will also take into account the candidate's ability to organise and present that knowledge in writing and according to an acceptable standard.

In this paper, references to the Companies Act are to the Companies Act 71 of 2008 and the Companies Regulations of the Republic of South Africa.

QUESTION 1

50 marks

Background information

You are a specialist in company law and are currently advising a number of clients about compliance issues and various aspects of the Companies Act and Company Regulations.

Information relating to each of the clients is indicated below:

Gold Products (Pty) Ltd

Susan Gold established Gold Products (Pty) Ltd (GP), a company that buys and sells gold jewellery to the public, in 2011. She held 100% of the shares in GP before she recently transferred all her shares to her adopted son, David as a birthday present.

Katy, David's wife, invited him for lunch and discussed the possibility of her brother Kevin starting a career at GP. She is aware that her brother is struggling to find work due to the current economic situation.

Giving Hope NPC

Amy Jacobs and her two best friends incorporated Giving Hope NPC (GH) in 2012. It is a non-profit organisation that supports children's homes by providing them with basic necessities such as clothes, blankets, toiletries, nappies and formula milk. The three friends, currently the only directors at GH, studied medicine together and after qualifying as medical doctors, regularly visited children's homes to provide free medical assistance. At the children's homes they realised the need for basic necessities and decided to start an organisation to collect goods or money donations from the public for the distribution to children's homes. All income and goods are applied towards the children's homes.

Since its incorporation, GH has grown considerably and the need arose for another director to assist with the day-to-day activities. Debbie Stone, an old school friend that is currently unemployed after being dismissed for dishonesty, was appointed as a director by Amy. Debbie assured Amy and her friends that the allegations of dishonesty were not true.

Wine time (Pty) Ltd

Wine time (Pty) Ltd (Wine time), was incorporated on 1 February 2017 by Bernie Els, a well-known wine maker in the Western Cape. The company exports 80% of its wine to Europe and sells 20% locally in the leading supermarkets. The board of directors consist of four executive directors, including Bernie Els.

On 18 January 2017, prior to the incorporation of Wine time, Bernie Els on behalf of Wine time, entered into a written agreement (contract) with a wine merchant in Greece to export its finest wines on a monthly basis.

On 2 March 2017, the board of directors resolved that the contract entered into between Bernie and the foreign wine merchants should be rejected in full, due to incorrect selling prices that appear on the contract.

For the financial year ended 30 April 2017:

- On average 25 employees were employed during the year.
- The board of directors consisted of four directors.
- There were eight shareholders.
- Total assets equal R20 million.
- Total third-party liabilities equal R6 million.
- Share capital equals R2 million.
- Turnover for the year was R10 million.

The board members need advice from you on the following matters:

1. Whether accounting/company records should be kept (retained) or not, and for how long.
2. Whether a company secretary should be appointed and what the requirements are in terms of the Companies Act.

REQUIRED	Marks
1.1 With reference to the information relating to Gold Products (Pty) Ltd:	
1.1.1 Discuss whether Susan is related to Gold Products (Pty) Ltd after the share transfer.	(4)
1.1.2 Discuss whether David and Kevin are related to each other.	(3)
1.2 With reference to the information relating to Giving Hope NPC:	
1.2.1 Discuss whether Giving Hope NPC qualifies to be a non-profit company in terms of the Companies Act.	(6)
1.2.2 Discuss the legality of the appointment of Debbie Stone as director of Giving Hope NPC, in terms of the Companies Act.	(2)
1.3 With reference to the information relating to Wine time (Pty) Ltd:	
1.3.1 Discuss the legality and consequences of the decision to reject the contract entered into between Bernie Els (on behalf of Wine time) and the wine merchants by:	
- Stating the requirements of the Companies Act.	(8)
- Applying the requirements of the Companies Act to the scenario.	(6)
Communication skills: Application to theory	(1)
1.3.2 Calculate the public interest score for Wine time (Pty) Ltd for the year ended 30 April 2017. Show your workings and give reasons .	(8)
Communication skills: Clarity of expression	(1)
1.3.3 Based only on the public interest score calculation in 1.3.2 , advise whether Wine time (Pty) Ltd should be audited or reviewed . Give a reason for your answer.	(2)

- 1.3.4 **Advise** Wine time (Pty) Ltd on whether or not to **keep** accounting/company records **and** if so, for **how long**. (2)
- 1.3.5 **Advise** Wine time (Pty) Ltd **whether** it is required to **appoint** a company secretary. (2)
- 1.3.6 **Describe** the duties of the company secretary in terms of the Companies Act. (5)

QUESTION 2

50 marks

Background information

You are a trainee auditor at the auditing firm, Zet Incorporated (Zet) which also specialises in company law.

Babula (Pty) Ltd (Babula) conducts business in the tourism industry. The company owns eight game lodges in South Africa that mainly provide accommodation to tourists. The standard of accommodation varies considerably, from rustic bush camps, sometimes tented, to luxury lodges with the character of upmarket hotels.

The following is an extract from Babula's statement of financial position for the year ended 30 April 2017:

	2017 R
ASSETS	
Total non-current assets	55 000 000
Total current assets	<u>25 000 000</u>
	<u>80 000 000</u>
LIABILITIES	
Total non-current liabilities	32 000 000
Total current liabilities	<u>23 000 000</u>
	<u>55 000 000</u>

The company is in a net asset position of R25 000 000 as at 30 April 2017.

1. Financial assistance to a director to acquire shares

Mr Solomon, the marketing director of Babula, approached the board of directors to obtain a loan of R1 million to enable him to purchase shares in Babula. Mr Solomon is of the opinion that a shareholding in Babula will be an excellent investment. It is his first time acquiring shares in a company.

The board of directors approved the granting of a loan to Mr Solomon to acquire shares in Babula with no director opposing the resolution. This is the first time this type of loan will be approved and granted since the incorporation of Babula.

The loan application guarantees that the loan will be repaid in full over two years and that interest at the prime overdraft rate will be applicable. The board evaluated that all the conditions and restrictions in respect of the granting of financial assistance, as set out in the Memorandum of Incorporation (MOI) of Babula, will be satisfied if the loan is granted

to Mr Solomon. Notice of these resolutions will be provided to all shareholders in writing within 18 business days.

2. Disposal of the greater part of the company's assets

In an effort to improve Babula's financial position and generate cash flow, Mr Buck, the managing director of Babula, proposed that Babula dispose of all the game lodge properties it owns, and focus solely on the renting and cleaning segments of the business. The book value of these properties is R50 million.

The board sent a notice, within the required number of days in terms of the MOI, to Babula's shareholders to inform them of the board's intention to dispose of all game lodge properties. The directors explained that the decision would not have any negative impact on turnover.

A special resolution was adopted by 80% of shareholders entitled to exercise voting rights on the relevant matter. The minutes of the shareholder meeting indicated a quorum of 32% of shareholders entitled to exercise voting rights was present.

3. Contract with major supplier

In February 2017, Mr Wilson, the financial director of Babula convinced the board members to enter into a contract with Cleaning Supplies (Pty) Ltd (Cleaning) to deliver cleaning products to Babula for the next five years. A board meeting, which was held for a board resolution to be taken on the contract between Babula and Cleaning, was attended by all directors, including Mr Wilson. All attendees voted in favour of the contract.

Mr Wilson only remembered at the meeting to inform the board members that his daughter, Ms Samuel is the managing director of Cleaning. Mr Wilson knows it is imperative for all directors to comply with the standards of director's conduct in terms of the Companies Act. The board members agreed that family should stand together, as there is immense pressure on the economy due to the global financial crises. No further information was requested by the board members.

4. Possible business rescue

Mr Bird, Babula's managing director, stated that the board is unsure whether a company can voluntarily enter into business rescue proceedings. The board is currently considering various techniques to radically improve the company's financial position to attract more investors. It was resolved that business rescue proceedings will be discussed at the next board meeting.

5. Whistle-blowers

The company secretary discussed the content of section 159 of the Companies Act: "*Protection for whistle-blowers*" at a workshop on corporate governance.

REQUIRED

Marks

2.1 Refer to matter 1: Financial assistance to a director to acquire shares.

Evaluate and conclude on the **legality** of providing financial assistance to Mr Solomon for him to acquire shares in Babula (Pty) Ltd in terms of the requirements of the Companies Act. Present your answer under the following headings:

- 2.1.1 **Financial assistance to a director** (8)
- 2.1.2 **Issuing of shares to a director** (6)
Communication skills: Application to theory (question 2.1.1 and 2.1.2) (1)
- 2.2 Refer to **matter 2: Disposal of the greater part of the company's assets.**
- 2.2.1 **Discuss the legality** of the disposal of the game lodge properties in terms of the Companies Act (assuming that the company is not under business rescue). (9)
Communication skills: Application to theory (1)
- 2.3 Refer to **matter 3: Contract with major supplier.**
- 2.3.1 **Discuss the legality** of the contract between Babula (Pty) Ltd and Cleaning Supplies (Pty) Ltd, particularly in view of the relationship between Mr Wilson and Ms Samuel, in terms of the requirements of the Companies Act. (10)
Communication skills: Application to theory (1)
- 2.3.2 **List** the requirements for the standards of a director's conduct in terms of the Companies Act. (9)
- 2.4 Refer to **matter 4: Possible business rescue.**
- 2.4.1 **Explain whether or not** Babula can voluntarily begin with business rescue proceedings. (3)
- 2.5 Refer to **matter 5: Whistle-blowers.**
- 2.5.1 List **two instances** when "Protection for whistle-blowers" in terms of section 159 of the Companies Act, can be applied in a company. (2)

---X---

10 EXAMINATION

Requirements for admission to the examination

Submission of the **compulsory Assignment 01 OR Assignment 02** by its due date will give you *admission* to the examination in this module. Admission will be obtained by submitting this assignment **in time** and not the marks you obtain for it. Please ensure that this assignment reaches the University **before or on the due date**. **Late submission of a compulsory assignment will result in you not being admitted to the examination. No extension will be given for the late submission of Assignments.**

The examination period

This module is offered in both semesters. This means that if you are registered for the first semester, you will write the examination in May/June 2018 and the supplementary examination will be written in October/November 2018. If you are registered for the second semester you will write the examination in October/November 2018 and the supplementary examination will be written in May/June 2019.

During the semester, the examination section will provide you with information regarding the examination in general, examination venues, examination dates and examination times.

Previous examination papers

Previous examination papers are available to students on **myUnisa**. **Suggested solutions are not provided.** Please do not request these from us, as it is a departmental policy that we are not allowed to supply you with the memorandums. You may, however, accept that the type of questions that will be asked in the examination will be similar to those found in your study material.

Use the *Study @ Unisa* brochure for general guidance for the examination as well as for your preparation for the examination.

11 FREQUENTLY ASKED QUESTIONS

The *Study @ Unisa* brochure contains an A–Z guide of the most relevant study information. We also posted a number of frequently asked questions on myUnisa.

12 SOURCES CONSULTED

Only the prescribed textbook has been consulted.

13 CONCLUSION

We wish you every success with your auditing studies! We are here to assist you with the content of the module. Please make the most of your opportunity to learn about this module.

14 ADDENDUM

There are no addendums to this tutorial letter.