

# Tutorial Letter 201/1/2017

## Legal Aspects in Accountancy

### AUE1601

#### Semester 1

#### Department of Auditing

This tutorial letter contains the suggested solution and comments on Assignment 01.

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The purpose of the following table is to indicate the correct alternative and references for each question.

Question	Alternative	Reference to the MO001 (study guide) and Companies Act and Companies Regulations
1	3	Topic 2 (learning unit 2.1.2), Regulation 26
2	3	Topics 1 & 3 (learning units 1.1.3 & 3.1.2), Section 10
3	1	Topics 1, 2 & 5 (learning units 1.2.1 & 2.1.2 & 5.4.1), Section 24
4	2	Topic 2 (learning unit 2.1.2), Sections 27, 29 & 30
5	2	Topic 5 (learning unit 5.2.1), Section 88
6	2	Topic 2 (learning unit 2.1.2), Regulation 26 & 27
7	2	Topic 3 (learning unit 3.1.7), Section 48
8	2	Topics 1 & 3 (learning units 1.2.1 & 3.1.3), Section 36
9	3	Topics 1 & 3 (learning units 1.1.2 and 3.1.6), Section 4 & 46
10	3	Topic 6 (learning unit 6.3.1), Section 112
11	4	Topic 4.1.2, Section 69
12	4	Topic 3.4.1, Section 97

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

## COMMENTS ON ASSIGNMENT 01/2017

### Specific comments

#### Question 1

Alternative 3 is the correct answer. In accordance with regulation 26 of the Companies Act, the public interest score is calculated as follows:

- 1 point for every R1 million in turnover or part thereof; and
- 1 point for every employee of the company (based on the average number of employees during the year); and
- 1 point for every beneficial interest holder of the company (such as its shareholders); and
- 1 point for every R1 million or part thereof, that is owed to third parties.

#### Question 2

Alternative 3 is the correct answer. Non-profit companies in accordance with section 10 of the Companies Act are formed with the following as basis:

- A public benefit purpose.
- Except for reasonable compensation for services rendered, the income and property of these companies are **not** distributable to incorporators/members/directors/officers.
- They apply their assets and income to advance their objectives.
- They have a minimum of three incorporators.
- They have a minimum of three directors.

**Question 3**

Alternative 1 is a true statement. Section 24 sets out the records that a company must keep, and it includes the MOI, as well as a record of all the directors of that company.

**Question 4**

Alternatives 1, 3 and 4 are in compliance with the requirements set out in sections 27, 29 and 30. Alternative 2 will lead to non-compliance with the Companies Act. According to section 30 of the Companies Act, the annual financial statements must be audited in the case of a public company. Ping Pong Limited is a public company and it is therefore required that the annual financial statements for the financial year ending 28 February 2017 be audited.

**Question 5**

Alternative 2 is the most correct answer. The duties of the company secretary are set out in section 88 of the Companies Act.

**Question 6**

Alternative 2 is the correct answer. Public companies and state-owned companies must be audited by a registered auditor irrespective of the public interest score. (Refer to Regulations 26 and 27). The statement is false.

**Question 7**

Alternative 2 is the correct answer. In accordance with section 48 of the Companies Act, Y-Men (Pty) Ltd may not hold more than 10% of any class of shares of Iron-Man Ltd and will not be able to exercise any voting rights attached to the shares held in Marvel Ltd, while it remains a subsidiary of Iron-Man Ltd. The statement is true.

**Question 8**

Alternative 2 is the correct answer. Except to the extent that the MOI of a company provides otherwise, the board may alter the rights and limitations attached to a company's shares, but only in the manner as contemplated in section 36(3). The statement is false.

**Question 9**

Alternatives 1, 2 and 4 are true statements in terms of the requirements of sections 4 and 46, since the extract from the company's financial statements indicates that it does not satisfy the solvency and liquidity test and can therefore also not pay the dividend. Alternative 3 complies with the requirements of the Companies Act. BA Barista Limited's liabilities fairly valued, exceed its assets fairly valued. BA Barista Limited will not be able to pay its debts as they become due in the ordinary course of business for a period of 12 months as the current liabilities exceed the current assets. Therefore the company does not satisfy the solvency and liquidity test.

**Question 10**

Alternative 3 is the correct answer. Refer to section 112(3). Alternative 1 is incorrect as the disposal needs to be approved by a special resolution of shareholders. Alternative 2 is incorrect as the notice of the meeting cannot be given after the assets had already been sold. Alternative 4 is incorrect as the solvency and liquidity test is not required before the sale of the greater part of a company's assets. Refer to learning unit 1.1.2 for more information on when the solvency and liquidity test is required for a transaction to be valid.

**Question 11**

Alternative 4 is the correct answer as this is in compliance with section 69. Alternative 1 is incorrect as a body corporate is a juristic person. Alternative 2 is incorrect as it is necessary for 5 years to have elapsed after completion of the imposed sentence before the disqualification

ends. Alternative 3 is incorrect as an unemancipated minor is disqualified from being appointed as a director.

**Question 12**

Alternatives 1, 2 and 3 are in compliance with the requirements set out in the section 97. Alternative 4 will lead to non-compliance with the Companies Act. According to section 97 of the Companies Act, the compliance officer who is appointed in terms of an employee share scheme is responsible for the administration of the relevant scheme.