

100年律師考試法學英文試題解析



主筆人：文政大

本單元因應律司新制，新增法學英文一科而開闢，主筆人文政大老師曾留學美國，專業橫跨外交、法律與政治學，並同時具有學術與實務經驗，對教學充滿熱忱。希藉由文政大老師的背景知識，帶領考生們贏得滿意高分。

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壹、前言

一年一度的司法考試一試終於落幕，雖然考選部已公布試題答案，但恐怕對求知若渴的同學們而言仍有不足。因此本次法學英文教室即提供律師考試中法學英文的試題解析。

貳、試題與解析

56.The idea behind incorporation is that the rights and liabilities of a corporation are separate and distinct from those of its shareholders. However, creditors of a company can ask a court to “_____,” and set aside a company’s identity as a juristic person and reach the company owners and shareholders’ personal assets.

- (A)pierce the corporate shell (B)pierce the corporate veil
(C)cover the corporate shell (D)cover the corporate veil

答案：B

解析：本題關鍵在掌握「公司(incorporation)」與「股東(shareholders)」的關係，亦即股東僅就有限財產對公司債務負有責任，僅例外情況下得卸下公司法人的身分，亦即「穿透公司的面紗」。據此題旨，選項B即「穿透公司的面紗(pierce the corporate veil)」是本題正確答案。

57. “A tender offer is an offer to stockholders of a publicly-held corporation to exchange their shares for cash or securities at a price higher than the previous market



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price. A tender offer is the most common way of carrying out a hostile takeover.”
Which of the following can NOT be derived from the above description?

- (A)The price offered in a tender offer transaction is often with a premium.
- (B)A tender offer is usually an unfriendly acquisition of the target company.
- (C)The target’s shareholders will get cash or shares if they tender their shares.
- (D)An acquirer of a closely-held company can launch a tender offer.

答案：D

解析：本題關鍵在理解「要約收購(tender offer)」的概念係指用以高於市價向股東收購股票以取得公開上市公司經營權的惡意行爲。選項A指要約收購通常價格包括premium（保證金）；選項B指提出要約收購者通常具有惡意取得公司經營權的特性；選項C指股東同意收購者可能取得股票或現金；選項D指對非公開發行公司也可採取要約收購，此爲錯誤敘述因此宜選之。

58.The complaint asserts that Nelnet, Chase, and Citigroup are acting in concert and therefore liable to the plaintiffs for their injuries.

- (A)jointly and severally (B)collectively (C)aggregatedly (D)accumulatedly

答案：A

解析：本題指原告認定Nelnet, Chase 與Citigroup三家公司採取一致的行爲，因此應共同並分別地對原告之損害負有責任。選項A：joint and severally共同與分別；選項B：collectively集體地；選項C：aggregately 聚合地；選項D：accumulatedly累積地。

59.Emma contracts to sell and Elton to buy a machine for NT\$100,000, delivery of the machine and payment of the price to be made at a stated place on July 7. On July 7 both parties are present at that place. Elton gives Emma a check payable to Emma in the amount of NT\$100,000 but Emma refuses to deliver the machine. Elton may sue Emma for her .

- (A)omission (B)non-performance (C)inaction (D)denial

答案：B

解析：本題意指兩人成立買賣契約，但一方拒絕履行的行爲，即債務不履行。選項A指刑法上的不作爲；選項B爲正確選項，即債務不履行；選項C爲不作爲或怠惰；選項D爲否認。

60.Debt security is issued by a company and sold to investors, usually to raise money in order to expand its business. In certain situations, the company’s assets may be



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used as collateral. This debt security is usually called .

- (A)shareholder debt (B)corporate bond
(C)blank check (D)corporate liability

答案：B

解析：本題題目指債券（debt security）由公司發行以公司財產為抵押（collateral），用以集資的產品。名稱上又可稱為corporate bonds。選項A為股東債；選項B即為債券；選項C為空白支票；選項D為公司責任。因此本題宜選B。

61.The term “capital market” is generally used to refer to those markets that deal in long-term financial instruments, such as stock, bonds, mortgage, etc., while the term “money market” describes those markets in which short-term debt instruments (typically, having a maturity under one year) are issued and traded. Therefore, which one of the followings is generally NOT considered to be an instrument in the capital market?

- (A)Commercial paper (B)Common share
(C)Preferred share (D)Government bond

答案：A

解析：本題指在理解何謂「資本市場」的概念以及資本市場常採用的工具包括股票、債券與融資等，其中選項A指涉的是票據，因此不屬於資本市場運用的工具。選項A指商業票據；選項B指一般股；選項C指特別股；選項D指政府公債。

62._____is a privilege which requires the government to prove a criminal case against the defendant without the aid of the defendant as a witness against himself.

- (A)Privilege against self-incrimination (B)Privileged communications
(C)Privileged debt (D)Privileged evidence

答案：A

解析：本題指刑事被告享有不作為自身證人的特權，此特權即為「不自我入罪特權」。選項A指「不自我入罪特權」；選項B指「具特權的通訊」，意指通訊者之間對特定資訊具有特殊的權利與保密的義務；選項C指「優先償還債務」；選項D指「優先採用的證據」。

63.All evidence, obtained by searches and seizures in violation of guaranteeing the right to privacy free from unreasonable government intrusion, is inadmissible in court.

- (A)the equal protection principle (B)the due process principle



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(C)the clean slate principle (D)the protective principle

答案：B

解析：本題指「非法取得之證據不為法院所採納，其依據乃憲法上正當法律程序原則」之保障。選項A平等保護原則；選項B正當法律程序原則；選項C「clean slate principle」是禁反言(double jeopardy)的例外，指刑事法上有罪判決的推翻不受禁反言原則之保護；選項D指保護原則。

64. _____ is the process by which a person acquires nationality after birth and becomes entitled to the privileges of citizenship.

(A)Neutralization (B)Nationalization (C)Naturalization (D)Navigation

答案：C

解析：本題指個人出生後取得公民身分的過程稱為「入籍」。選項A指「中立化」；選項B指「國有化」；選項C指「入籍」；選項D指「航海」。

65. A Taipei district court judge awarded NT\$500,000 in yesterday to a resident of Kaohsiung who sued a hospital for malpractice in plastic surgery. Please find the best answer to fill in the blank.

(A)penalty (B)charge (C)fine (D)damages

答案：D

解析：本題指台北地方法院因醫療過失案件判決50萬元賠償金予一名被告。選項A指刑罰；選項B指判罪；選項C指罰金；選項D指賠償金。

66. Klingon contracts to sell and Kirk to buy 300 crates of Fuji apples, shipment to be from Japan on September 28. Klingon sends only 280 crates on September 28. By failing to ship the required number of crates, Klingon the contract.

(A)trespasses (B)infringes (C)breaches (D)breaks

答案：C

解析：本題指成立富士蘋果之買賣契約不履行即構成違約(breach of contract)。選項A指入侵；選項B指侵犯（權利）；選項C指違約；選項D指打破。

67. Joe intends to kill George. He buys a gun and hides in the bushes, waiting for George to pass by. Allen, George's twin brother, happens to walk by. Thinking that he is looking at George, Joe aims right at him and fires. Allen is killed instantly. Since Joe only had the intentions to kill George, is he guilty of murder of Allen?



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- (A)Yes, a case of mistaken identity does not save Joe.
- (B)No, a case of mistaken identity does save Joe.
- (C)No, because Joe did not have the intentions to kill Allen.
- (D)No, because Joe intended to kill George.

答案：A

解析：本題指某人有意謀殺特定個人但誤殺為他人，因主觀犯意與客觀犯行發生差異，然而殺人犯行以行為犯論，不因客體（犯罪結果）差異而發生變化，因此本題應選A。

- 68.Bert promises to sell to Elise a handbag for NT\$8,000. Elise promises to pay in four of NT\$2,000 each, beginning one week after execution of the contract.
- (A)stages (B)phases (C)periods (D)installments

答案：D

解析：本題指買賣契約採分期方式給付，「分期付款」之「期別」應為 installment。

- 69.Objects such as weapons or contraband found in a public place may be seized by the police without a . If there is probable cause to associate the property with criminal activity, the seizure of property in plain view involves no invasion of privacy and is presumptively reasonable.
- (A)warrant (B)waiver (C)welfare (D)warfare

答案：A

解析：本題指在公開場合特定的物品如槍械等，警察得在未取得搜索票的情況下進行扣押。選項A指搜索票；選項B指排除；選項C指福利；選項D指戰爭。

- 70.Morgan has been sued in a competent court in a civil case. It means that he has the obligation to before the court.
- (A)reach (B)approach (C)arrive (D)appear

答案：D

解析：本題指個人對有權管轄之法院負有出庭的責任，而出庭應用「appear before the court」來表述。

