

2K5 Exported Questions–Business 1
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Sole Proprietorship and Joint Venture**CPA-02963 Type1 M/C A-D Corr Ans: D PM B 1-01**

1. CPA-02963 BEC C04 #15 Page 3

Fanny and John each own and manage their own companies. Fanny's business is manufacturing freight boxes of all types, and John's business is selling freight boxes to different industries. They decide to combine their expertise and knowledge to produce and sell freight boxes specifically designed for the new airline company that just formed in their city. The best form of legal entity for this project is:

- A general partnership.
- A limited liability partnership.
- A sole proprietorship.
- A joint venture.

CPA-02963 Explanation

Choice "d" is correct. A joint venture is formed for a single business undertaking such as building and designing freight containers to be sold specifically to one company. Each company coming together in this joint venture has its own business outside of this one endeavor.

Choice "a" is incorrect. A general partnership is more broad in its business purpose than a joint venture is.

Choice "b" is incorrect. A limited liability partnership is primarily designed for professionals who want to work as partners but with limited personal liability.

Choice "c" is incorrect. Sole proprietorships have only one person in the business.

CPA-02971 Type1 M/C A-D Corr Ans: D PM CQ #1 B 1-01

2. CPA-02971 Nov 89 #4 Page 3

A joint venture is a(an):

- Association limited to no more than two persons in business for profit.
- Enterprise of numerous co-owners in a nonprofit undertaking.
- Corporate enterprise for a single undertaking of limited duration.
- Association of persons engaged as co-owners in a single undertaking for profit.

CPA-02971 Explanation

Choice "d" is correct. A joint venture is an association of persons engaged as co-owners in a single (special transaction) undertaking for profit. A joint venture is treated as a partnership for most important legal respects.

Choice "a" is incorrect. A joint venture may be made up of more than two persons.

Choice "b" is incorrect. A joint venture must have a profit motive.

Choice "c" is incorrect. A joint venture is treated as a partnership and not as a corporate enterprise.

CPA-04631 Type1 M/C A-D Corr Ans: B PM B 1-01

3. CPA-04631 BEC C05 #14 Page 3

A sole proprietorship would be an ideal form of business to select if:

- The individual desired no liability beyond his capital investment.
- The individual wanted to be able sell the business at will.
- The individual wanted the business to be a separate entity from the sole proprietor.
- The individual wanted the business to continue indefinitely.

CPA-04631 Explanation

Choice "b" is correct. A sole proprietor is free to transfer or sell the business at will.

Choice "a" is incorrect because a sole proprietor is personally liable for all obligations of the business.

Choice "c" is incorrect a sole proprietorship is not considered an entity separate from the sole proprietor.

Choice "d" is incorrect because a sole proprietorship ends with the death of the sole proprietor.

CPA-04632 Type1 M/C A-D Corr Ans: C PM B 1-01

4. CPA-04632 BEC C05 #15 Page 3

Which of the following forms of business do **not** require the filing of proper documents with the state?

	<u>Corporation</u>	<u>Limited Partnership</u>	<u>Sole Proprietorship</u>
a.	Need not file	Need not file	Need not file
b.	Need not file	Must file	Need not file
c.	Must file	Must file	Need not file
d.	Must file	Need not file	Must file

CPA-04632 Explanation

Choice "c" is correct. A sole proprietorship can be formed without filing with the state. Both the corporation and limited partnership must file.

Choices "a", "b", and "d" are incorrect per the explanation above.

CPA-04633 Type1 M/C A-D Corr Ans: B PM B 1-01

5. CPA-04633 BEC C05 #16 Page 4

Which of the following forms of business can be formed with only one individual owning the business?

	<u>Sole Proprietorship</u>	<u>Limited Liability Company</u>	<u>Partnership</u>
a.	Yes	Yes	Yes
b.	Yes	Yes	No
c.	Yes	No	Yes
d.	No	No	No

CPA-04633 Explanation

Choice "b" is correct. A sole proprietorship and a limited liability company can be formed with only one owner. A partnership requires two or more partners.

Choices "a", "c", and "d" are incorrect per the explanation above.

CPA-04634 Type1 M/C A-D Corr Ans: A PM B 1-01

6. CPA-04634 BEC C05 #17 Page 3

Noll Corp. and Orr Corp. are contemplating entering into an unincorporated joint venture. Such a joint venture:

- Will be treated as a partnership in most important legal respects.
- Must be dissolved upon the completion of a single undertaking.
- Will be treated as an association for federal income tax purposes and taxed at the prevailing corporate rates.
- Must file a certificate of limited partnership with the appropriate state agency.

CPA-04634 Explanation

Choice "a" is correct. The legal requirements, the consequences, the advantages, and disadvantages of forming a joint venture generally are identical to those of a general partnership. Joint ventures are treated as a partnership in most important legal aspects.

Choice "b" is incorrect. A joint venture need not be dissolved upon the completion of a single undertaking. Joint ventures may be formed for a single transaction or for a related series of transactions.

Choice "c" is incorrect because a joint venture would be taxed like a partnership, not a corporation.

Choice "d" is incorrect because a joint venture, like a partnership, need not file with the state.

CPA-04844 Type1 M/C A-D Corr Ans: D QZ#1 B 1-01

7. CPA-04844 BEC Online Quiz Page 1

Best friends since college, Juan, Rico, and Sue agree to be partners in Yellow Bus Holdings. Rico quickly earns his CPA license and makes more money than the other two friends. Rico contributes 80 percent of the capital. The partners agree to split the profits equally. After three years of no profits, Yellow Bus eventually dissolves. Yellow Bus' liabilities are greater than its assets. The losses are paid by:

- Rico, because he is the majority partner.
- Juan and Sue because they contributed less of the capital.
- All of the partners in proportion to their capital contributions.
- All of the partners in proportion to their profit-sharing percentages.

CPA-04844 Explanation

Choice "d" is correct. Unless there is an agreement to the contrary, losses will be shared in the same manner as profits are shared.

Choices "a", "b", and "c" are incorrect per the above explanation.

CPA-04845 Type1 M/C A-D Corr Ans: C QZ#2 B 1-01

8. CPA-04845 BEC Online Quiz Page 1

Generally, a partner who devotes his time and energy to partnership business will:

- Be entitled to compensation if he or she is an equity partner.
- Be entitled to compensation if the partnership agreement is silent.
- Not be entitled to compensation if the partnership agreement is silent.
- None of the above.

CPA-04845 Explanation

Choice "c" is correct. Partners are entitled to share in the profits of the partnership but are not entitled to compensation unless otherwise agreed to in the partnership agreement or in the case of winding up by the surviving partner.

Choices "a", "b", and "d" are incorrect per the above explanation.

CPA-04846 Type1 M/C A-D Corr Ans: A QZ#3 B 1-01

9. CPA-04846 BEC Online Quiz Page 1

Tom is one of the original partners in a 6-month-old general partnership. If debts of the firm become due and the firm cannot pay them, Tom will be:

- Personally liable for those debts and obligations.
- Liable for those debts and obligations only up to the amount of his capital contribution.

- c. Not required to contribute any money toward the satisfaction of these debts and obligations.
- d. None of the above.

CPA-04846 Explanation

Choice "a" is correct. Partners of general partnerships are jointly and severally liable for the debts and obligations of the partnership incurred within the scope of partnership business.

Choices "b" and "c" are incorrect. General partners are liable beyond their capital contributions.

Choice "d" is incorrect per the above explanation.

CPA-04847 Type1 M/C A-D Corr Ans: B QZ#4 B 1-01

10. CPA-04847BEC Online Quiz Page 1

Bubbas, LLC has two members, Johnny and Betty Sue. Johnny agrees to provide all of Bubbas, LLC's capital needs. On its federal tax return, unless an election was otherwise made, Bubbas, LLC, will be taxed as:

- a. A corporation.
- b. A partnership.
- c. A sole proprietorship.
- d. None of the above.

CPA-04847 Explanation

Choice "b" is correct. The default treatment of LLC's for tax purposes is to treat them as partnerships, with the flow-through of profits and losses.

Choice "a" is incorrect. In order to be treated as a corporation, an LLC must make an election to be treated as such.

Choice "c" is incorrect. Only a single-member LLC would be treated as a sole proprietorship for tax purposes.

Choice "d" is incorrect. An LLC, unless it elects otherwise, will be treated as a partnership for federal tax purposes.

CPA-04848 Type1 M/C A-D Corr Ans: D QZ#5 B 1-01

11. CPA-04848BEC Online Quiz Page 1

Trish is a promoter for Alpha Corporation. As such, Trish is personally liable for any pre-incorporation contract until Alpha:

- a. Releases Trish from liability.
- b. Ratifies the contract.
- c. Rejects the contract.
- d. Assumes the pre-incorporation contract by novation.

CPA-04848 Explanation

Choice "d" is correct. In a novation, a new party (the corporation) is substituted for an old party (the promoter) in the contract. All parties must agree to the novation.

Choice "a" is incorrect. The corporation does not have the power to release Trish; the other party to the contract must agree to the release as well.

Choice "b" is incorrect. Technically, only a principal can ratify a contract made by an agent. Because the corporation is not in existence when the promoter acts, the promoter cannot be acting on the corporation's behalf. Thus, the corporation is not the promoter's principal and cannot "ratify" the promoter's contract.

Choice "c" is incorrect. Rejection of the contract does not affect the promoter's liability.

CPA-04849 Type1 M/C A-D Corr Ans: C QZ#6 B 1-01

12. CPA-04849BEC Online Quiz Page 1

A registered agent for a corporation incorporated in Delaware would:

- a. Agree to buy stock in a corporation before incorporation.
- b. Be personally liable for all pre-incorporation contracts.
- c. Have legal documents served on it on behalf of the corporation, if the corporation is sued.
- d. Take the preliminary steps in organizing the corporation.

CPA-04849 Explanation

Choice "c" is correct. A registered agent is an agent for the corporation who would accept service of process in the event the corporation is involved in a lawsuit.

Choice "a" is incorrect. This describes a stock subscription, and there is no requirement that a registered agent must agree to purchase stock.

Choice "b" is incorrect. This describes the liability of a promoter and the registered agent need not have acted as the corporation's promoter.

Choice "d" is incorrect. Promoters or the incorporators are responsible for organizing the corporation.

CPA-04850 Type1 M/C A-D Corr Ans: C QZ#7 B 1-01

13. CPA-04850BEC Online Quiz Page 1

In a legal action, a shareholder of Smackey, Inc. might be personally liable for the company's debts if:

- a. Smackey is overcapitalized.
- b. Smackey's articles of incorporation allow for more than one class of stock.
- c. The shareholder's personal interests are materially commingled with Smackey's interests.
- d. All of the above.

CPA-04850 Explanation

Choice "c" is correct. Commingling shareholders' personal assets and other interests with the corporation is a breach of corporate formalities designed to create and keep the corporation as a separate legal entity.

Choice "a" is incorrect. Overcapitalization is acceptable. Undercapitalization at the time of termination may cause the shareholder to be personally liable.

Choice "b" is incorrect. It is acceptable for most corporations to have more than one class of stock and this does not affect shareholder liability.

Choice "d" is incorrect as it includes choices "a" and "b", both of which are incorrect per the above explanations.

CPA-04851 Type1 M/C A-D Corr Ans: B QZ#8 B 1-01

14. CPA-04851BEC Online Quiz Page 1

Telecom, Inc., issues bonds, which are also known as:

- a. Collateral instruments.
- b. Debt securities.
- c. Equity securities.
- d. Indentures.

CPA-04851 Explanation

Choice "b" is correct. Bonds are also referred to as debt securities.

Choice "a" is incorrect. A collateral instrument is a writing that evidences a right to the payment of money and may be transferred, such as a check, note, or draft.

Choice "c" is incorrect. Equity securities are instruments representing an investment in a corporation, such as stock.

Choice "d" is incorrect. An indenture is an agreement or deed between parties specifying the terms of any debt. This should not be confused with debentures, which are certificates evidencing unsecured debt.

CPA-04852 Type1 M/C A-D Corr Ans: C QZ#9 B 1-01

15. CPA-04852BEC Online Quiz Page 1

Texas Cat Chow, Inc. has only four shareholders. Each shareholder will have the right to approve:

- a. The hiring of an officer.
- b. The declaration of corporate dividends.
- c. An amendment to the corporation's articles of incorporation changing the duration for which the corporation was formed.
- d. All of the above.

CPA-04852 Explanation

Choice "c" is correct. Shareholders have the right to vote on all fundamental corporate changes, including amendments to the articles of incorporation.

Choice "a" is incorrect. The hiring of officers is a right that the directors have.

Choice "b" is incorrect. Directors have the sole discretion to declare dividends.

Choice "d" is incorrect as it includes "a" and "b", both of which are incorrect per the above explanations.

CPA-04853 Type1 M/C A-D Corr Ans: A QZ#10 B 1-01

16. CPA-04853BEC Online Quiz Page 1

Patti is a director of Smackey, Inc. As a corporate director, Patti is:

- a. A fiduciary.
- b. An agent.
- c. A principal.
- d. A trustee.

CPA-04853 Explanation

Choice "a" is correct. Each director owes the corporation fiduciary duties and must act in the best interest of the corporation.

Choice "b" is incorrect. Absent a vote giving a director authority to act on behalf of the corporation, a director is not an agent of the corporation and cannot bind the corporation in contract.

Choice "c" is incorrect. A principal is the person on whose behalf an agent acts. The corporation does not act on behalf of the directors, and while the directors may delegate some of their power to agents of the corporation, the agents act on behalf of the corporation and not the directors.

Choice "d" is incorrect. Directors are not trustees of the corporation, as they do not hold legal title to anything belonging to the corporation for the benefit of another.

General Partnership**CPA-02968 Type1 M/C A-D Corr Ans: B PM B 1-02**

17. CPA-02968Lw Nov 91 #14 Page 6

A general partnership must:

- a. Pay federal income tax.
- b. Have two or more partners.
- c. Have written articles of partnership.
- d. Provide for apportionment of liability for partnership debts.

CPA-02968 Explanation

Choice "b" is correct. A partnership is an organization of two or more persons who carry on a business for a profit.

Choice "a" is incorrect. Partnerships do not pay federal income taxes; the partners report their shares of the partnership's income on their individual returns.

Choice "c" is incorrect. A partnership agreement need not be in writing.

Choice "d" is incorrect. If the partnership agreement is silent on the apportionment of liability for partnership debts, state law or the Uniform Partnership Act will cover the omission.

CPA-02996 Type1 M/C A-D Corr Ans: B PM CQ #2 B 1-02

18. CPA-02996Lw R02 #8 Page 7

In a general partnership, which of the following acts must be approved by all the partners?

- a. Dissolution of the partnership.
- b. Admission of a partner.
- c. Authorization of a partnership capital expenditure.
- d. Conveyance of real property owned by the partnership.

CPA-02996 Explanation

Choice "b" is correct. As a general rule, decisions regarding matters within the ordinary course of the partnership's business may be controlled by majority vote. Matters outside the ordinary course of the partnership's business require the consent of all the partners. Admitting a new partner is an extraordinary event. Thus, unanimous consent is required.

Choice "a" is incorrect. Although dissolution is an extraordinary act, in a general partnership not for a term of years, any one partner may cause a dissolution by giving notice of the intent to withdraw.

Choice "c" is incorrect. A capital expenditure could well be within the ordinary scope of partnership business and thus would require only a majority vote.

Choice "d" is incorrect. The sale of partnership real property could easily be within the ordinary scope of partnership business and thus would require only a majority vote.

CPA-03005 Type1 M/C A-D Corr Ans: B PM B 1-02

19. CPA-03005Lw R99 #5 Page 8

When a partner in a general partnership lacks actual or apparent authority to contract on behalf of the partnership, and the party contracted with is aware of this fact, the partnership will be bound by the contract if the other partners:

- Ratify the contract*
- Amend the partnership agreement*

- | | | |
|----|-----|-----|
| a. | Yes | Yes |
| b. | Yes | No |
| c. | No | Yes |
| d. | No | No |

CPA-03005 Explanation

Choice "b" is correct. "Yes - No."

Rule: The authority of partners is governed by agency law. Under agency law, a principal is not bound to the third party unless the agent had actual authority **or** apparent authority. When the agent has no actual authority **and** no apparent authority, the principal (in this case the partnership) will only be liable if they chose to adopt the agreement (i.e., ratified).

Rule: Amending the partnership agreement (presumably to grant authority) will not cause the partnership to be bound because authority must exist at the time the contract is made or the partnership must ratify the contract.

Choices "a", "c", and "d" are incorrect, per the above rules.

CPA-03007 Type1 M/C A-D Corr Ans: C PM B 1-02

20. CPA-03007R98 #2 Page 10

On February 1, Addison, Bradley, and Carter, physicians, formed ABC Medical Partnership. Dr. Bradley was placed in charge of the partnership's financial books and records. On April 1, Dr. Addison joined the City Hospital Medical Partnership, retaining the partnership interest in ABC. On May 1, ABC received a writ of attachment from the court attaching Dr. Carter's interest in ABC. The writ resulted from Dr. Carter's failure to pay a credit card bill. On June 1, Dr. Addison was adjudicated bankrupt. On July 1, Dr. Bradley was sued by the other partners of ABC for an accounting of ABC's revenues and expenses. Under the Revised Uniform Partnership Act, which of the preceding events resulted in the dissociation of a partner?

- Dr. Addison joining the City Hospital Medical Partnership.
- Dr. Carter's interest in the partnership being attached by the court.
- Dr. Addison being adjudicated bankrupt.
- Dr. Bradley being sued for an accounting by the other partners of ABC.

CPA-03007 Explanation

Choice "c" is correct. The bankruptcy of a partner will result in the dissociation of a partner.

Choice "a" is incorrect, because although joining the city hospital medical partnership could be construed as a breach of fiduciary to the other partners in ABC medical partnership, standing alone, it would not result in a dissociation.

Choice "b" is incorrect. All that was attached was the partner's right to distributions, which does not cause dissociation.

Choice "d" is incorrect, because although being sued might cause Dr. Bradley to resign, which would cause dissociation, standing alone, being sued by the other partners does not cause dissociation.

CPA-03013 Type1 M/C A-D Corr Ans: B PM B 1-02

21. CPA-03013R98 #6 Page 6

When parties intend to create a partnership that will be recognized under the Revised Uniform Partnership Act, they must agree to:

- | | <i>Conduct a
<u>business for profit</u></i> | <i>Share gross receipts
<u>from a business</u></i> |
|----|---|--|
| a. | Yes | Yes |
| b. | Yes | No |
| c. | No | Yes |

d. No No

CPA-03013 Explanation

Choice "b" is correct. "Yes - No."

Rule: A partnership is an agreement between two or more persons to carry on, as co-owners, a business for profit; partners share management and profits and losses, **not** gross receipts.

Choices "a", "c", and "d" are incorrect, per the above rule.

CPA-03015 Type1 M/C A-D Corr Ans: C PM CQ #3 B 1-02

22. CPA-03015Lw R97 #2 Page 8

Which of the following statements is correct regarding the apparent authority of a partner to bind the partnership in dealings with third parties? The apparent authority:

- Must be derived from the express powers and purposes contained in the partnership agreement.
- Will be effectively limited by a formal resolution of the partners of which third parties are unaware.
- May allow a partner to bind the partnership to representations made in connection with the sale of goods.
- Would permit a partner to submit a claim against the partnership to arbitration.

CPA-03015 Explanation

Choice "c" is correct. Apparent authority of one partner arises from the actions or statements of the partnership or another partner that the first partner has authority. The apparent authority, like any authority, results in the actions of the first partner being binding on the partnership.

Choice "a" is incorrect. Apparent authority can result from any statement made by the partnership indicating that the partner has authority; it need not be derived from express powers.

Choice "b" is incorrect. Statements, resolutions, or agreements attempting to limit a partner's apparent authority are not binding on the third party if the third party is unaware of them.

Choice "d" is incorrect. Apparent authority of the partner does not, by itself, allow the partner to submit a claim to arbitration.

CPA-03019 Type1 M/C A-D Corr Ans: A PM B 1-02

23. CPA-03019Lw Nov 95 #20 Page 10

Park and Graham entered into a written partnership agreement to operate a retail store. Their agreement was silent as to the duration of the partnership. Park wishes to dissociate from the partnership. Which of the following statements is correct?

- Park may dissociate from the partnership at any time.
- Unless Graham consents to the dissociation, Park must apply to a court and obtain a decree ordering the dissociation.
- Park may not dissociate the partnership unless Graham consents.
- Park may dissociate from the partnership only after notice of the proposed dissolution is given to all partnership creditors.

CPA-03019 Explanation

Choice "a" is correct. Because the agreement is silent as to duration, it is a partnership at will. A partner may dissociate from a partnership at will at any time.

Choice "b" is incorrect. Because the agreement is silent as to duration, it is a partnership at will. A partner may dissociate from a partnership at will at any time. No court order is required.

Choice "c" is incorrect. Partnerships are consensual relationships, so any partner has the power to dissociate at any time; he or she need not obtain the consent of the other partners (though absent consent, the partner will be liable for damages if the dissociation is wrongful).

Choice "d" is incorrect. There is no requirement of giving partnership creditors a formal notice of intent to dissociate, but it is a good idea to do so to avoid liability on future partnership obligations.

CPA-03030 Type1 M/C A-D Corr Ans: C PM B 1-02

24. CPA-03030Nov 94 #24 Page 12

The partners of College Assoc., a general partnership, decided to dissolve the partnership and agreed that none of the partners would continue to use the partnership name. Under the Revised Uniform Partnership Act, which of the following events will occur on dissolution of the partnership?

	<i>Each partner's existing liability would be discharged</i>	<i>Each partner's apparent authority would continue</i>
a.	Yes	Yes
b.	Yes	No
c.	No	Yes
d.	No	No

CPA-03030 Explanation

Choice "c" is correct. "No - Yes."

Rule: Upon the dissolution of the partnership, each of the partners continues to have liability for partnership debts. Upon dissolution of the partnership each of the partners will continue to have apparent authority. The apparent authority of a partner can only be negated upon proper notice to 3rd parties.

Choices "a", "b", and "d" are incorrect, per the above rule.

CPA-03053 Type1 M/C A-D Corr Ans: B PM B 1-02

25. CPA-03053Lw Nov 93 #16 Page 4

Which of the following requirements must be met to have a valid partnership exist?

- I. Co-ownership of all property used in a business.
 - II. Co-ownership of a business for profit.
- a. I only.
 - b. II only.
 - c. Both I and II.
 - d. Neither I nor II.

CPA-03053 Explanation

Choice "b" is correct.

Rule: A partnership is defined as an association of two or more persons who agree to carry on as co-owners a business for profit. Thus, II is necessary. However, there is no requirement that all property used in the business be co-owned; it may be owned by individual partners. Thus I is not necessary.

Choices "a", "c", and "d" are incorrect, per the above rule.

CPA-03086 Type1 M/C A-D Corr Ans: D PM B 1-02

26. CPA-03086Lw May 93 #14 Page 8

Locke and Vorst were general partners in a kitchen equipment business. On behalf of the partnership, Locke contracted to purchase 15 stoves from Gage. Unknown to Gage, Locke was not authorized by the partnership agreement to make such contracts. Vorst refused to allow the partnership to accept delivery of the stoves and Gage sought to enforce the contract. Gage will:

- a. Lose, because Locke's action was not authorized by the partnership agreement.
- b. Lose, because Locke was not an agent of the partnership.
- c. Win, because Locke had express authority to bind the partnership.
- d. Win, because Locke had apparent authority to bind the partnership.

CPA-03086 Explanation

Choice "d" is correct. Every partner is an agent of the partnership and has apparent authority to bind the partnership to contracts that appear to carry on in the usual way the business of the partnership. It would be usual for a partner in a kitchen equipment business to have authority to purchase stoves. Thus, Gage will win because of Locke's apparent authority.

Choice "a" is incorrect. Every partner is an agent for his partnership and has apparent authority to bind the partnership to contracts that appear to carry on in the usual way the business of the partnership.

Choice "b" is incorrect. Every partner is an agent of the partnership.

Choice "c" is incorrect. Locke did not have express authority to purchase the stoves. The facts state that Locke was not authorized to purchase the stoves and thus lacked express authority.

CPA-03098 Type1 M/C A-D Corr Ans: C PM B 1-02

27. CPA-03098Lw Nov 91 #15 Page 7

In a general partnership, the authorization of all partners is required for an individual partner to bind the partnership in a business transaction to:

- a. Purchase inventory.
- b. Hire employees.
- c. Sell goodwill.
- d. Sign advertising contracts.

CPA-03098 Explanation

Choice "c" is correct. All partners have apparent authority to enter into transactions apparently within the regular scope of the partnership business. No such authority exists, however, for transactions outside the regular scope of business. The sale of a business's goodwill is extraordinary and is outside the ordinary scope of business. Thus, a partner must get authorization from all other partners to make the sale.

Choice "a" is incorrect. All partners have apparent authority to enter into transactions apparently within the regular scope of the partnership business. Purchasing inventory is within the regular scope of business, so a partner need not get permission from the other partners to bind the partnership.

Choice "b" is incorrect. All partners have apparent authority to enter into transactions apparently within the regular scope of the partnership business. Hiring employees is within the regular scope of a business, so a partner need not get permission from the other partners to bind the partnership.

Choice "d" is incorrect. All partners have apparent authority to enter into transactions apparently within the regular scope of the partnership business. Entering into advertising contracts is within the regular course of business, and so a partner need not get permission from the other partners to bind the partnership.

CPA-03100 Type1 M/C A-D Corr Ans: A PM B 1-02

28. CPA-03100Nov 91 #17 Page 13

On dissolution of a general partnership, distributions will be made on account of:

- I. Partners' capital accounts.
- II. Amounts owed partners with respect to profits.
- III. Amounts owed partners for loans to the partnership.

In the following order:

- a. III, I, and II.
- b. I, II, and III.
- c. II, III, and I.
- d. III, II, and I.

CPA-03100 Explanation

Choice "a" is correct.

Rule: On dissolution of a general partnership the "order of distribution" would be as follows:

- III. General partner loans.
- I. Partners' capital accounts.
- II. General partners' profits.

Choices "b", "c", and "d" are incorrect, per the above rule.

CPA-03108 Type1 M/C A-D Corr Ans: A PM B 1-02

29. CPA-03108Lw Nov 90 #11 Page 7

Which of the following is **not** necessary to create an express partnership?

- a. Execution of a written partnership agreement.
- b. Agreement to share ownership of the partnership.
- c. Intention to conduct a business for profit.
- d. Intention to create a relationship recognized as a partnership.

CPA-03108 Explanation

Choice "a" is correct. A written partnership agreement, while certainly desirable, is not usually necessary to form a valid partnership; partnership agreements are not normally subject to the statute of frauds.

Choice "b" is incorrect. Agreement to share ownership of partnership property is a requirement for creating an express partnership.

Choice "c" is incorrect. Intent to carry on a business for a profit is a requirement for creating an express partnership.

Choice "d" is incorrect. The intent to create a business relationship recognized as a partnership is a requirement for creating an express partnership.

CPA-03111 Type1 M/C A-D Corr Ans: C PM B 1-02

30. CPA-03111 Nov 90 #12 Page 18

Eller, Fort, and Owens do business as Venture Associates, a general partnership. Trent Corp. brought a breach of contract suit against Venture and Eller individually. Trent won the suit and filed a judgment against both Venture and Eller. Trent will generally be able to collect the judgment from:

- a. Partnership assets only.
- b. The personal assets of Eller, Fort, and Owens only.
- c. Eller's personal assets only after partnership assets are exhausted.
- d. Eller's personal assets only.

CPA-03111 Explanation

Choice "c" is correct. When a judgment is obtained against both a partnership and an individual general partner, the plaintiff must proceed against the partnership assets first and then the assets of any individual general partner. The partnership assets must be exhausted before any general partner's individual assets can be attached.

Choices "a", "b", and "d" are incorrect, per the above rule.

CPA-03117 Type1 M/C A-D Corr Ans: C PM B 1-02

31. CPA-03117Nov 89 #1064 Page 7

Heather, Erika, and Shelby are members in HES LLC. Heather works 40 hours per week and Erika and Shelby work 20 hours per week. Heather contributed \$30,000 to the LLC and Erika and Shelby contributed \$60,000 each. Erika and Shelby have each originated 45% of the LLC's business and Heather has originated the other 10%.

If HES were a general partnership, who controls management?

- Heather, because she works the most.
- Erika and Shelby equally because they contributed the most.
- Heather, Erika, and Shelby equally because of state law.
- Erika and Shelby, because they originate most of the work.

CPA-03117 Explanation

Choice "c" is correct.

Rule: Absent an agreement to the contrary, partners have equal management authority.

Choices "a", "b", and "d" are incorrect, per the above rule.

CPA-03121 Type1 M/C A-D Corr Ans: B PM B 1-02

32. CPA-03121Lw May 89 #14 Page 7

Rivers and Lee want to form a partnership. For the partnership agreement to be enforceable, it must be in writing if:

- Rivers and Lee reside in different states.
- The agreement cannot be completed within one year from the date on which it will be entered into.
- Either Rivers or Lee is to contribute more than \$500 in capital.
- The partnership intends to buy and sell real estate.

CPA-03121 Explanation

Choice "b" is correct. A transaction, which cannot be completed within a year, must be in writing to be enforceable.

Choice "a" is incorrect. Residence of the prospective partners is not relevant.

Choice "c" is incorrect. The statute of frauds \$500 threshold applies to the sale of goods only.

Choice "d" is incorrect. Transactions in land are within the statute of frauds, but the possibility that a partnership may engage in a real estate transaction is not a transaction in land.

CPA-03124 Type1 M/C A-D Corr Ans: C PM B 1-02

33. CPA-03124Lw Nov 95 #18 Page 14

Which of the following statements is correct regarding the division of profits in a general partnership when the written partnership agreement only provides that losses be divided equally among the partners? Profits are to be divided:

- Based on the partners' ratio of contribution to the partnership.
- Based on the partners' participation in day-to-day management.
- Equally among the partners.
- Proportionately among the partners.

CPA-03124 Explanation

Choice "c" is correct.

Rule: When the partnership agreement is silent as to how profits are to be divided, they are divided equally. Note also that when the agreement is silent, losses are treated similar to profits, there is no reverse rule that profits are treated like losses.

Choices "a", "b", and "d" are incorrect, per the above rule.

CPA-03126 Type1 M/C A-D Corr Ans: D PM CQ #4 B 1-02

34. CPA-03126Lw Nov 94 #22 Page 14

The partnership agreement for Owen Associates, a general partnership, provided that profits be paid to the partners in the ratio of their financial contribution to the partnership. Moore contributed \$10,000, Noon contributed \$30,000, and Kale contributed \$50,000. For the year ended December 31, 1993, Owen had losses of \$180,000. What amount of the losses should be allocated to Kale?

- a. \$40,000
- b. \$60,000
- c. \$90,000
- d. \$100,000

CPA-03126 Explanation

Choice "d" is correct.

Rule: When the partnership agreement is silent as to how losses will be shared, they are shared in the same manner as profits.

Rule: Here, the partnership agreement provided that profits were to be split among Moore, Noon, and Kale 1:3:5, respectively. Thus, Kale's share of the loss is \$100,000 [$5 \times (1/9 \times 180,000)$].

Choices "a", "b", and "c" are incorrect, per the above rule.

CPA-03132 Type1 M/C A-D Corr Ans: A PM B 1-02

35. CPA-03132Lw May 93 #11 Page 7

Downs, Frey, and Vick formed the DFV general partnership to act as manufacturers' representatives. The partners agreed Downs would receive 40% of any partnership profits and Frey and Vick would each receive 30% of such profits. It was also agreed that the partnership would not terminate for five years. After the fourth year, the partners agreed to terminate the partnership. At that time, the partners' capital accounts were as follows: Downs, \$20,000; Frey, \$15,000; and Vick, \$10,000. There also were undistributed losses of \$30,000.

Which of the following statements about the form of the DFV partnership agreement is correct?

- a. It must be in writing because the partnership was to last for longer than one year.
- b. It must be in writing because partnership profits would not be equally divided.
- c. It could be oral because the partners had explicitly agreed to do business together.
- d. It could be oral because the partnership did not deal in real estate.

CPA-03132 Explanation

Choice "a" is correct. Under the Statute of Frauds, an agreement, which by its terms cannot be performed within a year, must be evidenced by a writing containing the material terms and signed by the parties to be charged. Absent a writing, the partnership will be treated as a partnership at will.

Choice "b" is incorrect. There is no requirement that partnership agreements be in writing merely because profits will be divided unequally.

Choice "c" is incorrect. The Statute of Frauds requires contracts that cannot by their terms be performed within one year to be evidenced by a writing containing the material terms and signed by the parties to be charged.

Choice "d" is incorrect. Whether or not a partnership is to deal in real estate is irrelevant to whether the partnership agreement must be in writing.

CPA-03134 Type1 M/C A-D Corr Ans: C PM B 1-02

36. CPA-03134Lw May 93 #12 Page 14

Downs, Frey, and Vick formed the DFV general partnership to act as manufacturers' representatives. The partners agreed Downs would receive 40% of any partnership profits and Frey and Vick would each receive 30% of such profits. It was also agreed that the partnership would not terminate for five years. After the fourth year, the partners agreed to terminate the partnership. At that time, the partners' capital accounts were as follows: Downs, \$20,000; Frey, \$15,000; and Vick, \$10,000. There also were undistributed losses of \$30,000.

Vick's share of the undistributed losses will be:

- \$0
- \$1,000
- \$9,000
- \$10,000

CPA-03134 Explanation

Rule: Where the partnership agreement is silent, losses are shared in the same proportion as profits.

Choice "c" is correct. Vick was entitled to 30% of the profits and so will be responsible for 30% of the undistributed \$30,000 loss, or \$9,000.

Choices "a", "b", and "d" are incorrect, per the above rule.

CPA-03137 Type1 M/C A-D Corr Ans: B PM B 1-02

37. CPA-03137Lw Nov 90 #14 Page 14

Lewis, Clark, and Beal entered into a written agreement to form a partnership. The agreement required that the partners make the following capital contributions: Lewis, \$40,000, Clark, \$30,000, and Beal, \$10,000. It was also agreed that in the event the partnership experienced losses in excess of available capital, Beal would contribute additional capital to the extent of the losses. The partnership agreement was otherwise silent about division of profits and losses. Which of the following statements is correct?

- Profits are to be divided among the partners in proportion to their relative capital contributions.
- Profits are to be divided equally among the partners.
- Losses will be allocated in a manner different from the allocation of profits because the partners contributed different amounts of capital.
- Beal's obligation to contribute additional capital would have an effect on the allocation of profit or loss to Beal.

CPA-03137 Explanation

Choice "b" is correct.

Rule: Regardless of the contributions and obligations of the partners, unless the partnership agreement specifically states otherwise, all partners are entitled to an equal share of the profits.

Choices "a", "c", and "d" are incorrect, per the above rule.

CPA-03141 Type1 M/C A-D Corr Ans: B PM B 1-02

38. CPA-03141 Nov 89 #6 Page 14

Gillie, Taft, and Dall are partners in an architectural firm. The partnership agreement is silent about the payment of salaries and the division of profits and losses. Gillie works full-time in the

firm, and Taft and Dall each work half time. Taft invested \$120,000 in the firm, and Gillie and Dall invested \$60,000 each. Dall is responsible for bringing in 50% of the business, and Gillie and Taft 25% each. How should profits of \$120,000 for the year be divided?

- Gillie \$60,000, Taft \$30,000, Dall \$30,000.
- Gillie \$40,000, Taft \$40,000, Dall \$40,000.
- Gillie \$30,000, Taft \$60,000, Dall \$30,000.
- Gillie \$30,000, Taft \$30,000, Dall \$60,000.

CPA-03141 Explanation

Choice "b" is correct. \$40,000 – \$40,000 – \$40,000 (equally).

Rule: In the absence of an agreement to the contrary, the profits will be shared equally regardless of investment of money or time.

Choices "a", "c", and "d" are incorrect, per the above rule.

CPA-03150 Type1 M/C A-D Corr Ans: B PM B 1-02

39. CPA-03150Lw May 87 #10 Page 14

With respect to the following matters, which is correct if a general partnership agreement is silent?

- A partnership will continue indefinitely unless a majority of the partners votes to dissolve the partnership.
- Partnership losses are allocated in the same proportion as partnership profits.
- A partner may assign his interest in the partnership but only with the consent of the other partners.
- A partner may sell the goodwill of the partnership without the consent of the other partners when the sale is in the best interest of the partnership.

CPA-03150 Explanation

Choice "b" is correct. As a general principle of partnership law, as well as under the Revised Uniform Partnership Act, in the absence of an agreement otherwise partnership losses are allocated among partners in the same proportion as partnership profits.

Choice "a" is incorrect. A partnership will dissolve on the death, bankruptcy, incapacity, or other withdrawal of a partner, unless the partners vote to continue.

Choice "c" is incorrect. A partner may assign his interest in the partnership at any time without consent of the partners since such an assignment does not make the assignee a partner; instead it merely gives the assignee the assignor's rights to distributions from the partnership.

Choice "d" is incorrect. A sale of partnership good will is an extraordinary transaction that requires consent of the partners. A single partner has no authority to make such a sale on his own accord.

CPA-03165 Type1 M/C A-D Corr Ans: C PM CQ #6 B 1-02

40. CPA-03165Lw R96 #11 Page 17

Under the Revised Uniform Partnership Act, which of the following statements concerning the powers and duties of partners in a general partnership is(are) correct?

- Each partner is an agent of every other partner and acts as both a principal and an agent in any business transaction within the scope of the partnership agreement.
 - Each partner is subject to joint and several liability on partnership debt and contracts.
- I only.
 - II only.
 - Both I and II.
 - Neither I nor II.

CPA-03165 Explanation

Choice "c" is correct.

Rule: Partners are agents of the other partners of a partnership, and thus act as both an agent and principal (for the actions of other partners) in authorized partnership transactions. All partners are subject to joint and several liability on partnership debts and contracts under the Revised Act.

Choices "a", "b", and "d" are incorrect, per the above rule.

CPA-03220 Type1 M/C A-D Corr Ans: A PM CQ #7 B 1-02

41. CPA-03220Lw Nov 95 #17 Page 17

Which of the following statements is (are) usually correct regarding general partners' liability?

- I. All general partners are jointly and severally liable for partnership torts.
 - II. All general partners are liable only for those partnership obligations they actually authorized.
- a. I only.
 - b. II only.
 - c. Both I and II.
 - d. Neither I nor II.

CPA-03220 Explanation

Choice "a" is correct.

Rule: Partners are jointly and severally liable for partnership torts. Moreover, partners are liable for all partnership obligations, whether or not they personally authorized the obligation.

Choices "b", "c", and "d" are incorrect, per the above rule.

CPA-03224 Type1 M/C A-D Corr Ans: D PM CQ #5 B 1-02

42. CPA-03224Lw Nov 95 #19 Page 16

Which of the following statements best describes the effect of the assignment of an interest in a general partnership?

- a. The assignee becomes a partner.
- b. The assignee is responsible for a proportionate share of past and future partnership debts.
- c. The assignment automatically dissolves the partnership.
- d. The assignment transfers the assignor's interest in partnership profits and surplus.

CPA-03224 Explanation

Choice "d" is correct. The assignee of an interest in a partnership receives the assignor's rights to profits and surplus.

Choice "a" is incorrect. An assignee may become a partner only with the consent of all of the existing partners; a mere assignment by one partner of his or her interest is not enough.

Choice "b" is incorrect. An assignee of an interest in a partnership does not become liable for partnership debts-the assignee gets the assignor's rights to profits but the assignment does not include a delegation of the assignor's duties to pay partnership obligations.

Choice "c" is incorrect. An assignment does not dissolve the partnership.

CPA-03228 Type1 M/C A-D Corr Ans: C PM B 1-02

43. CPA-03228Lw Nov 94 #21 Page 17

Which of the following statements is correct concerning liability when a partner in a general partnership commits a tort while engaged in partnership business?

- a. The partner committing the tort is the only party liable.

- b. The partnership is the only party liable.
- c. Each partner is jointly and severally liable.
- d. Each partner is liable to pay an equal share of any judgment.

CPA-03228 Explanation

Choice "c" is correct. Each partner is jointly and severally liable for torts committed by any partner while in the course of partnership business.

Choice "a" is incorrect. All partners may be held liable for a tort committed by a partner in the course of partnership business.

Choice "b" is incorrect. Each partner is liable for torts committed by any partner while in the course of partnership business.

Choice "d" is incorrect. Each partner is liable for the full amount of damages incurred as a result of a partner's tort; the partners are not liable only for their pro rata share.

CPA-03229 Type1 M/C A-D Corr Ans: B PM B 1-02

44. CPA-03229Lw Nov 94 #23 Page 11

Lark, a partner in DSJ, a general partnership, wishes to withdraw from the partnership and sell Lark's interest to Ward. All of the other partners in DSJ have agreed to admit Ward as a partner and to hold Lark harmless for the past, present, and future liabilities of DSJ. As a result of Lark's withdrawal and Ward's admission to the partnership, Ward:

- a. Acquired only the right to receive Ward's share of DSJ profits.
- b. Has the right to participate in DSJ's management.
- c. Is personally liable for partnership liabilities arising before and after being admitted as a partner.
- d. Must contribute cash or property to DSJ to be admitted with the same rights as the other partners.

CPA-03229 Explanation

Choice "b" is correct. The general rule is that the mere assignment of a partner's interest does not make the assignee a partner. One may become a partner only with the consent of all other partners. Here, all other partner's consented to Ward's becoming a partner. Thus, Ward is a partner with full rights to participate in management.

Choice "a" is incorrect. The general rule is that the mere assignment of a partner's interest does not make the assignee a partner. One may become a partner only with the consent of all other partners. Here, all other partner's consented to Ward's becoming a partner. Thus, Ward is a partner with full partner rights.

Choice "c" is incorrect. An incoming partner is not liable for debts that the partnership incurred before admission beyond the incoming partner's contribution, but is fully liable for debts incurred after becoming a partner.

Choice "d" is incorrect. A partnership is a consensual relationship; there is no requirement of a contribution to become a partner.

CPA-03239 Type1 M/C A-D Corr Ans: C PM B 1-02

45. CPA-03239Lw Nov 93 #18 Page 16

Unless the partnership agreement prohibits it, a partner in a general partnership may validly assign rights to:

	<i>Partnership property</i>	<i>Partnership distributions</i>
a.	Yes	Yes
b.	Yes	No
c.	No	Yes

d. No No

CPA-03239 Explanation

Choice "c" is correct.

Rules: A partner has no right to assign an interest in partnership property because a partner's rights in partnership property are limited to using the property for partnership purposes. However, a partner does have a right to assign her interest in partnership distributions. The assignee does not become a partner, but merely has a right to receive whatever distributions the assignor would have received.

Choices "a", "b", and "d" are incorrect, per the above rules.

CPA-03240 Type1 M/C A-D Corr Ans: B PM B 1-02

46. CPA-03240Lw May 93 #15 Page 16

Cobb, Inc., a partner in TLC Partnership, assigns its partnership interest to Bean, who is not made a partner. After the assignment, Bean asserts the rights to:

- I. Participate in the management of TLC.
- II. Cobb's share of TLC's partnership profits.

Bean is correct as to which of these rights?

- a. I only.
- b. II only.
- c. I and II.
- d. Neither I nor II.

CPA-03240 Explanation

Choice "b" is correct.

Rule: The assignee of a partner's interest in the partnership does not thereby become a partner absent the unanimous consent of the other partners. Thus, the assignee has no right to participate in the management of the partnership and has only a right to receive the assignor's share of the partnership profits.

Choices "a", "c", and "d" are incorrect, per the above rules.

CPA-03252 Type1 M/C A-D Corr Ans: D PM B 1-02

47. CPA-03252Nov 89 #7 Page 15

A partner's interest in specific partnership property is:

	<i>Assignable to the partner's individual creditors</i>	<i>Subject to attachment by the partner's individual creditors</i>
a.	Yes	Yes
b.	Yes	No
c.	No	Yes
d.	No	No

CPA-03252 Explanation

Choice "d" is correct. No - No.

Rule: A partner's interest in specific partnership property is neither assignable to the partner's individual creditors nor is it subject to attachment by the partner's individual creditors.

Choices "a", "b", and "c" are incorrect, per the above rule.

CPA-04812 Type1 M/C A-D Corr Ans: B PM B 1-02

48. CPA-04812 Released 2005 Page 14

If **no** provisions are made in an agreement, a general partnership allocates profits and losses based on the:

- Value of actual contributions made by each partner.
- Number of partners.
- Number of hours each partner worked in the partnership during the year.
- Number of years each partner belonged to the partnership.

CPA-04812 Explanation

Choice "b" is correct. Absent an agreement to the contrary, all partners have *equal rights* to share in the profits of the partnership.

Choices "a", "c", and "d" are incorrect, per the above explanation.

Limited Liability Partnership

CPA-02990 Type1 M/C A-D Corr Ans: C PM B 1-03

49. CPA-02990 BEC C04 #13 Page 19

Sam, CPA, is one of the partners in a limited liability partnership with other CPAs. Sam avoids personal liability for:

- The wrongful acts of employees acting under his supervision.
- His own negligent acts.
- The malpractice of his partners regarding errors and omissions.
- The negligent actions of his subordinates under his direct control.

CPA-02990 Explanation

Choice "c" is correct.

Rule: A partner in a LLP is personally liable for tort liabilities arising from his own negligence and the negligence of his direct subordinates and for breach of contract damages. He is **NOT** personally liable for the negligent actions committed by his partners.

Choices "a", "b", and "d" are incorrect, per the above rule.

CPA-02994 Type1 M/C A-D Corr Ans: A PM B 1-03

50. CPA-02994 BEC C04 #14 Page 19

A limited liability partnership must:

- File registration documents with the state in which it is formed.
- Hold all partners personally liable for all debts and liabilities of the partnership and partners.
- Carry no less than one hundred thousand dollars of property insurance.
- Not have partners with professional licenses.

CPA-02994 Explanation

Choice "a" is correct.

Rule: To have limited liability, a LLP must file with the state a registration statement usually referred to as Articles of LLP. It is generally designed for professionals who desire to be partners with other like professionals and yet not have liability for the malpractice of their partners. Some states require personal liability insurance (not property insurance) be carried to protect those harmed by the professional's malpractice.

Choices "b", "c", and "d" are incorrect, per the above rule.

CPA-04837 Type1 M/C A-D Corr Ans: D PM B 1-03

51. CPA-04837 Released 2005 Page 19

Jones, Smith, and Bay wanted to form a company called JSB Co. but were unsure about which type of entity would be most beneficial based on their concerns. They all desired the opportunity to make tax-free contributions and distributions where appropriate. They wanted earnings to accumulate tax-free. They did not want to be subject to personal holding tax and did not want double taxation of income. Bay was going to be the only individual giving management advice to the company and wanted to be a member of JSB through his current company, Channel, Inc. Which of the following would be the most appropriate business structure to meet all of their concerns?

- Proprietorship.
- S corporation.
- C corporation.
- Limited liability partnership.

CPA-04837 Explanation

Choice "d" is correct. An LLP does not pay taxes on its earnings. Instead, the profits and losses flow through to the partners as in a general partnership. The LLP files an informational tax return like that of a general partnership. The partners may agree to have the entity managed by one or more of the partners. A partner may be another entity.

Choice "a" is incorrect. A proprietorship by definition is only one owner, not three owners as in the facts.

Choice "b" is incorrect. While an S corporation allows for the same treatment of its earnings and distributions as in the facts, it is prohibited from having another company as an owner.

Choice "c" is incorrect. A C corporation pays its own taxes on its earnings, and any distributions to its shareholders are again taxed at the shareholder level (known as "double taxation").

Limited Partnership

CPA-02975 Type1 M/C A-D Corr Ans: A PM B 1-04

52. CPA-02975 BEC C04 #3 Page 22

Green Trees, LP is a limited partnership. Dave is a limited partner. Seeds Today, Inc. is a creditor of the limited partnership. Upon dissolution of the partnership, the assets of Green Trees, LP will be distributed to pay:

- Seeds Today, Inc., first.
- Dave first.
- Seeds Today, Inc. and Dave.
- The general partners first.

CPA-02975 Explanation

Choice "a" is correct.

Rule: Upon dissolution, the assets of a limited partnership are first used to pay off the outside creditors. Limited partners such as Dave are next in line.

Choices "b", "c", and "d" are incorrect, per the above rule.

CPA-02977 Type1 M/C A-D Corr Ans: C PM B 1-04

53. CPA-02977 BEC C04 #4 Page 20

A limited partnership must have:

- One general partner and two limited partners.
- All must be general partners and one limited partner.
- One general partner and one limited partner.

d. All limited partners.

CPA-02977 Explanation

Choice "c" is correct.

Rule: A limited partnership must have at least one general partner and one limited partner.

Choices "a", "b", and "d" are incorrect, per the above rule. Be careful of answers that include the word "all."

CPA-02978 Type1 M/C A-D Corr Ans: B PM B 1-04

54. CPA-02978BEC C04 #5 Page 21

Juan is a limited partner in Pet Food and Fun, Limited Partnership. Juan visited Chow, Inc., a local supplier of dog food claiming to be a "partner" in the partnership and negotiated a distribution contract between the supplier and limited partnership on behalf of the partnership.

As a result of these actions, Juan:

- Has limited liability as a limited partner in reference to all creditors.
- Has limited liability as a limited partner to all creditors except Chow, Inc.
- Has full personal liability to all creditors.
- None of the above.

CPA-02978 Explanation

Choice "b" is correct.

Rule: A limited partner will be considered a general partner with full personal liability only to those that the limited partner transacts with as if he were a general partner. Limited partners have no right to participate in management, such as negotiating contracts on behalf of the limited partnership. The limited partner will retain his status and limited liability to all others they have not transacted with on behalf of the partnership.

Choices "a", "c", and "d" are incorrect, per the above rule.

CPA-02979 Type1 M/C A-D Corr Ans: B PM B 1-04

55. CPA-02979BEC C04 #6 Page 22

Doug was the sole general partner in Heavy Foot, Limited Partnership. While driving to work one morning, Doug died in a car accident. The limited partnership:

- Continues to exist as it was before Doug's death.
- Dissolves by operation of law as a result of Doug's death.
- Dissolves only by attaining a judicial decree.
- Converts to a general partnership and all former limited partners become general partners.

CPA-02979 Explanation

Choice "b" is correct.

Rule: The death of a general partner will by operation of law, dissolve the limited partnership. Because the dissolution is by operation of law, there is no requirement to attain a judicial decree. Remaining limited partners do not automatically become general partners as a result of the death of the general partner.

Choices "a", "c", and "d" are incorrect, per the above rule.

CPA-03089 Type1 M/C A-D Corr Ans: A PM CQ #8 B 1-04

56. CPA-03089Lw Nov 92 #1 Page 20

Which of the following statements is correct concerning the similarities between a limited partnership and a corporation?

- a. Each is created under a statute and must file a copy of its certificate with the proper state authorities.
- b. All corporate stockholders and all partners in a limited partnership have limited liability.
- c. Both are recognized for federal income tax purposes as taxable entities.
- d. Both are allowed statutorily to have perpetual existence.

CPA-03089 Explanation

Choice "a" is correct. Both a corporation and a limited partnership can be formed only by filing with state authorities.

Choice "b" is incorrect. A general partner in a limited partnership does not have limited liability but is personally liable for all partnership obligations.

Choice "c" is incorrect. Limited partnerships are not recognized as taxable entities. They need only file informational returns.

Choice "d" is incorrect. The certificate of limited partnership must state the latest date on which it is to dissolve.

CPA-03103 Type1 M/C A-D Corr Ans: D PM B 1-04

57. CPA-03103May 91 #4 Page 20

Which of the following statements is correct with respect to the differences and similarities between a corporation and a limited partnership?

- a. Stockholders may be entitled to vote on corporate matters but limited partners are prohibited from voting on any partnership matters.
- b. Stock of a corporation may be subject to the registration requirements of the federal securities laws but limited partnership interests are automatically exempt from those requirements.
- c. Directors owe fiduciary duties to the corporation and limited partners owe such duties to the partnership.
- d. A corporation and a limited partnership may be created only under a state statute and each must file a copy of its organizational document with the proper governmental body.

CPA-03103 Explanation

Choice "d" is correct. Both a limited partnership and a corporation:

1. Can only be created by statute, and
2. Each must file a copy of its certificate with the proper state agency.

Choice "a" is incorrect. There are instances in which limited partners do vote on certain partnership matters (e.g., approve new general or limited partners).

Choice "b" is incorrect. Limited partnership interests are not automatically exempt from the federal securities laws.

Choice "c" is incorrect. Limited partners do not owe a fiduciary duty to the limited partnership.

CPA-03123 Type1 M/C A-D Corr Ans: B PM B 1-04

58. CPA-03123BEC C04 #1 Page 23

Aarons Group, Limited Partnership, was formed by three brothers, Aaron, Barry, and Sam. Aaron is the general partner and devotes more than 60 hours per week to the business. Barry and Sam are limited partners who work for different companies having no relationship to the limited partnership. The partners' capital contributions are as follows: Aaron invested 20%. Barry and Sam invested 30% each.

During the formation of the limited partnership, the brothers signed an agreement that addresses how the brothers will split profits and losses. At year-end, the limited partnership enjoyed large profits due to high demand for the business' product line.

The profits will be divided:

- a. In proportion to each partner's capital contribution.
- b. According to the agreement.
- c. Equally.
- d. By determining by the amount of time and labor each partner devoted to the operation of the partnership.

CPA-03123 Explanation

Choice "b" is correct.

Rule: Partners in a limited partnership can agree as to how they will split profits and losses, with losses shared up to the amount of the limited partners' capital. Absent an agreement, profits and losses are shared on the basis of percentages of capital contributions.

Choices "a", "c", and "d" are incorrect, per the above rule.

CPA-03153 Type1 M/C A-D Corr Ans: D PM B 1-04

59. CPA-03153BEC C04 #7 Page 21

Lisa is a limited partner in a limited partnership. Jen, one of the other limited partners, is seeking to sell her interest in the partnership to Karen and allow Karen to become a new limited partner. Lisa has the right to:

- a. Engage in the management of the limited partnership without losing her limited liability.
- b. Transfer her interest and make Karen a new limited partner without the approval of the other partners.
- c. Withdraw from the limited partnership without giving notice to the partnership.
- d. Vote on the transferring of interest to and admission of Karen as a limited partner.

CPA-03153 Explanation

Choice "d" is correct. Limited partners have the right to vote on the transmission of interest and admission of a new partner. Admission of a new partner requires unanimous consent.

Choice "a" is incorrect. A limited partner who acts as a general partner loses her limited liability status to those she acted as a general partner towards.

Choice "b" is incorrect. Partners cannot transfer their interests without the unanimous consent of the other partners.

Choice "c" is incorrect. Limited partners must give 6 months notice of withdrawal in absence of an agreement to the contrary.

CPA-03242 Type1 M/C A-D Corr Ans: C PM B 1-04

60. CPA-03242May 92 #11 Page 23

Which of the following statements is correct with respect to a limited partnership?

- a. A limited partner may not be an unsecured creditor of the limited partnership.
- b. A general partner may not also be a limited partner at the same time.
- c. A general partner may be a secured creditor of the limited partnership.
- d. A limited partnership can be formed with limited liability for all partners.

CPA-03242 Explanation

Choice "c" is correct. In a limited partnership, a general partner may be a secured creditor of the limited partnership.

Choice "a" is incorrect. In a limited partnership, a limited partner may be an unsecured creditor of the limited partnership.

Choice "b" is incorrect. In a limited partnership, a general partner may also be a limited partner at the same time.

Choice "d" is incorrect. In a limited partnership, only the limited partners will have limited liability. A limited partnership must have at least one general partner and general partners have unlimited liability. (The word "all" makes this option wrong.)

CPA-03251 Type1 M/C A-D Corr Ans: D PM CQ #9 B 1-04

61. CPA-03251Lw Nov 89 #5 Page 24

Which of the following statements regarding a limited partner is (are) generally correct?

- | | | |
|----|---|---|
| | The limited partner
<i>is subject to
personal liability for
<u>partnership debts</u></i> | The limited partner
<i>has the right to take
part in the control
<u>of the partnership</u></i> |
| a. | Yes | Yes |
| b. | Yes | No |
| c. | No | Yes |
| d. | No | No |

CPA-03251 Explanation

Choice "d" is correct.

Rules: The Uniform Limited Partnership Act provides that a limited partner's liability for partnership debts is limited to his capital contribution. Only general partners have the right to take part in the control of the partnership.

Choices "a", "b", and "c" are incorrect, per the above rule.

CPA-03254 Type1 M/C A-D Corr Ans: A PM B 1-04

62. CPA-03254Lw Nov 88 #4 Page 23

In general, which of the following statements is correct with respect to a limited partnership?

- A limited partner has the right to obtain from the general partner(s) financial information and tax returns of the limited partnership.
- A limited partnership can be formed with limited liability for all partners.
- A limited partner may not also be a general partner at the same time.
- A limited partner may hire employees on behalf of the partnership.

CPA-03254 Explanation

Choice "a" is correct. A limited partner has rights similar to those of a corporate shareholder; he must be allowed to review financial and tax information of the limited partnership.

Choice "b" is incorrect. A limited partnership must have one or more general partners, whose liability is unlimited.

Choice "c" is incorrect. One may be both a general and a limited partner simultaneously. Such a person has all of the rights and liabilities of both a limited partner and a general partner.

Choice "d" is incorrect. A limited partner has no management authority, rather he is a passive investor, like a corporate shareholder.

CPA-03257 Type1 M/C A-D Corr Ans: B PM B 1-04

63. CPA-03257Lw Nov 87 #19 Page 21

In general, which of the following statements is correct with respect to a limited partnership?

- A limited partner will be personally liable for partnership debts incurred in the ordinary course of the partnership's business.
- A limited partner is unable to participate in the management of the partnership in the same manner as general partners and still retain limited liability.

- c. A limited partner's death or incompetency will cause the partnership to dissolve.
- d. A limited partner is an agent of the partnership and has the authority to bind the partnership to contracts.

CPA-03257 Explanation

Choice "b" is correct. While the general rule is that a limited partner has no liability on partnership debts except to the extent of his agreed-upon contribution, the limited partner will lose this limited liability if he takes part in control of the business, which generally means a limited partner may not manage the business on a day-to-day basis as a general partner could.

Choice "a" is incorrect. Limited partners are not personally liable for partnership debts; their liability generally is limited to their contributions.

Choice "c" is incorrect. Death or incapacity of a general partner will cause a dissolution, but the same is not true of a limited partner.

Choice "d" is incorrect. A limited partner is more like a shareholder in a corporation than like a general partner. Limited partners are not agents of their partnerships and have no authority to bind their partnership on contracts.

CPA-03259 Type1 M/C A-D Corr Ans: C PM B 1-04

64. CPA-03259Lw May 87 #7 Page 24

White, Grey, and Fox formed a limited partnership. White is the general partner and Grey and Fox are the limited partners. Each agreed to contribute \$200,000. Grey and Fox each contributed \$200,000 in cash while White contributed \$150,000 in cash and \$50,000 worth of services already rendered. After two years, the partnership is insolvent. The fair market value of the assets of the partnership is \$150,000 and the liabilities total \$275,000. The partners have made no withdrawals.

If Fox is insolvent and White and Grey each has a net worth in excess of \$300,000, what is White's maximum potential liability in the event of a dissolution of the partnership?

- a. \$62,500
- b. \$112,500
- c. \$125,000
- d. \$175,000

CPA-03259 Explanation

Rule: The liability of a limited partner for partnership debts is limited to the extent of the capital, which he has contributed or has agreed to contribute. A general partner, however, is liable for all partnership debts and liabilities.

Choice "c" is correct. In this case, both Grey and Fox are limited partners and, thus, their respective maximum liability for partnership debts may not exceed their contributions (\$200,000 each). Because White is a general partner, however, he will be personally liable for the excess of any debt remaining after assets have been applied upon a dissolution. Therefore, White will be liable for \$125,000 (the difference between the fair market value of assets (\$150,000) and partnership liabilities (\$275,000) at dissolution).

Choices "a", "b", and "d" are incorrect, per the above rule.

CPA-02972 Type1 M/C A-D Corr Ans: A PM B 1-04

65. CPA-02972BEC C04 #2 Page 20

Harry, Betty, and Jim decide to form a hair salon business. Betty and Jim will equally manage the business and have full personal liability. Harry will only contribute money to help them get started. Harry does not want any personal liability but does want access to the books and records and to share in the profits. They have all agreed that unanimous consent is needed to transfer their ownership interests. (Assume, if necessary, that all necessary filings have been made with the state.)

The three have formed:

- A limited partnership.
- A limited liability company.
- A general partnership.
- A corporation.

CPA-02972 Explanation

Choice "a" is correct.

Betty and Jim are general partners that will manage the business and be personally liable. Harry is a limited partner. Limited partners are liable only to the extent of their capital contributions and are entitled to share in the profits. Limited partners have the right to inspect the books. Unanimous consent of all partners is required for the transfer of ownership interest.

Choice "b" is incorrect. Limited liability company members have the right to manage unless they agree to appoint a manager.

Choice "c" is incorrect. All partners in a general partnership have the right to manage the partnership, and partners all are personally liable for the debts and losses of the partnership.

Choice "d" is incorrect. Corporate shareholders do have limited liability but generally do not have a right to share in the profits and generally may freely transfer their shares without the other shareholders' consent.

CPA-03261 Type1 M/C A-D Corr Ans: A PM B 1-04

66. CPA-03261Lw May 87 #8 Page 24

White, Grey, and Fox formed a limited partnership. White is the general partner and Grey and Fox are the limited partners. Each agreed to contribute \$200,000. Grey and Fox each contributed \$200,000 in cash while White contributed \$150,000 in cash and \$50,000 worth of services already rendered. After two years, the partnership is insolvent. The fair market value of the assets of the partnership is \$150,000 and the liabilities total \$275,000. The partners have made no withdrawals.

Unless otherwise provided in the certificate of limited partnership, which of the following is correct if Fox assigns her interest in the partnership to Barr and only White consents to Barr's admission as a limited partner?

- Barr will not become a substituted limited partner unless Grey also consents.
- Barr will have the right to inspect the partnership's books.
- The partnership will be dissolved.
- Barr will become a substituted limited partner because White, as general partner, consented.

CPA-03261 Explanation

Choice "a" is correct. In the absence of an agreement between all partners, the assignment of a partner's interest does not make the assignee a substitute partner; it merely transfers the assignor's rights to distributions to the assignee.

Choice "b" is incorrect. Absent an agreement among the partners otherwise, an assignment of an interest in a partnership is merely an assignment of the assignor's rights to receive distributions from the partnership and does not give the assignee any right to inspect the partnership's books.

Choice "c" is incorrect. Absent an agreement among the partners otherwise, an assignment of an interest in a partnership is merely an assignment of the assignor's rights to receive distributions from the partnership; it does not make the assignee a new partner. Since there is no change in who is a partner, there is no dissolution.

Choice "d" is incorrect. All partners must agree to make someone a partner, not just the general partner.

Limited Liability Company**CPA-02969 Type1 M/C A-D Corr Ans: A PM B 1-05**

67. CPA-02969Nov 90 #1121 Page 29

Eller, Fort and Owens are members of Venture Associates, LLC. Trent Corp. brought a breach of contract suit against Venture for a contract executed by Eller as an agent of the LLC. If Trent prevails, Trent will generally be able to collect the judgment from:

- The LLC's assets only.
- The personal assets of Eller, Fort and Owens jointly.
- Eller's personal assets only after LLC assets are exhausted.
- Eller's personal assets only.

CPA-02969 Explanation

Choice "a" is correct.

Rule: Members of an LLC have limited liability. Thus, Trent corp. can collect from the LLC'S assets only.

Choices "b", "c", and "d" are incorrect, per the above rule.

CPA-02981 Type1 M/C A-D Corr Ans: D PM B 1-05

68. CPA-02981BEC C04 #8 Page 27

Tim, Peter, and Rick want to form a limited liability corporation. What document must they file with the state?

- Operating Agreement.
- Articles of Incorporation.
- Bylaws.
- Articles of Organization.

CPA-02981 Explanation

Choice "d" is correct. The Articles of Organization must be filed with the secretary of state.

Choice "a" is incorrect. An operating agreement is an agreement between the members containing provisions relating to management, profit sharing, transferring interests, etc. and does not need to be filed with the state.

Choices "b" and "c" are incorrect. Articles of incorporation and bylaws are documents relating to corporations, and they are not required to be filed with the state.

CPA-02983 Type1 M/C A-D Corr Ans: C PM B 1-05

69. CPA-02983BEC C04 #9 Page 27

The articles of organization for an LLC must contain everything, **except** the following:

- The name of the entity that includes some indication it is a LLC.
- The name and address of the registered agent.
- Number of shares authorized and issued.
- If management is manager managed.

CPA-02983 Explanation

Choice "c" is correct. Limited liability companies do not issue "shares" held by shareholders like in a corporation. Ownership interests are referred to, as "interests" owned by the members.

Choices "a", "b", and "d" are incorrect. These are all required to be included in the articles of organization.

CPA-02985 Type1 M/C A-D Corr Ans: C PM CQ #10 B 1-05

70. CPA-02985BEC C04 #10 Page 27

Time-N-Again, LLC was formed by Sydney, Jordan, and Cami. Unless they elect to be treated otherwise, the IRS will tax the LLC as a:

- Corporation.
- Individual.
- Partnership.
- Foreign entity.

CPA-02985 Explanation

Choice "c" is correct.

Rule: Under current tax law, unless a LLC makes an election with the IRS to be treated as a corporation, the LLC will receive partnership-like treatment.

Choices "a", "b", and "d" are incorrect, per the above rule.

CPA-02988 Type1 M/C A-D Corr Ans: D PM B 1-05

71. CPA-02988BEC C04 #11 Page 28

Unless there is an agreement to the contrary, members in a Limited Liability Company in most states will have voting rights apportioned as determined by:

- How much compensation each member receives from the LLC.
- How much limited liability each member has.
- When the member was admitted to the LLC.
- Each member's capital contribution.

CPA-02988 Explanation

Choice "d" is correct.

Rule: Without a prior membership agreement, members may generally all participate in management, but their voting strength is determined by proportionate ownership interest. This is calculated by comparing their capital contribution to that of the other members' contributions. The members are free to agree otherwise as to how voting strength will be determined.

Choices "a", "b", and "c" are incorrect, per the above rule.

CPA-03116 Type1 M/C A-D Corr Ans: C PM B 1-05

72. CPA-03116Nov 89 #1063 Page 29

Heather, Erika, and Shelby are members in HES LLC. Heather works 40 hours per week and Erika and Shelby work 20 hours per week. Heather contributed \$30,000 to the LLC and Erika and Shelby contributed \$60,000 each. Erika and Shelby have each originated 45% of the LLC's business and Heather has originated the other 10%. Absent an agreement to the contrary among the owners, who controls the management of the HES LLC?

- Heather, because she works the most.
- Erika and Shelby equally because they contributed the most.
- Heather, Erika, and Shelby in proportion to their ownership interests.
- Erika and Shelby, because they originate most of the work.

CPA-03116 Explanation

Choice "c" is correct.

Rule: Absent an agreement to the contrary, the members' voting strength is proportionate to their contributions.

Choices "a", "b", and "d" are incorrect, per the above rule.

CPA-03119 Type1 M/C A-D Corr Ans: C PM B 1-05

73. CPA-03119 Nov 89 #1065 Page 28

Heather, Erika, and Shelby are members in HES LLC. Heather works 40 hours per week and Erika and Shelby work 20 hours per week. Heather contributed \$30,000 to the LLC and Erika and Shelby contributed \$60,000 each. Erika and Shelby have each originated 45% of the LLC's business and Heather has originated the other 10%.

With respect to the HES LLC, Heather dies. Absent an agreement to the contrary, what is the result?

- The LLC must dissolve.
- The LLC ceases to exist.
- The LLC is dissolved unless the other members consent to continue.
- The LLC continues as though nothing happened.

CPA-03119 Explanation

Choice "c" is correct. Absent an agreement to the contrary, if a member of an LLC dies, the LLC is dissolved unless the other members consent to continue.

Choice "a" is incorrect, because the LLC does not have to dissolve upon the death of a member.

Choice "b" is incorrect, because the LLC does not cease to exist immediately.

Choice "d" is incorrect, because the LLC does not continue unless the members consent to continue.

CPA-03146 Type1 M/C A-D Corr Ans: D PM B 1-05

74. CPA-03146 Nov 89 #1061 Page 28

Heather, Erika, and Shelby are members in HES LLC. Heather works 40 hours per week and Erika and Shelby work 20 hours per week. Heather contributed \$30,000 to the LLC and Erika and Shelby contributed \$60,000 each. Erika and Shelby have each originated 45% of the LLC's business and Heather has originated the other 10%. Absent an agreement to the contrary, how will the LLC's \$120,000 profits be divided among the members?

- | | <u>Heather</u> | <u>Erika</u> | <u>Shelby</u> |
|----|----------------|--------------|---------------|
| a. | \$60,000 | \$30,000 | \$30,000 |
| b. | \$40,000 | \$40,000 | \$40,000 |
| c. | \$12,000 | \$54,000 | \$54,000 |
| d. | \$24,000 | \$48,000 | \$48,000 |

CPA-03146 Explanation

Rule: Absent an agreement to the contrary, the LLC'S profits will be divided among the members in proportion to their contributions.

Choice "d" is correct.

- | | <u>Heather</u> | <u>Erika</u> | <u>Shelby</u> |
|----|----------------|--------------|---------------|
| d. | \$24,000 | \$48,000 | \$48,000 |

Choices "a", "b", and "c" are incorrect, per the above rule.

CPA-03156 Type1 M/C A-D Corr Ans: A PM B 1-05

75. CPA-03156 BEC C04 #12 Page 29

A member of a limited liability company may generally do all of the following, **except**:

- Transfer his membership in the LLC without the consent of the other members.
- Participate in the management of the LLC absent an agreement to the contrary.
- Have limited liability.
- Order office supplies for the LLC.

CPA-03156 Explanation

Choice "a" is correct. The transfer of a member interest requires the consent of the other members. Members may assign their interest without the other members consent.

Choice "b" is incorrect. Unless the members have agreed to operate as a manager managed LLC, all members have the power to participate in management.

Choice "c" is incorrect. Members in a limited liability company all have limited personal liability.

Choice "d" is incorrect. Unless otherwise agreed, members have the right to manage the every day operations of a LLC. This can include the ordering of office supplies.

CPA-03237 Type1 M/C A-D Corr Ans: C PM B 1-05

76. CPA-03237 May 94 #15 Page 29

Jeb, a member in J & S LLC, sold his interest in the LLC to Chris without obtaining the other member's consent. Absent an agreement to the contrary, Chris:

- I. May participate in the management of J & S.
 - II. May receive Jeb's share of J & S' profits.
 - III. Is not entitled to anything since Jeb did not obtain the other member's consent.
- a. I only.
 - b. I and II only.
 - c. II only.
 - d. III only.

CPA-03237 Explanation

Choice "c" is correct. Absent an agreement to the contrary, if a member in the LLC sells his interest in an LLC without obtaining the other member's consent, the assignee is only entitled to receive the assignor's share of profits.

Choices "a", "b", and "d" are incorrect, because, absent an agreement to the contrary, although a member of an LLC is allowed to assign his interest in profits and losses, an assignee of a membership interest may not participate in the management of the LLC.

Corporation**CPA-02967 Type1 M/C A-D Corr Ans: C PM CQ #11 B 1-06**

77. CPA-02967 Lw Nov 95 #22 Page 30

Which of the following statements best describes an advantage of the corporate form of doing business?

- a. Day to day management is strictly the responsibility of the directors.
- b. Ownership is contractually restricted and is not transferable.
- c. The operation of the business may continue indefinitely.
- d. The business is free from state regulation.

CPA-02967 Explanation

Choice "c" is correct. Corporate existence may be perpetual, which is an advantage of the corporate form of doing business.

Choice "a" is incorrect. Day to day management usually is vested in the officers, and not the responsibility of the board of directors.

Choice "b" is incorrect. In a corporation, ownership (of shares) is usually freely transferable.

Choice "d" is incorrect. Corporations are creatures of state law and are regulated by each state.

CPA-02999 Type1 M/C A-D Corr Ans: D PM B 1-06

78. CPA-02999Lw R02 #9 Page 36

Case Corp. is incorporated in State A. Under the Revised Model Business Corporation Act, which of the following activities engaged in by Case requires that Case obtain a certificate of authority to do business in State B?

- a. Maintaining bank accounts in State B.
- b. Collecting corporate debts in State B.
- c. Hiring employees who are residents of state B.
- d. Maintaining an office in State B to conduct intrastate business.

CPA-02999 Explanation

Choice "d" is correct. A domestic corporation is one created under the laws of a given state. A foreign corporation is a corporation created under the laws of another state. A foreign corporation must obtain a certificate of authority from each state in which it does intrastate business.

Choices "a", "b", and "c" are incorrect because maintaining a bank account, collecting debts, and hiring employees who live within a state are not considered to be "doing business" within the state.

CPA-03000 Type1 M/C A-D Corr Ans: C PM B 1-06

79. CPA-03000Lw R02 #10 Page 40

Which of the following statements is(are) correct regarding the methods a target corporation may use to ward off a takeover attempt?

- I. The target corporation may make an offer ("self-tender") to acquire stock from its own shareholders.
 - II. The target corporation may seek an injunction against the acquiring corporation on the grounds that the attempted takeover violates federal antitrust law.
- a. I only.
 - b. II only.
 - c. Both I and II.
 - d. Neither I nor II.

CPA-03000 Explanation

Choice "c" is correct.

Rule: A tender offer is a general invitation by a bidder to the shareholders of a target company to tender their shares to the bidder at a specified price during a specified time. A target of a takeover may ward off a tender offer by offering to repurchase shares from its shareholders. If a takeover will violate federal antitrust law, a court will enjoin the takeover.

Choices "a", "b", and "d" are incorrect, per the above rule.

CPA-03003 Type1 M/C A-D Corr Ans: D PM B 1-06

80. CPA-03003Lw R02 #11 Page 40

Acorn Corp. wants to acquire the entire business of Trend Corp. Which of the following methods of business combination will best satisfy Acorn's objectives without requiring the approval of the shareholders of either corporation?

- a. A merger of Trend into Acorn, whereby Trend shareholders receive cash or Acorn shares.
- b. A sale of all the assets of Trend, outside the regular course of business, to Acorn, for cash.
- c. An acquisition of all the shares of Trend through a compulsory share exchange for Acorn shares.
- d. A cash tender offer, whereby Acorn acquires at least 90% of Trend's shares, followed by a short-form merger of Trend into Acorn.

CPA-03003 Explanation

Choice "d" is correct. A parent corporation owning 90% or more of a subsidiary may merge the subsidiary (short form merger) into the parent without the approval of the shareholders of either corporation or the approval of the subsidiary's board.

Choices "a", "b", and "c" all must follow the general procedure for fundamental corporate changes (i.e., board resolution notice, approval by majority shares, and filing).

CPA-03009 Type1 M/C A-D Corr Ans: A PM B 1-06

81. CPA-03009R98 #3 Page 34

Under the Revised Model Business Corporation Act, which of the following statements regarding a corporation's bylaws is(are) correct?

- I. A corporation's initial bylaws shall be adopted by either the incorporators or the board of directors.
 - II. A corporation's bylaws are contained in the articles of incorporation.
- a. I only.
 - b. II only.
 - c. Both I and II.
 - d. Neither I nor II.

CPA-03009 Explanation

Choice "a" is correct. Under the Revised Model Business Corporation act, a corporation's initial bylaws may be adopted by either the incorporators or the board of directors.

Choices "b" and "c" are incorrect, because the corporation's bylaws are a separate document not included in the corporation's articles of incorporation.

Choice "d" is incorrect, because under the Revised Model Business Corporation Act, a corporation's initial bylaws may be adopted by either the incorporators or the board of directors.

CPA-03023 Type1 M/C A-D Corr Ans: A PM CQ #12 B 1-06

82. CPA-03023Lw Nov 95 #21 Page 33

Which of the following facts is(are) generally included in a corporation's articles of incorporation?

- | | <i>Name of
registered
<u>agent</u></i> | <i>Number of
authorized
<u>shares</u></i> |
|----|--|---|
| a. | Yes | Yes |
| b. | Yes | No |
| c. | No | Yes |
| d. | No | No |

CPA-03023 Explanation

Choice "a" is correct.

Rule: The articles of incorporation generally must contain both the name of a registered agent upon whom process may be served and the number of shares authorized to be issued.

Choices "b", "c", and "d" are incorrect, per the above rule.

CPA-03027 Type1 M/C A-D Corr Ans: D PM CQ #15 B 1-06

83. CPA-03027Lw Nov 95 #25 Page 39

Which of the following statements is a general requirement for the merger of two corporations?

- a. The merger plan must be approved unanimously by the stockholders of both corporations.
- b. The merger plan must be approved unanimously by the boards of both corporations.
- c. The absorbed corporation must amend its articles of incorporation.

- d. The stockholders of both corporations must be given due notice of a special meeting, including a copy or summary of the merger plan.

CPA-03027 Explanation

Choice "d" is correct. Both corporations must give shareholders notice and a summary of the merger plan.

Choice "a" is incorrect. A merger plan need only be approved by a majority of the shareholders, not by all shareholders.

Choice "b" is incorrect. The merger plan needs to be approved only by a majority of each board of directors of the corporations.

Choice "c" is incorrect. The absorbed corporation ceases to exist; its articles need not be amended.

CPA-03034 Type1 M/C A-D Corr Ans: D PM B 1-06

84. CPA-03034Lw May 94 #11 Page 33

Under the Revised Model Business Corporation Act, which of the following must be contained in a corporation's articles of incorporation?

- Quorum voting requirements.
- Names of stockholders.
- Provisions for issuance of par and nonpar shares.
- The number of shares the corporation is authorized to issue.

CPA-03034 Explanation

Choice "d" is correct. The articles must set out the corporation's authorized shares.

Choice "a" is incorrect. Quorum requirements, if stated at all, usually are in the bylaws; they need not be included in the articles of incorporation.

Choice "b" is incorrect. The articles need not include the names of stockholders.

Choice "c" is incorrect. The RMBCA has eliminated the concept of par value and so does not have a requirement that par value be established in the articles.

CPA-03049 Type1 M/C A-D Corr Ans: C PM B 1-06

85. CPA-03049Lw May 94 #14 Page 39

Under the Revised Model Business Corporation Act, a merger of two public corporations usually requires all of the following, **except**:

- A formal plan of merger.
- An affirmative vote by the holders of a majority of each corporation's voting shares.
- Receipt of voting stock by all stockholders of the original corporations.
- Approval by the board of directors of each corporation.

CPA-03049 Explanation

Choice "c" is correct. A merger can be effected by giving some parties cash or property; not everyone need receive voting shares.

Choice "a" is incorrect. The merger must be pursuant to a formal plan.

Choice "b" is incorrect. The majority of each corporation generally must approve a merger.

Choice "d" is incorrect. A plan of merger must be approved by the boards of the merging corporations.

CPA-03059 Type1 M/C A-D Corr Ans: C PM B 1-06

86. CPA-03059 Nov 93 #19 Page 33

Which of the following provisions must a for-profit corporation include in its articles of incorporation to obtain a corporate charter?

- I. Provision for the authorization of voting stock.
 - II. Name of the corporation.
- a. I only.
 - b. II only.
 - c. Both I and II.
 - d. Neither I nor II.

CPA-03059 Explanation

Choice "c" is correct. Both I and II.

Rule: In order to obtain a corporate charter, a for-profit corporation must include in its articles of incorporation the name of the corporation and a provision for the authorization of voting stock. In addition, the articles of incorporation should include the names of the incorporators and the name and address of the registered agent.

Choices "a", "b", and "d" are incorrect, per the above rule.

CPA-03083 Type1 M/C A-D Corr Ans: B PM B 1-06

87. CPA-03083Lw Nov 93 #20 Page 35

The corporate veil is most likely to be pierced and the shareholders held personally liable if:

- a. The corporation has elected S corporation status under the Internal Revenue Code.
- b. The shareholders have commingled their personal funds with those of the corporation.
- c. An ultra vires act has been committed.
- d. A partnership incorporates its business solely to limit the liability of its partners.

CPA-03083 Explanation

Choice "b" is correct. Generally, a corporation is treated as an entity distinct from its shareholders and shareholders are not liable for the corporation's debts. However, where the shareholders do not treat the corporation as a distinct entity, such as where they commingle their personal funds with the corporation's funds, courts are likely to ignore the corporate form as well.

Choice "a" is incorrect. An election to be taxed like a partnership under Subchapter S is not grounds to pierce the corporate veil.

Choice "c" is incorrect. An ultra vires act is one beyond the corporation's powers. The persons who authorized the ultra vires act can be held personally liable for damages caused, but it is not a ground for piercing the corporate veil.

Choice "d" is incorrect. Limiting personal liability is the main reason to incorporate. It is a ground for piercing the corporate veil only if it is done fraudulently (i.e., to avoid paying present creditors).

CPA-03090 Type1 M/C A-D Corr Ans: A PM CQ #16 B 1-06

88. CPA-03090Lw Nov 92 #3 Page 38

Which of the following must take place for a corporation to be voluntarily dissolved?

- a. Passage by the board of directors of a resolution to dissolve.
- b. Approval by the officers of a resolution to dissolve.
- c. Amendment of the certificate of incorporation.
- d. Unanimous vote of the stockholders.

CPA-03090 Explanation

Choice "a" is correct. For a corporation to dissolve, the directors must adopt a resolution recommending dissolution.

Choice "b" is incorrect. The officers are not required to approve resolutions for fundamental corporate changes.

Choice "c" is incorrect. To dissolve, the certificate of incorporation need not be amended; rather, a certificate of dissolution must be executed and filed.

Choice "d" is incorrect. Generally, fundamental corporate changes such as dissolution need only be approved by a majority (or in some states two-thirds) of the outstanding shares.

CPA-03091 Type1 M/C A-D Corr Ans: D PM B 1-06

89. CPA-03091 May 92 #16 Page 33

Generally, a corporation's articles of incorporation must include all of the following, **except** the:

- a. Name of the corporation's registered agent.
- b. Name of each incorporator.
- c. Number of authorized shares.
- d. Quorum requirements.

CPA-03091 Explanation

Choice "d" is correct. A corporation's articles of incorporation need not contain any information regarding quorum requirements.

Choices "a", "b", and "c" are incorrect because under the Revised Model Business Corporations Act a corporation's articles of incorporation must include:

- (1) The name of the corporation,
- (2) The name and address of the corporation's registered agent,
- (3) The names and addresses of each of the incorporators, and
- (4) The number of shares authorized to be issued.

CPA-03094 Type1 M/C A-D Corr Ans: C PM CQ #14 B 1-06

90. CPA-03094 Lw May 92 #18 Page 38

A corporate stockholder is entitled to which of the following rights?

- a. Elect officers.
- b. Receive annual dividends.
- c. Approve dissolution.
- d. Prevent corporate borrowing.

CPA-03094 Explanation

Choice "c" is correct. A stockholder has the right of approval over fundamental corporate changes such as dissolution.

Choice "a" is incorrect. The board of directors selects officers, not the corporate stockholders.

Choice "b" is incorrect. The board of directors have discretion to declare dividends. Corporate stockholders do not have an absolute right to annual dividends.

Choice "d" is incorrect. Corporate borrowing must be accomplished through the actions of a corporate board of directors resolution.

CPA-03096 Type1 M/C A-D Corr Ans: D PM B 1-06

91. CPA-03096 Lw May 92 #20 Page 38

Which of the following actions may a corporation take without its stockholders' consent?

- a. Consolidate with one or more corporations.
- b. Merge with one or more corporations.
- c. Dissolve voluntarily.

d. Purchase 55% of another corporation's stock.

CPA-03096 Explanation

Choice "d" is correct. Directors are free to make most corporate decisions unilaterally. However, decisions that might fundamentally change the nature of the corporation require the consent of the shareholders. The purchase of 55% of another corporation's stock can be quite insignificant to the purchaser and is not a fundamental corporate change.

Choice "a" is incorrect because a consolidation is a fundamental corporate change.

Choice "b" is incorrect because a merger is a fundamental corporate change.

Choice "c" is incorrect because a dissolution is a fundamental corporate change.

CPA-03106 Type1 M/C A-D Corr Ans: A PM CQ #13 B 1-06

92. CPA-03106 May 91 #6 Page 35

The limited liability of a stockholder in a closely held corporation may be challenged successfully if the stockholder:

- Undercapitalized the corporation when it was formed.
- Formed the corporation solely to have limited personal liability.
- Sold property to the corporation.
- Was a corporate officer, director, or employee.

CPA-03106 Explanation

Choice "a" is correct. The limited liability of a shareholder in a closely held corporation may be challenged where the shareholder undercapitalized the corporation when it was formed. Courts can "pierce the corporate veil."

Choice "b" is incorrect. Forming a corporation to limit personal liability is a perfectly valid reason for electing the corporate form of doing business.

Choice "c" is incorrect. The shareholder may sell property to the corporation.

Choice "d" is incorrect. Shareholders may serve as corporate officers, directors or employees.

CPA-03113 Type1 M/C A-D Corr Ans: D PM B 1-06

93. CPA-03113 Lw May 90 #7 Page 38

Absent a specific provision in its articles of incorporation, a corporation's board of directors has the unilateral power to do all of the following, **except**:

- Repeal the bylaws.
- Declare dividends.
- Fix compensation of directors.
- Amend the articles of incorporation.

CPA-03113 Explanation

Choice "d" is correct. Amendment of the articles of incorporation, albeit proposed by the directors, cannot usually be effected without the affirmative vote of the shareholders.

Choice "a" is incorrect. The directors ordinarily have the power to repeal bylaws unless the articles or the specific bylaw to be repealed provides otherwise.

Choice "b" is incorrect. The directors have the power to declare dividends at their discretion as long as the dividends do not violate any statute, article, provision, bylaw, or contract with a creditor.

Choice "c" is incorrect. Although it seems like there would be a conflict of interest, directors do have the power to set their own compensation, limited only by the fiduciary duties owed to the corporation (e.g., the directors cannot set salaries so high as to constitute waste).

CPA-03125 Type1 M/C A-D Corr Ans: C PM B 1-06

94. CPA-03125Lw Nov 95 #24 Page 45

Carr Corp. declared a 7% stock dividend on its common stock. The dividend:

- Must be registered with the SEC pursuant to the Securities Act of 1933.
- Is includable in the gross income of the recipient taxpayers in the year of receipt.
- Has no effect on Carr's earnings and profits for federal income tax purposes.
- Requires a vote of Carr's stockholders.

CPA-03125 Explanation

Choice "c" is correct. A stock dividend means that the corporation issues its existing shareholders more stock. In essence, the corporation is merely diluting the proportional ownership interest of existing shares. This has no effect on the corporation's earnings and profits for federal income tax purposes.

Choice "a" is incorrect. There is no requirement that stock dividends be registered with the SEC because no "sale" is involved.

Choice "b" is incorrect. The receipt of a stock dividend is not the recognition of income. It merely divides the stockholders' current ownership interests into more pieces; it does not increase proportional ownership interest in the corporation.

Choice "d" is incorrect. The issuance of dividends, including stock dividends, is at the directors' discretion; shareholders do not vote on dividends.

CPA-03128 Type1 M/C A-D Corr Ans: C PM B 1-06

95. CPA-03128Lw May 94 #13 Page 44

Which of the following rights is a holder of a public corporation's cumulative preferred stock always entitled to?

- Conversion of the preferred stock into common stock.
- Voting rights.
- Dividend carryovers from years in which dividends were not paid, to future years.
- Guaranteed dividends.

CPA-03128 Explanation

Choice "c" is correct. Cumulative preferred dividends are dividends that must be paid before any dividend can be paid to holders of non-preferred shares. The right to the dividend accumulates if it is not paid in a particular year.

Choice "a" is incorrect. There is no right to convert preferred shares into common stock unless that right is specifically granted.

Choice "b" is incorrect. Preferred stock need not have voting rights.

Choice "d" is incorrect. Preferred dividends are not guaranteed. They must be paid before any common shareholder can be paid a dividend, but no dividend might ever be paid.

CPA-03130 Type1 M/C A-D Corr Ans: C PM B 1-06

96. CPA-03130Lw Nov 93 #17 Page 41

Which of the following securities are corporate debt securities?

	<i>Convertible</i>	<i>Debenture</i>	
	<u>bonds</u>	<u>bonds</u>	<u>Warrants</u>
a.	Yes	Yes	Yes
b.	Yes	No	Yes
c.	Yes	Yes	No
d.	No	Yes	Yes

CPA-03130 Explanation

Choice "c" is correct.

Rules: Bonds are debt securities. Thus, convertible bonds and debenture bonds are debt securities. A warrant is a contractual right to purchase stock, which constitutes a share of corporate equity.

Choices "a", "b", and "d" are incorrect, per the above rules.

CPA-03139 Type1 M/C A-D Corr Ans: B PM CQ #17 B 1-06

97. CPA-03139Lw May 90 #9 Page 44

Johns owns 400 shares of Abco Corp. cumulative preferred stock. In the absence of any specific contrary provisions in Abco's articles of incorporation, which of the following statements is correct?

- Johns is entitled to convert the 400 shares of preferred stock to a like number of shares of common stock.
- If Abco declares a cash dividend on its preferred stock, Johns becomes an unsecured creditor of Abco.
- If Abco declares a dividend on its common stock, Johns will be entitled to participate with the common stock shareholders in any dividend distribution made after preferred dividends are paid.
- Johns will be entitled to vote if dividend payments are in arrears.

CPA-03139 Explanation

Choice "b" is correct. Once a dividend is declared, a shareholder becomes an unsecured creditor of the corporation for the amount of the unpaid dividend.

Choice "a" is incorrect. Absent a provision otherwise, cumulative preferred shares have no conversion privilege.

Choice "c" is incorrect. Absent a provision otherwise, cumulative preferred shares have no participation rights in dividends declared on common stock; the cumulative preferred shares are limited to the preferred dividend.

Choice "d" is incorrect. Whether cumulative preferred shares have a right to be voted depends on the provisions in the articles. There is no automatic right to vote, even if dividend payments are in arrears.

CPA-03158 Type1 M/C A-D Corr Ans: A PM B 1-06

98. CPA-03158Lw R99 #6 Page 49

Under the Revised Model Business Corporation Act, a dissenting stockholder's appraisal right generally applies to which of the following corporate actions?

	<i>Short-form</i>	
	<u>Consolidations</u>	<u>Mergers</u>
a.	Yes	Yes
b.	Yes	No
c.	No	Yes
d.	No	No

CPA-03158 Explanation

Choice "a" is correct. "Yes-Yes."

Rule: Shareholders who are dissatisfied with the terms of a merger, consolidation or sale of assets are permitted to compel the corporation to buy their shares at fair market value. This is known as the right of appraisal or the dissenting right.

Rule: A short-form merger is when a parent merges a 90% or more owned subsidiary into the parent. In this case, **only** the shareholders of the subsidiary have dissenting rights.

Choices "b", "c", and "d" are incorrect, per the above rules.

CPA-03160 Type1 M/C A-D Corr Ans: D PM B 1-06

99. CPA-03160R98 #4 Page 50

For what purpose will a stockholder of a publicly held corporation be permitted to file a stockholders' derivative suit in the name of the corporation?

- To compel payment of a properly declared dividend.
- To enforce a right to inspect corporate records.
- To compel dissolution of the corporation.
- To recover damages from corporate management for an *ultra vires* management act.

CPA-03160 Explanation

Choice "d" is correct. A derivative action is an action by a stockholder in the name of the corporation to recover damages or to seek some other remedy on behalf of the corporation when the corporation does not enforce its own rights. Such actions are often brought when the directors or officers have breached their duty to the corporation and have refused to sue themselves. An *ultra vires* act is an act outside of a director's or an officer's scope of authority and thus is a breach of duty to the corporation.

Choices "a", "b", and "c" are incorrect, because these would all be causes of action against the corporate directors or officers on behalf of the stockholder to recover damages or seek some other remedy against the corporate directors or officers on behalf of the stockholder, not on behalf of the corporation.

CPA-03162 Type1 M/C A-D Corr Ans: C PM B 1-06

100. CPA-03162 R98 #7 Page 49

Under the Revised Model Business Corporation Act, when a corporation's bylaws grant stockholders preemptive rights, which of the following rights is(are) included in that grant?

- | | | |
|----|--|--|
| | <i>The right to a proportionate share of corporate assets remaining on corporate dissolution</i> | <i>The right to purchase a proportionate share of newly issued stock</i> |
| a. | Yes | Yes |
| b. | Yes | No |
| c. | No | Yes |
| d. | No | No |

CPA-03162 Explanation

Rule: Preemptive rights provide a shareholder with a **right** of first refusal to buy a share of newly issued shares sufficient to maintain the shareholder's proportionate share of rights in any newly issued shares.

Rule: Preemptive rights do **not** provide a shareholder with the right to a proportionate share of corporate assets on dissolution.

Choice "c" is correct. "No - Yes."

Choices "a", "b", and "d" are incorrect, per the above rules.

CPA-03163 Type1 M/C A-D Corr Ans: A PM B 1-06

101. CPA-03163 Lw R97 #3 Page 45

Which of the following actions may be taken by a corporation's board of directors without stockholder approval?

- Purchasing substantially all of the assets of another corporation.
- Selling substantially all of the corporation's assets.
- Dissolving the corporation.
- Amending the articles of incorporation.

CPA-03163 Explanation

Choice "a" is correct. Purchasing substantially all the assets of another corporation does not require approval of the buyer's stockholders. Such a transaction would be relatively insignificant if a large corporation purchased substantially all the assets of a much smaller corporation.

Choice "b" is incorrect. Selling substantially all of the corporation's assets is considered to be a fundamental change to the corporation's structure that requires approval by a majority of the shareholders following the board of directors' approval.

Choice "c" is incorrect. Dissolving the corporation is considered to be a fundamental change to the corporation's structure that requires approval by a majority of the shareholders following the board of directors' approval.

Choice "d" is incorrect. Amending the articles of incorporation is considered to be a fundamental change to the corporation's structure that requires approval by a majority of the shareholders following the board of directors' approval.

CPA-03219 Type1 M/C A-D Corr Ans: A PM CQ #18 B 1-06

102. CPA-03219 Lw R96 #12 Page 50

Under the Revised Model Business Corporation Act, a corporate director is authorized to:

- Rely on information provided by the appropriate corporate officer.
- Serve on the board of directors of a competing business.
- Sell control of the corporation.
- Profit from insider information.

CPA-03219 Explanation

Choice "a" is correct. Under the Revised Model Business Corporation Act, a director is authorized to rely on information provided by the appropriate officer. The officers are selected by the board of directors to run the day-to-day affairs of the corporation, and thus will often have more direct access to information. Directors can also rely in information supplied to them by professionals such as attorneys and CPAs hired by the corporation.

Choice "b" is incorrect. The Revised Model Business Corporation Act does not authorize a director to serve on the board of a competing corporation. Such action will usually result in a breach of the duty of loyalty.

Choice "c" is incorrect. The Revised Model Business Corporation Act does not authorize a director to sell control of the corporation. Depending on the circumstances, such action would require approval of the shareholders, or at least of the selling shareholders.

Choice "d" is incorrect. The Revised Model Business Corporation Act does not authorize a director to profit from insider information. In fact, the director could face liability under the securities laws for such conduct.

CPA-03225 Type1 M/C A-D Corr Ans: C PM B 1-06

103. CPA-03225 Lw Nov 95 #23 Page 48

To which of the following rights is a stockholder of a public corporation entitled?

- The right to have annual dividends declared and paid.
- The right to vote for the election of officers.
- The right to a reasonable inspection of corporate records.

d. The right to have the corporation issue a new class of stock.

CPA-03225 Explanation

Choice "c" is correct. Stockholders have a right to inspect certain corporate records.

Choice "a" is incorrect. Declaration of dividends is within the directors' discretion. There is no absolute right of shareholders to receive annual dividends.

Choice "b" is incorrect. Officers are appointed by the directors; they are not elected by the shareholders.

Choice "d" is incorrect. Shareholders do not have a right to force the corporation to issue a new class of stock.

CPA-03231 Type1 M/C A-D Corr Ans: B PM B 1-06

104. CPA-03231 Lw Nov 94 #25 Page 49

A parent corporation owned more than 90% of each class of the outstanding stock issued by a subsidiary corporation and decided to merge that subsidiary into itself. Under the Revised Model Business Corporation Act, which of the following actions must be taken?

- The subsidiary corporation's board of directors must pass a merger resolution.
- The subsidiary corporation's dissenting stockholders must be given an appraisal remedy.
- The parent corporation's stockholders must approve the merger.
- The parent corporation's dissenting stockholders must be given an appraisal remedy.

CPA-03231 Explanation

Choice "b" is correct. In a short form merger (one between a parent and a subsidiary 90% of which is owned by the parent), the subsidiary's shareholders have a right to dissent.

Choice "a" is incorrect. The subsidiary's board is not required to take any action in a short-form merger.

Choice "c" is incorrect. The parent corporation's shareholders have no right to approve or disapprove a short-form merger.

Choice "d" is incorrect. The parent corporation's shareholders have no right to dissent to a short-form merger.

CPA-03235 Type1 M/C A-D Corr Ans: B PM CQ #19 B 1-06

105. CPA-03235 Lw May 94 #12 Page 52

Under the Revised Model Business Corporation Act, which of the following statements is correct regarding corporate officers of a public corporation?

- An officer may not simultaneously serve as a director.
- A corporation may be authorized to indemnify its officers for liability incurred in a suit by stockholders.
- Stockholders always have the right to elect a corporation's officers.
- An officer of a corporation is required to own at least one share of the corporation's stock.

CPA-03235 Explanation

Choice "b" is correct. A corporation may indemnify its officers for liabilities incurred in a suit by stockholders, especially if the officer prevails.

Choice "a" is incorrect. There is no restriction against serving as both a director and an officer.

Choice "c" is incorrect. The RMBCA provides that officers are to be appointed by the board unless the bylaws provide otherwise.

Choice "d" is incorrect. There is no requirement that an officer own stock in the corporation in which he or she serves.

CPA-03244 Type1 M/C A-D Corr Ans: C PM B 1-06

106. CPA-03244 May 91 #5 Page 51

Davis, a director of Active Corp., is entitled to:

- Serve on the board of a competing business.
- Take sole advantage of a business opportunity that would benefit Active.
- Rely on information provided by a corporate officer.
- Unilaterally grant a corporate loan to one of Active's shareholders.

CPA-03244 Explanation

Choice "c" is correct. As a director of the corporation Davis may rely on information provided to him/her by a corporate officer. A corporate director is under no obligation to verify information given to him by management (corporate officers).

Choice "a" is incorrect. A director is not entitled to serve on the board of a competing business.

Choice "b" is incorrect. A director may not take sole advantage of a business opportunity that would benefit the corporation.

Choice "d" is incorrect. A director may not unilaterally grant a corporate loan to one of the corporation's shareholders. Directors generally must act through a majority vote at a directors' meeting.

CPA-03247 Type1 M/C A-D Corr Ans: D PM B 1-06

107. CPA-03247 Lw Nov 90 #15 Page 52

Knox, president of Quick Corp., contracted with Tine Office Supplies, Inc. to supply Quick's stationery on customary terms and at a cost less than that charged by any other supplier. Knox later informed Quick's board of directors that Knox was a majority stockholder in Tine. Quick's contract with Tine is:

- Void because of Knox's self-dealing.
- Void because the disclosure was made after execution of the contract.
- Valid because of Knox's full disclosure.
- Valid because the contract is fair to Quick.

CPA-03247 Explanation

Choice "d" is correct. The stationery purchase was fair to Quick, since it was purchased at a below-market price. Thus, the contract is valid.

Choice "a" is incorrect. A director's self-dealing alone will not void a contract from which the director benefits. The contract can be upheld if it was fair.

Choice "b" is incorrect. Disclosure before the contract was executed would have been more honest, but since the contract was fair, it was not necessary.

Choice "c" is incorrect. Full disclosure satisfactory to bind Quick requires that the disclosure be made before the contract is executed. The disclosure here came too late.

CPA-03248 Type1 M/C A-D Corr Ans: B PM B 1-06

108. CPA-03248 Nov 90 #16 Page 48

A stockholder's right to inspect books and records of a corporation will be properly denied if the purpose of the inspection is to:

- Commence a stockholder's derivative suit.
- Obtain stockholder names for a retail mailing list.
- Solicit stockholders to vote for a change in the board of directors.
- Investigate possible management misconduct.

CPA-03248 Explanation

Choice "b" is correct. In general, a shareholder has a right to inspect the books and records of a corporation. This right will be denied where the purpose is not reasonably related to their status as a shareholder. Obtaining stockholder names to create a retail mailing list is a personal purpose.

Choices "a", "c", and "d" are incorrect. The following reasons for shareholders to inspect the books of the corporation are reasonably related to their status as shareholders:

- a. To commence a stockholder's derivative suit.
- c. To solicit stockholders to vote for a change in the board of directors.
- d. To investigate possible management misconduct.

CPA-04801 Type1 M/C A-D Corr Ans: B PM B 1-06

109. CPA-04801 Released 2005 Page 38

Which of the following documents would most likely contain specific rules for the management of a business corporation?

- a. Articles of incorporation.
- b. Bylaws.
- c. Certificate of authority.
- d. Shareholders' agreement.

CPA-04801 Explanation

Choice "b" is correct. The bylaws are adopted by the incorporators or directors, are not required to be filed, and generally will contain rules desired regarding the operation of the corporation.

Choice "a" is incorrect. Articles of incorporation are filed with the state and contain information regarding the establishment of the corporation.

Choice "c" is incorrect. A certificate of authority is filed with the foreign state that a business wishes to do business in and with permission from that state.

Choice "d" is incorrect. A shareholder agreement is a contract between shareholders for any rights or duties agreed upon between the parties.

CPA-04802 Type1 M/C A-D Corr Ans: B PM B 1-06

110. CPA-04802 Released 2005 Page 33

Following the formation of a corporation, which of the following terms best describes the process by which the promoter is released from, and the corporation is made liable for, pre-incorporation contractual obligations?

- a. Assignment.
- b. Novation.
- c. Delegation.
- d. Accord and satisfaction.

CPA-04802 Explanation

Choice "b" is correct. A promoter is personally liable for the contracts they enter into prior to incorporation. A corporation may become liable by adoption of the contract, and through the process of novation, the promotor may be released from contractual obligations.

Choice "a" is incorrect. An assignment is a process whereby the party with contractual rights to receive something under the contract may assign those rights to another.

Choice "c" is incorrect. A delegation is a process whereby the party with contractual duties to perform may delegate those duties to another.

Choice "d" is incorrect. An accord and satisfaction is a process whereby contractual parties agree to other new terms called the accord. Once the new terms are performed or satisfied, the original contract terms are terminated.

CPA-04803 Type1 M/C A-D Corr Ans: D PM B 1-06

111. CPA-04803 Released 2005 Page 51

Which of the following parties is liable to repay an illegal distribution to a corporation?

- A director not breaching his or her duty in approving the distribution and the corporation is solvent.
- A director not breaching his or her duty in approving the distribution and the corporation is insolvent.
- A shareholder not knowing of the illegality of the distribution and the corporation is solvent.
- A shareholder not knowing of the illegality of the distribution and the corporation is insolvent.

CPA-04803 Explanation

Choice "d" is correct. Illegal dividends from an insolvent company must be repaid back to the corporation for the benefit of the creditors. A shareholder who knowingly accepts an illegal dividend is liable for further damages.

Choices "a" and "b" are incorrect. Directors declare dividends. Directors are in breach of their duties whenever they approve of an illegal dividend.

Choice "c" is incorrect. A shareholder of a solvent corporation may unknowingly accept illegal distributions if the creditors are not subject to damages.

CPA-04804 Type1 M/C A-D Corr Ans: B PM B 1-06

112. CPA-04804 Released 2005 Page 33

Under the Revised Model Business Corporation Act, which of the following items of information should be included in a corporation's articles of incorporation (charter)?

- Name and address of each preincorporation subscriber.
- Nature and purpose of the corporation's business.
- Name and address of the corporation's promoter.
- Election of either C corporation or S corporation status.

CPA-04804 Explanation

Choice "b" is correct. The articles are required to contain the name of the entity, names and address of the corporation's registered agent (on whom process may be served if the corporation is sued); the names and addresses of each of the incorporators; and the number of shares authorized to be issued. Under RMBCA, a corporation may include a clause in its articles stating the business purpose for which the corporation was formed.

Choices "a", "c", and "d" are incorrect, per the above explanation.

CPA-04805 Type1 M/C A-D Corr Ans: D PM B 1-06

113. CPA-04805 Released 2005 Page 31

Which of the following may **not** own shares in an S corporation?

- Individuals.
- Estates.
- Trusts.
- Corporations.

CPA-04805 Explanation

Choice "d" is correct. Shareholders must be individuals, estates, or certain trusts. Corporations are not permitted to be shareholders of an S corporation.

Choices "a", "b", and "c" are incorrect, per the above explanation.

CPA-04816 Type1 M/C A-D Corr Ans: B PM B 1-06

114. CPA-04816 Released 2005 Page 44

Which of the following decreases stockholder equity?

- a. Investments by owners.
- b. Distributions to owners.
- c. Issuance of stock.
- d. Acquisition of assets in a cash transaction.

CPA-04816 Explanation

Choice "b" is correct. Distributions to owners, typically in the form of dividends, will serve to reduce stockholders' equity.

Choice "a" is incorrect. Investments by owners, typically in the form of stock purchases or contributions, will serve to increase shareholders' equity.

Choice "c" is incorrect. Issuance of stock by sale will increase shareholders' equity, while issuance of stock dividends will have no effect on total shareholders' equity. Stock dividends will reduce the book value of each share outstanding.

Choice "d" is incorrect. Acquisition of assets with cash will have no effect on total stockholders' equity. The acquisition of assets with cash will effectively reclassify assets from one type to another without impacting liabilities or equity.

CPA-04819 Type1 M/C A-D Corr Ans: D PM B 1-06

115. CPA-04819 Released 2005 Page 52

Food Corp. owned a restaurant called The Ambers. The corporation president, T.J. Jones, hired a contractor to make repairs at the restaurant, signing the contract, "T.J. Jones for The Ambers." Two invoices for restaurant repairs were paid by Food Corp. with corporate checks. Upon presenting the final invoice, the contractor was told that it would not be paid. The contractor sued Food Corp. Which of the following statements is correct regarding the liability of Food Corp.?

- a. It is not liable because Jones is liable.
- b. It is not liable because the corporation was an undisclosed principal.
- c. It is liable because Jones is not liable.
- d. It is liable because Jones had authority to make the contract.

CPA-04819 Explanation

Choice "d" is correct. An officer of the corporation, such as its president, is authorized as an agent for the corporation to act within the course of the business' ordinary business. The corporate president signed on behalf of the corporation. Hiring a contractor to maintain the business assets may be determined to be acting with such authority.

Choice "a" is incorrect, per the rule stated above.

Choice "b" is incorrect. The president signed as acting on behalf of the corporation, thus disclosing the principal.

Choice "c" is incorrect, per the rule stated above.

CPA-04833 Type1 M/C A-D Corr Ans: B PM B 1-06

116. CPA-04833 Released 2005 Page 31

An S corporation must adhere to all of the following conditions, **except** having:

- No more than 75 shareholders.
- A nonresident alien as a shareholder.
- An individual as a shareholder.
- One class of stock.

CPA-04833 Explanation

Choice "b" is correct. There are a number of restrictions on S corporations, such as: stock can be held by no more than 100 persons (75 before January 1, 2005); shareholders must be individuals, estates, or certain trusts; the corporation must generally be a domestic corporation; there can be only one class of stock; and, foreign shareholders are generally prohibited.

Choices "a", "c", and "d" are incorrect, per the above conditions.

CPA-04838 Type1 M/C A-D Corr Ans: C PM B 1-06

117. CPA-04838 Released 2005 Page 43

Which of the following statements describes the same characteristic for both an S corporation and a C corporation?

- Both corporations can have more than 75 shareholders.
- Both corporations have the disadvantage of double taxation.
- Shareholders can contribute property into a corporation without being taxed.
- Shareholders can be either citizens of the United States or foreign countries.

CPA-04838 Explanation

Choice "c" is correct. Either entity's shareholders may contribute property to the corporations without being taxed and may contribute such property as an exchange for stock as appraised by the directors.

Choice "a" is incorrect. Only an S corporation is subject to the number of shareholder limitation.

Choice "b" is incorrect. Only the C corporation is subject to the double taxation disadvantage.

Choice "d" is incorrect. Only S corporations prohibit foreign country shareholder interests.

CPA-04839 Type1 M/C A-D Corr Ans: B PM B 1-06

118. CPA-04839 Released 2005 Page 53

Smith was an officer of CCC Corp. As an officer, the business judgment rule applied to Smith in which of the following ways?

- Because Smith is not a director, the rule does not apply.
- If Smith makes, in good faith, a serious but honest mistake in judgment, Smith is generally not liable to CCC for damages caused.
- If Smith makes, in good faith, a serious but honest mistake in judgment, Smith is generally liable to CCC for damages caused, but CCC may elect to reimburse Smith for any damages Smith paid.
- If Smith makes, in good faith, a serious but honest mistake in judgment, Smith is generally liable to CCC for damages caused, and CCC is prohibited from reimbursing Smith for any damages Smith paid.

CPA-04839 Explanation

Choice "b" is correct. The business judgment rule applies to officers as well as directors, who in their capacity, act in a manner the officer believes to be in the best interest of the corporation, and with the care an ordinarily prudent person in a like position would exercise. They are not liable to the company for resulting damages.

Choices "a", "c", and "d" are incorrect, per the above rule.

