

Tutorial letter 101/3/2015

Legal aspects in Accountancy

AUE1601

Semesters 1 & 2

Department of Auditing

IMPORTANT INFORMATION:

This tutorial letter contains important information
about your module.

BAR CODE

CONTENTS

		<i>Page</i>
1	INTRODUCTION	4
2	PURPOSE OF AND OUTCOMES FOR THE MODULE.....	5
2.1	Purpose	5
2.2	Outcomes	5
3	LECTURER(S) AND CONTACT DETAILS.....	5
3.1	Lecturer(s)	5
3.2	Department.....	6
3.3	College.....	6
3.4	University	6
4	MODULE-RELATED RESOURCES	8
4.1	Prescribed books	8
4.2	Recommended books	8
4.3	Electronic reserves (e-reserves).....	8
5	STUDENT SUPPORT SERVICES FOR THE MODULE	8
5.1	Information on tutorial offerings at Unisa	8
5.2	Unisa library	9
6	MODULE-SPECIFIC STUDY PLAN	10
7	MODULE PRACTICAL WORK AND WORK-INTEGRATED LEARNING.....	10
8	ASSESSMENT	10
8.1	Assessment plan.....	10
8.2	General assignment numbers	11
8.2.1	Unique assignment numbers.....	11
8.2.2	Due dates for assignments.....	11
8.3	Submission of assignments.....	11
8.4	Assignments	13
8.4.1	Semester 1: Compulsory Assignment 01	13
8.4.2	Semester 1: Compulsory Assignment 02	17
8.4.3	Semester 2: Compulsory Assignment 01	21
8.4.4	Semester 2: Compulsory Assignment 02	25
9	OTHER ASSESSMENT METHODS	27
10	EXAMINATION.....	33
11	FREQUENTLY ASKED QUESTIONS.....	34

12	SOURCES CONSULTED	34
13	CONCLUSION.....	34
14	ADDENDUM.....	34

1 INTRODUCTION

Dear Student

It gives us great pleasure to welcome you as an AUE1601 student in the Department of Auditing. We as lecturers are at your disposal and will gladly assist you in your studies. Be assured of our willingness to support you with advice during your studies.

You will receive a number of tutorial letters during the semester. A tutorial letter is one way of communicating with you about teaching, learning and assessment. Please read the *my Studies @ Unisa* brochure in combination with this tutorial letter (Tutorial letter 101) as it gives you an idea of generally important information when studying within our college.

Right from the start we would like to point out that you must read **all the tutorial letters** you receive during the semester **immediately and carefully**, as they always contain important and sometimes urgent information.

This tutorial letter contains important information that will assist you in your studies. Please read it carefully and keep it at hand when working through the study material, preparing the assignments, preparing for the examination and directing questions to your lecturers. We trust that you will benefit from everything that this module has to offer.

Study material

You will be supplied with the following tutorial material for this module by the Despatch Department:

- Study guide
- Tutorial letters

All tutorial material will be mailed to you upon registration. Tutorial matter that is not available when you register will be posted to you as soon as possible, but is also available on *myUnisa*.

To contact the Department of Despatch regarding tutorial material that you have not received, use only the telephone numbers indicated in the booklet entitled ***my Studies @ Unisa*** (which you received with your tutorial material).

You may access the tutorial letters for the modules for which you are registered on the university's online campus, *myUnisa*, at <http://my.unisa.ac.za>. You can also use *myUnisa* to confirm that you have received all the tutorial letters. **It is very important that you access *myUnisa* because important announcements are placed there during the semester; these announcements will assist you in preparing for the examinations.**

Note: Some of the tutorial matter may not be available when you register. Tutorial matter that is not available when you register will be posted to you as soon as possible. When you register, you will also receive an inventory letter containing information about your tutorial matter. See also the booklet entitled ***my Studies @ Unisa***.

2 PURPOSE OF AND OUTCOMES FOR THE MODULE

2.1 Purpose

The purpose of this module is stated in the general overview in your study guide.

2.2 Outcomes

For the learning outcomes of this module we refer you to the different topics in your study guide for the module. In the general overview you will also find an overview of the module, and we also explain our teaching strategy and how the study guide should be used to guide you through the study material.

During the semester you should do the following:

- Kick off by reading tutorial letter 101.
- Work through your study material, make summaries and complete the activities.
- Attempt to answer additional questions provided in tutorial letter 102 (solutions in Tutorial letter 103).
- Complete and submit assignment 01 (compulsory assignment for examination admission) and Assignment 02 **before the due dates**, and complete the self-evaluation assignment. All the compulsory assignments and the self-evaluation assignment are included in this tutorial letter.
- Prepare for the examination (for examination preparation and techniques refer to **my Studies @ Unisa**).

All students will receive the solutions to the assignments, even if they do not submit their assignments.

3 LECTURER(S) AND CONTACT DETAILS

3.1 Lecturer(s)

Lecturer for AUE1601

The lecturer responsible for this module, and to whom you should direct your enquiries, is:

Lecturer:

Ms C Roets

E-mail: roetsc@unisa.ac.za

Course co-ordinator:

Mr FN van Niekerk

E-mail: vniekfn@unisa.ac.za

NOTE: Personal appointments should be arranged beforehand. Allow at least a 48 hour turnaround time on all e-mails sent to lecturers.

Important: Always have your student number and module code ready when you contact the university.

3.2 Department

Department of Auditing

If you wish to write to us, letters should be addressed to:

The module leader: AUE1601
 Department of Auditing
 PO Box 392
 UNISA
 0003

Secretary:

Tel: 012 429 4707/+27 12 429 4707

Departmental webpage:

<http://www.unisa.ac.za/Default.asp?Cmd=ViewContent&ContentID=194>

The Department of Auditing is situated on the 2nd level of the AJH van der Walt Building on the main campus in Pretoria. Its telephone number is +27 12 429 4707. Professor HJ Theron is the chair of the department.

3.3 College

College related undergraduate enquiries should be directed to:

Casenquiries-undergraduate@unisa.ac.za

3.4 University

If you need to contact Unisa about matters not related to the content of this module, please consult the brochure *my Studies @ Unisa*, which you have received with your study material. In this document you will find the contact details of various administrative departments. If you have not received this document and have access to the internet, you can find it on *myUnisa* under "Resources". Remember always to have your student number ready when making an enquiry.

Please ensure that you contact the correct section or department for each enquiry as this will result in a speedy resolution of the enquiry.

The contact details are:

Fax number (RSA only)	012 429 4150
Fax number (international)	+27 12 429 4150

Other means of contacting the university are:

Physical address	University of South Africa Preller Street Muckleneuk Pretoria City of Tshwane
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Postal address University of South Africa
PO Box 392
UNISA
0003

Online address <http://my.unisa.ac.za>
Unisa website <http://www.unisa.ac.za>

E-mail addresses

First enquiries (prospective students) study-info@unisa.ac.za
All international students international@unisa.ac.za
(registration-related enquiries)

Other departments

Aegrotat examinations aegrotats@unisa.ac.za
Assignments assign@unisa.ac.za
Despatch, Study Material despatch@unisa.ac.za
Examinations exams@unisa.ac.za
Graduation Affairs gaudeamus@unisa.ac.za
Remarking of papers remark@unisa.ac.za
Rechecking of papers recheck@unisa.ac.za
Finance finan@unisa.ac.za

Student information

Fellow students' names condiscipuli@unisa.ac.za
Student Counselling and Career Development counselling@unisa.ac.za
Enquiries about prescribed books vospresc@unisa.ac.za

Library

The *my Studies @ Unisa* brochure, which is part of your registration package, lists all the services offered by the Unisa library.

General library catalogue enquiries bib-oasis@unisa.ac.za
Library web co-coordinator bib-web@unisa.ac.za
Interlibrary loans enquiries libr-ill@unisa.ac.za
Enquiries about subject databases bib-dbase@unisa.ac.za
Library information desk bib-help@unisa.ac.za
Enquiries about training presented by the library bib-oplei@unisa.ac.za
Send a question to the library staff bibrefq@unisa.ac.za

Short SMS codes

Send an SMS direct query with your name, student number or ID number and a short description of your query.

Applications and registrations	43578
Assignments	43584
Exams	43584
Study material	43579

Student accounts	31954
<i>myUnisa/myLife</i>	43582

Note: Lecturers cannot assist you with registration, payments, module codes, examinations, etc. These are administrative issues which should be discussed with the relevant sections.

4 MODULE-RELATED RESOURCES

The resources at your disposal are classified into three categories:

4.1 Prescribed books

You should obtain a copy of the Companies Act 71 of 2008 and the Companies Regulations. These are combined in **one** document and you should **either** purchase a copy **or** download it electronically – you do **not** need to do both. A copy of this Act and the Companies Regulations will be made available for download on *myUnisa*. You can also purchase a printed version of this Act:

- *Auditing: legislation and standards.* LexisNexis.

Please refer to the list of official bookshops and their addresses in the brochure ***my Studies @ Unisa***.

4.2 Recommended books

There are no recommended books for this module.

4.3 Electronic reserves (e-reserves)

The Companies Act 71 of 2008 and the Companies Regulations can be obtained electronically from:

<https://www.saica.co.za/Technical/LegalandGovernance/Acts/ActsCorporate/tabid/3065/language/en-US/Default.aspx>

5 STUDENT SUPPORT SERVICES FOR THE MODULE

For student support services you are referred to the ***my Studies @ Unisa*** brochure.

5.1 Information on tutorial offerings at Unisa

Please be informed that, with effect from 2013, Unisa offers online tutorials (e-tutoring) to students registered for modules at NQF level 5 and 6, this means qualifying first year and second year modules. Please communicate with your module leader to find out if any of the modules that you have registered for falls in this category.

Once you have been registered for a qualifying module, you will be allocated to a group of students with whom you will be interacting during the tuition period as well as an e-tutor who will be your tutorial facilitator. Thereafter you will receive an sms informing you about your group, the name of your e-tutor and instructions on how to log onto MyUnisa in order to receive further information on the e-tutoring process.

Online tutorials are conducted by qualified E-Tutors who are appointed by Unisa and are offered free of charge. All you need to be able to participate in e-tutoring is a computer with internet connection. If you live close to a Unisa regional Centre or a Telecentre contracted with Unisa, please feel free to visit any of these to access the internet. E-tutoring takes place on MyUnisa where you are expected to connect with other students in your allocated group. It is the role of the e-tutor to guide you through your study material during this interaction process. For you to get the most out of online tutoring, you need to participate in the online discussions that the e-tutor will be facilitating.

There are modules which students have been found to repeatedly fail, these modules are allocated face-to-face tutors and tutorials for these modules take place at the Unisa regional centres. These tutorials are also offered free of charge, however, it is important for you to register at your nearest Unisa Regional Centre to secure attendance of these classes.

5.2 Unisa library

Unisa library login

You will be required to provide your login details, namely your student number and your *myUnisa* password, in order to access the library's online resources and services.

This will enable you to:

- view or print your electronic course material.
- request library material.
- view and renew your library material.
- use the library's e-resources.

Requesting library books

Students are required to purchase their own copies of the **prescribed** books listed in this tutorial letter. Should you encounter any problems with obtaining the books at the recommended bookshops, please contact the section Prescribed Books section at telephone number +27 12 429 4152 or via e-mail: vospresc@unisa.ac.za.

Electronic requests

The preferred way of requesting **books** is **online** via the library catalogue.

Go to <http://oasis.unisa.ac.za>, or via *myUnisa*, go to <http://my.unisa.ac.za> > Login > Library > Library catalogue, or for mobile access (AirPAC), go to <http://oasis.unisa.ac.za/airpac>.

Telephonic book requests

Call +27 (0)12 429-3133 if you wish to request a book telephonically. Please remember that you will be asked to supply the reservation order number (RON).

6 MODULE-SPECIFIC STUDY PLAN

You are responsible for pacing yourself. The volume of work is enormous – bear this in mind when planning your studies. Spread your studies evenly throughout the semester.

Also use the *my Studies @ Unisa* brochure for general time management and planning tips.

7 MODULE PRACTICAL WORK AND WORK-INTEGRATED LEARNING

There is no practical work for this module.

8 ASSESSMENT

8.1 Assessment plan

Assignments

Assignments are seen as part of the learning material for this module. As you do the assignments, study the reading texts, consult other resources, discuss the work with fellow students or tutors, or do research, you are actively engaged in learning.

You are required to **submit the compulsory Assignment 01 before the due date** to obtain **admission to the examination**. Admission will be obtained by submitting compulsory Assignment 01 and not by the marks you obtain for it. ***No exceptions in this regard will be made, and e-mails asking for exceptions will be ignored.***

The marks you obtain for Assignment 01 and Assignment 02 will contribute towards your year mark.

Commentaries and feedback on assignments

The solution to Assignment 01 will be sent to you in Tutorial letter 201 after the due date for Assignment 01. The solution to Assignment 02 will be sent to you in Tutorial letter 202 after the due date for Assignment 02.

As soon as you have received the commentaries, please check your answers. The assignments and the commentaries on these assignments constitute an important part of your learning and should help you to be better prepared for the next assignment and the examination. The solution and commentary on the self-evaluation examination paper will be included in Tutorial letter 203 to enable you to mark your assignment.

Year mark

The marks that you obtain for Assignment 01 and Assignment 02 will contribute towards your year mark for the module.

Your year mark contributes 20% towards your final examination mark. A student requires a final mark of 50% to pass a module. The final mark is calculated as follows:

5% x mark obtained for compulsory Assignment 01 plus

15% x mark obtained for compulsory Assignment 02 plus

80% x mark obtained in the examination (subminimum of 40%)

The subminimum of 40% means that if you obtain a mark of less than 40% in the examination, your year mark will not be taken into account.

Please ensure that your Assignment 01 and Assignment 02 reach the university **before the due date – late submission of these assignments will result in you not receiving marks that count towards your year mark.** Please **submit early** to compensate for any postal delays or computer problems that you may encounter.

IMPORTANT:

TO OBTAIN ADMISSION TO THE EXAMINATION, YOU MUST SUBMIT ASSIGNMENT 01 BEFORE OR ON THE DUE DATE.

YOUR MARKS FOR BOTH ASSIGNMENTS 01 AND 02 WILL BE USED TO DETERMINE YOUR YEAR MARK.

8.2 General assignment numbers

Assignments are numbered consecutively per module, starting from 01. Only Arabic numerals are used, for example: Assignments 01, 02, 03, and so on.

8.2.1 Unique assignment numbers

In addition to the general assignment number (such as 01), each assignment has its **own unique assignment number** (such as 102717). This number must be written on the mark-reading sheet or assignment cover page in the designated area.

8.2.2 Due dates for assignments

Assignment	FIRST SEMESTER Due date if you are registered for the first semester	SECOND SEMESTER Due date if you are registered for the second semester
01 (Compulsory)	9 March 2015 Unique number: 603735	31 August 2015 Unique number: 604596
02	30 March 2015 Unique number: 603786	11 September 2015 Unique number: 604662

8.3 Submission of assignments

You may submit written assignments and assignments done on mark-reading sheets either by post or electronically via *myUnisa*. Assignments may **not** be submitted by fax or e-mail. For detailed information and requirements as far as assignments are concerned, see the brochure, **my Studies @ Unisa**, which you received with your study material.

To submit an assignment via *myUnisa*:

- Go to *myUnisa*.
- Log in with your student number and password.
- Select the module from the orange bar.
- Click on assignments in the left-hand menu.
- Click on the assignment number you want to submit.
- Follow the instructions on the screen.

Please ensure that your Assignment 01 reaches the university **before the due date – late submission of Assignment 01 will result in you not being admitted to the examination.**

NOTE: You must submit Assignment 01 in order to be admitted to the examination, and both Assignments 01 and 02 must be submitted for purposes of determining your year mark. No extension of the due dates can be given by the lecturers for these assignments.

General remarks

For enquiries about assignments (e.g. whether or not the University has received your assignment or the date on which an assignment has been returned to you), refer to the contact information in paragraph 3.1 of this tutorial letter. You may also find this information on *myUnisa*. To go to the *myUnisa* website, start at the main Unisa website, <http://www.unisa.ac.za>, and then click on “Login to *myUnisa*” under the *myUnisa* heading on the screen. This should take you to the *myUnisa* website. You can also go there directly by typing in <http://my.unisa.ac.za>.

Assignments should be addressed to:

The Registrar
PO Box 392
UNISA
0003

Completion of assignment cover

NOTE: Make sure that you read the instructions on the assignment cover carefully before you complete it. Make sure that you complete the cover **correctly**. Please make sure that the following information appears on the **cover** of your assignment:

Name Address (and postal code) Student number Subject code (e.g. AUE1601) Correct assignment number Correct unique assignment number (applicable only to Assignments 01 and 02) Label with barcode
--

8.4 Assignments

8.4.1 Semester 1: Compulsory Assignment 01

Instructions

- (1) Write the correct unique assignment number in the six blocks provided on the mark-reading sheet.
- (2) Write the ordinary assignment number (01) in the two blocks provided on the mark-reading sheet.
- (3) Consult *my Studies @ Unisa* for an example of how a computer mark-reading sheet should be filled in.
- (4) If you do not follow these instructions, the computer will reject your answer sheet and it will be returned to you unmarked. Also consult *my Studies @ Unisa* when you answer multiple-choice assignments.

Special instruction for the answering of Assignment 01

- (1) This assignment consists of 10 multiple-choice questions.
- (2) This assignment covers the topics of the study guide indicated in brackets next to each question.
- (3) If you honestly attempt the assignment **after** first consulting your study guide, you will reap the benefits. If you copy the solution with the aim to obtain a high year mark, do not be surprised if you fail the examination despite an excellent year mark.

**ASSIGNMENT 01: MULTIPLE-CHOICE QUESTIONS
(Compulsory)**

**UNIQUE ASSIGNMENT NUMBER FOR THE FIRST SEMESTER:
603735**

DATE OF SUBMISSION

First semester: 9 March 2015

QUESTION 1**15 marks****REQUIRED**

Answer the first four questions by indicating whether the statements are true or false. Select **1 if your answer is “true”** or **2 if your answer is “false”**, and then mark the corresponding digit on *myUnisa* or on the mark-reading sheet. Answer the subsections of the questions in number sequence as follows:

1. 1
2. 2

(1½ marks per question)

1. Mr Bat Man is one of the controlling shareholders of Superman (Pty) Ltd. During the financial year under review, a loan was made by Superman (Pty) Ltd to Ms Wonder Woman. Ms Wonder Woman and Mr Bat Man are not married, but they have been living together for several years and have two children. Mr Bat Man and Ms Wonder Woman are related persons in terms of the definition of related persons in section 2 of the Companies Act. **(Topic 2)**

- 1 True
- 2 False

2. In order to grant a loan to a director, a company is required in terms of the Companies Act *inter alia* to meet the solvency and liquidity requirements. A company is liquid if it is able to pay its debts as they become due in the ordinary course of business for a period of 12 months. **(Topic 2)**

- 1 True
- 2 False

3. Unless the memorandum of incorporation of a company provides for a lower percentage to constitute a voter's quorum, the quorum for all shareholders' meetings is the presence at the meeting of the holders of at least 75% of the shares; these holders should also be entitled to vote. **(Topic 2)**

- 1 True
- 2 False

4. The memorandum of incorporation of a company named The Incredible Hulk (Pty) Ltd states that the company is a personal liability company. **(Topic 2)**
- 1 True
 - 2 False

Answer questions 6 to 10 by selecting the **one** alternative that you consider to be the most correct answer to the relevant question. Mark the corresponding digit on *myUnisa* or on the mark-reading sheet. Answer the subsections of the questions in number sequence as follows:

1. 1
2. 3

(1½ marks per question)

5. Which one of the following situations will lead to **non-compliance** with the Companies Act 71 of 2008, as amended? **(Topic 3)**
- 1 Aquaman Limited's financial year end is 30 June 2014. The company prepared and completed its annual financial statements on 30 September 2014.
 - 2 The financial statements for Aquaman Limited's financial year end, 30 June 2014, are not going to be audited or independently reviewed.
 - 3 Financial statements of Aquaman Limited must not be false, misleading or incomplete. Any person at Aquaman Limited who is party to the preparation, approval, dissemination or publication of financial statements which are materially false or misleading will be guilty of an offence.
 - 4 The first financial year of Aquaman Limited commenced on 1 April 2013 (the date on which the company was registered, as stated in its registration certificate). The first financial year of Aquaman Limited ends on 30 June 2014.
6. Which ONE of the following situations is **in compliance** with the requirements of the Companies Act 71 of 2008, as amended? **(Topics 2 & 4)**
- 1 Spider and Venom are going to register a new company, namely Web Limited. They are going to be the only directors of the company.
 - 2 Power Limited will have a shareholders' meeting on 30 June 2014. The notice of the shareholders' meeting was delivered to each shareholder on 20 June 2014.
 - 3 The shareholders' meeting of Daredevil Limited, held on 30 June 2014, was conducted successfully. As per the minutes of the meeting, a voting quorum of persons holding 30% of all the voting rights entitled to be exercised in respect of at least one matter, was present.

- 4 Ironman Limited was newly incorporated on 3 June 2014. The date of the first financial year end as set out in the company's notice of incorporation is 28 February 2015. The first annual general meeting will be held on 15 December 2015.
7. Bruce Wayne entered into a written rental agreement to rent a building in Johannesburg in the name of Robin Limited. The company Robin Limited does not exist yet; however, it is envisaged that it will be incorporated in terms of the Companies Act 71 of 2008. Which ONE of the following statements is **false**? (**Topic 2**)
- 1 Bruce Wayne is not liable for the rental agreement if Robin Limited is never incorporated.
 - 2 Bruce Wayne is liable for the rental agreement if Robin Limited is incorporated and the board of directors of Robin Limited rejects the rental agreement.
 - 3 Bruce Wayne is not liable for the rental agreement if Robin Limited, after its incorporation, enters into a rental agreement on the same terms as the rental agreement that Bruce Wayne has entered into.
 - 4 If within three months after the date on which Robin Limited was incorporated, the board has not rejected the rental agreement, Robin Limited will be regarded to have ratified the rental agreement and the liability of Bruce Wayne regarding the rental agreement will be discharged.
8. Which ONE of the following statements about voting and shareholders' meetings is **false** in terms of the Companies Act 71 of 2008, as amended? (**Topic 4**)
- 1 A shareholder of a company may only appoint an individual that is a shareholder of that company as a proxy to participate in and speak and vote at a shareholders' meeting on behalf of the shareholder.
 - 2 On a show of hands, a person will only have one vote, irrespective of the number of shares he or she holds or represents.
 - 3 On a poll, any member (including his proxy) is entitled to exercise all the voting rights attached to the shares held or represented by that person.
 - 4 Voting on any matter at a shareholders' meeting may be conducted by polling the persons present who are entitled to exercise voting rights on that matter.
9. Which of the following persons, nominated for the position of company secretary of Superheroes Ltd, will be allowed to act as company secretary? (**Topic 6**)
- Bird Incorporated, the auditors of Superheroes Ltd.
 - Plane (Pty) Ltd is incorporated in Russia. The managing director of Plane (Pty) Ltd lives in South Africa with his family and previously acted as the company secretary for a few well-known listed companies.

- 1 Only Bird Incorporated
 - 2 Only Plane (Pty) Ltd
 - 3 Either Bird Incorporated or Plane (Pty) Ltd
 - 4 Neither Bird Incorporated nor Plane (Pty) Ltd
- 10.** The following factors contribute to the calculation of the public interest score of a company. **(Topic 3)**
- 1 Assets; turnover; beneficial interest holders (e.g. shareholders); liabilities
 - 2 Assets; turnover; beneficial interest holders (e.g. shareholders); average number of employees
 - 3 Turnover; beneficial interest holders (e.g. shareholders); average number of employees; third-party liabilities
 - 4 Assets held in fiduciary capacity; turnover; beneficial interest holders (e.g. shareholders); average number of employees; third-party liabilities

---X---

8.4.2 Semester 1: Compulsory Assignment 02

Instructions

- (1) Consult *my Studies @ Unisa* for instructions on how to submit written assignments.

Special instructions for the answering of this assignment

- (1) This assignment covers the whole syllabus.
- (2) All questions must be answered.
- (3) Only selected questions will be marked.
- (4) Where discussion is required, structure your answer in point format, limiting each paragraph to one statement.
- (5) Do not copy and paste directly from the Companies Act. Information copied directly from the Act will not be marked.

ASSIGNMENT 02: ESSAY-TYPE QUESTIONS

**UNIQUE ASSIGNMENT NUMBER FOR THE FIRST SEMESTER:
603786**

DATE OF SUBMISSION

First semester: 30 March 2015

QUESTION 1**50 marks**

You are a Chartered Accountant and an expert on the Companies Act.

Prim Ltd ("Prim") is the official printer and distributor of the popular *Hunger sports* action novel series written by Suzi Collins. The majority of the company's income is derived from the printing and selling of the novels. The company also earns royalties from Capitol Pictures Ltd, for rights to produce screenplays and films based on the books. These films are screened in leading cinemas all over the world. Prim experienced a substantial increase in turnover during the year owing to the public's enthusiasm for the new *Hunger sports* film entitled *Mockingjoe*.

Below is an extract of the minutes of the meeting of the board of directors of Prim:

**PRIM LTD
MINUTES OF THE MEETING OF THE BOARD OF DIRECTORS HELD ON
31 JANUARY 2015**

Present:

Ms Primrose Neverdeen, chairman and independent non-executive director
Mr Peter Mellark, non-executive director
Mr Caesar Flicker, sales and marketing director
Ms Katniss Evergreen, managing director
Mr Mitchell Abernathy, financial director
Ms Madge Undersea, company secretary

Apologies:

Ms Panem Appalachia, independent non-executive director

Matters for discussion:**1. Investment in Capitol Pictures**

Mr Flicker indicated that the success of the *Mockingjoe* film resulted in significant growth for the company. To avoid any decline in growth before the next book is published, Mr Flicker suggested that other areas of operation, such as film production and screenplay writing, should be explored. He also proposed the investment and acquisition of 49% of the issued share capital of Capitol Pictures. He indicated to the board that, as he was a holder of 20% of the shares in Capitol Pictures, he was aware that Capitol Pictures was a very successful company. He was convinced that this acquisition would increase the share value of Capitol Pictures. Mr Abernathy

questioned how this transaction would be financed since the purchase price of the shares would amount to R1 million. Ms Evergreen proposed that the purchase price of R1 million be settled by issuing an additional 200 000 shares in Prim Ltd at fair market value of R5 per share. Prim Ltd had 50 000 unissued authorised shares at the time.

The voting commenced and the proposed transactions to invest in Capitol Pictures and to fund the investment with a share issue were approved by **all** the directors.

2. Disposal of printing machines

Ms Evergreen indicated that Prim did not utilise all the specialised printing machinery that it owned at the time. She subsequently proposed to dispose of seven of the ten machines that the company owned; the book value of the machines was R3 million each.

The voting commenced and the proposal was unanimously accepted. It was deemed unnecessary to inform the shareholders of this decision.

3. Declaration of dividend

Mr Abernathy presented the financial results for the financial year ended 31 December 2014, which indicated the following:

Profit for the year:	R12 million
Total assets:	R35 million
Total liabilities:	R20 million

As at 31 December 2014 the current assets of the company exceeded its liabilities at the time by R7 million.

The directors applied the solvency and liquidity test and resolved to declare a dividend of R5 million in the light of the company's favourable financial results flowing from the *Mockingjoe* film.

The next board meeting would be held on 1 April 2015.

Ms Neverdeen approached you for advice about the resolutions passed at the meeting of the board of directors held on 31 January 2015.

REQUIRED**Marks****Refer to the first agenda point: Investment in Capitol Pictures**

- 1.1** Discuss whether the purchase price of R1 million can be settled by issuing 200 000 shares at a fair market value of R5 per share in terms of the requirements of the Companies Act by first stating the requirements of the Companies Act and then applying these requirements to the scenario. Use the following headings: **(11)**
- (i)** Issuing of shares **(3)**
- (ii)** Consideration for the shares
- 1.2** Concerning Mr Flickerman's personal financial interest in the acquisition of the Capitol Pictures shares by Prim Ltd, discuss the legality of Mr Flickerman's actions by first stating the requirements of the Companies Act and then applying these requirements to the scenario. **(12)**

Refer to the second point on the agenda: Disposal of printing machines

- 1.3** List the requirements of the Companies Act for the disposal of the greater part of a company's assets. Do not include any requirements for quorums or voting. **(5)**
- 1.4** Discuss the legality of the disposal of the printing machines in terms of the Companies Act. Do not discuss any requirements for quorums or voting. (You should refer to the financial information in the minutes.) **(5)**

Refer to the third point on the agenda: Declaration of dividend

- 1.5** Determine whether Prim Ltd satisfies the solvency and liquidity test as defined in the Companies Act by first stating the requirements of the Companies Act and then applying these requirements to the scenario. **(6)**
- 1.6 (i)** List the requirements of the Companies Act for the declaration of the dividend of R5 million. **(4)**
- (ii)** Apply the requirements listed in (i) above to the scenario to determine where the Companies Act has been complied with regarding the dividend declaration. **(4)**

---X---

8.4.3 Semester 2: Compulsory Assignment 01

Instructions

- (1) Write the correct unique assignment number in the six blocks provided on the mark-reading sheet.
- (2) Write the ordinary assignment number (01) in the two blocks provided on the mark-reading sheet.
- (3) Consult **my Studies @ Unisa** for an example of how a computer mark-reading sheet should be filled in.
- (4) If you do not follow these instructions, the computer will reject your answer sheet and it will be returned to you unmarked. Also consult: **my Studies @ Unisa** when you answer multiple-choice assignments.

Special instruction for the answering of this Assignment 01

- (1) This assignment consists of 10 multiple-choice questions.
- (2) This assignment covers the topics of the study guide as indicated in brackets next to each question.
- (3) If you honestly attempted the assignment **after** first consulting the study guide, you will reap the benefits. If you copied the solution with the aim to obtain a high year mark, do not be surprised if you fail the examination despite an excellent year mark.

**ASSIGNMENT 01: MULTIPLE-CHOICE QUESTIONS
(Compulsory)**

**UNIQUE ASSIGNMENT NUMBER FOR THE SECOND SEMESTER:
604596**

DATE OF SUBMISSION

Second semester: 31 August 2015

QUESTION 1**15 marks****REQUIRED**

Answer the first four questions by indicating whether the statements are true or false. Select **1 if your answer is “true”** or **2 if your answer is “false”**, and then mark the corresponding digit on *myUnisa* or on the mark-reading sheet. Answer the subsections of the questions in number sequence as follows:

1. 1
2. 2

(1½ marks per question)

1. The board of Avengers Ltd, a company with 100 000 authorised and issued shares, wishes to issue 10 000 shares to Captain America (Pty) Ltd. Shares can **only** be issued to Captain America (Pty) Ltd by the board of Avengers Ltd if the authorised share capital has been increased by a special resolution before the company issues the shares. **(Topic 4)**

- 1 True
- 2 False

2. The board of Avengers Ltd is further planning to issue another 10 000 shares to the only subsidiary of Avengers Ltd, X-Men (Pty) Ltd. X-Men (Pty) Ltd may not hold more than 10% of any class of shares of Avengers Ltd, and may exercise any voting rights attached to those shares. **(Topic 4)**

- 1 True
- 2 False

3. The rights and limitations attached to shares which are stated in the company's memorandum of incorporation can be altered by a resolution of the board of directors. **(Topic 4)**

- 1 True
- 2 False

4. Fantastic Five (Pty) Ltd is allowed to convert itself into a close corporation in terms of the Companies Act. **(Topic 10)**

- 1 True
- 2 False

Answer questions 6 to 10 by selecting the **one** alternative that you consider to be the most correct answer to the relevant question. Mark the corresponding digit on *myUnisa* or on the mark-reading sheet. Answer the subsections of the questions in number sequence as follows:

1. 1
2. 3

(1½ marks per question)

5. According to the Companies Act, the duties of the company secretary includes the following: **(Topic 6)**

- 1 Making the directors aware of any law relevant to the company; ensuring that a copy of the company's annual financial statements is sent to every person who is entitled to it; ensuring that minutes of all shareholders' meetings, board meetings, board committee meetings and audit committee meetings are kept
- 2 Making the directors aware of any changes in the Companies Act; ensuring that a copy of the company's annual financial statements is sent to every person who is entitled to it; keeping minutes of all shareholders' meetings, board meetings, board committee meetings and audit committee meetings
- 3 Making the directors aware of any law relevant to the company; typing the company's annual financial statements; ensuring that minutes of all shareholders' meetings, board meetings, board committee meetings and audit committee meetings are kept
- 4 Making the directors aware of any law relevant to the company; ensuring that a copy of the company's annual financial statements is sent to every person who is entitled to it; ensuring that minutes of all shareholders' meetings, board meetings, board committee meetings and auditors' meetings are kept

6. The following factors contribute to the calculation of the public interest score of a company: **(Topic 3)**

- 1 Assets; turnover; beneficial interest holders (e.g. shareholders); liabilities
- 2 Assets; turnover; beneficial interest holders (e.g. shareholders); average number of employees
- 3 Turnover; beneficial interest holders (e.g. shareholders); average number of employees; third-party liabilities.
- 4 Assets held in fiduciary capacity; turnover; beneficial interest holders (e.g. shareholders); average number of employees; third-party liabilities

7. In terms of the Companies Act 71 of 2008, which of the following company names would be permissible? **(Topic 2)**
- 1 Government Suppliers (Pty) Ltd
 - 2 Xenophobic Contractors Limited
 - 3 Mobile123 (Pty) Ltd
 - 4 Bling Bling Company
8. Which ONE of the following statements is **false** in terms of the Companies Act? **(Topics 2 and 4)**
- 1 Except to the extent that the memorandum of incorporation provides otherwise, the board may approve, by resolution, the issuing of any authorised shares of the company as capitalisation shares on a pro rata basis to existing shareholders.
 - 2 The voting rights attached to the shares of a holding company held by its subsidiary may be exercised while held by the subsidiary and while it remains a subsidiary.
 - 3 Every company must establish and maintain a register of its issued securities which contains the details of the security and the holder, and any transfers of securities.
 - 4 A subsidiary of a company may acquire shares of its holding company.
9. Which ONE of the following statements is **false** in terms of the Companies Act? **(Topic 2)**
- 1 The Companies Act provides for the formation and incorporation of profit companies and non-profit companies.
 - 2 A profit company is a company incorporated for the purpose of financial gain for its shareholders.
 - 3 A non-profit company is allowed to distribute its income to its incorporators, members, directors, officers or persons related to any of them, with no requirements to be met.
 - 4 The memorandum of incorporation of a private company prohibits it from offering any shares to the public.

10. Which ONE of the following statements is **false** in terms of the Companies Act? (Topic 3)

- 1 A memorandum of incorporation and a record of its directors form part of the company records that must be maintained by every company.
- 2 A private company need not be audited at all.
- 3 The annual financial statements of a public company must be audited.
- 4 The annual financial statements of a public company must be audited by a registered auditor.

---X---

8.4.4 Semester 2: Compulsory Assignment 02

Instructions

- (1) Consult *my Studies @ Unisa* for instructions on how to submit written assignments.

Special instructions for the answering of this assignment

- (1) This assignment covers the whole syllabus.
- (2) All questions must be answered.
- (3) Only selected questions will be marked.
- (4) Where discussion is required, structure your answer in point format, limiting each paragraph to one statement.
- (5) Do not copy and paste directly from the Companies Act. Information copied directly from the Act will not be marked.

ASSIGNMENT 02: ESSAY-TYPE QUESTIONS

**UNIQUE ASSIGNMENT NUMBER FOR THE SECOND SEMESTER:
604662**

DATE OF SUBMISSION

Second semester: 11 September 2015

QUESTION 1**50 marks**

You are a director at the auditing firm Potter Incorporated (“Potter”). The firm has two other directors, Mr Harry Potter and Mr Ronald Weasley. In the past, the firm had three other directors in addition to you. All the directors are also auditors. The following matters require your attention:

Matter 1

Ms Hermione Granger, the auditor in charge of one of Potter’s audit clients, Dumbledore Ltd, resigned as a director of the auditing firm during the year.

Matter 2

Mr Severus Snape, the managing director of one of your audit clients, Slytherin Ltd, contacted you for advice about the composition of the audit committee of Slytherin Ltd. He wanted to know if the following persons were allowed to form part of the audit committee in terms of the Companies Act:

- Mr Snape himself
- The son of Mr Snape, since he chaired audit committees in the past
- Mr Draco Malfoy, an expert on the Companies Act (He is also one of the major customers of Slytherin Ltd.)
- Yourself, seeing that you are a registered auditor and a chartered accountant
- Mr Neville Longbottom, an independent non-executive director

Matter 3

One of the directors of Gryffindor (Pty) Ltd approached you for advice on various aspects of the Companies Act. Gryffindor (Pty) Ltd currently has a public interest score of 87, and in accordance with the Companies Regulations, the company is subject to an independent review. The director wanted to know if it was possible to have the annual financial statements of Gryffindor (Pty) Ltd audited instead of independently reviewed.

Matter 4

Mrs Rowina Hufflepuff, a director of Hogwarts Ltd (one of your audit clients), contacted you in connection with a conflict of interest that she had recently become aware of. Hogwarts Ltd planned to purchase all the shares in a company named Wizards (Pty) Ltd, and Mrs Hufflepuff’s mother was the only shareholder of Wizards (Pty) Ltd. Mrs Hufflepuff wanted to know if she had any responsibility regarding her interest in this arrangement.

REQUIRED

	Marks
1.1 Refer to matter 1. Determine whether a vacancy arose for the position of auditor because Ms Granger had resigned from Potter Incorporated, the current auditor of Dumbledore Ltd, in terms of the requirements of the Companies Act.	(4)
1.2 Refer to matter 2. Discuss whether Slytherin Ltd is required to have an audit committee in terms of the Companies Act. Give a reason for your answer.	(2)
1.3 List all the requirements of the composition of the audit committee in terms of the Companies Act and discuss the legality of the composition of the audit committee as suggested by Mr Snape in terms of these requirements.	(15)
1.4 Refer to matter 3. Explain to the director how the current financial statements of Gryffindor (Pty) Ltd can become subject to a voluntary or statutory audit. Include in your answer the requirements to call a meeting; notice requirements; as well as quorum and voting requirements.	(15)
1.5 Refer to matter 4. First explain to Mrs Hufflepuff, on the hand of an example, what is meant by “related within the second degree of consanguinity or affinity”. Then explain to her what her duties with regard to her interest in the proposed share purchase are before, during and after the meeting where this matter will be decided on.	(14)

9 OTHER ASSESSMENT METHODS

An examination paper which serves as a self-evaluation assessment is provided below as part of this tutorial letter.

Special instructions and remarks regarding the answering of this assessment opportunity

It is advised that you complete this assessment opportunity under examination conditions within two hours without consulting your study material.

After having completed this, you should compare your answers with the key in Tutorial letter 104. This assessment opportunity **must not** be sent to the university.

Tutorial material for this assessment opportunity

This assessment opportunity deals with the entire contents of this module.

Purpose of this assessment opportunity

The purpose of this assessment opportunity is to serve as a revision of the study material as a whole and at the same time it is an indication of the standard which can be expected in the examination.

Below, find the October/November 2013 examination that serves as a self-assessment assignment.

QUESTION	MAIN TOPIC	MARKS
1.	Sundry Companies Act issues	32
2.	Reckless trading; financial assistance; auditors; audit committees; dismissal of directors	55
3.	Shareholders' meetings and resolutions	<u>13</u>
		<u>100</u>

NOTE:

The main objective of the examination is to test a candidate's knowledge and ability to apply the study material, although the examiners will also take into account the candidate's ability to organise and present that knowledge in writing and according to an acceptable standard.

In this paper, references to the Companies Act are to the Companies Act 71 of 2008, as amended, of the Republic of South Africa, and the Companies Regulations.

QUESTION 1

32 marks

You are an expert in the area of company law. Elementary Ltd ("Elementary") is a new company, specialising in home décor and renovations, founded by Mr Sherlock Holmes.

The company plans to appoint new directors at the upcoming annual general meeting. Mr Holmes is unsure about all the legal requirements regarding directors, as well as the way meetings should be conducted. He is also quite nervous about the company being audited, as he is not quite sure what an audit entails. Furthermore, Mr Holmes is worried about the course of action should the company not succeed, and has directed questions to his accountant, Ms Watson, regarding the process of liquidation and the selling of the company's assets, should the need ever arise.

Ms Watson has in turn contacted you, as her Companies Act knowledge is not up to date. Your task is to respond to the queries below.

REQUIRED

	Marks
1.1 Give four examples of when a special resolution is required.	(4)

Marks

- 1.2 Complete the following table by indicating the minimum number of directors required for each of the following categories of company:

Category of company	Minimum number of directors
Private company (Pty) Ltd	(i)
Personal liability company (Inc)	(ii)
Public company (Ltd)	(iii)
Non-profit company (NPC)	(iv)

(2)

- 1.3 The Companies Act provides that certain persons are either not eligible to be appointed as directors, or are disqualified from being appointed as directors. Name any **four** of these persons.

(4)

- 1.4 When the directors of a public company are conducting a meeting, certain individuals may not be included in determining the quorum for that meeting. Indicate whether the following individuals can be included, by writing “yes” or “no”, and give a reason for your answer.

- The company secretary, who is not a director of the company
- The auditor of the company
- The financial director of the company

(6)

- 1.5 The Companies Act provides that a director must at the earliest possible opportunity communicate any information concerning the company that came to his attention, to the board of directors. However, there are certain instances where this is not necessary. Name any **one** such instance.

(1)

- 1.6 In terms of the Companies Act, the auditor has certain rights to records and information of a company that is being audited. Indicate whether each of the following statements is true or false, and give reasons for your answers in each case.

- At all times the auditor has the right of access to the accounting records, documents and storage warehouses of the company.
- The auditor may attend any directors’ meeting held during the year.
- The auditor has the right to receive all notices of any shareholder meetings and any other communication concerning transactions conducted by the company.

(6)

- 1.7 Discuss the Companies Act requirements should Mr Holmes decide to sell all the assets of the company.

(5)

- 1.8 Will Elementary Ltd need to have its public interest score calculated to determine whether or not it needs to be audited in terms of the Companies Act? State “yes” or “no”, and give a reason for your answer.

(2)

- 1.9 The Companies Act provides that a solvent company may be liquidated in two instances. Name these **two** instances. (2)

QUESTION 2**55 marks**

You are a chartered accountant and an expert on the Companies Act.

Rocknroll Ltd (“Rocknroll”) is a company conducting business in the music industry. The company imports and sells new musical instruments; purchase and restore second-hand instruments; and provides tuning and moving services for pianos and organs.

The chief executive officer (CEO) of the company, Mr Elvis Presley, contacted you and explained that he was very concerned about the attitude and performance of one of the directors, Ms Marilyn Monroe. He was also aware that she was not willing to resign as director of Rocknroll.

He further expressed his concern about the current financial performance of the company. Mr Presley also brought to your attention that there were several unresolved issues resulting from the previous directors’ meeting, and asked for your advice on these issues.

The following is an extract from Rocknroll’s annual financial statements for the year ended 30 June 2013:

	2013 R
ASSETS	
Total non-current assets	6 000 000
Total current assets	<u>2 000 000</u>
	<u>8 000 000</u>
LIABILITIES	
Total non-current liabilities	5 000 000
Total current liabilities	<u>5 000 000</u>
	<u>10 000 000</u>

Below is an extract of the minutes of a meeting of the board of directors of Rocknroll, pointing out these unresolved issues:

ROCKNROLL LIMITED
MINUTES OF MEETING OF THE BOARD OF DIRECTORS HELD ON 28 AUGUST 2013

Present:

Ms Nancy Sinatra, chairman and independent non-executive director
 Mr Steven Tyler, non-executive director
 Mr Michael Jackson, sales and marketing director
 Ms Marilyn Monroe, finance director
 Mr Elvis Presley, managing director
 Ms Laura Branigan, company secretary

Apologies:

Mr Elton John, non-executive director

Matters for discussion:**1. Loan granted to Mr Elton John:**

Ms Monroe indicated that she had approved and issued a loan to Mr Elton John. Mr John would use the cash to start a piano rental and training company. He would repay the loan as soon as his company started making a profit. As Mr John was expecting a significant profit, seeing that his overheads would be quite low, Ms. Monroe was of the opinion that it had been a reasonable decision to grant this loan.

Mr Presley stated that Ms Monroe had neither followed the appropriate channels to get this loan approved nor did she consult the memorandum of incorporation of the company, and that he was uncertain about the course of action to be taken, as the company had never granted a loan of this nature before.

2. Resignation and appointment of auditors:

Rocknroll's auditor, Jazz Incorporated, was asked to resign following a disagreement with the management of Rocknroll about the accounting treatment of certain transactions.

Mr Presley recommended Blues Incorporated to the audit committee of Rocknroll, to be considered for appointment as the new external auditors. Mr Presley felt that this would be of great benefit to Rocknroll, as his wife, Priscilla Presley, was one of the partners of Blues Incorporated. She would thus have a very good understanding of Rocknroll's operations.

The board was undecided on this matter.

3. Duties of the audit committee

Ms Nancy Sinatra raised the issue that the audit committee of the company currently only had one other member, besides herself. Mr Presley disagreed with her, and explained to her that he believed it not to be an issue, as the only necessary duties of the audit committee would be:

- To ensure that the appointment of the auditor complied with the provisions of the Companies Act 71 of 2008, as amended, and any other legislation relating to the appointment of auditors
- To perform other functions determined by the board of directors, including the development and implementation of a policy and plan for a systematic, disciplined approach to evaluate and improve the effectiveness of risk management, control and governance processes within the company
- To pre-approve any proposed agreement with the auditor for the provision of non-auditing services to the company

4. Dismissal of director

Mr Presley suggested that another point be added to the agenda of the board meeting, namely the dismissal of Ms Monroe as a director, due to her continuous reckless and negligent actions. Ms Monroe expressed her surprise, as she had not expected Mr Presley to make such a suggestion. She strongly recommended that the matter be discussed at the next

board meeting.

The next board meeting would be held on 1 April 2014.

REQUIRED

	Marks
2.1 Refer only to the extract from the financial statements in the scenario.	
Discuss whether Rocknroll Limited is trading recklessly in terms of the requirements of the Companies Act 71 of 2008, as amended.	(6)
2.2 Refer to the first point on the agenda: Loan to Mr Elton John. Take the financial information of the company in the extract from the financial statements into consideration.	
Discuss the legality of the loan to Mr Elton John in terms of the Companies Act 71 of 2008 by:	
• Stating the requirements of the Companies Act that should be met	(6)
• Applying the requirements listed in (i) to the scenario	(8)
• Concluding whether or not the granting of the loan was in fact legal	(1)
2.3 Refer to the second point on the agenda: Resignation and appointment of auditors.	
Discuss the requirements of the Companies Act 71 of 2008, as amended, for the appointment of Blues Incorporated as the new external auditor of Rocknroll Limited, only in terms of the following:	
• Requirements to be met in order to be appointed as the auditor of a company, and whether or not Ms Presley may be appointed	(7)
• Requirements where a vacancy arises in the office of an auditor	(3)
• Considerations to be taken into account in order to determine whether or not Blues Incorporated is independent	(5)
2.4 Refer to the third point on the agenda: Duties of the audit committee.	
List the remaining duties of the audit committee which Mr Presley is not aware of in terms of the Companies Act 71 of 2008, as amended.	(11)
2.5 Refer to the fourth point on the agenda: Dismissal of director.	
Advise Mr Presley on the issue of dismissing Ms Monroe from her position as director of Rocknroll Ltd by explaining to him the requirements of the Companies Act in this regard.	(8)

QUESTION 3**13 marks**

Designers Ltd is a large clothing manufacturing company. The company's board is chaired by Mr Jimmy Choo and the company has 20 ordinary shareholders.

The financial director of the company, Mr Roberto Cavalli, has informed Mr. Choo of his plan to obtain additional finance for the company, to the amount of R15 million, by issuing additional ordinary shares to the directors of the company. However, the company has no authorised shares left to issue, and the number of authorised shares will therefore have to be increased.

These matters will be decided on at the upcoming annual general meeting of shareholders.

REQUIRED

	Marks
3.1 Discuss whether the decision to issue shares to the directors will require an ordinary or a special resolution in terms of the Companies Act.	(2)
3.2 Discuss the requirements of the Companies Act that will have to be met with regard to conducting the upcoming shareholders meeting (only with regard to the meeting itself). Include in your answer the requirements for notices; quorums; and voting on the resolutions. (Do not refer to the requirements where a quorum is not present or to the involvement of proxies.)	(11)

10 EXAMINATION**Requirements for admission to the examination**

Submission of the **compulsory Assignment 01** by its due date will give a student *admission* to the examination in this module. Admission will be obtained by submitting this assignment **on time** and not by the marks you obtain for it. Please ensure that this assignment reaches the university **before or on the due date**. **Late submission of the assignment will result in you not being admitted to the examination. No extension will be given for the late submission of Assignments 01 and 02.**

The examination period

This module is offered in both semesters. This means that if you are registered for the first semester, you will write the examination in May/June 2015; the supplementary examination will be written in October/November 2015. If you are registered for the second semester you will write the examination in October/November 2015; the supplementary examination will be written in May/June 2015.

The Examination Section will provide you with information about the examination in general, examination venues, examination dates and examination times as soon as it becomes available.

The examination paper

Note that the self-evaluation assignment is an example of an examination paper. It is included in this tutorial letter (see section 9). Refer to this assessment opportunity for an example of the format of the examination paper and the types of questions you can expect in the examination.

Previous examination papers

Previous examination papers are available to students on *myUnisa*. Suggested solutions are not provided. However, you may assume that the type of questions that will be asked in the examination will be similar to those in your study material.

Use the ***my Studies @ Unisa*** brochure for general guidance on the examination as well as for your preparation for the examination.

11 FREQUENTLY ASKED QUESTIONS

The ***my Studies @ Unisa*** brochure contains an A–Z guide of the most relevant study information.

12 SOURCES CONSULTED

Only the prescribed textbook has been consulted.

13 CONCLUSION

We wish you every success with your Auditing studies. We are here to assist you where we can in mastering the content of the module. Please make the most of your opportunity to learn about this module.

14 ADDENDUM

There are no addendums to this tutorial letter.