



CHARTERED TAX INSTITUTE OF MALAYSIA (225750 T)  
(Institut Percukaian Malaysia)

PROFESSIONAL EXAMINATION

FINAL LEVEL

COMPANY & BUSINESS LAW

JUNE 2021

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Student  
Registration No.

Date

Desk No.

Examination Centre

Time allowed: 3 hours

#### INSTRUCTIONS TO CANDIDATES

1. You may answer this paper **EITHER** in English **OR** in Bahasa Malaysia. Only **ONE** language is to be used.
2. This paper consists of **TWO** sections, **SECTION A** contains **THREE** questions and **SECTION B** contains **THREE** questions.
3. Answer **FIVE** questions. **TWO** questions from each section and **ONE** from either section.
4. Each answer should begin on a separate answer template.

**DO NOT TURN OVER THIS PAGE UNTIL INSTRUCTED BY THE INVIGILATOR**

**SECTION A**  
**COMPANY LAW**

**Question 1**

Felicia Lim, Siew Bee and Aaron Pang intend to form a private company for the purposes of their online business, wherein they intend to conduct various webinars on financial management. They are aware that under the Companies Act 2016, companies other than companies limited by guarantee, may or may not have a Constitution.

**Required:**

**Explain to Felicia, Siew Bee and Aaron:**

- (a) **What the Constitution is and its significance in relation to the Companies Act 2016.**  
(10 marks)
- (b) **The doctrine of ultra vires with reference to the position of the doctrine under the common law and the Companies Act 2016.**  
(10 marks)

**[Total: 20 marks]**

**Question 2**

Daxy Sdn Bhd ("DSB") is in the business of supplying bakery utensils to various cake shops in the Klang Valley. DSB shareholders are Daxy, Debbie, Alan, Kathy, Mark and Samson. The directors of the DSB are Daxy and Debbie, who had actually started the business. Daxy and Debbie each respectively own 10% of the shares of DSB and the balance of 80% is held in equal proportions by Alan, Kathy, Mark and Samson. DSB was incorporated in 2012 and has been doing well even during the Covid-19 pandemic. Alan, Kathy and Samson intend to call for a meeting of the shareholders and pass a resolution for the company to be converted into a public company. Daxy and Debbie however are not in favour of converting the company into a public company.

**Required:**

- (a) **Advise whether Alan, Kathy and Samson on whether they have a right to call a meeting of shareholders and the procedure for calling the same under the circumstances.**  
(12 marks)
- (b) **What are the rights of Alan, Kathy and Samson, if Daxy and Debbie, as directors, refuse to call a meeting of the members?**  
(8 marks)

**[Total: 20 marks]**

### Question 3

Bemzad Trading Bhd is an importer and exporter of raw clothing materials and supplies the clothes materials to various clothes manufacturers in Malaysia. Its clothes materials are mainly sourced from Indonesia, China and Vietnam. It has 5 directors, Tammy, Gerard, Jeremy, Betty and Sunny, who own equal shares in the company. The company has been in business since 1995 and it is one of the market leaders on the supply of raw clothes material in Malaysia. Recently, one of its directors, Gerard was made a bankrupt due to severe losses incurred by him in the stock market. Another director, Jeremy has a criminal record for fraud but is still a director of the company owing to his vast business contacts in China. Tammy hardly attends board meetings and most of the time is travelling overseas with his friends or family on holidays.

Betty and Sunny are concerned about the company's future and intend to appoint new directors, so that the business of the company will be managed in a proper manner.

**While having dinner with you, Betty and Sunny raise the following matters and request your advice on the same.**

**Required:**

- (a) **The position of Gerard and Jeremy as directors of the company, in view of their respective bankruptcy and criminal record.**  
(5 marks)
- (b) **Do courts have the power to remove a director?**  
(5 marks)
- (c) **What must Betty and Sunny do to remove Gerard and Jeremy as directors of the company?**  
(5 marks)
- (d) **Can the appointment of two or more directors of a public company in a general meeting be made in a single resolution?**  
(5 marks)

**[Total: 20 marks]**

**SECTION B**  
**BUSINESS LAW**

**Question 4**

**Ah Seng and his friends plan to form a partnership. Advise them on the legal principles regarding the following:**

- (a) The minimum number of partners in the firm. (3 marks)**
- (b) Whether a written partnership agreement is necessary. (3 marks)**
- (c) How do you register a Partnership? (5 marks)**
- (d) Each partner's liability for debts. (5 marks)**
- (e) Whether the partnership is a legal entity. (4 marks)**

**[Total: 20 marks]**

**Question 5**

**Adrian was the payee of a bill. He delivered it to Susan who had advanced him money on the bill. However, Adrian forgot to endorse the bill and Susan had not noticed this. Subsequently this bill was dishonored. Advise Susan.**

**[Total: 20 marks]**

**Question 6**

- (a) Ali wants to start a business as a sole proprietor.**

**Explain to Ali what is a "Sole Proprietorship".**

**(6 marks)**

- (b) Explain to Ali what are some of the advantages of a Sole Proprietorship.**

**(7 marks)**

- (c) Explain also what are the disadvantages if Ali wants to do business as a Sole Proprietorship.**

**(7 marks)**

**[Total: 20 marks]**

**(END OF QUESTION PAPER)**