

You need to concentrate on details. There have been silly mistakes. You need to improve in terms of amendments. You need to get detailed information about the new amendments. Read more, learn more. Also avoid cancellations and silly mistakes. All the best.

UNIT - Test - I - Setting UP

Question - A
Answer 1 (A)

18/50

avoid spelling mistakes.

When any person wants to choose a form of business organisation from amongs various options (like proprietorship, partnership, HUF, LLP, Co. etc.) he must consider the two important factors viz. Managerial and administrative requirement.

Managerial and administrative requirement means the quality and quantity of the human resource that must be required for a business to run.

for eg:- If a person wants to run a business of Grocery, then the requirement of his business will be a labour of any qualification. If the size of the store is average then proprietor himself with other two labor can easily manage the store.

Where as on the other hand

If any person wants to run an industry to produce any industrial product, he must require a team of professional to look after the business. The amount of human

resource required shall be much more as compared in the above example.

Conclusion

A person before opting any form of business form must enquire about the managerial and administrative requirement and accordingly choose the most appropriate option.

3/5

You can write the answer in a better form. It's a good habit to give examples.

Good attempt. Keep it up.

According to Section

Section 406 of Companies Act, 2013 talks about Nidhi Companies.

As per this section Nidhi Companies means the companies having their object to develop a thrift and habit amongst its members to save of saving, receiving deposits from, and lending them for their mutual benefit.

Nidhi Companies can not issue preference shares and if they had issued preference shares before the commencement of this Act [Companies Act, 2013], then they must redeem them following the prescribed procedures under law.

Fact of the Case

XYZ Nidhi Ltd. was incorporated on 10/02/2007. Due to heavy losses the board suggested of issuing preference shares for increasing its capital and to meet the crisis.

Conclusion

XYZ Ltd. can issue preference shares as it was incorporated before the commencement of Companies Act, 2013. But after the commencement of Companies Act, 2013, it has to redeem back its preference shares.

Answer 1 INC-22 ACTIVE. write proper names.

Legal Situation

The Ministry of Corporate Affairs has introduced a New Form INC-22A (Active Company Tagging Identification and Classification).

Every company public or private has to file this form till 25.04.2019, or penalty of Rs. 10000/-

The previous date had been extended. Usually avoid writing such things coz MCA changes the due date.

If any company has not filed this form then its status shall be Active-non compliance on the mca website, and its application for change of registered office shall not be entertained. Note: - if any co. has not filed annual returns then it shall not be allowed to file this form.

Facts of the case

Which form ? specify.

The company wants to change its registered office from Mumbai to Pune. The company has previously filed its annual returns and balance sheet but had not filed Form INC-22A

Company Conclusion

You need to write details. Read the question properly and then give details therein.

• Company is eligible to file Form INC-22A but with penalty of ₹ 10000/- [assuming not filed till 25.04.2019]

(5)

• The application of company to change its registered office shall not be entertained till it files Form - 91C 22A.

Answer 5F

Answer 1E

Section 5(3) of Companies Act, 2013 states about the entrenchment provisions in Article of Association of Company.

Entrenchment provision means making the provisions of company law more tough.

Ans: - § 14 of Companies Act, 2013, in case of Public Co. a special resolution is required to alter the Article of Association. A company can make this provision more tough, by adding in its AOA that instead of SR a super majority is required.

Answering the given query that whether SR is enough for entrenchment of Article of Association. **Write the whole name of the Act or the full name in relation to specific words.**

As per Section 14 of CA, 2013, in case of public co. SR is required to alter AOA and in private company unanimous resolution is required in case of alteration. So, the special resolution is not enough for entrenchment provision of Articles of Association.

Special resolution is enough for public company, and you need to mention that in your conclusion.

Effect of Ultra Vires transaction can easily be explained with the help of 'Doctrine of Ultra Vires'

Ultra means beyond and Vires means powers, together with they mean Beyond the powers.

As per the Doctrine of Ultra Vires, if any act is done outside the authority of the Memorandum of Association, then that act shall be void ab initio and cannot be ratified subsequently.

The above principle was given in the case of Asbury Railways and Carriage and Iron Works vs. Riche

In the above case the plaintiff got a tender of 70,000 pounds to build tracks. The said tender was subsequently contracted to Mr. Riche and financing was also done.

In the general meeting the shareholders objected that financing is not the object of the company and therefore the contract is void.

Riche defended by saying that the contract was held that on may subsequently be ratified in general meeting.

The question is in relation to effects of ultra vires transaction. So you need to concentrate on the EFFECTS rather than writing description of the case law. Write only information that is needed.

It was held - that an act which is out of the scope of Memorandum of Association cannot be rectified ~~is~~ void ab initio and cannot be rectified subsequently.

Answer 215

Draft of Share holder's resolution for alteration of object clause in MOA

RESOLVED THAT, pursuant to section 13 of Companies Act, 2013 or any other law which shall be applicable, the object clause of memorandum of association is hereby altered and the object of the company is changed from _____ to _____.

FURTHER RESOLVED THAT, to achieve the above purpose, the Board of Directors are hereby authorised to conduct any act or to further authorise any person to comply with all the legal requirements to achieve the above purpose.

Also resolved that shall always include a inverted commas.

kindly include the same.

you need to to also mention the specified ROC.

Also mention the changed object clause.

If you are writing definition as per Act, kindly write fine details as well especially if you are mentioning a specified section.

Answer Q C

As per section 2(85) Small company means a company -

(a) having paid up share capital not more than ₹ 50 lakhs, or as prescribed, but can not be more than ₹ 10 cr.

(b) having turnover of upto ₹ 200 Lakh, or as prescribed, but can not be more than ₹ 100 cr.

Provided that nothing in this section shall apply to -

- (a) any holding or subsidiary company.
- (b) a section 8 company.
- (c) any body corporat under Special Act.

In view of above section a subsidiary company also can not be a small company.

As per section 2(87) the restriction on layers of subsidiary company is 2.

You need to write the exemption as well and also provide details on layers of subsidiary. Simply writing one statement is not enough.

Answer 3(a)

As per amendments, the name for reservation is RUN-LLP and not just RUN. concentrate on small details.

Procedure for Changing the Name of LLP

Step-1

File - Form - RUN (Reserve Unique Name) along with fees of Rs 1000/- to ROC. In the said form two names are suggested to ROC amongst which ROC approves one name. The said approved name shall be valid for 30 days.

Step-2

The designated partners has to file form LLP-5 to the ROC alongwith the following attachments:-

The days are restricted to 30.

- (i) Consent letters from all partners.
- (ii) Copy of LPA.
- (iii) Trade mark certificate or Registration certificate.

LLP-5 form shall be filed within 30 days of approval of name.

Step-3

ROC may approve or disapprove the name. If approved then New Certificate of Incorporation.

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Answer 3(a2)

Key Ingredients of partnership deed as as under

(i) Definition and vital information
All the definition relating to deed and other vital information shall be mentioned in the deed.

State what vital information includes. You need to write details wherever necessary.

(ii) Investment
Investment made by every partner to the firm.

specify the details.

(iii) Accounting
Type of accounting that should be followed actual based or cash based.

List down the statements used in accounting.

(iv) Duties powers and responsibilities of partners.

Write explanation.

(v) Dissolution
How the dissolution of firm will take place

(vi) Expulsion
How can expulsion of a partner can be done.

Choose correct grammer.

(vii) Withdrawal
How can a partner can withdraw its share from partnership firm

it's not vompl

(viii) Arbitration
If any dispute arises amongst partners than the arbitration process shall be followed.