

## Gurukripa's Guideline Answers to Nov 2014 Exam Questions CA IPCC – BUSINESS LAWS, ETHICS AND COMMUNICATION

Question 1 is compulsory (**4 × 5 = 20 Marks**)

Answer **any five** questions from the **remaining six** questions (**16 × 5 = 80 Marks**). [Answer any 4 out of 5 in Q.7]

Q. No.	Questions	Reference/Hint	Marks
<b>1</b>	(a) X sent a consignment of goods worth ` 2,90,000 by railway and got railway receipt for the same. He obtained an advance of ` 2,60,000 from the bank and endorsed and delivered the railway receipt in favour of the bank by way of security for the advance. The railway failed to deliver the goods at the destination. The bank filed a suit against the railway for ` 2,90,000. Decide in the light of provisions of the Indian Contract Act, 1872, whether the bank would succeed in the said suit?	<b>Refer: Q. No. 28, Pg. No. 1.102. Same M 08, N 10</b> <b>Hint:</b> In both the cases, the Bank (Pledgee) is entitled to recover not only the amount of the advance due to it, but the full value of the consignment. Thus, the Bank will succeed in its claim for the entire value of consignment.	<b>5</b>
	(b) The XYZ Traders Association was constituted by four joint Hindu families consisting of 25 major and 2 minor members. The Association was carrying on the business of trading as retailers with the object for acquisition of gains. The Associations was not registered as company under the Companies Act 1956 or any other law. State whether the XYZ Traders Association is having any legal status? Will there be any change in the status of this Association if the members of the XYZ Traders Association subsequently were reduced to 18?	<b>Refer: Q. No. 5, Pg. No. 6.23. Same N 09</b> <b>Hint:</b> Since two HUFs carry on business, Sec.11 of COA 1956, is applicable. XYZ Traders Association will be regarded as illegal since the number of Members is 25 (i.e. exceeds 20 – excluding Minor Members) and not registered under Companies Act or any other Indian Law. The illegality of an Illegal Association cannot be cured by a subsequent reduction in the number of its Members.	<b>5</b>
	(c) State with reason whether the following statements are correct or incorrect: (i) Economic growth can not be possible without ecological costs.	<b>Refer: Q. No. 27, Pg. No. 16.33. Same M 09, N 12</b> <b>Hint: Correct:</b> The concept of "Sustainable Development" (as per Brundtland Report) recognizes that economic growth has to be environmentally sustainable, since there is no economic growth without ecological costs.	<b>3</b>
	(ii) Ethics programs are not helping to manage values associated with quality management, strategic planning and diversity management.	<b>Refer: Para 16.2.3, Pg. No. 16.5. Same N 13, Similar Question</b> <b>Hint:</b> Incorrect: Ethics programs will help to manage values associated with quality management, strategic planning and diversity management.	<b>2</b>
	(d) Prepare the detailed checklist for composing business message in an organization.	<b>Refer: Para 17A.3.3, Pg. No. 17.12.</b>	<b>5</b>
<b>2</b> (a)	A. Under the provisions of the Payment of Bonus Act.1956 decide whether the following employees are entitled for bonus. (i) Employee employed by educational institutions;	<b>Refer: Q. No.22, Pg. No. 3.20. Same N 06,</b> <b>Hint:</b> Not entitled u/s 32.	<b>2</b>
	(ii) A reinstated employee without wages for the period of dismissal	<b>Refer: Q. No.18, Pg. No. 3.20. Same N 12</b> <b>Hint:</b> Entitled only if reinstated with full wages. In the given case re-instatement is without wages. Hence, not entitled for Bonus.	<b>2</b>
<b>2</b>	B. Wazir Chand happens to be a retired Railway	<b>Refer: Q. No.10, Pg. No. 5.13, 5.6.</b>	<b>4</b>

Q. No.	Questions	Reference/Hint	Marks
(a)	<p>servant who occupies the Government quarter, and even after superannuation continued to occupy the Government quarter. For such continuance, the Government, in accordance with Rules, has charged penal rent form the retired Wazir Chand and after adjusting the dues of the Government, the balance amount of the gratuity, which was payable, has been offered to be paid.</p> <p>Examine the contention of the Government and the decision taken by Government to adjust the amount of gratuity in the lights of the provision of the Payment of Gratuity Act, 1972.</p>	<p><b>Similar M 09</b></p> <p><b>Hint:</b> Refusal of Employees to surrender land belonging to the Employer is not a sufficient ground to withhold the gratuity. [<b>Travancore Plywood Industries Ltd</b>]. However, the amount due towards rent can be recovered from the Gratuity payable. [<b>Wazir Chand vs Union of India</b>]. Hence the contention of the Government to adjust against the amount of gratuity is tenable.</p>	
(b)	Examine the concept of Corporate Social Responsibility (CSR) and also explain in brief some of the key strategies which can be used by companies while implementing CSR policies and practices.	<b>Refer: Q. No.25 &amp; 29, Pg. No. 16.35. Same M 07, N 10, N 13</b>	4
(c)	Explain the term "Semantic Problems" as the source contributing towards noise factor.	<b>Refer: Q. No. 16, Pg. No. 17.36. Same N 11</b>	4
3	(a) Explain what is meant by "Supervening Impossibility" as per the Indian Contract Act, 1872 and also state the situation which would not grounds of impossibility.	<b>Refer: Q. No.37, 38 &amp; 39, Pg. No. 1.69. Same M 06</b>	8
	(b) The industries that are based on natural resources, like minerals, timber, fibre and foodstuffs, have some special responsibility for making "environment-friendly products". Examine this statement and also explain in brief the concept of Green Accounting System.	<b>Refer: Q. No. 63 &amp; 66, Pg. No. 16.36. Same M 10, M 12</b>	4
	(c) "Once the process of consensus building has begun, mediators try to assist the parties in their efforts to generate a creative e resolution of differences". Examine this statement and also state in brief the process which should be followed by mediators to resolve the differences between the parties.	<b>Refer: Q. No. 14, Pg. No. 17.36. RTP</b> <b>Hint: Mediators (or Facilitators)</b> can play an important part in helping to – (i) identify the right participants, (ii) assist them in setting an agenda and clarifying the ground rules by which they will operate, and (iii) persuade non-compliant parties to participate.	4
4(a)	(i) Define the term "Free Reserves" as contained in the Companies Act, 2013.	<b>Refer: FTR.66, Sec.2(43)</b>	4
	(ii) Elucidate the circumstances in which a company cannot buy back its own shares as per the provisions of the Companies Act, 2013. M/s Growmore Pharma Limited is planning to buyback of its shares during the current year but the company has defaulted in the payment of term loan & interest thereon to its bankers. The company seeks your advice as to how and when the company can buy back its shares under the circumstances as per the provisions of Companies Act, 2013.	<b>Refer: FTR.78, Point 27</b> <b>Hint:</b> Refer Sec.70. A Company which as defaulted on payment of Term Loan and Interest thereon to Bankers is prohibited to do Buy-Back. However, if the default is remedied, and a period of <b>3 years has elapsed</b> after such default ceased to subsist, company can do Buy Back.	4
(b)	What corporate governance measures are required to be implemented by Indian Companies as per clause 49 of the listing agreement? Explain in brief.	<b>Refer: Para 16.3.2, Point 4, Pg. No. 16.6.</b>	4
(c)	Explain the key elements involved in the innovation frame work of an organization.	<b>Refer: Q. No. 17, Pg. No. 17.44.</b>	4
5(a)	(i) Explain the terms 'Acceptance for Honour' and	<b>Refer: Q. No. 68, Pg. No. 2.43.</b>	4

Q. No.	Questions	Reference/Hint	Marks
	'Drawee in case of need' as used in the Negotiable Instrument Act, 1881.		
	(ii) S by inducing T obtains a Bill of Exchange from him fraudulently in his (S) favour. Later, he enters into a commercial deal and endorses the bill to U towards consideration to him (U) for the deal. U takes the bill as a Holder-in-due-course. U subsequently endorses the bill to S for value, as consideration to S for some other deal. On maturity the bill is dishonoured. S sues T for the recovery of the money. With reference to the provisions of Negotiable Instruments Act.1881 decide S will succeed in the case or not.	<b>Refer: Q. No. 43, Pg. No. 2.47, Sec.53 Same M 01</b> <b>Hint:</b> 1. Sec.53: Any defect in the title of the Transferor will not affect the rights of the Holder in due course even if he had knowledge of the prior defect, provided he himself is not a party to the fraud. Once a N/I passes through the hands of Holder in due course, it gets cleansed of its defects. 2. Analysis & Conclusion: S who originally induced T in obtaining the Bill of Exchange in question fraudulently, cannot succeed in this case, as S himself is party to the fraud.	4
(b)	Explain what is meant by "Financial statement" as per the Companies Act 2013.	<b>Refer: FTR.66, Sec.2(40)</b>	4
(c)	Describe the factors which influence the ethical behavior at work in an organization.	<b>Refer: Q. No. 39, Pg. No. 16.35 Same M 09</b>	4
6	(a) Define the term underwriting and state the circumstances in which underwriting commission can be paid as per provisions of Section 76 of the Companies Act, 1956.	<b>Refer: Q. No. 36 &amp; 37, Pg. No. 10.32 Same N 98, M 01</b>	8
	(b) Draft a 'Power of Attorney' by an assessee authorizing a professional to appear before the Income Tax Authorities in respect of the pending taxation matter.	<b>Refer: Q. No. 30, Pg. No. 18.44 Same M 08, RTP</b>	4
	(c) State whether the following statements are correct or incorrect: (i) Under the Companies Act, 2013, if the General Meeting is adjourned for want of Quorum, then in case of change in the day, time, place of the adjourned meeting, the company is required to give not less than 7 days of notice to the members individually or by press announcement.	<b>Refer: FTR.80</b> <b>Hint: False</b> – the company is required to give not less than 3 days of notice to the members individually or by press announcement.	1
	(ii) As per Section 51 of the Companies Act, 2013, a company may, if so authorized by its Articles, pay dividends in proportion to the amount paid up on each shares.	<b>Refer: FTR.76</b> <b>Hint: True</b> – a company may, if so authorized by its Articles, pay dividends in proportion to the amount paid up on each shares.	1
	(iii) The agreement towards compounding of an offence to avoid prosecution is void.	<b>Refer: Para 1B.1.11, Pg. No. 1.44</b> <b>Hint: True</b> – Contracts for compounding or suppression of criminal charges are illegal and void. But, a compromise of compoundable offences is valid.	1
	(iv) Bailee has no right to mix the goods bailed with his own goods without the consent of the bailor.	<b>Refer: Para 1C.2.6, Pg. No. 1.83 True</b>	1
7	(a) Examine the provisions in respect of Review of orders passed under Section 7A of the Employees' Provident Funds and Miscellaneous Provisions Act, 1952.	<b>Refer: Q. No. 35, Pg. No. 4.22, RTP</b>	4
	(b) Who shall be considered as promoter according to the definition given in the Companies Act, 2013? Explain.	<b>Refer: FTR.68</b>	4

Q. No.	Questions	Reference/Hint	Marks
	(c) Define the term "Charge" and also explain what is the punishment for default with respect to registration of charge as per the provisions of the Companies Act, 2013.	<b>Refer: FTR.65 &amp; 78</b>	<b>4</b>
	(d) What are "Socio-psychological Barriers" to effective communication? Explain.	<b>Refer: Q. No. 14, Pg. No. 17.16</b>	<b>4</b>
	(e) Describe the safeguards which may be created by finance and accounting profession and legislation to eliminate or reduce the threats to an acceptable level to ensure an ethical environment in an organization.	<b>Refer: Q. No. 95, Pg. No. 16.37</b>	<b>4</b>