

Corporate & Economic law Test 5
Your overall performance is good. Revise all your previous topics at least once in a week rather allocate a day in a week for revision and evaluating your performance. This will help you memorize topics and bind out shortcomings in your preparation

Answer - 7 →

1. b ✓

2. b ✓

3. d ✓

10 marks

4. c ✓

well attempt

5. b ✓

6. d ✓

7. c ✓

Answer - 1 →

(i) As per definition of "foreign source" it includes society, clubs or other association or individual formed or registered outside India.

5 marks Accordingly, firm is not covered in above provision, as the amount received from club of London for its business purpose is allowed.

You have good conceptual clarity of this question

(ii) As per provision of Foreign Contribution (Regulation) Act 2010, no foreign contribution shall be accepted by association or company engaged in production of & broadcast of audio news or audio visual news or current affairs through any mode i.e. electronically, ~~materially~~ or mode prescribed.

Hence, Hello FM is not ~~allowed~~ receive any fund from foreign company.

(iii) As per provisions, "foreign Contribution" means the donation, delivery or transfer made by any person/foreign source, of any article, not being the article given as a gift for his personal use, if market value of such gift in India does not exceed ~~as~~ such value prescribed by central government. Central government by notification prescribed such value to be Rs 100,000.

In the given the gift given is for personal use and value does not exceed Rs 100,000. So Mr Happy is ~~allowed~~ to receive the gift i.e. watch of Rs 25,000.

Answer-2 → As per provision of foreign contribution Regulation Act 2010, no member of legislature shall while visiting foreign country shall accept any foreign hospitality except with prior permission of central government.

4 Marks

Foreign hospitality shall mean any offer not being a purely casual one, made in cash or kind by a foreign source for providing a person with the costs of travel to any foreign country with free boarding & lodging or medical treatment.

You have good conceptual knowledge of this question

Therefore prior permission shall be required for medical treatment abroad. But shall permission shall not be required in emergent medical aid needed on account of sudden illness abroad.

But such person receiving such services shall within one month from receiving services inform central government the amount of services in Indian rupees, source of receipt, and the manner in which it is received.

So Mr. Pety can receive such services abroad, but has to inform central government within one month of receipt the amount equivalent in Indian rupees, purpose of such receipt and the manner utilized.

Answer-3: As per provision of sec 9(1), an operational creditor may after expiry of period of 10 days from delivery of notice or invoice demanding payment thereof, may file an application before adjudicating authority for initiation of corporate insolvency resolution process if such debtor has not received payment or notice of dispute.

4 Marks

As per section 8(1) a corporate debtor, within 10 days from receipt of notice or copy of invoice bring to the notice of operational creditor about the existence of dispute, if any and record of any suit pending before the receipt of such notice or invoice.

well explained answer

Facts:- TAS construction private limited an operational creditor of M/s Dheeraj construction private limited. demand notice issued by TAS on 2nd April, communication of dispute by Dheeraj on 30th March to all directors.

So condition to bring in notice of operational creditor about existence of any dispute regard to payment referred in section 8(1) have been complied.

So the application of M/s TAS Construction Pvt Ltd shall not be permitted under section 9 of Insolvency & Bankruptcy Code 2016 as M/s Dheeraj has complied with condition of section 8(2)(a).

section 34

Answer-4 As per provision of Insolvency & Bankruptcy Code, 2016 where adjudicating authority passes an order of liquidation of a corporate debtor, the resolution professional appointed for the corporate insolvency process, shall act as liquidator for the purposes of liquidation unless replaced by adjudicating authority.

4 marks

The adjudicating authority shall by order replace the resolution professional if:-

You have correctly described this. a) The resolution plan submitted by the resolution professional was rejected for failure to meet the requirements or

b) The board recommends the replacement of a resolution professional to the adjudicating authority for reasons to be recorded in writing.

On rejection of resolution plan, the adjudicating authority shall direct the board to propose the name of another insolvency professional to be appointed as liquidator.

The board on receipt of such order within 10 days shall propose the name of another professional.

The Adjudicating Authority on receipt such recommendation appoint insolvency professional proposed as liquidator by an order in writing.

→ Such professional proposed to be appointed as a liquidator shall charge fees in proportion of liquidation estate's value of assets as may be specified by the board.

→ Such fees for conduct of proceedings shall be paid to the liquidator from proceeds of the liquidation estate.

Section 63

Answer-5 → As per Arbitration & Conciliation Act, 1996 :-
a) there shall be one conciliator unless the parties agree that there shall be more than one conciliators.

3.5 marks

b) Where more than one conciliators are appointed as a general rule they have to act jointly.

You have attempted this answer very nicely.

Further once the conciliators are appointed both the parties are required to submit their statement in writing, supply documents and other evidence to the conciliators.

The conciliator then provides a copy of the statement and document of one party to the other party. Then conciliators are required to encourage and assist parties to engage in discussion and based on information to arrive at a settlement.

Answer-6 → As per the provision of Foreign Contribution (Regulation) Act, 2000, the interest accrued on the foreign contribution deposited in a bank or any other income derived from such foreign contribution or interest

3 Marks

thereon shall be deemed to be foreign contribution within the meaning of clause. Further such foreign contribution shall be utilised only for the purpose it has been received.

You described it well.

Provided that such contribution shall not be used for any speculative business in India. And investment in mutual fund is within the meaning of speculative business.

Hence, XYZ Foundation is not allowed to invest the amount & interest thereon in mutual Fund.

