

Fundamentals Level – Skills Module

Corporate and Business Law (China)

Monday 8 June 2015



Time allowed: 2 hours

This paper is divided into two sections:

Section A – ALL 45 questions are compulsory and MUST be attempted

Section B – ALL FIVE questions are compulsory and MUST be attempted

Do NOT open this paper until instructed by the supervisor.

You must NOT write in your answer booklet until instructed by the supervisor.

Do NOT record any of your answers on the exam paper.

This question paper must not be removed from the examination hall.

The Association of Chartered Certified Accountants

Paper F4 (CHN)

ACCA

Section B – ALL FIVE questions are compulsory and MUST be attempted

Please write your answers to all parts of these questions on the lined pages within the Candidate Answer Booklet.

- 1** Mr Dong, the majority shareholder of Lide Company, provided his residential house as a mortgage for a loan agreement between Lide Company and the Bank. Both parties appropriately registered the loan agreement and the mortgage agreement with the relevant government agent.

Before the loan agreement matured, Mr Dong intended to sell the mortgaged house to Ms Lee and disclosed to Ms Lee the fact that the house had been mortgaged. Mr Dong also notified the Bank with respect to the transaction between Ms Lee and himself. Mr Dong and Ms Lee entered into a sales contract of real estate to proceed with the transaction. However, their application for registration was denied by the relevant government authority, because the Bank did not give consent in writing to this transaction.

Required:

In accordance with the relevant provisions of the Property Law:

- (a) **State whether the real estate contract was a valid one if the Bank disagrees with the transaction between Mr Dong and Ms Lee.** (2 marks)
- (b) **Explain whether the government authority should register the contract if Ms Lee promises to repay the outstanding amount of the loan, even though the Bank did not give consent to this transaction.** (2 marks)
- (c) **State whether the government authority should register the contract if Ms Lee repaid the outstanding amount of the loan, even though the Bank refused to give consent to this transaction.** (2 marks)

(6 marks)

- 2** Food Shop sent a fax to Sanyi Farm to inquire about the price of tomatoes as follows: '100,000 kg of tomatoes is urgently needed. Reply as soon as possible.'

Upon receipt of the fax, Sanyi Farm shipped 100,000 kg of tomatoes to Food Shop. The latter took delivery of the goods without any objection. On selling the goods Food Shop found that the quality of tomatoes did not meet the standard required and had to sell the goods at a 20% discount. Food Shop considered that there was no contract between the two parties, since its fax to Sanyi Farm did not contain the price, which was one of the essential factors to be an effective offer.

Required:

In accordance with the Contract Law:

- (a) **Explain the legal nature of the fax sent by Food Shop.** (2 marks)
- (b) **Describe the legal nature of the act to take delivery of the goods by Food Shop.** (2 marks)
- (c) **Explain whether there was a contract between the two parties.** (2 marks)

(6 marks)

- 3** Zhao, Qian, Sun and Lee were four shareholders of a limited liability company specialising in bio-technology, each holding 25% of the shares of the company.

Several months later Qian intended to transfer his shares to a listed company for profit and sent notices to the other three shareholders asking for their consent. Zhao agreed and also expressed his willingness to buy Qian's shares if the price was reasonable. Sun disagreed and claimed his right of priority to buy Qian's shares. However, Zhao and Sun could not reach an agreement as to the proportion of shares to buy. Lee kept silent upon receipt of the notice.

Since Sun offered a price lower than that of the listed company, Qian entered into a contract to sell his shares to the listed company, which caused a dispute among the four shareholders. Under such circumstances, Lee decided to leave the company and requested the company to purchase his shares.

Required:

In accordance with the relevant provisions of the Company Law:

- (a) **State how Zhao and Sun's failure to reach an agreement on the proportion of shares to purchase should be dealt with.** (2 marks)
- (b) **State whether Lee's request for the company to purchase his shares should be upheld if the dispute was brought to court.** (2 marks)
- (c) **State whether Qian was entitled to transfer his shares to the listed company.** (2 marks)

(6 marks)

- 4** Stine, the owner of an office building, and Mering concluded a three-year leasing agreement in January 2012. Mering would use the first floor to open a restaurant. The annual rental should be paid on the first of each month.

In 2013 Stine and Mering entered into a service agreement, by which Mering would provide meals to the employees of Stine. The service fees would be paid on a quarterly basis.

In June 2014, Mering was declared bankrupt by a court which designated a bankruptcy administrator responsible for the liquidation. The bankruptcy administrator found that Mering had failed to pay the rental for 2014. Stine claimed the rental due for the year of 2014 as his credit and requested to offset the meal service fees for the first and second quarters of 2014. Stine also declared dissolution of the leasing agreement between the two parties.

Required:

In accordance with the Enterprise Bankruptcy Law:

- (a) **State whether Stine's request to offset the meal service fees was in conformity with the law.** (2 marks)
- (b) **State how to deal with Stine's request to dissolve the leasing contract.** (2 marks)
- (c) **State what benefit Stine could have if its request to offset was accepted.** (2 marks)

(6 marks)

- 5** Ms Huang, a shareholder of the Daqing Limited Liability Company (Daqing), found that the general manager, Mr Ding, had accepted bribes from several suppliers, which materially caused losses to Daqing, and adversely affected the interests of all shareholders.

Further examination, through a Certified Public Accountant firm, disclosed that there were a lot of affiliated transactions between Daqing and Everbright Co, which was the majority shareholder of Daqing. Mr Ding was recommended by Everbright Co and appointed by Daqing's board of directors, which was substantially influenced by Everbright Co. With a series of such transactions Daqing transferred huge profits to Everbright Co and adversely affected Daqing.

Required:

- (a) **State whether Ms Huang was entitled to take legal action against Mr Ding for his illegal behaviour of accepting bribes which adversely affected all the shareholders.** (2 marks)
- (b) **State TWO different legal actions Ms Huang was entitled to take to protect the rights of Daqing and its shareholders due to the affiliated transactions with Everbright Co.** (4 marks)

(6 marks)

End of Question Paper