

AUE1601

May/June 2018

Legal Aspects in Accountancy

Duration 2 Hours

100 Marks

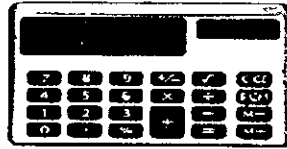
EXAMINATION PANEL AS APPOINTED BY THE DEPARTMENT

Use of a non-programmable pocket calculator is permissible

Closed book examination

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[TURN OVER]



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THIS PAPER CONSISTS OF **SIX (6)** PAGES

This paper consists of the following questions and main topics

QUESTION	MAIN TOPIC	MARKS
1.	Related and interrelated persons and control, Categories of companies, Reckless trading, Directors' personal financial interest, Directors and prescribed officers, Standards of directors' conduct, Public Interest Score, Company secretary requirements, Authorisation for shares, Share-issue to subsidiaries, Share-issue to directors, Consideration of shares, Disposal of greater part of assets, Business rescue, Winding-up of solvent companies, Pre-incorporation contracts	100

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

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In this paper, references to the Companies Act are to the Companies Act 71 of 2008, as amended and the Companies Regulations 2011, of the Republic of South Africa

QUESTION 1

100 marks

Background information

AAA Hospitals Ltd ('AAA') is a company that manages the operations of private medical facilities across the country. The directors are Mr Xolani, Mr Yaseen, Mr Zeeman and Ms Rose as well as five shareholders.

AAA holds an equity interest of 80% in Living Medical (Pty) Ltd ('Living'). Living is a specialised hospital where all the shareholders are directors and practising surgeons. There were on average 40 employees employed during the financial year, excluding the 15 practicing surgeons. The turnover for the financial year was R169.5 million. The total long-term liabilities owed to third parties amounted to R 201 million.

The following extract is from AAA's annual financial statements at 30 April 2018.

	2018 R
ASSETS	
Total non-current assets	102 000 000
Total current assets	105 000 000
	<u>207 000 000</u>
LIABILITIES	
Total non-current liabilities	110 000 000
Total current liabilities	112 000 000
	<u>222 000 000</u>

The following extract is from AAA's notes to the annual financial statements for the financial year-end of 30 April 2018.

	2018 R
SHARE CAPITAL	
Authorised share capital 150 000 ordinary shares	150 000
Issued share capital 110 000 ordinary shares	110 000

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The board of directors had their last meeting for the financial year on 30 March 2018

**AAA HOSPITALS LTD
MINUTES OF MEETING OF THE BOARD OF DIRECTORS HELD ON
30 MARCH 2018**

Present:

Ms Biyela, chairman and independent non-executive director
Mr Devito, non-executive director
Ms Pearl, non-executive director
Mr Yaseen, managing director
Ms Rose, finance director
Mr Xolani, marketing director
Mr Zeeman, company secretary

Matters for discussion:

Matter 1

The purchase of four BMW X6 models for the exclusive use of the directors was approved by all present. Previously, the directors were not awarded the use of a company vehicle.

These vehicles will be purchased from XYZ Motors which is owned by Mr Xolani's eldest son. Mr Xolani neglected to disclose this fact to the meeting.

No director excused themselves during the meeting.

Matter 2

Mr Zeeman has resigned and the board of directors have received the following proposals for the position of company secretary:

- OHM Inc, the audit firm currently appointed as the auditors for AAA,
- Mr Opperman, an attorney at a reputable law firm in Johannesburg who was declared an unrehabilitated insolvent during the year,
- Mr Tetto, a financial manager who was previously imprisoned for forgery. He was released from prison six years ago and has since been residing with his family in Pretoria.

Matter 3

The directors approved the issue of a further 60 000 shares due to the financial constraints AAA is currently facing. The share issue will be in the following ratio:

- 30 000 shares to Living
- 30 000 shares to Mr Yaseen

These shares will be issued at the current market value. The additional shares will bear the same voting rights as the shares currently issued.

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Matter 4

Ms Rose proposed for AAA to sell specialised medical equipment with a book value of R85 million to improve its liquidity. AAA will subsequently lease this specialised medical equipment through a monthly arrangement, as it is required for the functioning of its operations. The board of directors unanimously approved this transaction.

Matter 5

Mr Devito recently attended a seminar on business rescue proceedings and shared the information as a possible recourse to improve the financial position of AAA. The board considered this to be informative and will consider business rescue proceedings or decide to rather wind up the company.

Matter 6

Mr Yaseen and Ms Rose indicated to the meeting that in the instance of business rescue or winding-up of AAA, they intend to start a new company. The two directors also indicated that the new company would be in the same industry due to the knowledge and experience they gained at AAA.

Mr Yaseen and Ms Rose informed the meeting that they identified the ideal premises for the newly to be incorporated company and as a result signed a lease contract on 15 March 2018. They have however, still not submitted the prescribed registration documents to the Commission.

REQUIRED

Marks

1. **With reference to the background information and matter 1 of the minutes:**
 - 1.1 **Describe** the circumstances when an individual will be related to a juristic person and **discuss** the relationship between AAA Hospitals Ltd ('AAA') and XYZ Motors in terms of the Companies Act (4)
 - 1.2 **Describe two** differences between public and private companies (2)
 - 1.3 **Define** the term '**reckless trading**' in terms of the Companies Act and **state, whether or not** the purchasing of the four company vehicles by AAA will constitute **reckless trading** in terms of the Companies Act requirements. **Give reasons** for your answer (4)
 - 1.4 **List** the Companies Act requirements that must be complied with, where a director has a personal financial interest in the purchase of the company vehicles (7)
 - 1.5 **Discuss** the legality of the company vehicles purchased in terms of the Companies Act (8)
- Communication skills question 1.5:** Logical structure (1)

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REQUIRED (continued)	Marks
1.6 Name four instances that would render a person to be ineligible and disqualified to be a director in terms of the Companies Act	(4)
1.7 List two standards of directors' conduct that is required in terms of the Companies Act	(2)
2. With reference to the background information:	
2.1 Calculate the public interest score for Living Medical (Pty) Ltd ('Living') and determine whether Living should be audited or independently reviewed	(8)
3. With reference to the background information and matter 2 of the minutes:	
3.1 Explain whether each of the parties listed in matter 2 would be eligible for appointment as company secretary of AAA in terms of the Companies Act Include both aspects of compliance and non-compliance in your answer	(9)
Communication skills: Clarity of expression	(1)
4. With reference to the background information and matter 3 of the minutes:	
Discuss the issue of the 60 000 additional shares by AAA in terms of the Companies Act requirements under the following headings	
4.1 Requirements that must be met to issue the additional shares	(10)
4.2 Shares to be issued to Living	(5)
4.3 Shares to be issued to Mr Yaseen	(5)
4.4 Consideration for the shares	(4)
Communication skills question 4: Clarity of expression	(1)
5. With reference to the background information and matter 4 of the minutes:	
5.1 Discuss with reasons, whether the sale of the specialised medical equipment will constitute the disposal of the greater part of AAA's assets in terms of the Companies Act (List the requirements and apply it to the scenario)	(7)
Communication skills: Logical structure	(1)

REQUIRED (continued)	Marks
6. With reference to the background information and matter 5 of the minutes:	
6.1 Indicate under which circumstances the board of directors will consider business rescue proceedings in terms of the Companies Act	(2)
6.2 List four of the general powers and duties of a business rescue practitioner in terms of the Companies Act	(4)
7. With reference to the background information and matter 6 of the minutes:	
7.1 Discuss the Companies Act requirements, legality and implications of the lease contract signed by Mr Yaseen and Ms Rose, prior to incorporating the new company, in terms of the Companies Act requirements (Assume that the prescribed registration documents have still not been submitted to the Commission.)	(10)
Communication skills: Logical structure	(1)