TOPIC: FORMS OF OWNERSHIP

Learner Note: Deciding upon a form of ownership is one of the first and most important decisions that a new entrepreneur should make. You are required to know the characteristics and the factors which can contribute either to the success or failure of a business.

SECTION A: TYPICAL EXAM QUESTIONS - 1

QUESTION 1: **35 minutes** **40 marks** *(DoE Nov. 2010)*

KARMELBU AND PARTNERS

Three friends, Jabulani, Melissa and Karen, are running a well-established partnership business in Soweto. They manufacture, supply and install kitchen cupboards directly to the public. Their turnover is R30 million per year and they make a net profit of R9 million per year. They have been in business for the past ten years. They are BBBEE compliant.

The partners want to change from a partnership to a public company. Advise them on any FOUR factors that may affect both the success and the failure of the new form of ownership. Recommend whether they should change to the new form of ownership. Motivate your answer. [40]

HINTS
This is an essay question. Structure is important: introduction, body and conclusion.
Sub-headings are important to use as they count for analysis.
Do not write in paragraph style. Use full sentences but in point form.
Use current examples of entrepreneurs to obtain marks for originality.

QUESTION 2: **10 minutes** **12 marks** *(DoE Mar. 2009)*

Discuss the impact of the following factors on the success and failure of a close corporation and sole proprietor:

2.1 Capital

2.2 Legislation [12]

HINTS
Do not forget that you have to compare these factors for a close corporation and sole proprietor. A good idea is to tabulate these factors.

SECTION A: TYPICAL EXAM QUESTIONS - 2

QUESTION 1: 15 minutes 14 marks *(Sunday Times Avusa 2009)*

Complete the table below:

Characteristic	**Partnership**	**Close corporation**
Ownership		
Legal personality		
Autonomy		
Continuity		
Formation		
Taxation		
Adaptability to change		

[14]

HINTS
Redraw the table and then fill in the differences between these forms of ownership.

QUESTION 2: 25 minutes 30 marks *(Various Sources)*

Protea Gardens is a small shopping mall in Soweto. Besides some anchor tenants such as Nedbank Ltd, there are a number of smaller businesses which contribute to the success of this mall. These smaller tenants consist of Joes Take Aways, Alex and Sons Hardware, Optical CC and Beds and Beyond (Pty) Ltd.

2.1 Compare the following factors which can contribute to the success or failure of Nedbank Ltd. and Optical CC:

- 2.1 Taxation
- 2.2 Management
- 2.3 Capital
- 2.4 Profits (16)

2.2 Explain any FOUR advantages that Optical CC has over Joes Take Aways. (8)

2.3 Discuss THREE characteristics of a form of ownership such as Beds and Beyond (Pty) Ltd. (6)

[30]

HINTS
Remember that most names of the different forms of ownership have to end with certain alphabet letters. This should be your guide as to which form of ownership is being referred.

SECTION B: ADDITIONAL CONTENT NOTES

Choosing the correct form of ownership

- The correct form of ownership is important when an entrepreneur starts a business, because if the form of ownership has to be changed in the future, it can create problems.
- The chosen form of ownership has an influence on the success / failure of the business.
- Prospective entrepreneurs must compare certain aspects of the different forms of ownership, as well as their specific needs.
- They must investigate, amongst others, the following:
  - Capital requirements
  - Division of profits
  - Management of the business
  - Tax implications
  - Legal requirements
  - Continuity
  - Issues of capacity

Characteristics of the different forms of ownership

Sole proprietor

- You only need a trading license to commence business.
- It is easy and not expensive to start, and suitable for smaller businesses.
- There is only one owner who assumes all the responsibility for the business.
- The capital is supplied by the owner.
- The owner has unlimited liability. (No difference between the possessions of the owner and the assets of the business).
- Private possessions may be sold to settle the debts of the business.
- No legal entity. The owner is the only one with legal entity.
- Owner receives all the profit and that is a reason to be productive.
- Owner is taxed on profits of business.
- Owner makes all the decisions without interference from somebody else.
- Financial statements do not need to be audited.
- Easy to adapt to changed circumstances.
- May sell the business without any formalities to a willing buyer.
- Normally there is a limited amount of money available which makes appointment of highly qualified personnel difficult.
- Continuity of business depends on life and solvency of owner.

Partnership

- Need only an oral or written agreement to establish the partnership, as well as a trading license.
- Easy and not expensive to start. No legal requirements except for an agreement between the partners.
- A minimum of 2 partners and the maximum is unlimited.
- Ordinary partners are liable in an unlimited way for the debts of the business.
- Partners are jointly and severally liable for the debts of the partnership.
- No legal entity. Legal entity resides in partners.
- Each partner has to contribute to the capital in the form of cash, assets or service rendered to the partnership.
- Each partner is an agent of the partnership and contracts signed by a partner, binds all the partners.
- No continuity. If a partner dies, retires or is declared insolvent, the business must dissolve.
- Partners pay income tax in their private capacity according to the amount of income received out of the partnership.
- Joint decision-making can give better results.
- More capital can be raised than in a sole proprietor.
- Dividing of workload and responsibilities is possible.
- Difference of opinions may delay the decision-making process because all the partners must be included in decision-making.

Close corporation (CC)

- A CC must be registered with the Registrar of Closed Corporations.
- Easy and not expensive to establish a CC.
- Members have to complete a Founding Statement.
- A minimum 1 and maximum 10 members.
- Jointly managed by all the members.
- Members have limited liable because the business has its own legal entity.
- There is continuity until members decide to deregister the business.
- Must have a financial official according to legislation.
- Name must be registered and must end with CC.
- Each member makes a contribution to the capital, and this is determined as a percentage of the total capital.
- Capital is limited to the maximum contribution of 10 members.
- Profits are divided according to the percentage interest of each member in the business.
- The business pays income tax on the profits at the same rate as companies.
- CC has its own legal entity.
- Easy to change the contents of the Founding Statement.
- The CC has continuity.
- Save on audit fees because the auditing of financial statements is not required.
- Depends on the mutual trust between the members.
- A member may not sell his interest to somebody else without the approval of the other members.
- Each member represents the CC and bind the other members with contracts.
- A CC cannot be sold to a Company. It must first be changed into a company and that will take time, delaying the transaction.

Private Company

- Must complete a Memorandum and Articles of Association and must be registered with the Registrar of companies.
- Time consuming and expensive to register this form of ownership because there are many legal requirements.
- A minimum of 1 to a maximum of 50 shareholders.
- Suited for smaller undertakings in which secrecy is important.
- Shareholders contribute to the capital by buying shares in the company.
- Shareholders can be increased up to 50 which will increase the capital.
- The name must be registered and must end with (Pty) Ltd.
- The business is managed by at least one director chosen by the shareholders.
- Shareholders have limited liability to the debts of the company. They can only lose the amount of money invested in shares.
- The business has continuity.
- The company has its own legal entity.
- The company pays income tax on profits and the shareholders pay income tax on the dividends received from the company.
- Not compulsory to have annual general meetings.
- May not invite the public to buy shares in this company.
- Shares are not freely transferable.

Public Companies

- This company must be registered with the Registrar of companies. A constitution and the prescribed documents must be submitted to the Registrar.
- Expensive to establish and takes a long time to register.
- At least 7 promoters may establish a public company. The maximum depends on the number of shares issued.
- Name must be registered and must end with “Ltd.”
- Capital is contributed through the means of selling shares to the public by using a prospectus. Large amounts of capital can, therefore, be raised.
- Managed by at least two directors chosen by the shareholders.
- The business has its own legal entity
- A company does not lack continuity.
- Shareholders have limited liability to the debts of the business.
- Company pays income tax on profits, and shareholders pay income tax on the dividends received.
- Compulsory to hold an annual general meeting of shareholders.
- Financial statements must be audited and published.
- Shares are freely transferable.
- The stipulations in the Companies Act protect the shareholders.
- Contents of the constitution can only be changed by a special resolution with the consent of the majority of the shareholders.
- Must comply with the stipulations in the Act which means extra costs.
- High administrative costs to issue shares, prepare reports, etc.
- When a public company dissolves, it may have a negative influence for a great number of employees.
- Because of the compulsory publishing of financial statements, negative results may influence prospective investors.

FACTORS CONTRIBUTING TO THE SUCCESS OR FAILURE OF A BUSINESS

Sole proprietor

Capacity

Success

- The business is easy to control because it is small.
- Personal attention of owner is given.

Failure

- It is normally a small enterprise, and is it difficult to appoint good, qualified workers because this enterprise cannot compete with the salaries paid by bigger enterprises.
- Difficult for one person to control all the business functions.
- The law does not distinguish between personal assets and your business's assets.
- There is also no difference between your debt and the debt of the business.

Taxation

Success

- The profit of the sole proprietorship is added to any other income the owner receives, and the owner is taxed as an individual tax payer on his/her share of the profit.
- If the profits are small and there is no other taxable income for the owner, it would be better to form a sole trader. (PAYE)

Failure

- Income tax to be paid by owner depends on the annually announced scales announced by the Minister of Finance, and if the scales are increased, the owner will have less profit.
- If profits are very high it might be not be a good idea to form a sole proprietorship as the increased tax might be higher than a CC or company.

Management

Success

- Owner has full control over the way in which the business is managed.
- Makes decisions without having to consult other people.
- Quick decision-making can be done to take advantage of good deals.
- Can be creative and innovative without interference of other people.

Failure

- May take wrong decisions because there is nobody else to consult.
- Owner must rely on own instinct to make tough decisions.
- Lack of management experience.

Capital

Success

- Because the owner is the only person responsible for the success of the business, the capital will be utilised economically.
- The owner can borrow capital if he/she has the necessary security.

Failure

- Limited to the amount that the owner alone can contribute.
- Lack of capital restricts expansion of the business.
- Limited capital to appoint good, qualified workers, and to advertise properly, etc.

Division of profits

Success

- Owner is the only person receiving the profit and this will motivate him to be successful.

Failure

- Greed could result in unethical practices so as to earn more.

Legislation

Success

- Only needs to adhere to the requirements in the Income tax Act, 58 of 1962, as revised.
- Only needs a trading license and to register with the Fund for career health and safety, and SARS.

Failure

- Not a legal entity.
- Unlimited liability. Owner is responsible for the debts of the business.
- Private assets of the owner can be sold to pay creditors of the business.
- No continuity.

Partnership

Capacity

Success

- The business is usually small with all partners active.
- Personal attention of partners is given to the business.

Failure

- There are unlimited liabilities for partners.
- The law also does not recognise a difference between the assets and debt of the different partners.
- This means that the debt of one partner is also the debt of the partnership.

Taxation

Success

- The business does not pay income tax, but the individual partners pay on their income.
- If the profits are small and there is no other taxable income for partners, it would be better to form a sole trader. (PAYE)

Failure

- Income tax to be paid by partners depends on the annually announced scales announced by the Minister of Finance, and if the scales are increased, the owner will have less profit.
- If profits are very high, it might be not be a good idea to form a partnership as the increased tax might be higher than a CC or company.

Management

Success

- Partners are jointly and actively involved in managing the partnership.
- Partners have access to expertise of other partners when tough decisions need to be made.

Failure

- Must get agreement from other partners during decision-making and before transactions can be done.
- Decision-making can, therefore, be time consuming as all partners have to agree first.
- Partners may not agree during decision-making.
- Partners are agents of the partnership and management decisions will be forced on to other partners.

Capital

Success

- More than one person to contribute capital.
- Greater security to borrow money, because the partners are jointly and severally responsible for the debts of the business.

Failure

- Lack of capital because not all the partners contribute cash. Some contribute assets or their services.

Division of profits

Success

- Profits are divided between partners as stipulated in the Partnership Agreement.
- Because all the profit is divided between the partners, this will motivate them to be successful.

Failure

- Because the profit is divided according to the Partnership Agreement, it may be that a hard-working partner receives less profit than others who didn't contribute the same effort to the partnership.
- This may lead to this partner losing interest in the partnership.

Legislation

Success

- Only needs to adhere to the requirements in the Income tax Act, 58 of 1962, as revised.
- There are no legal requirements which bind the partners.
- Only need a partnership agreement between the partners.

Failure

- Not a legal entity.
- Unlimited liability. Partners are jointly en severally responsible for the debts of the business.
- Private assets of the partners can be sold to pay creditors of the business.
- No continuity because partnership must dissolve when there is a change in the number of partners.

Close Corporation

Capacity

Success

- Easy and inexpensive to start.
- Easy to control because it is normally not a big enterprise.
- All members can be actively involved.

Failure

- Not in a position to compete with bigger enterprises.

Taxation

Success

- A CC pays tax on the income brought into the business, after the expenses of running the business have been deducted.
- The profit of the CC belongs to the CC.
- A CC pays income tax at the same rate of companies.
- The profit (after tax) is distributed to members – The CC then pays STC tax (secondary tax) on the money distributed to members.

Failure

- If profits are small it might be not be a good idea to form a CC as the CC or company tax might be higher than individual tax.

Management

Success

- No separation between ownership and management - members are also
- managers.
- Members are actively involved in managing the partnership.
- Members have access to expertise of other members when tough decisions
- need to be made.

Failure

- Decision-making can be time consuming as all members have to agree first.
- Transactions made by a member are forced on the other members.
- No legal control over management.

Capital

Success

- More capital for small to medium size businesses because up to 10 persons can contribute capital.
- Combined assets of members give greater security if they want to borrow money.

Failure

- Members are limited to 10 and that may hamper the supplying of capital.
- Lack of capital to expand the business.

Division of profits

Success

- Profit after taxation is divided between the members according to the percentage interest of each member in the business.
- This can motivate members to contribute more capital.
- The bigger the profit of the CC, the bigger the amount of profit received by each member.

Failure

- A member who contributes less capital, will receive less profit.

Legislation

Success

- Must comply with the requirements in the Close Corporations Act, 69 of 1984.
- Founding statement serves as a control mechanism.
- A CC has its own legal entity.
- Members have limited liability for the debt of the CC.
- Assets of the business are registered in the name of the CC.

Failure

- A CC has to comply with the Close Corporations Act (No. 69 of 1984) and Income Tax Act
- (No. 58 of 1962)
- Close Corporations must be registered by the Registrar of Close Corporations.
- Registration document - Founding statement (CK1)
- Contents of the founding statement
  - Full name of CC
  - Postal address and physical address of the registered office
  - Principal activity of CC
  - Interests of members expressed as %
  - Date on which financial year ends
  - Full names of members and their ID numbers
  - Name and address of accounting officer of CC
- The Act does not control management and this may leave the way open for corruption.
- Compulsory to appoint a financial officer. This means extra expenses and less profit.

Private Company

Capacity

Success

- Can be relatively bigger than other forms of ownership and because there are up to 50 shareholders, it can be successful.

Failure

- Cannot compete with public companies.

Taxation

Success

- A company pays tax on the income brought into the business after the expenses of running the business have been deducted.
- Companies pay tax at 28% of taxable income.
- The profit (after tax) is distributed to shareholders - this is called dividends
- Profit after taxation will be divided between shareholders in dividends.

Failure

- Companies pay secondary tax of 10% on the dividends distributed to shareholders.

Management

Success

- Management and ownership are legally separated.
- Owned by shareholders and managed by at least ONE director.

Failure

- Shareholders are not actively involved in managing the company.
- Shareholders have the power to elect suitable directors, but not all shareholders exercise their voting rights.

Capital

Success

- More capital can be available because up to 50 members can buy shares in the company.

Failure

- Shares are not freely transferred.
- Private companies do not sell shares to the public.
- Capital is limited to the contribution of 50 shareholders.

Division of profits

Success

- Profit belongs to the company and can be used to expand the business.
- A part of the profit can be withheld in a reserve fund for future needs.
- Profit after taxation is divided between shareholders in the form of dividends according to the number and type of shares held by the shareholder.

Failure

- The market value of shares can decrease when the dividend paid out to shareholders is low, because the shareholders lose interest in the company and want to sell their shares.
- Shareholders are not sure if they are going to get an income from their investment.

Legislation

Success

- Must comply with the requirements in the Companies Act, 61 of 1973, as revised.
- Management must follow the stipulations in the constitution of the business.

  Registration documents:
  - Written consent of each director to act as a director
  - Receipt of paying annual tax
  - Receipt of paying prescribed registration fees
  - List of chosen directors
  - Original Memorandum of Association with two certified copies
  - Original Articles of Association with two certified copies
- The Articles of Association describe the internal rules of the company.
- Describes the way in which the company will be managed.

Failure

- Takes long to register a company.
- Extra burden on management to see to it that all the different requirements in the Act are adhered to.
- Changes in companies' legislation can bring extra challenges. (New Companies Act)
- Complicated process to start a company.

Public Company

Capacity

Success

- Public companies have shareholders and directors.
- Shareholders can be people, or other companies.
- Shareholders own the public company, while directors manage the public company.
- The law sees a company as separate from its shareholders and directors.
- The assets and liabilities of the business belong to the company, and the assets and debt of the shareholders and directors have nothing to do with the company.
- That is why they are competitive with a variety of experienced directors.

Failure

- Control can be difficult because of a variety of activities.

Taxation

Success

- A company pays tax on the income brought into the business, after the expenses of running the business have been deducted.
- Companies pay tax at 28% of taxable income.
- The profit (after tax) is distributed to shareholders - this is called dividends
- Profit after taxation will be divided between shareholders in dividends.

Failure

- Companies pay secondary tax of 10% on the dividends distributed to shareholders.

Management

Success

- Management and ownership are legally separated.
- Owned by shareholders and managed by at least TWO directors.

Failure

- Shareholders are not actively involved in managing the company.
  Shareholders have the power to elect suitable directors, but not all shareholders exercise their voting rights.

Capital

Success

- Issues a prospectus and sells shares to the public up to the maximum amount as registered in the Memorandum of Association.
- May change the share capital clause in the Memorandum of Association to get more capital.
- May issue debentures to the public.
- Financial statements must be audited and this will ensure that financial management is done properly.
- Shares are freely transferable.

Failure

In slow economic times and if the company is not performing well it might be difficult to sell shares.

Division of profits

Success

- Profit belongs to the company and can be used to expand the business.
- A part of the profit can be withheld in a reserve fund for future needs.
- Profit after taxation is divided between shareholders in the form of dividends according to the number and type of shares held by the shareholder.

Failure

- The market value of shares can decrease when the dividend paid out to shareholders is low, because the shareholders lose interest in the company and want to sell their shares.
- Shareholders are not sure if they are going to get an income from their investment.

Legislation

Success

- Must comply with the requirements in the Companies Act, 61 of 1973, as revised.
- Management must follow the stipulations in the constitution of the business.

Registration documents:

  - Written consent of each director to act as a director.
  - Receipt of paying annual tax.
  - Receipt of paying prescribed registration fees.
  - List of chosen directors.
  - Original Memorandum of Association with two certified copies.
  - Original Articles of Association with two certified copies.
  - Power of attorney by the promoters in favour of the person instructed to lodge the documents with the registrar, unless one of the promoters does so himself/herself.
  - A written undertaking by each nominated director to buy and pay the prescribed shares.
  - A written undertaking by the auditor to act in that capacity.
  - Copies of all contracts which were signed on behalf of the company before incorporation.
- The Articles of Association describe the internal rules of the company.
- Describes the way in which the company will be managed.

Failure

- Takes long to register a company.
- Extra burden on management to see to it that all the different requirements in the Act are adhered to.
- Changes in companies' legislation can bring extra challenges. (New Companies Act)
- Complicated process to start a company.

SECTION C: HOMEWORK

QUESTION 1: 10 minutes 12 marks *(DoE Exemplar 2008)*

Discuss the impact of the following issues on either the success or the failure of a partnership and a company:

1.1 Taxation

1.2 Management [12]

QUESTION 2: 10 minutes 10 marks *(DoE Preparatory Exam Paper 2008)*

The form of ownership impacts on the success or failure of the business. Discuss how the following components impact on the success or failure of the partnership:

- Taxation (4)
- Division of profits (2)
- Capital (4)

[10]

QUESTION 3: 10 minutes 10 marks *(DoE Various papers)*

Four possible options are provided as answers to the following questions. Choose the correct answer and write only the letter (A – D) next to the question number, for example 1.7 B

3.1 These forms of ownership do NOT have separate legal personalities, and the owners are liable for the debts of the business:

A Close corporation and partnership
B Sole proprietorship and private company
C Partnership and sole proprietorship
D Public company and close corporation (2)

3.2 This business enterprise can be listed on the Johannesburg Securities Exchange:

A Kerushan and Saylin Plumbers CC
B Sparks Sports Ltd
C Robin and Sons
D Nozintombi (Pty) Ltd (2)

3.3 This form of ownership stipulates a maximum of ten members:

A Close corporation
B Partnership
C Public company
D Private company (2)

3.4 This form of ownership stipulates a minimum of seven members:

A Close corporation
B Partnership
C Public company
D Private company (2)

3.5 Boston (Pty) Ltd has a maximum of … shareholders.

A 10

B 20

C 50

D unlimited (2)

[10]

SECTION D: SOLUTIONS AND HINTS TO SECTION A – 1

QUESTION 1

Introduction:

- The following factors must be carefully considered because they contribute to the success or failure of the business enterprise. √
- There are many legal procedures and requirements that these friends must comply with when forming a public company. √
- The correct division of profits create more income and is important for the success of the business. √
- Any relevant introduction related to forms of ownership. (any 3 x 1) (3)

Advice on factors that must be considered.

Capacity: √√

- The capacity of the company refers to the size of the business operation. √√
- Should the company be involved in manufacturing or a production process then they will require a large amount of capital. √√
- Any relevant answer related to capacity.

Success:

- The company acquires a large amount of capital to start up the company. √√
- Further capital may also be required in the future to finance expansion. √√
- Requires a stable cash flow to fund the operations of the company such as payment of wages and salaries, payment of creditors and other expenses. √√
- Company that is well managed will lead to future growth. √√
- When BBBEE compliant, the company will have easier access to capital on the JSE.√√
- Any relevant answer related to the success factors on capacity.

Failure:

- The formation of a public company will definitely mean a large business operation in the manufacturing/production industry. √√
- This capacity requires sufficient cash flow and should this not be available, then this will lead to the failure of the company. √√
- Any relevant answer related to failure factors on capacity. **Heading(2)**

Explanation any 2 x 2 (4) Success any 1 x 2 (2) Failure any 1 x 2 (2) Total 10

Max. 8

Legislation: √√

- A public company must be registered in terms of the Companies Act No. 61 of 1973. √√
- The public company becomes a legal person when it is registered. √√
- The shareholders have limited liability as per legislation. √√
- The company is sued and the shareholders do not run the risk of losing their personal possessions. √√
- Any relevant answer related to legislation.

Success:

- The limited liability of a public company allows the directors of a public company to take calculated risks as this will not have any direct legal implications for them. √√
- The ability to take risk also allows the company to show growth. √√
- Any relevant answer related to success factors on legislation.

Failure:

- The lengthy establishment procedures laid down by the Companies Act may lead to the failure of the company. √√
- The subsequent legal requirements such as the auditing and publication of audited financial statements may lead to the failure of the company. √√
- Companies may find it difficult to meet the above requirements. √√
- Any other relevant answer related to failure factors on legislation. **Heading (2)**

Explanation: any 2 x 2 (4) Success: any 1 x 2 (2) Failure: any 1 x 2 (2) Total (10)
Max. (8)

Capital: √√

- The size of the business and the type of product manufactured will determine the amount of capital required. √√
- Companies can raise extremely large amounts of capital in terms of the legislation as per authorised share capital. √√
- Companies raise capital by selling shares to the public. √√
- Any relevant answer related to capital.

Success:

- The public company sells shares to the public. √√
- The company has a large number of shareholders who contribute to a larger share capital. √√
- The smallest investor is also given an opportunity to buy shares in a public company.√√
- Any relevant answer related to success factors on capital.

Failure:

- Poor financial results of the company may lead to shareholders selling their shares in the company. √√
- Poor control by the board of directors over the share capital may also lead to the failure of the company. √√
- Any relevant answer related to failure factors on capital. **Heading (2)**

Explanation any 2 x 2 (4) Success any 1 x 2 (2) Failure any 1 x 2 (2) Total (10)
Max (8)

Taxation: √√
- The public company is responsible for paying tax on profits. √√
- The company is taxed at a fixed rate as determined by the Minister of Finance for that particular tax year. √√
- Any relevant answer related to taxation.

Success:
- Companies have more opportunities to reduce the tax liability.√√
- This can be achieved through allowances etc. which can be claimed as company expenses and thus reduce the final tax to be paid on company profits. √√
- Any relevant answer related to success factors on taxation.

Failure:
- The high tax rate on profits of companies may lead to companies closing down. √√
- Companies pay tax at a fixed rate as a legal entity and should they not be able to pay income tax on profits then this may lead to the failure of the company. √√
- Companies may experience cash flow problems when paying provisional tax and this may lead to failure of the company. √√
- Any relevant answer related to failure factors on taxation. **Heading (2)**

Explanation any 2 x 2 (4) Success any 1 x 2 (2) Failure any 1 x 2 (2) Total (10)
Max (8)

Division of profits:√√
- Shareholders share in the profits of a company. √√
- They receive profits in the form of dividends. √√
- Dividends are declared as cents per share. √√
- They may receive interim dividend cheques. √√
- Final dividends are declared on the profits of a company at the end of the financial year. (or as determined by company policy) √√
- Dividend cheques/electronic payments for final dividends are sent to shareholders in the new financial year. √√
- Any relevant answer related to division of profits.

Success:
- The high profits and good returns to shareholders indicate the success of the company. √√
- The value of the shares increases as there is growth in the company. √√
- Any relevant answer related to success factors on division of profits.

Failure:
- Low profits or losses sustained by the company leads to failure of the company. √√
- Low dividend returns to shareholders may result in shareholders selling their shares in the company and this may lead to failure. √√
- Any relevant answer related to failure factors on division of profits. **Heading (2)**

Explanation any 2 x 2 (4) Success any 1 x 2 (2) Failure any 1 x 2 (2) Total (10)
Max (8)

Management: √√
- The management of a company lies in the hands of the board of directors. √√
- The board of directors are elected by shareholders. √√
- There must be a minimum of two directors elected as per Companies Act. √√
- Any relevant answer related to management.

Success:
- The management is in the capable hands of the board of directors who will ensure success for the company. √√
- The directors are paid directors' fees who will drive the company to success. √√
- Any relevant answer related to success factors on management.

Failure:
- Poor management by the board of directors will lead to failure.√√
- Directors not acting in terms of their appointment to the company may lead the company to failure. √√
- Any relevant answer related to failure factors on management. **Heading (2)**

Explanation any 2 x 2 (4) Success any 1 x 2 (2) Failure any 1 x 2 (2) Total (10)

Max (8)

Subtotal: (any 4 x 8) (32)

Conclusion
- To start a public company involves legal matters that must be complied with. √√
- When managing capacity, legislation, capital, taxation and profits well, the company can be successful. √√
- Any other relevant conclusion related to the forms of ownership. (Any 1 x 2) (2)

MAX (32)

INSIGHT

Layout	2
Analysis, interpretation	2
Synthesis	2
Originality, examples	2
TOTAL MARKS	**[40]**

QUESTION 2

	Close Corporation	Sole proprietor
CAPITAL	**Success** Capital is contributed by a maximum of 10 members to have a larger capital contribution for a small to medium size enterprises.√√	**Success** The capital is restricted to the amount that one person can contribute. He/She may also resort to borrowing from the financial institutions.√√
	Failure Insufficient capital to finance growth in the small to medium size enterprises. √√	**Failure** Insufficient capital if he/she wants to expand the business.√√
LEGISLATION	**Success** Business must be registered with the Registrar of Close Corporations with a founding statement lending itself to a greater degree of control. √√	**Success** The sole proprietor must register with the local authority in order to reap benefits, e.g. present tenders or the outsourcing of business by the local authority. √√ Government is promoting small business. √√

	Failure A member may act in a manner that may defraud the CC. √√	**Failure** The liability of the sole proprietor is unlimited which could lead to him/her losing his/her personal assets. √√

(2 x 8) (16)
Max 12

SECTION D: SOLUTIONS AND HINTS TO SECTION A – 2

QUESTION 1

Characteristic	Partnership	Close corporation
Ownership	Two to twenty members called partners √	One to ten members stakeholders √
Legal personality	Not a legal person √	Is a legal person √
Autonomy	None √	Yes √
Continuity	Lacks continuity √	Has continuity √
Formation	Can be formed orally or in writing. If it is done in writing, a **Partnership agreement** must be signed √	Must sign a **Founding Statement**. Must wait for a certificate of Incorporation √
Taxation	Personal capacity √	Business pays tax on its profits √
Adaptability to change	Good √	Fair √

[14]

QUESTION 2

2.1

		Nedbank Ltd.	Optical CC
2.1.1	Taxation	Company pays income tax on profits and shareholders pays income tax on the dividends received. Companies pay tax at 28% of taxable income. The profit (after tax) is distributed to shareholders - this is called dividends Companies pay dividend tax (secondary tax/STC tax) of 10% on the dividends distributed to shareholders.√√	A CC pays income tax at 28% of the taxable income. The profit (after tax) is distributed to members - members then pay STC tax (secondary tax/dividend tax)√√ (4)
2.1.2	Management	Ownership and management are separated. Owned by shareholders and managed by at least 2 directors.√√	No separation between ownership and management - members are also managers.√√ (4)

2.1.3	Capital	Capital is contributed through the means of selling shares to the public by using a prospectus. The shares of a public company are freely transferable. Anyone can own shares in a public company. Shares can be issued if a public company needs to raise capital.√√	Limited to the amount that 1-10 members can contribute. Each member makes a contribution to the capital which is determined as a percentage of the total capital. √√ (4)
2.1.4	Profits	The profit of the company belongs to the company. It is distributed to shareholders according to the number and value of their shares.√√	The profit of the CC belongs to the CC. It is distributed to the members in terms of the CC's association agreement according to the members' % owned.√√ (4)

(16)

2.2 ADVANTAGES OF CC OVER A SOLE TRADER

- Limited liability
- Can raise more capital
- More managing experience
- Members can share responsibilities
- Easier to raise loans
- Continuity of existence
- Any other suitable answer √√ Any 4x2=(8)

2.3 CHARACTERISTICS OF A PTY. LTD.

- Minimum of 1 shareholder
- Maximum of 50 shareholders
- Shareholders (founders / promoters) contribute to the capital by buying shares in the company.
- Shares are not freely transferable
- Must compile a constitution (Memorandum and Articles of Association) and must be registered with the Registrar of companies.
- Name must be registered and must ends with (Pty) Ltd.
- Shareholders have limited liability to the debts of the company. They can only lose the amount of money invested in shares.
- Has continuity
- Company pays income tax on profits and the shareholders pays income tax on the dividends received from the company.
- Legal entity
- Continuity of existence
- Managed by at least one director
- Director chosen by shareholders
- Any other suitable answer √√ Any 3x2=(6)

[30]