

# Tutorial letter 102/3/2016

## LEGAL ASPECTS IN ACCOUNTANCY

### AUE1601

#### Semesters 1 & 2

#### Department of Auditing

**IMPORTANT INFORMATION:**

This tutorial letter contains a timetable for study purposes and additional questions to work through as part of your studies.

BAR CODE

# CONTENTS

*Bladsy*

1.	PROPOSED ALLOCATION OF STUDY TIME .....	3
2.	ABBREVIATIONS USED IN THIS TUTORIAL LETTER .....	3
3	QUESTIONS .....	3
4	CONCLUDING REMARKS .....	16

## 1. PROPOSED ALLOCATION OF STUDY TIME

Topic number	Topic	Minimum hours of study
Preface	General overview	4
1	Interpretation, purpose, application and formation of a company	10
2	Records required by companies	10
3	Shareholders and shares	12
4	Directors	12
5	Enhanced accountability and transparency (Governance)	8
6	Transactions	8
7	Business rescue, compromise with creditors, winding up and deregistration of companies	8
8	Regulatory agencies, offences and penalties	4
9	Schedules to the Companies Act, Close Corporations Act and other legislation applicable to companies	4
	Completion of assignments and additional questions in Tutorial letter 102	16
	Revision for examination	24

## 2. ABBREVIATIONS USED IN THIS TUTORIAL LETTER

**Companies Act = Companies Act 71 of 2008, as amended and the Companies Regulations; MOI = Memorandum of Incorporation**

## 3 QUESTIONS

The following questions apply to various topics in your study guide. Please attempt them after you have completed your study guide and thereafter compare your answers with the solutions given in tutorial letter 103. Also keep in mind the time allocated to each question.

The questions consist of past UNISA exam and assignment questions; as well as adapted and new UNISA questions.

Question	Topic	Areas covered	Time allocation (in minutes)	Number of marks
1	Topics 1, 3, 4 & 6	Companies Act: Related and interrelated persons, and control; Liquidity and solvency requirements; Financial assistance to directors; Disposal of the greater part of assets; Shareholders' resolutions and meetings; Share buy-backs; Standards of director's conduct; Removal of directors; Appointment of directors.	120	100
2	Topics 3, 4 & 5	Companies Act: Authorisation and issue of shares; Directors personal financial interest; Duties of the audit committee.	54	45
3	Topics 1 & 6	Companies Act: Reckless trading; Disposal of the greater part of assets; Distributions; Financial assistance to acquire shares.	36	30
4	Topic 5	Companies Act: Appointment and rotation of auditors; Composition of the audit committee; Independence of the auditor.	30	25
5	Topic 3	Companies Act: Share Issue; Meetings.	36	30
6	Topics 1 & 3	Companies Act: Related and inter-related persons and control; Director's personal financial interest; Voting; Distributions.	36	30
7	Topics 4 & 5	Companies Act: Requirements to have annual financial statements audited; Appointment of audit committee; Duties of the audit committee; Removal of director; Appointment of auditor.	48	40
8	Topic 1	Companies Act: Pre-incorporation contracts.	7	6
9	Topics 2 & 5	Companies Act: Calculation of the PIS (Public Interest Score).	15	12

**QUESTION 1 (Topics 1, 3, 4 & 6)**

**100 marks**

You are a Chartered Accountant (SA) and an expert on the Companies Act.

Document Exchange Ltd ("Docex") specialises in the distribution of local and international mail and parcels. Docex has branches country wide in an attempt to spread its service delivery footprint and its customers range from individuals to large companies.

Docex holds a 70% interest in Carrier and Freight Company Ltd ("CFC").

The following extract is from the annual financial statements of Docex at 30 June 2015:

	<b>2015</b>
	<b>R</b>
<b>ASSETS</b>	
Total Non-Current Assets	7 400 000
Total Current Assets	1 500 000
	<u>8 900 000</u>
<b>LIABILITIES</b>	
Total Non-Current Liabilities	6 600 000
Total Current Liabilities	9 200 000
	<u>15 800 000</u>

The company is in a net liability position of R6 900 000 as at 30 June 2015.

An extract of the minutes of the meeting of the Board of Directors ("Board") of Docex:

**DOCUMENT EXCHANGE LTD**  
**MINUTES OF THE MEETING OF THE BOARD OF DIRECTORS HELD ON 31 JULY 2015**

**Present:**

Mr Fana Freight, chairman, independent non-executive director  
 Mr Clement Courier, non-executive director  
 Mr Tim Transport, sales and marketing director  
 Mr Lesley Logistics, managing director  
 Ms Patricia Post, financial director  
 Mr Mannie Mail, company secretary

**Apologies:**

Mr Redewaan Road, executive director

**Matters for discussion:**

**1. Loan to Jerel Speed**

Lesley Logistics presented the application for a loan of R1 million from Docex by Jerel Speed, managing director of CFC. Lesley Logistics noted that Jerel Speed approached Docex to obtain a loan from Docex. In the application, Jerel Speed indicated that CFC is experiencing financial difficulties and that he therefore cannot obtain the loan from CFC. The application also guarantees the loan will be repaid in full over two years and interest of the prime overdraft rate will be applicable.

Lesley Logistics explained to the Board that Jerel expressed the urgency of the loan due to unforeseen personal reasons. 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 Docex, will be satisfied if the loan is granted to Jerel Speed. Lesley Logistics noted that this is the first time this type of loan will be approved and granted since the incorporation of Docex.

The voting commenced and the proposed application to provide Jerel Speed with a loan was approved by the Board. Notice of these resolutions will be provided to all shareholders in writing within 15 business days.

## **2. Disposal of Head office buildings:**

Patricia Post indicated that Docex currently does not utilise its head office building effectively. Due to downscaling of operations that occurred in the prior year, as a result of financial difficulties experienced by the company, half of the space available at the head office building of Docex is now unoccupied.

Patricia Post suggested to the Board that the head office must move into one of the smaller buildings owned by Docex and proposed to dispose of the large head office building. The funds received from the disposal of the head office building will also be used to replace old equipment.

Patricia proposed to sell the head office building with a book value of R5 million at a profit of R100 000 to an independent third party, the selling price is the market value of the building.

The voting commenced and both proposals were unanimously accepted. The directors also decided that the transaction should be completed as soon as possible and that they do not deem it necessary to inform the shareholders of the company.

## **3. Acquisition of shares**

Patricia Post presented to the Board that the company is experiencing financial difficulties. She proposed that the company should consider restructuring, starting with the ownership of the company. Patricia Post proposed the acquisition of 300 000 of the company's shares as follows:

120 000 shares will be acquired by CFC and the remaining 180 000 shares will be acquired by Docex so that there would no longer be any shares of Docex in issue.

The Board of Docex approved the acquisition of all shares at the current market value of the shares.

## **4. Dismissal of a director**

Fana Freight presented to the Board that allegations recently arose against Redewaan Road, regarding his involvement in a fraudulent scheme where R3 million was stolen from Docex. Fana Freight explained that Redewaan Road has not been found guilty yet; however it is in the best interest of the company to dismiss Redewaan Road immediately.

The Board agreed and approved the decision to remove Redewaan Road as director of Docex.

## **5. Appointment of director**

The Board resolved that Redewaan Road will be replaced as director. Clement Courier presented a list of recommended candidates to be considered for the position to replace Redewaan Road as director. The following candidates were presented on the list:

- Mr Air Mail, Patricia Post's 17 year old son who obtains high marks for accounting.
- Container Incorporated, a personal liability company.
- Ms Delores Stamp, Chartered Accountant (SA), the court declared her as a rehabilitated insolvent.
- Mr Mpho Letter was convicted and imprisoned due to his involvement with fraudulent activities at his previous company.

The Board resolved that the appointment of the new director from the list of recommended candidates will be made at the next board meeting.

Lesley Logistics approached you for advice regarding the resolutions made on the meeting of the Board of Directors held 31 July 2015.

<b>REQUIRED</b>	<b>Marks</b>
<b>1 Matter 1:</b>	
1.1 Determine if CFC is a related party of Docex in terms of the Companies Act.	<b>(4)</b>
1.2 Discuss whether Docex satisfies the solvency and liquidity test as defined by the Companies Act taking into account the extract from the financial statements. First give the requirements of the Companies Act and then apply the requirements to Docex.	<b>(7)</b>
1.3 (i) List the Companies Act requirements for the granting of a loan or financial assistance to directors or related companies.	<b>(10)</b>
(ii) Discuss the legality of the granting of the loan to Jerel Speed in terms of the requirements of the Companies Act.	<b>(8)</b>
<b>2 Matter 2:</b>	
2.1 (i) List the requirements in terms of the Companies Act for the disposal of the greater part of a company's assets. Do not include any requirements on quorums or voting.	<b>(5)</b>
(ii) Discuss the legality of the disposal of the head office building in terms of the Companies Act. Do not discuss any requirements regarding quorums or the voting process.	<b>(7)</b>
2.2 List the requirements for shareholders' meetings as required by the Companies Act in terms of the following points:	
3. Requirements for a special resolution to be approved by shareholders;	<b>(1)</b>
4. Requirements for a notice of shareholders' meeting;	<b>(1)</b>
5. Requirements for a shareholders' meeting quorum.	<b>(3)</b>
<b>3 Matter 3:</b>	
3.1 Discuss the legality of the acquisition (share buy-back) of the shares of Docex by Docex and CFC in accordance with the requirements of the Companies Act. First give the requirements of the Companies Act and then apply the requirements to the scenario.	<b>(13)</b>
<b>4 Matter 4:</b>	
4.1 List the requirements for the standards of director's conduct in terms of the Companies Act.	<b>(10)</b>

- 4.2 Discuss the legality of the removal of Redewaan Road in terms of the requirements of the Companies Act, by first listing the requirements and then applying it to the scenario. (16)
- 5 **Matter 5:**
- 5.1 List the persons ineligible or disqualified from being appointed as a director in accordance with the Companies Act. (10)
- 5.2 Explain to the Board which of the candidates listed under point 5 of the agenda, will be permissible in terms of the requirements of the Companies Act to be appointed as the new director of Docex. (5)

**QUESTION 2 (Topics 3, 4 & 5)**

**45 marks**

You are a Chartered Accountant (SA) and an expert on the Companies Act.

Marvel Entertainment Ltd is a renowned retailer of comic books and toys. You have recently been approached by Mr Wolverine, the financial director, of Marvel Entertainment Ltd to seek advice on the legality of several proposed matters in terms of the Companies Act.

1.1 The following extract is from the company's annual financial statements at 30 June 2015:

	<b>2015</b>
	<b>R</b>
<b>EQUITY</b>	
<b>Authorised share capital</b>	
150 000 Ordinary shares	<u>75 000</u>
<b>Issued share capital</b>	
130 000 Ordinary shares	<u>65 000</u>

Mr. Wolverine presented the following matters to you for your evaluation:

The audit committee is going to approve a decision to issue 30 000 shares at the annual audit committee meeting. The board has determined that the shares will be issued at the current market value of the shares. 10 000 Of these shares are going to be issued equally to the five directors of Marvel Entertainment Ltd.

**REQUIRED**

**Marks**

Discuss the requirements of the Companies Act, for the issue of 30 000 shares, **only** in terms of the following points:

- The authority to issue shares (2)
- Authorised shares available for issue (9)
- Consideration for the shares (3)
- Share issue to the directors (3)
- Voting requirements regarding a special resolution to be approved by shareholders. (1)

(Do not discuss any requirements regarding giving notice or quorums).



- 1.2** An extract of the minutes of the meeting of the board of directors of Marvel Entertainment Ltd held on 25 June 2015

**Present:**

Mr Parker, chairman, independent non-executive director  
 Mr Wayne, independent non-executive director  
 Mr Stark, marketing director  
 Mr Xavier, managing director  
 Mr Wolverine, financial director

**Matters for discussion:**

**Expansion of operations**

Suggestions on how to expand the company's operations most effectively were discussed. Mr Stark suggested the investment of the acquired funds from the share issue in shares of the top 40 listed companies. Mr Xavier suggested the investment and acquisition of the controlling interest in DreamWorks Ltd, a competitor in the comic industry. The directors agreed with Mr Xavier's suggestion.

Mr Xavier informed the meeting that his wife is the chief executive officer of DreamWorks Ltd.

No further information was required by the meeting and the voting process proceeded. The five directors voted and all the votes were for the decision to invest and acquire the controlling interest in Dream Works Ltd.

**REQUIRED**

**Marks**

Evaluate if Mr Xavier has a personal financial interest in the investment and acquisition of the controlling interest in DreamWorks Ltd. Evaluate and conclude on the legality of the adopted resolution in terms of the requirements of the Companies Act.

**(16)**

- 1.3** Mr Wolverine is not fully informed about all the duties of the audit committee. He explained to you that he believes that the duties of the audit committee are ...

- to ensure that the appointment of the auditor complies with the provisions of the Companies Act, and any other legislation relating to the appointment of auditors;
- to perform other functions determined by the board, including the development and implementation of a policy and plan for a systematic, disciplined approach to evaluate and improve the effectiveness of risk management, control, and governance processes within the company; and
- to pre-approve any proposed agreement with the auditor for the provision of non-audit services to the company.

**REQUIRED**

**Marks**

List the remaining duties of the audit committee which Mr Wolverine is not aware of in accordance with the Companies Act.

**(11)**

**QUESTION 3 (Topics 1 & 6)****30 marks**

Distillique Ltd, a leading producer and distributor of fine wines, spirits and ciders, has a significant equity interest of 85% in Aqua Vitae (Pty) Ltd.

The following extract is from Distillique Ltd's annual financial statements at 30 June 2015:

	<b>2015</b>
	<b>R</b>
<b>ASSETS</b>	
Total Non-Current Assets	4 000 000
Total Current Assets	<u>2 000 000</u>
	<u><u>6 000 000</u></u>
<b>LIABILITIES</b>	
Total Non-Current Liabilities	6 000 000
Total Current Liabilities	<u>5 000 000</u>
	<u><u>11 000 000</u></u>

- 1.1** With reference to the extract from the Distillique Ltd's annual financial statements at 30 June 2015 answer the following:

**REQUIRED****Marks**

Evaluate and conclude if Distillique Ltd is trading recklessly in terms of the requirements of the Companies Act.

**(5)**

- 1.2** Mr Barcardi, the chief executive director, approached you for advice regarding the following transactions:

Distillique Ltd wants to sell certain fixed assets with a book value of R3,5 million at a profit of R1 million to an independent third party.

**REQUIRED****Marks**

Discuss the requirements of the Companies Act, in respect of the above transaction, assuming that no shareholders opposed this particular transaction. Do not discuss any requirements regarding quorums or voting.

**(6)**

- 1.3** Distillique Ltd is experiencing severe cash flow problems. The company decided to attempt a strategy to attract investors and to increase the satisfaction of current shareholders and to discourage any disinvesting. Mr Barcardi proposed to declare a dividend at the end of the financial year to successfully accomplish the company's goal.

The board of directors approved the decision with no director opposing the decision.

**REQUIRED****Marks**

Evaluate the requirements of the Companies Act, in respect of the above transaction.

**(8)**

- 1.4** During the financial year, the board of directors approved the granting of a loan to Aqua Vitae (Pty) Ltd to acquire shares in Distillique Ltd. The board of directors approved the decision with no director opposing the decision.

**REQUIRED****Marks**

Evaluate and conclude on the legality of providing financial assistance for the acquisition of shares in Distillique Ltd in terms of the requirements of the Companies Act.

**(11)****QUESTION 4 (Topic 5)****25 marks**

Pick-n-Play Ltd is a major manufacturer and distributor of toys and has a 31 December financial year-end.

DTT Incorporated, a firm of registered auditors, has been Pick-n-Play Ltd's external auditors for the 6 preceding years. DTT Incorporated was asked to resign following a disagreement with the management of Pick-n-Play Ltd concerning the accounting treatment of certain transactions.

The vacancy occurred on 10 February 2015 Mr Shoprite, the managing director of Pick-n-Play Ltd, recommended A-Team Incorporated to the audit committee of Pick-n-Play Ltd on 15 February 2015 to be considered for appointment as the new external auditor for the financial year ended 31 December 2015.

Mr Shoprite is a member of the audit committee and believes that it will benefit Pick-n-Play Ltd to appoint A-Team Incorporated as the new external auditors. Reason for this benefit is Mr Murdock, one of the partners of A-Team Incorporated and the designated auditor for Pick-n-Play Ltd, is the previous financial director of Pick-n-Play Ltd. Mr Murdock resigned as financial director of Pick-n-Play Ltd a year ago to pursue other opportunities.

**REQUIRED****Marks**

Discuss the requirements of the Companies Act, for the appointment of A-Team Incorporated as the new external auditors of Pick-n-Play Ltd, **only** in terms of the following points:

- Requirements to be appointment as an auditor of a company and whether or not Mr Murdock may be appointed. **(7)**
- Requirements where a vacancy arises in the office of an auditor. **(3)**
- Rotation of auditors. **(3)**
- Composition of the audit committee. **(7)**
- Considerations taken into account to determine whether or not A-Team Incorporated is independent. **(5)**

**QUESTION 5 (Topic 3)****30 marks**

Computer Services (Pty) Ltd is a large computer services firm which specialises in the implementation of computer networks. As would be expected, its own financial and related systems are fully integrated and make use of leading edge technology.

The company has fifteen ordinary shareholders.

The chief executive officer, Mr Buys has informed you as the company's secretary and Companies Act expert of his intention to raise additional finance amounting to R2 500 000 for the company by issuing additional ordinary shares. The company's authorised share capital is 100 000 ordinary shares. However, these shares have already been issued in full. It is intended that the directors of Computer Services (Pty) Ltd will be offered shares. None of the directors currently hold shares. The new shares to be issued are to be of the same class as the existing shares and will have the same rights and limitations. The company's memorandum of incorporation (MOI) prohibits shareholders' meetings from being held electronically. Computer Services (Pty) Ltd does not have un-certificated shares.

Mr Buys has therefore asked you for advice in this regard and would like further advice on any Companies Act requirements relating to the share issue.

## **REQUIRED**

## **Marks**

Discuss the requirements of the Companies Act with which Computer Services (Pty) Ltd will need to comply in respect of the proposed issue. You must accept that a special resolution will not be proposed by the directors if the MOI may require an amendment.

You must answer the question under the following headings:

- |             |  |             |
|-------------|--|-------------|
| <b>1.1</b>  | MOI requirements regarding the issue of shares (private company & shareholders' rights).   | <b>(6)</b>  |
| <b>1.2</b>  | Authorised shares available for issue & possible amendments to the MOI.  | <b>(4½)</b> |
| <b>1.3</b>  | Authority required for the share issue.  | <b>(1½)</b> |
| <b>1.4</b>  | Requirements applicable where shares of no par value are issued and the consideration for the issued shares.   | <b>(3)</b>  |
| <b>1.5</b>  | Requirements applicable where some shares are issued to directors.   | <b>(1½)</b> |
| <b>1.6</b>  | Requirements regarding notices for the meeting where the issue to directors is to be authorised.   | <b>(3)</b>  |
| <b>1.7</b>  | Quorum requirements for the meeting referred to above (in 1.6) and related matters in determination of the validity of the persons making up the quorum. | <b>(3)</b>  |
| <b>1.8</b>  | Requirements regarding the content of the resolution to be voted upon.   | <b>(1½)</b> |
| <b>1.9</b>  | Voting rights required to be exercised for a valid resolution.   | <b>(3)</b>  |
| <b>1.10</b> | Secretarial requirements after receiving the consideration for the shares.   | <b>(3)</b>  |

**QUESTION 6 (Topics 1 & 3)****30 marks**

The memorandum of incorporation (MOI) of Shipping Engineers (Pty) Ltd, a manufacturing company in the marine engineering sector contains, inter alia, the following clause:

"Any director or prescribed officer of the company who has a personal financial interest in a contract in which this company has entered or will enter, either directly or indirectly, shall comply with the Companies Act. The contract will be binding provided that the authority of the company in a general meeting is obtained by poll for the contract prior to the contract being entered into."

The minutes of the directors' meetings reveal that the company entered into a contract with Technical Systems (Pty) Ltd for the purchase of five highly sophisticated and expensive radar systems valued at approximately R1,5 million each. Greg O'Reilly, is a director of Shipping Engineers (Pty) Ltd, and his brother Brian is the majority shareholder of Technical Systems (Pty) Ltd.

The board of Shipping Engineers (Pty) Ltd decided to declare a R200 000 dividend at the end of the financial year to the members after having its property revalued in January 2015. The resolution was passed with no director opposing the decision. The valuator is a registered person and the excess value exceeded the current book value by R500 000 and is of a permanent nature.

The following extract is from Shipping Engineers (Pty) Ltd's annual financial statements at 30 June 2015

	<b>2015</b>
	<b>R</b>
<b>ASSETS</b>	
Total Non-Current Assets	3 000 000
Total Current Assets	<u>1 000 000</u>
	<u>4 000 000</u>
<b>LIABILITIES</b>	
Total Non-Current Liabilities	2 000 000
Total Current Liabilities	<u>3 000 000</u>
	<u>5 000 000</u>

**REQUIRED****Marks**

- |            |   |             |
|------------|---|-------------|
| <b>1.1</b> | Discuss the requirements of the Companies Act in relation to the contract entered into by Shipping Engineers (Pty) Ltd with Technical Systems (Pty) Ltd, particularly in view of the relationship between Greg and Brian.                       | <b>(12)</b> |
| <b>1.2</b> | Comment on whether the shareholders' meeting to ratify the contract could be held by electronic communication.  | <b>(5)</b>  |
| <b>1.3</b> | Describe the difference between voting on a show of hands and by poll.  | <b>(3)</b>  |
| <b>1.4</b> | Discuss the requirements of the Companies Act in respect of the R200 000 dividend declared. You may accept that in terms of common law, such surplus forms part of the distributable income and is subject to section 46 like any other income. | <b>(10)</b> |

**QUESTION 7 (Topics 4 & 5))****40 marks**

Painters (Pty) Ltd is a private company in the paint wholesaling business. John Smit, the newly appointed chief executive officer, is keen to improve the company's corporate governance and has approached you for some advice on various aspects of the Companies Act which directly affect governance. Currently the company's public interest score is about one hundred (100) and the company's annual financial statements are subject to independent review. However, John Smit informs you that he wants the company's annual financial statements to be externally audited annually and an audit committee to be appointed. He tells you that the directors have agreed to have the current year's financial statements audited voluntarily, but that he wants to make the annual external audit and the appointment of an audit committee a requirement in terms of the company's memorandum of incorporation (MOI). He believes that an external audit would be very beneficial and that it should not be dependent on the company's public interest score.

With regard to appointing an audit committee, John Smit requires that the audit committee be constituted as required by the Companies Act and that the committee's duties be at least those which are required by the Act.

For the voluntary audit of the current financial statements, the board of directors will appoint the auditor, but for future years, the auditor will be appointed as laid down in the Companies Act. This is of course, assuming that the annual audit becomes mandatory in terms of the MOI.

John Smit also tells you that since joining the company, he has been somewhat concerned about the attitude and performance of one of the directors, Ryan Hansen. He wants to know whether Ryan Hansen could be removed from his position as a director and if so, what procedures would have to be followed. John Smit is aware that Ryan Hansen will not resign his directorship. The company has six directors in total.

Painters (Pty) Ltd's MOI is consistent with the Companies Act and contains no variations on quorums, notice periods, approval of resolutions, appointments of directors, etc. It does provide for the appointment of an audit committee. The company has twenty shareholders.

John Smit has also given you a list of potential firms/individuals which the board is considering for appointment as auditor for the upcoming audit. The list is as follows:

- Lee Westwood – a registered auditor (RA) and brother of Peter Westwood, one of the major shareholders of Painters (Pty) Ltd.
- Fin Advisors Inc – a dynamic company, the shareholders of which are Don Roets, RA, Anne Naidoo, BComm LLB and Mark Wilkes, RA.

**REQUIRED****Marks**

1. Explain to John Smit how the external audit of Painters (Pty) Ltd's annual financial statements can become a requirement in terms of the company's MOI. Your answer must not include details of, or requirements for, meetings which may have to be held i.e. quorums, notice, etc.

**(5)**

**REQUIRED****Marks**

2. Describe to John Smit the requirements applicable to appointing an audit committee and outline the duties of the audit committee in terms of the Companies Act (do not concern yourself with King III). **(20)**
3. Advise John Smit on whether Ryan Hansen could be removed from his position as a director of Painters (Pty) Ltd (do not include any meeting requirements such as notices, quorums, etc. in your advice). **(12)**
4. Advise John Smit as to which, if either, of the two firms/individuals listed for appointment as auditor for the voluntary audit, would be suitable for appointment. **(3)**

**QUESTION 8 (Topic 1)****6 marks**

Edward is the owner of Scissor-hands (Pty) Ltd, a very successful hairdressing business. Edward 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 Edward the Companies Act requirements concerning pre-incorporation contracts. **(6)**

**QUESTION 9 (Topics 2 & 5)****12 marks****REQUIRED****Marks**

Calculate the public interest scores in order to consider whether the following companies should be audited or not:

- ABC (Pty) Ltd (ABC). Mr. X and Mr. Y each hold 20% of the shares of ABC and the remaining 60% of the shares are held by 40 other shareholders. The company employs an average workforce of 165 employees. The financial statements of the company are compiled by Mr. Z, a partner at the accounting firm Creative-Accountants-R-Us. ABC had a turnover of R185,5 million and the only liability of the company is its bank overdraft of R7 million. **(6)**
- XYZ (Pty) Ltd (XYZ). Mr. X owns 50% of the shares in XYZ. Due to Mr. X's excellent financial background, he handles all the financial matters of XYZ, including the compilation of the financial statements. The company employs a workforce of 70 employees on average. The company had a turnover of R80 million and owes no third party liabilities. Mr. Y (10%) and Mr. Z (40%) hold the remaining shares. **(6)**

## **4 CONCLUDING REMARKS**

We hope that by working through these questions, we have added value in the sense that you were able to increase your knowledge regarding the subject and that you are now better equipped for the examination