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# Examination Panelist's Report

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Paper IV  
PBE Business Law and Taxation

(December 2019 Session)

*(The main purpose of the following report is to summarise candidates' common weaknesses and make recommendations to help future candidates improve their performance in the examination.)*

## **General Comments**

The general performance of candidates in this paper was satisfactory. The paper consisted of problem, short and numerical questions. A number of candidates received a pass grade, but few answers warranted more than a pass.

Candidates who failed did not prepare their examination well. There were answers that showed candidates did not understand the fundamental concepts well. Only a few candidates demonstrated a good understanding of the topics and therefore were able to pass the examination.

## **Specific Comments**

### **Section A – Optional Questions**

#### **Question 1 – 20 marks**

Candidates were required to answer questions about the legal system in Hong Kong Special Administrative Region. This was the least popular question and the answers were disappointing.

The first part of this question asked candidates about the differences between public law and private law. This topic was usually the first topic taught in the legal system but many candidates did not even understand their differences. The second part of this question asked candidates to explain the types of law that are superior to other laws in Hong Kong. While most of the answers did point out that the laws of Hong Kong cannot contravene the Basic Law, candidates did not realise that the laws in Hong Kong cannot contravene the Bill of Rights also. The third part of the question about the doctrine of precedent was satisfactorily answered.

#### **Question 2 – 20 marks**

This question required candidates to apply contract law principles to a problem scenario and various topics were asked: acceptance of offer, revocation of offer and breach of contract. This was a popular question and most of the answers were satisfactory. But some weak candidates could not even explain the concepts of acceptance and revocation. Again, these are the first few fundamental topics taught in contract law courses.

### Question 3 – 20 marks

This question required candidates to analyse whether an individual has committed an offence under the bribery legislation and whether there are any breaches of the regulation in relation to dismissal and occupier's liability. This was not a popular question; candidates who attempted it did poorly.

Many candidates could not explain the key provisions in the three related legislation, i.e. the Prevention of Bribery Ordinance, the Employment Ordinance and the Occupiers Liability Ordinance.

### Question 4 – 20 marks

This question required candidates to identify different matters related to the business organisation. This was a popular question and answers were only marginally satisfactory. The first part required candidates to point out the disadvantages of sole proprietorships. Again this is a fundamental concept and most of the answers could not explain the concept of unlimited liability clearly.

The second part of this question required candidates to explain the five types of companies that may be formed under the Companies Ordinance. Responses stating that sole proprietorship and partnership are among those types formed under the Companies Ordinance were the most disappointing answers.

### Question 5 – 20 marks

This question required candidates to analyse several issues relating to company law. This was not a popular question and the answers were not satisfactory. The first part of the question required candidates to explain the two statutory remedies that assist a shareholder. While most of the answers could point out the provision related to unfair prejudice, many answers failed to realise that a shareholder could also take out statutory derivative action.

The second part of the question required candidates to explain the grounds for compulsory winding up. The question was straight forward but not many of the answers could explain the concept of "just and equitable" winding up well.

## **Section B – Optional Questions**

### **Question 6 – 20 marks**

This question required candidates to explain some procedures under the Inland Revenue Ordinance and issues related to salaries tax.

The first few parts of this question required candidates to explain the obligation of an employer and some appeal procedures. These were well answered but most answers failed to point out that a taxpayer may consider to transfer the appeal against the Commissioner's determination to the Court of First Instance.

The final part of this question asked candidates about some miscellaneous issues related to salaries tax. The answers were mixed and some failed to identify what items are taxable and what are not taxable.

### **Question 7 – 20 marks**

This was a popular question and in the first part, it required candidates to compute the property tax and only a very few candidates could calculate the tax accurately.

In the second part, candidates were required to compute the profits tax. Most of the candidates could understand the approach. Many of the answers did not apply the one-off reduction of the final tax payable under profits tax in 2018/19 to the question. Hence, unlike the first part, none of the candidates could obtain a full mark in this part.

## **Conclusion and Recommendation**

Candidates should well prepare themselves for the examination and should revise all the topics in the syllabus. It is understood that the topics are vast and they should formulate a good examination strategy in their revision.