

PCLL CONVERSION EXAMINATION JUNE 2024

Title of Paper : Business Associations
Date : 13 June 2024
Time : 9:30 a.m. – 9:45 a.m. (Reading Time)
9:45 a.m. – 12:45 p.m.

Instructions

1. Write your **candidate number** on the cover of each answer book. Do **NOT** write your name in the answer book.
2. Start each answer on a separate page of the answer book.
3. Write your answers only in the answer books provided.
4. This is a three-hour examination.
5. This is an open book examination.
6. Reading time for this paper is 15 minutes. Do **NOT** begin writing in your answer books during this period until you are instructed to do so.
7. This paper consists of 3 pages, including Part A and Part B. A total of 300 marks may be awarded.
8. Part A contains two compulsory questions. Candidates must answer **ALL** questions. There is **NO** element of choice. Part A is worth 200 marks.
9. Part B contains two questions. Candidates are only required to answer **ONE** question out of two. Part B is worth 100 marks.
10. The passing mark for this paper is 150 marks.

**DO NOT OPEN THIS QUESTION BOOK
UNTIL YOU ARE TOLD TO DO SO**

PCLL Conversion Examination June 2024
Business Associations

Part A - Must answer BOTH Questions 1 and 2

Question 1 (100 marks)

Discuss the difference between the following two types of business associations in Hong Kong: partnership and limited liability company. Examine the advantages and disadvantages of forming a partnership and a limited liability company to run a business in Hong Kong.

Question 2 (100 marks)

Amy and Brandon are a married couple. They set up a Hong Kong company in September 2023 to run a tutorial school. The company has been registered as A&B Tutorial School Ltd (the “Company”) with an initial share capital of HK\$20,000 (divided into 1,000 issued shares of HK\$20 each). Amy and Brandon each holds 50% of the issued shares and they are also the only directors of the Company.

Brandon also personally advanced HK\$1 million to the Company as shareholder’s loan on 3 October 2023 on an unsecured basis to fund the daily operation of the Company (the “Loan”).

The Company subsequently executed a floating charge in favour of Brandon on 31 October 2023 to secure the Loan. **Is there any possibility that the floating charge can be set aside?**

For the purpose of this question, you can assume that the floating charge has been duly and timely registered at the Companies Registry. You need not discuss any issues relating to unfair preference or transactions at an undervalue.

Part B - Must answer ONE question only - Question 3 OR 4

Question 3 (100 marks)

Mr. Chan is a minority shareholder (40%) of ABC Company Limited (“ABC”), a Hong Kong company. Mr. Chan is not a member of the board, nor is he entitled to nominate any member of the board under the Articles of Association.

The shareholders’ agreement contains a clause (Clause 8) on how to deal with the information of ABC. A summary of the clause is set out below:

- Clause 8.1 requires the board to prepare for the approval of the shareholders draft business plans and draft budgets of ABC for each financial year;
- Clause 8.2 requires the board to prepare monthly management accounts of ABC and to submit the same to the shareholders on monthly basis to allow the shareholders to be informed of the financial position and operations of ABC;
- Clause 8.3 requires ABC to maintain accurate and complete accounting records, which shall be open to inspection by each shareholder or its authorised representative;
- Clause 8.4 provides if a shareholder requires any further information relating to ABC’s businesses or affairs, the board shall make such information available to the shareholder as soon as practicable.

Mr. Chan does not understand the purpose of these provisions. **Explain to him whether he, as a minority shareholder, is entitled to have access to any corporate information of ABC under the Companies Ordinance and the articles of ABC and why Clause 8 is necessary.**

For the purpose of this question, you can assume that ABC’s articles are similar to the (Model Articles) for Private Companies Limited by Shares, Schedule 2 of the Companies (Model Articles) Notice (Cap. 622H). You need not discuss any issues relating to a director’s right to have access to corporate information.

Question 4 (100 marks)

John set up a limited liability company in Hong Kong to run his wine business. He plans to raise more finance to run the business in the future.

John’s friends expressed interest in investing in his company. They are willing to provide funding to him either by way of a loan to the company or by subscription of the shares of the company.

Advise John the difference between loan and share capital. If John is minded to continue to retain control over the business, advise him whether he should take loan capital or share capital from his friends.

~ End of Examination Paper ~