

# PRACTICE EXAM 10: OHIO BUSINESS AND LAW SIMULATION (50 QUESTIONS)

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## 50 Questions — 120 Minutes Recommended

1. A licensed Ohio HVAC contractor forms a twomember LLC with a business partner. The operating agreement designates the HVAC contractor as the managing member and the partner as a nonmanaging member who contributes capital only. Three years later, the nonmanaging member begins showing up at jobsites, directing workers on installation methods, and signing material purchase orders without authorization. What legal risk has the nonmanaging member created?

- A. No risk because LLC members have an inherent right to participate in operations regardless of the operating agreement
- B. A risk that a court could disregard the LLC's liability protection for the nonmanaging member by finding that the member's conduct blurred the line between member and manager roles
- C. A risk limited to personal liability for the specific purchase orders signed without authorization
- D. No risk because only general partnerships impose liability based on a member's level of participation

2. An Ohio contractor operates as a sole proprietorship and earns \$210,000 in net business income. The contractor is considering an S corporation election. A tax advisor explains that as a sole proprietor, the full \$210,000 is subject to selfemployment tax at 15.3%. Under an S corp with a reasonable salary of \$110,000 and \$100,000 in distributions, what is the approximate selfemployment tax savings?

- A. Zero because S corporation shareholders pay selfemployment tax on all income including distributions
- B. \$32,130 representing the elimination of all selfemployment tax through the S corp election
- C. \$8,415 representing the approximate savings of avoiding the 15.3% FICA rate on the \$55,000 difference
- D. Approximately \$15,300 representing the 15.3% FICA rate avoided on the \$100,000 in distributions

3. A contractor's business plan projects firstyear revenue of \$800,000 based on three signed contracts and a pipeline of pending bids. The plan assumes a thirty percent win rate on pending bids totaling \$2,000,000. The financial projections section shows expected firstyear revenue of \$800,000 from signed contracts plus \$600,000 from the projected pipeline wins. What potential problem exists with this revenue projection?

- A. The projection is overly conservative because a thirty percent win rate is below the industry average
- B. The projection should include revenue from unsigned contracts only if they have been formally awarded
- C. The pipeline revenue of \$600,000 based on a thirty percent win rate is speculative and should be presented as a range rather than a fixed number to reflect the uncertainty
- D. The projection is accurate and requires no adjustment because pipeline assumptions are standard practice

4. An Ohio contractor completes the OCILB license application process, passes both the Business and Law exam and the trade exam, and submits proof of insurance. The OCILB issues the contractor license on July 15. The contractor's general liability insurance policy has a renewal date of September 1. On September 1, the contractor switches to a new insurance carrier but forgets to submit the new certificate of insurance to the OCILB. What is the status of the contractor's license?

- A. The license remains active but the contractor is in violation of the requirement to keep a current certificate of insurance on file with the OCILB
- B. The license is automatically suspended on September 1 when the original certificate expires
- C. The license is permanently revoked because the contractor failed to maintain continuous documentation
- D. The license is unaffected because the OCILB does not track insurance certificates after initial issuance

5. Under Ohio Revised Code Chapter 4740, a building department issues a commercial electrical permit to a contractor. During the project, the building inspector discovers that the contractor's OCILB electrical license has expired. What authority does the building department have?

- A. The building department must continue to allow the work because the permit was validly issued

- B. The building department can stop the work and may revoke the permit because ORC 4740 requires verification of a valid OCILB license before issuing commercial permits
- C. The building department can issue a warning but cannot take action against a previously approved permit
- D. The building department has no authority over OCILB licensing and must refer the matter to the state

6. A contractor's estimator receives addendum number four on the morning of bid day, three hours before the bid deadline. The addendum significantly changes the mechanical scope by adding a new air handling unit and modifying the ductwork layout. The estimator does not have time to fully reestimate the mechanical work before the deadline. What is the most prudent course of action?

- A. Submit the bid without accounting for the addendum and request a postbid adjustment from the owner
- B. Submit the bid with a written qualification excluding the addendum scope from the bid price
- C. Acknowledge the addendum on the bid form but add a lineitem allowance for the scope changes based on a rough orderofmagnitude estimate
- D. Withdraw from the bidding if the addendum cannot be properly estimated before the deadline rather than submitting an inaccurate bid

7. A contractor on a commercial project calculates the following costs: direct labor \$145,000, direct materials \$98,000, equipment \$22,000, subcontractors \$115,000. Job overhead is calculated at \$30,400. General overhead is allocated at \$49,400. The contractor wants to earn a gross profit margin of fifteen percent on the selling price. What should the bid price be?

- A. Approximately \$541,176 calculated by dividing total cost by 0.85 to achieve a fifteen percent margin on the selling price
- B. \$459,800 representing total cost with no profit because the margin is calculated separately
- C. \$528,770 representing total cost plus fifteen percent markup on total cost
- D. \$506,920 representing direct costs plus profit with overhead excluded from the margin calculation

8. A general contractor on a commercial hospital project discovers that the structural steel subcontractor has installed beams that are one size smaller than specified in the structural drawings. The architect is notified and determines that the undersized beams do not meet the structural requirements. The steel subcontractor argues that the beams were installed per the shop drawings that were approved by the architect. What is the likely outcome?

- A. The architect bears full responsibility because the approval of the shop drawings constitutes acceptance of the undersized beams
- B. The structural engineer is solely liable because the original design specified the correct beam size
- C. The steel subcontractor must replace the undersized beams at its own expense because shop drawing approval does not relieve the contractor of the obligation to conform to the contract documents
- D. The project owner is responsible because the owner hired the architect who approved the incorrect shop drawings

9. A construction contract contains the following clause: "Neither party shall be liable to the other for any consequential, incidental, or indirect damages arising from or related to the performance or nonperformance of this Contract." A contractor's delay causes the owner to lose \$250,000 in rental income from tenants who cannot occupy the building on time. Can the owner recover the lost rental income?

- A. Yes because rental income losses are always classified as direct damages in commercial construction
- B. No because lost rental income is a consequential damage and the mutual waiver clause bars recovery
- C. Yes because mutual waivers apply only to the contractor's damages not to damages suffered by the owner
- D. No but the owner can recover the lost rental income through the contractor's CGL insurance policy

10. A project contract provides that the contractor shall pay liquidated damages of \$2,000 per calendar day for each day the project extends beyond the contract completion date. The project is completed twentytwo days late. The owner's actual delayrelated damages are \$28,000 — primarily from extended construction management and temporary facility costs. The contractor argues that the liquidated damages of \$44,000 are a penalty because they exceed the owner's actual damages. Is the contractor's argument likely to succeed?

- A. Yes because liquidated damages that exceed actual damages are always classified as penalties

B. Yes because the \$16,000 difference between liquidated and actual damages proves the amount is unreasonable

C. No because liquidated damages are a preagreed estimate of anticipated damages and the reasonableness is evaluated at the time of contracting not by comparing to actual damages after the fact

D. No because the contractor waived the right to challenge liquidated damages by agreeing to them in the contract

11. A subcontract between a general contractor and a plumbing subcontractor provides that disputes will be resolved "through the same dispute resolution process established in the Prime Contract." The prime contract requires mediation followed by binding arbitration. A payment dispute arises between the GC and the plumbing sub. The plumbing sub files a lawsuit in court. Can the GC compel the sub to arbitrate?

A. Yes because the subcontract incorporates the prime contract's dispute resolution process and the sub is bound to follow mediation then arbitration

B. No because the subcontract did not specifically name arbitration as the dispute resolution method

C. Yes but only if the dispute amount exceeds the jurisdictional limit for small claims court

D. No because flowdown clauses cannot bind subcontractors to dispute resolution processes in the prime contract

12. A contractor reaches substantial completion on a fortyunit commercial apartment building. During the substantial completion inspection, the architect identifies that five of the forty units have incomplete HVAC installations — missing thermostats, unconnected condensate drains, and incomplete ductwork. The contractor argues that the project is substantially complete because thirtyfive of forty units (87.5%) are fully finished. Is the contractor's argument valid?

A. Yes because eightyseven percent completion exceeds the standard eighty percent threshold for substantial completion

B. Yes because the incomplete items in the five units can be classified as punch list items for later resolution

C. No because the incomplete HVAC installations in five units likely prevent the owner from occupying those units for their intended purpose

D. No because substantial completion requires one hundred percent of all systems to be operational in every unit

13. A contractor's project manager maintains an RFI log throughout a commercial project. At project completion, the log shows sixtyeight RFIs submitted over twelve months. Fortytwo RFIs were responded to within the contract's tenday response period. Twentysix RFIs took between fifteen and fortyfive days for a response. The contractor files a delay claim attributing schedule delays to the late RFI responses. What is the value of the RFI log in supporting this claim?

- A. The RFI log is irrelevant because architects are not contractually required to respond to RFIs within any timeframe
- B. The RFI log proves the contractor performed defective work requiring sixtyeight clarifications
- C. The RFI log demonstrates the contractor's proactive communication but does not establish that delays occurred
- D. The RFI log provides documented evidence of when each RFI was submitted and when each response was received allowing the contractor to identify specific RFIs where late responses delayed dependent work activities

14. A contractor's employee is injured when a scaffold plank breaks during normal use. Investigation reveals the plank had a hidden internal crack that was not visible during the competent person's daily inspection. The employer maintained a daily scaffold inspection program and the competent person documented the inspection the morning of the incident. Under OSHA, is the employer likely to be cited?

- A. Yes because the employer has strict liability for all scaffold injuries regardless of inspection practices
- B. The employer may avoid a citation because the hidden defect was not reasonably detectable through the required visual inspection and the employer maintained a compliant inspection program
- C. Yes because the competent person should have conducted destructive testing on every plank before each shift
- D. No citation is possible because scaffold plank failures are exclusively the manufacturer's liability under product safety law

15. An OSHA compliance officer arrives at a commercial construction site and issues citations totaling \$85,000. The contractor believes the citations are unjustified. What is the contractor's right regarding the citations?

- A. The contractor may contest the citations by filing a notice of contest with OSHA within fifteen working days of receiving the citations
- B. The contractor must pay the citations immediately and may file a refund request within ninety days
- C. The contractor may appeal only to the OCILB which has authority to override OSHA citations for licensed contractors
- D. The contractor has no right to contest OSHA citations and must comply immediately

16. An Ohio contractor has a workers' compensation EMR of 1.30. The contractor bids on a commercial project where the general contractor requires all subcontractors to have an EMR of 1.0 or below. The contractor submits the bid without disclosing the EMR. During prequalification review, the GC discovers the 1.30 EMR. What is the most likely outcome?

- A. The contractor's bid will be accepted because EMR requirements are merely guidelines not binding conditions
- B. The GC will negotiate a reduced subcontract price to offset the higher insurance costs associated with the elevated EMR
- C. The contractor will be disqualified from the project because the EMR exceeds the GC's stated threshold for subcontractor qualification
- D. The contractor's EMR will be recalculated by the GC using an alternative methodology to determine eligibility

17. A contractor purchases a builder's risk insurance policy for a new commercial construction project. During construction, a severe windstorm damages the partially completed steel structure, requiring \$180,000 in repairs. The builder's risk policy has a \$25,000 deductible. What amount will the policy pay for the windstorm damage?

- A. \$180,000 because builder's risk policies cover weather damage without deductible on commercial projects
- B. \$90,000 representing fifty percent of the loss because windstorm damage is subject to a coinsurance requirement
- C. \$25,000 equal to the deductible amount only with the remainder covered by the CGL policy
- D. \$155,000 representing the total loss minus the \$25,000 deductible

18. A general contractor requires all subcontractors to provide certificates of insurance showing CGL coverage with the GC and owner named as additional insureds, plus a waiver of subrogation endorsement. A mechanical subcontractor submits a certificate showing the required coverages but the certificate does not mention the waiver of subrogation. What should the GC do?

- A. Accept the certificate because waivers of subrogation are automatically included in all CGL policies
- B. Require the subcontractor to provide an updated certificate confirming the waiver of subrogation endorsement before allowing work to begin
- C. Proceed with the subcontract because waivers of subrogation are optional recommendations not contractual requirements
- D. Obtain the waiver of subrogation from the subcontractor's insurance carrier directly without involving the subcontractor

19. Under Ohio workers' compensation law, what is the "exclusive remedy" doctrine and what is its most significant exception?

- A. Workers' compensation is the employee's sole remedy against the employer for workplace injuries barring negligence lawsuits except when the employer acts with deliberate intent to injure
- B. Workers' compensation is the exclusive remedy only for injuries occurring at the employer's permanent place of business
- C. The exclusive remedy applies only to employees who have been with the employer for more than one year
- D. Workers' compensation is the exclusive remedy but employees may always file a concurrent negligence lawsuit as an alternative

20. An Ohio contractor operates a commercial electrical business with annual payroll of \$550,000. The BWC classification rate is \$8.90 per \$100 of payroll. The contractor's current EMR is 1.12. The contractor implements a comprehensive safety program and reduces the EMR to 0.88 over three years. What is the annual premium savings achieved by the improved EMR?

- A. \$4,895 representing the change in the EMR multiplied by one thousand
- B. \$11,748 calculated by subtracting the base premium from the original adjusted premium
- C. \$11,748 calculated as the difference between the premium at 1.12 EMR and the premium at 0.88 EMR

D. \$48,950 representing the base premium before any EMR adjustment

21. An OSHA inspector observes a construction worker cutting concrete masonry blocks with a power saw. A visible dust cloud surrounds the worker. The worker is wearing a standard dust mask (filtering facepiece respirator) but the employer has not conducted an exposure assessment, has not implemented a written respiratory protection program, and has not performed fit testing on the worker. What OSHA standard is being violated?

- A. The scaffolding standard because the worker should be on a scaffold while cutting masonry blocks
- B. The electrical safety standard because the power saw should be connected to a GFCI outlet
- C. The crystalline silica standard which requires exposure assessment, engineering controls, respiratory protection, and medical surveillance for workers exposed to respirable silica
- D. The hand and power tools standard which regulates the use of abrasive cutting equipment on construction sites

22. A contractor employs a crew of eight plumbers on a commercial project. One plumber tells the foreman that he and three coworkers have been discussing their wages and believe they are being paid less than plumbers at competing companies. The foreman tells the four workers to stop discussing wages or face disciplinary action. What law has the foreman's statement potentially violated?

- A. The Fair Labor Standards Act prohibition against wage secrecy in the construction industry
- B. The National Labor Relations Act which protects employees' right to engage in concerted activity including discussing wages and working conditions
- C. The Ohio Civil Rights Act prohibition against pay discrimination between employees in the same trade
- D. The DavisBacon Act requirement that all plumbers on the project receive the prevailing wage rate

23. A contractor on a commercial project maintains a photographic record of the work. The contractor photographs concealed plumbing before the walls are closed, photographs the condition of the site at the start of each phase, and photographs all material deliveries. Two years after project completion, the owner alleges that the contractor installed substandard piping that does not meet specifications. The contractor produces dated photographs showing the specified piping material labels visible during installation. What is the evidentiary value of these photographs?

- A. The photographs are inadmissible because they were taken by the contractor and are therefore biased
- B. The photographs prove the piping material is correct but do not prove the installation method was proper
- C. The photographs are irrelevant because only the architect's inspection reports can verify material conformance
- D. The photographs provide strong contemporaneous evidence that the specified materials were installed supporting the contractor's defense against the substandard material allegation

24. A contractor's financial statements show total revenue of \$3,500,000, cost of revenue of \$2,800,000, and general overhead of \$525,000. What is the contractor's breakeven revenue?

- A. \$2,625,000 calculated by dividing the \$525,000 overhead by the twenty percent gross profit margin
- B. \$3,500,000 because the contractor must generate the full current revenue to cover all costs
- C. \$1,750,000 calculated by dividing the revenue in half
- D. \$525,000 equal to the overhead because breakeven occurs when revenue covers overhead only

25. A contractor operating as a partnership with three equal partners earns \$450,000 in net income. Partner A withdraws \$200,000, Partner B withdraws \$100,000, and Partner C withdraws \$50,000. For federal income tax purposes, each partner's reportable income is based on which amount?

- A. Each partner's actual cash withdrawal from the partnership during the tax year
- B. The total net income divided by the number of partners minus each partner's capital contribution
- C. \$150,000 per partner based on the equal profitsharing ratio in the partnership agreement regardless of cash withdrawals
- D. The average of all three partners' withdrawals applied equally to each partner's tax return

26. An Ohio employer discovers that an employee has been stealing materials from the jobsite over a period of several months. The employer terminates the employee immediately. The employee files for unemployment compensation. What is the likely outcome?

- A. The claim will be approved because the employer failed to provide progressive discipline before termination
- B. The claim may be denied because theft constitutes disqualifying misconduct under Ohio unemployment law
- C. The claim will be approved automatically because all terminated employees are eligible regardless of the reason
- D. The claim will be approved but the employer's unemployment tax rate will not be affected by the theft-related termination

27. An Ohio contractor operates in Akron and takes on a project in Canton. The contractor's five employees work at the Canton jobsite for three months. The contractor withholds Akron municipal income tax from all employee wages throughout the three-month period. What error has the contractor made?

- A. The contractor should have withheld Canton municipal income tax for the period the employees worked in Canton rather than Akron tax
- B. The contractor's withholding is correct because the employer's home city receives all municipal tax withholding
- C. The contractor should have withheld both Akron and Canton taxes at the full rate for each city simultaneously
- D. No error occurred because municipal income tax withholding is optional for construction projects lasting less than six months

28. An Ohio contractor earns \$1,600,000 in annual gross receipts. The contractor's accountant prepares the Ohio Commercial Activity Tax return. The CAT minimum tax applies to businesses with gross receipts between \$150,000 and \$1,000,000. The 0.26% rate applies to gross receipts above \$1,000,000. What is the contractor's CAT liability?

- A. The minimum tax only because the contractor's gross receipts are below \$2,000,000
- B. \$4,160 calculated as 0.26% of the full \$1,600,000 in gross receipts
- C. \$2,600 calculated as 0.26% of gross receipts above \$1,000,000 only
- D. \$1,560 calculated as 0.26% of the \$600,000 in gross receipts above the \$1,000,000 threshold plus any applicable minimum tax

29. A subcontractor on a private commercial project first furnishes labor on May 5 and serves a Notice of Furnishing on the property owner on May 20 — fifteen days after first furnishing. The subcontractor completes all work on September 30. On November 25, the subcontractor files a mechanic's lien affidavit — fiftysix days after last furnishing. On December 28, the subcontractor serves the filed affidavit on the property owner — thirtythree days after filing. Which procedural step was untimely?

- A. The Notice of Furnishing was untimely because it was served more than fourteen days after first furnishing
- B. The service of the filed affidavit on the property owner exceeded the thirtyday deadline by three days
- C. The lien affidavit filing was untimely because it exceeded a fortyfiveday deadline from last furnishing
- D. All three procedural steps were completed within the required timeframes

30. A general contractor on a public school project funded by the State of Ohio fails to pay a concrete subcontractor \$95,000 for completed work. The concrete subcontractor considers filing a mechanic's lien. The subcontractor's attorney advises against filing a lien. Why?

- A. The attorney is incorrect because mechanic's liens can be filed against any property where construction work was performed
- B. The attorney is incorrect because public school property is treated the same as private property for lien purposes
- C. The attorney advises exploring the general contractor's personal assets before pursuing any lien or bond claim
- D. Mechanic's liens cannot be filed against governmentowned property and the subcontractor should pursue a payment bond claim instead

31. A property owner on a private commercial project receives conditional partial lien waivers from three subcontractors with each monthly progress payment to the general contractor. After twelve months and substantial completion, the owner requests final lien waivers. One subcontractor submits a conditional final waiver. The other two submit unconditional final waivers. The owner releases retainage to the GC. The GC goes bankrupt before paying the subcontractor who submitted the conditional waiver. What is that subcontractor's lien status?

- A. The subcontractor has no lien rights because the owner released retainage to the GC

- B. The subcontractor's conditional final waiver is not effective because the subcontractor never received the final payment so lien rights remain intact
- C. The subcontractor's lien rights were extinguished when the other two subcontractors signed unconditional waivers
- D. The subcontractor must wait for the GC's bankruptcy proceeding to conclude before asserting any lien rights

32. A contractor files a mechanic's lien affidavit for \$130,000 on a commercial property. The lien is filed on June 1 of Year 1. The contractor and property owner negotiate periodically but never reach a resolution. The contractor does not file a foreclosure lawsuit. On July 15 of Year 7 — more than six years after filing — the contractor files a foreclosure action. What is the status of the lien?

- A. The lien has expired because the contractor did not file the foreclosure action within six years of the lien filing date and the court will dismiss the case
- B. The lien remains valid because the ongoing negotiations tolled the sixyear enforcement deadline
- C. The lien is enforceable because Ohio's lien enforcement period is ten years not six years
- D. The lien is automatically renewed every six years without any action required by the contractor

33. A commercial building project involves three tiers of contractors. The owner contracts with General Contractor ABC. ABC subcontracts HVAC work to Mechanical Corp. Mechanical Corp hires Ductwork Plus as a subsubcontractor. Ductwork Plus is not paid \$42,000 for completed work. The project is private. Under Ohio's mechanic's lien law, does Ductwork Plus have lien rights?

- A. No because only firsttier subcontractors with direct contracts with the general contractor can file mechanic's liens
- B. No because subsubcontractors must pursue their claims exclusively through the subcontractor who hired them
- C. Yes because Ohio's mechanic's lien statute extends lien rights to parties at any tier who furnish labor or materials provided they comply with notice and filing requirements
- D. Yes but only if Ductwork Plus files the lien within thirty days rather than the standard sixtyday deadline

34. Under OSHA's excavation standard, a competent person inspects a trench at the start of the workday and determines conditions are safe. By midafternoon, heavy rain begins and continues for thirty minutes. Workers have exited the trench during the rain. After the rain stops, the foreman directs workers back into the trench. Is an additional competent person inspection required?

- A. No because the morning inspection covers the full workday regardless of weather changes
- B. No because a thirtyminute rainstorm is too brief to affect trench stability in most soil conditions
- C. Yes but the inspection can be conducted at the start of the next workday rather than immediately after the rain
- D. Yes because the competent person must inspect the trench after every rainstorm or other hazardincreasing event before allowing workers to reenter

35. A contractor's new employee begins work on Monday. The employer completes Section 1 of the I9 form on Monday. The employer examines the employee's identity and work authorization documents and completes Section 2 on Thursday of the same week — the employee's fourth day of work. Was the I9 completed timely?

- A. No because Section 2 must be completed on the employee's first day of work simultaneously with Section 1
- B. Yes because the employer has three business days from the date of hire to complete Section 2
- C. No because Section 2 must be completed within twentyfour hours of the employee's start date
- D. Yes because the employer has five business days to complete Section 2 for construction industry employees

36. A contractor's job cost report at month six of a twelvemonth project shows the following: original budget \$640,000, approved changes \$45,000, revised budget \$685,000, costs to date \$480,000, estimated to complete \$240,000, projected total \$720,000. The project manager reviews the report and identifies the projected \$35,000 overrun. What is the most important next step?

- A. Investigate the specific cost categories driving the overrun to identify root causes and implement corrective actions before the remaining \$240,000 is spent
- B. Request a change order from the owner to cover the \$35,000 projected overrun
- C. Reduce the estimated cost to complete by \$35,000 to bring the projection back in line with the budget

D. Accept the overrun because construction projects routinely exceed their budgets by five to ten percent

37. A contractor's income statement for the quarter shows revenue of \$825,000 and cost of revenue of \$660,000. General overhead for the quarter is \$115,000. The contractor's annual overhead budget is \$460,000. At this pace, the contractor's annual revenue would be \$3,300,000. What is the projected annual net operating income and is the contractor above or below breakeven?

A. Projected annual net operating income is \$200,000 and the contractor is above breakeven

B. Projected annual net operating income is \$660,000 and the contractor is significantly above breakeven

C. Projected annual net operating income is zero and the contractor is exactly at breakeven

D. Projected annual net operating income is \$200,000 and the contractor is above the breakeven revenue of \$2,300,000

38. An Ohio employer with sixty employees has a group health insurance plan. An employee is terminated and elects COBRA continuation coverage. The employee pays the required premium for four months then stops paying. The employer sends a notice that COBRA coverage will be terminated for nonpayment. Is the employer's action proper?

A. No because COBRA requires the employer to continue coverage for the full eighteen months regardless of premium payment

B. No because the employer must provide at least ninety days' written notice before terminating COBRA coverage

C. Yes because COBRA coverage may be terminated when the qualified beneficiary fails to make timely premium payments

D. Yes but only if the employer offers the employee a reduced premium rate as an alternative to termination

39. A nonexempt construction worker earns \$29.00 per hour. During a workweek, the worker performs forty hours of regular plumbing work and an additional eight hours of overtime helping with a different task — carrying materials for the framing crew. The employer pays the worker \$29.00 per hour for all

fortyeight hours, arguing that the eight overtime hours were for unskilled labor that warrants a lower rate. Is the employer's payment correct?

- A. No because overtime must be paid at 1.5 times the regular rate for all hours over forty regardless of the task performed during the overtime hours
- B. Yes because the employer may pay a lower rate for unskilled labor performed during overtime hours
- C. No because the worker should receive double time for performing work outside their primary trade classification
- D. Yes because carrying materials is not construction work and is therefore exempt from overtime requirements

40. An Ohio contractor operating as a sole proprietor contributes the maximum allowable amount to a SEPIRA retirement plan. The contribution is \$15,000. The contractor's net selfemployment income is \$130,000. What is the primary tax effect of this contribution?

- A. The contribution reduces selfemployment tax by \$15,000 in addition to reducing income tax
- B. The contribution reduces taxable income by \$15,000 for federal income tax purposes as a deductible business expense
- C. The contribution creates a \$15,000 tax credit that directly reduces the contractor's tax liability dollarfordollar
- D. The contribution has no current tax effect because retirement plan contributions are taxed when withdrawn

41. An Ohio contractor purchases plumbing supplies from a Michigan distributor who does not collect Ohio sales tax. The contractor also purchases electrical supplies from an Ohio wholesaler who charges Ohio sales tax at the point of sale. Both sets of materials are installed on the same private commercial project. What are the contractor's respective tax obligations on each purchase?

- A. Sales tax is owed only on the Ohio purchase because interstate purchases are exempt from all state taxes
- B. Use tax is owed on both purchases because installation on a commercial project triggers use tax on all materials
- C. Sales tax was already paid on the Ohio purchase and is owed on neither because the Michigan purchase is exempt

D. Sales tax was properly paid on the Ohio purchase and use tax is owed on the Michigan purchase because Ohio tax was not collected at the point of sale

42. A contractor's surety company conducts an annual review and notes that the contractor's accounts receivable have aged significantly — thirty percent of receivables are now over ninety days old compared to ten percent the prior year. The contractor's revenue and profit margins are unchanged. Why does the surety view this negatively?

A. Aged receivables indicate the contractor is performing inferior work that customers refuse to pay for

B. Aged receivables have no effect on surety evaluations because revenue and margins are the only relevant factors

C. Aged receivables signal potential collection problems that could strain cash flow, increase borrowing, and raise the risk that some receivables may become uncollectible

D. Aged receivables indicate the contractor is extending excessively generous payment terms to win competitive bids

43. Under OSHA's Hazard Communication Standard, a construction employer receives a new chemical product on the jobsite. The product has a GHS-compliant label and the manufacturer has provided a Safety Data Sheet. Before workers use the product, what must the employer do?

A. Train workers on the specific hazards of the new chemical, the protective measures required, how to read the label, and how to access the Safety Data Sheet

B. Post the Safety Data Sheet on the jobsite bulletin board and assume workers will read it independently

C. Submit the Safety Data Sheet to OSHA for approval before allowing the product to be used on the jobsite

D. Require the chemical manufacturer to send a representative to the jobsite to conduct the training directly

44. A contractor's scaffolding competent person discovers during the morning inspection that the scaffold's base plates are sinking into soft ground after overnight rain. The mud jacks supporting two

legs have shifted, creating a visible lean. Workers are scheduled to begin work on the scaffold in twenty minutes. What must the competent person do?

- A. Allow workers on the scaffold while maintenance crews level the base plates during the first work break
- B. Prohibit all use of the scaffold, tag it as unsafe, and require the scaffold to be releveled and base plates reset on stable bearing surfaces before any worker is permitted on the scaffold
- C. Reduce scaffold occupancy to two workers maximum until the ground dries and the scaffold stabilizes
- D. Allow work to proceed if the lean is less than five degrees from vertical which is within the OSHA tolerance

45. A contractor terminates an employee for repeated tardiness. The employee had previously filed a complaint with the Ohio Department of Taxation alleging the contractor was not properly withholding municipal income taxes. The termination occurs three weeks after the complaint was filed. The employee claims retaliation. What is the most important factor in determining whether the termination was retaliatory?

- A. Whether the contractor was aware of the employee's complaint to the Department of Taxation at the time of termination
- B. Whether the contractor has a written tardiness policy that was consistently applied to all employees
- C. Whether the employee's complaint to the Department of Taxation was ultimately found to be valid
- D. Whether the threeweek gap between the complaint and termination is sufficient to establish a causal connection under Ohio law

46. A contractor's project has a CPM schedule with a project duration of 120 days. At the Day 60 update, the critical path has shifted from Path A to Path B due to a fifteen-day delay on Activity M (which was originally on Path B with only ten days of float). The original critical Path A now shows five days of float. What is the revised project duration?

- A. 120 days because the critical path shift does not change the total project duration
- B. 135 days because the fifteen-day delay on Activity M is added to the original project duration
- C. 125 days because Activity M's fifteen-day delay consumed its ten days of float and exceeded it by five days extending the project

D. 130 days because the ten days of consumed float on Path B are added to the original duration

47. A contractor on a commercial project uses the percentage of completion method. The contract price is \$1,100,000. Original estimated total cost is \$880,000. At the forty percent completion point, costs to date are \$352,000. A change order adds \$75,000 to the contract price and \$60,000 to the estimated total cost. What is the revised revenue recognized to date?

A. \$440,000 calculated as forty percent of the original contract price because the change order applies to future work only

B. \$470,000 calculated as forty percent of the revised contract price of \$1,175,000

C. \$352,000 equal to costs to date because the completed contract method applies until the change order is executed

D. \$417,500 calculated as the average of the original and revised contract prices at forty percent completion

48. A contractor's balance sheet shows current assets of \$395,000, noncurrent assets of \$285,000, current liabilities of \$310,000, and longterm liabilities of \$170,000. A bonding company uses the guideline that bonding capacity equals approximately twelve times working capital. What is the contractor's approximate bonding capacity?

A. \$4,740,000 based on twelve times the difference between current assets and current liabilities

B. \$1,020,000 based on twelve times the working capital of \$85,000

C. \$2,400,000 based on twelve times the company's total equity

D. \$3,720,000 based on twelve times the difference between total assets and longterm liabilities

49. An Ohio contractor on a DavisBacon covered federal project employs laborers at \$22.00 per hour. The prevailing wage determination for laborers specifies \$26.50 per hour base rate plus \$12.75 in fringe benefits. The contractor does not pay any fringe benefits. What is the total hourly underpayment per laborer?

A. \$4.50 representing the difference between the paid rate and the required base rate only

B. \$12.75 representing the unpaid fringe benefit portion only

C. \$22.00 representing the full amount paid because the entire wage structure is noncompliant

D. \$17.25 representing the combined underpayment of \$4.50 in base rate plus \$12.75 in fringe benefits

50. A contractor files a mechanic's lien on a private commercial property for \$88,000. The property owner disputes the lien and wants to sell the property. The owner posts a surety bond at one hundred fifty percent of the lien amount to discharge the lien from the title. What is the bond amount and what happens to the contractor's claim?

A. Bond amount is \$88,000 and the contractor's claim is automatically settled for that amount

B. Bond amount is \$110,000 and the contractor must refile the lien against the bond within thirty days

C. Bond amount is \$132,000 and the contractor's security interest transfers from the property to the bond while the underlying dispute continues

D. Bond amount is \$176,000 and the contractor's claim is permanently extinguished

## Practice Exam 10: Answer Key and Explanations

**1. B** — While LLCs provide limited liability, courts can disregard that protection when members blur the distinction between their roles — particularly when a nonmanaging member begins actively managing operations in ways that contradict the operating agreement. Directing workers, signing purchase orders, and making operational decisions look like manager behavior, and a court could find the member's conduct inconsistent with the limited liability the LLC structure is meant to provide.

**2. D** — As a sole proprietor, the full \$210,000 is subject to the 15.3% selfemployment tax. Under the Scorp, only the \$110,000 salary is subject to FICA, while the \$100,000 in distributions avoids FICA and selfemployment tax entirely. The savings is approximately  $15.3\% \times \$100,000 = \$15,300$ . The IRS requires the \$110,000 salary to be reasonable for the work performed.

**3. C** — Pipeline revenue based on a projected win rate is inherently speculative because the bids have not been awarded. Presenting \$600,000 as a fixed number overstates the certainty of that revenue. Best practice is to present pipeline revenue as a range — optimistic, expected, and conservative — so readers of the business plan understand the uncertainty associated with unawarded work.

**4. A** — The OCILB requires contractors to maintain current insurance documentation on file at all times. Switching carriers without submitting the new certificate creates a compliance gap — the license remains active but the contractor is not meeting the documentation requirement. The OCILB may issue a notice of noncompliance, and if the lapse is not corrected, the Board can take action against the license.

**5. B** — ORC Chapter 4740 requires building departments to verify that a contractor holds a valid OCILB license before issuing commercial permits in the five licensed trades. If the building department discovers that the contractor's license has expired during an active project, the department

has authority to stop the work and may revoke the permit. The contractor cannot continue performing licensed work without a valid license.

**6. D** — Submitting a bid that does not account for a significant scope change introduced by an addendum risks a major cost overrun if the contractor wins. Adding qualifications or allowances may make the bid nonresponsive. The most prudent action is to withdraw from the bidding rather than submit an inaccurate or nonresponsive bid. A knownbad bid is worse than no bid.

**7. A** — Total cost:  $\$145,000 + \$98,000 + \$22,000 + \$115,000 + \$30,400 + \$49,400 = \$459,800$ . To achieve a fifteen percent margin on selling price, the bid price = total cost  $\div (1 - \text{margin}) = \$459,800 \div 0.85 = \$541,176$ . A fifteen percent markup on cost ( $\$459,800 \times 1.15 = \$528,770$ ) produces only a 13% margin on selling price — markup and margin are different calculations.

**8. C** — Shop drawing approval by the architect does not relieve the contractor of the obligation to comply with the contract documents. The architect's review verifies general conformance with design intent but does not constitute acceptance of deviations from the specifications. The steel subcontractor is responsible for furnishing and installing the correct beam size as specified, and must replace the undersized beams at its own expense.

**9. B** — Lost rental income is a consequential damage — an indirect financial loss resulting from the delay, not a direct cost of the construction work. The mutual waiver of consequential damages explicitly bars both parties from recovering consequential, incidental, or indirect damages. The owner cannot recover the \$250,000 in lost rental income regardless of whether the contractor caused the delay.

**10. D** — Liquidated damages are evaluated for reasonableness at the time of contracting, not by comparing them to actual damages after the fact. The test is whether the liquidated amount was a reasonable estimate of anticipated damages at the time the contract was signed and whether actual damages were difficult to calculate precisely. Courts do not retroactively invalidate liquidated damages simply because they differ from actual damages.

**11. A** — The subcontract incorporates the prime contract's dispute resolution process through the flowdown clause, binding the subcontractor to mediation followed by binding arbitration. Because the sub agreed to this process by signing the subcontract, the GC can compel arbitration by filing a motion to stay the lawsuit and compel the contractually mandated dispute resolution procedure.

**12. C** — Substantial completion means the owner can occupy or use the building for its intended purpose. Five units with incomplete HVAC — missing thermostats, unconnected drains, and incomplete ductwork — are not habitable and cannot be occupied. These are not minor punch list deficiencies; they are functional deficiencies that prevent the intended use of twelve and a half percent of the building.

**13. D** — The RFI log provides documented evidence of submission dates, response dates, and the elapsed time for each response. By correlating late RFI responses with the activities that depended on those responses, the contractor can demonstrate specific schedule impacts caused by the delayed information. The log transforms a general delay allegation into a documented, factbased claim supported by contemporaneous records.

**14. B** — OSHA requires a competent person to inspect scaffolds before each work shift, but the inspection is a visual examination for observable hazards. A hidden internal crack that is not visible

during a proper visual inspection may not be reasonably detectable. If the employer maintained a compliant inspection program and documented the inspection, the employer may avoid a citation because the defect was not foreseeable through the required inspection method.

**15. A** — Contractors have the right to contest OSHA citations by filing a notice of contest with the OSHA area director within fifteen working days of receiving the citations. If a timely contest is filed, the case is referred to the Occupational Safety and Health Review Commission for a hearing before an administrative law judge. Failure to file within fifteen working days makes the citations final and nonappealable.

**16. C** — Many general contractors establish EMR thresholds as prequalification requirements for subcontractors. A 1.30 EMR exceeds the 1.0 threshold, and the contractor will be disqualified from the project. The elevated EMR signals higher than average workplace injury frequency, which increases the GC's risk exposure. Not disclosing the EMR does not change the outcome — prequalification review will uncover it.

**17. D** — Builder's risk insurance covers physical damage to the building under construction from covered perils including windstorms. The policy pays the cost of repairs minus the deductible:  $\$180,000 - \$25,000 = \$155,000$ . The deductible is the contractor's or owner's outofpocket cost before the insurance responds. Builder's risk is specifically designed for this type of construction phase loss.

**18. B** — The contract requires both additional insured status and a waiver of subrogation endorsement. The certificate missing the waiver of subrogation means the contractual requirement is not documented as satisfied. The GC should require an updated certificate confirming the waiver before allowing the subcontractor to begin work, ensuring full compliance with the contractual insurance requirements.

**19. A** — The exclusive remedy doctrine means workers' compensation is the employee's sole remedy against the employer for workplace injuries, barring the employee from filing negligence lawsuits against the employer. The most significant exception is when the employer acts with deliberate intent to injure the employee — an intentional tort that falls outside the workers' compensation bargain.

**20. C** — Base premium:  $(\$550,000 \div \$100) \times \$8.90 = \$48,950$ . Premium at 1.12 EMR:  $\$48,950 \times 1.12 = \$54,824$ . Premium at 0.88 EMR:  $\$48,950 \times 0.88 = \$43,076$ . Savings:  $\$54,824 - \$43,076 = \$11,748$  per year. The 0.24 EMR improvement translates to nearly \$12,000 in annual premium savings — a direct financial return on the investment in safety programs.

**21. C** — Cutting concrete masonry generates respirable crystalline silica, which is regulated under OSHA's silica standard (29 CFR 1926.1153). The standard requires employers to assess worker exposure, implement engineering controls (water suppression or vacuum extraction), provide respiratory protection when controls are insufficient, and offer medical surveillance. Multiple requirements of the silica standard are being violated simultaneously.

**22. B** — The National Labor Relations Act protects employees' right to engage in concerted activity for mutual aid or protection, which includes discussing wages and working conditions with coworkers. This protection applies to all private sector employees, not just unionized workers. The foreman's threat of discipline for discussing wages is an unfair labor practice that violates the NLRA.

**23. D** — Dated photographs showing the specified piping material labels visible during installation provide strong contemporaneous evidence that the correct materials were used. Photographs taken at the time of installation are far more credible than after-the-fact allegations, especially when the work is

now concealed. Photographic documentation of concealed work before closure is one of the most valuable project management practices.

**24. A** — Gross profit:  $\$3,500,000 - \$2,800,000 = \$700,000$ . Gross profit margin:  $\$700,000 \div \$3,500,000 = 20\%$ . Breakeven revenue:  $\$525,000 \div 0.20 = \$2,625,000$ . The contractor must generate at least  $\$2,625,000$  in annual revenue to cover the  $\$525,000$  in overhead. Revenue above  $\$2,625,000$  generates profit; revenue below generates a loss.

**25. C** — Partnership income is allocated based on the profitsharing ratio in the partnership agreement, not on the amount of cash actually withdrawn. With three equal partners and  $\$450,000$  in net income, each partner reports  $\$150,000$  on their personal tax return regardless of whether they withdrew  $\$200,000$ ,  $\$100,000$ , or  $\$50,000$ . Cash withdrawals are distributions of alreadytaxed income, not determinants of taxable income.

**26. B** — Ohio unemployment compensation may be denied when the termination is for disqualifying misconduct. Theft is one of the clearest forms of willful misconduct — a deliberate violation of the employer's trust and workplace rules. The employer's documentation of the theft supports denial of the unemployment claim, though the final determination is made by the Ohio Department of Job and Family Services.

**27. A** — Ohio municipal income tax is based on where the work is performed, not where the employer is headquartered. Employees working at the Canton jobsite should have Canton municipal income tax withheld from their wages for the hours worked in Canton. The contractor's error of withholding Akron tax instead of Canton tax creates a liability to Canton and a potential credit issue with Akron.

**28. D** — The 0.26% CAT rate applies to taxable gross receipts above  $\$1,000,000$ . Taxable portion:  $\$1,600,000 - \$1,000,000 = \$600,000$ . Tax:  $\$600,000 \times 0.0026 = \$1,560$ . The contractor also owes the minimum tax for the portion between  $\$150,000$  and  $\$1,000,000$  which is a separate flat amount. The total liability combines the minimum tax plus the percentage on receipts above  $\$1,000,000$ .

**29. B** — Notice of Furnishing: served on Day 15 (within twentyone days — timely ✓). Lien affidavit: filed on November 25, fiftysix days after September 30 last furnishing (within sixty days — timely ✓). Service on owner: December 28, thirtythree days after November 25 filing (exceeds thirtyday deadline by three days — untimely X). The late service may affect the enforceability of the lien.

**30. D** — Mechanic's liens cannot be filed against governmentowned property. Public schools are government property, and the subcontractor's attorney correctly advises against filing a lien. The subcontractor's remedy is to file a claim against the payment bond that the general contractor was required to furnish under Ohio's public improvement bond requirements.

**31. B** — A conditional final lien waiver is effective only when the stated condition is met — actual receipt of the final payment. The GC went bankrupt before paying this subcontractor, so the condition was never satisfied and the waiver never became effective. The subcontractor's lien rights remain intact. This is exactly why conditional waivers — not unconditional waivers — should be used until payment is verified.

**32. A** — Ohio requires the foreclosure action to enforce a mechanic's lien to be filed within six years of the date the lien affidavit was filed with the county recorder. The lien was filed on June 1 of Year

1, making the enforcement deadline June 1 of Year 7. Filing on July 15 of Year 7 exceeds the six-year deadline by forty-four days. The lien has expired and is no longer enforceable.

**33. C** — Ohio's mechanic's lien statute extends lien rights to any person who furnishes labor, materials, or services for the improvement of real property, regardless of their tier in the contractual chain. Ductwork Plus, as a subsubcontractor, has lien rights provided they comply with all statutory requirements — including serving a Notice of Furnishing within twenty-one days and filing the lien affidavit within sixty days of last furnishing.

**34. D** — OSHA's excavation standard requires the competent person to inspect the trench after every rainstorm, thaw, or other hazard-increasing event before allowing workers to reenter. Rain can destabilize trench walls, saturate soil, and undermine protective systems. The competent person must evaluate conditions after the rain and determine that the trench is safe before workers return.

**35. B** — The employer has three business days from the employee's date of hire to complete Section 2 of the I9 form. The employee started on Monday, and the employer completed Section 2 on Thursday — the third business day (Tuesday, Wednesday, Thursday). This is within the three-business-day window and compliant with IRCA requirements.

**36. A** — The projected \$35,000 overrun requires immediate investigation to identify which specific cost categories are driving the excess — labor, materials, equipment, or subcontractor costs. Identifying the root cause allows the project manager to implement targeted corrective actions on the remaining \$240,000 of work before the overrun worsens. Waiting, accepting, or artificially adjusting the projection are all counterproductive responses.

**37. D** — Quarterly gross profit:  $\$825,000 - \$660,000 = \$165,000$ . Projected annual gross profit:  $\$165,000 \times 4 = \$660,000$ . Projected annual overhead:  $\$115,000 \times 4 = \$460,000$ . Projected net operating income:  $\$660,000 - \$460,000 = \$200,000$ . Breakeven:  $\$460,000 \div (\$660,000 \div \$3,300,000) = \$460,000 \div 0.20 = \$2,300,000$ . At \$3,300,000 projected revenue, the contractor is above the \$2,300,000 breakeven point.

**38. C** — COBRA requires qualified beneficiaries to pay the full premium (up to 102% of the cost) to maintain coverage. If the beneficiary fails to make timely premium payments, the employer may terminate COBRA coverage after providing proper notice. COBRA does not require the employer to continue coverage for free or at a reduced rate — the beneficiary's obligation is to pay the premium on time.

**39. A** — Under the FLSA, overtime must be paid at 1.5 times the regular rate for all hours exceeding forty in a workweek, regardless of the type of work performed during the overtime hours. The employer cannot pay a lower rate for overtime hours because the tasks were different from the employee's primary duties. All eight overtime hours must be compensated at \$43.50 per hour ( $1.5 \times \$29.00$ ).

**40. B** — SEPIRA contributions are tax-deductible as a business expense, reducing the contractor's federal taxable income by the amount contributed. A \$15,000 contribution reduces taxable income from \$130,000 to \$115,000, producing a corresponding income tax reduction based on the contractor's marginal tax rate. The contribution does not reduce self-employment tax, which is calculated on net self-employment income.

**41. D** — The Ohio purchase from the local wholesaler included Ohio sales tax at the point of sale — the tax obligation is satisfied. The Michigan purchase did not include Ohio sales tax because the outofstate distributor did not collect it. The contractor owes Ohio use tax on the Michigan purchase at the same rate as Ohio sales tax. The use tax prevents avoidance of Ohio tax through outofstate purchasing.

**42. C** — Significantly aged receivables signal potential collection problems — customers are taking much longer to pay or may not pay at all. This trend can strain cash flow (the contractor has performed work but not been paid), increase borrowing requirements (to fund operations while waiting for collections), and raise the risk of bad debts. Sureties view deteriorating collection patterns as a leading indicator of financial distress.

**43. A** — The Hazard Communication Standard requires employers to train workers on specific chemical hazards before the workers use the product. Training must cover the chemical's hazards, protective measures, how to read the GHS label, and how to access the Safety Data Sheet. Simply posting the SDS without active training does not satisfy the employer's obligation.

**44. B** — A scaffold with shifting base plates and visible lean presents an immediate structural failure risk. The competent person must prohibit all use of the scaffold, tag it as unsafe, and require it to be releveled on stable bearing surfaces before any worker is permitted on the platform. Allowing reduced occupancy or continued use while repairs are pending does not eliminate the structural hazard.

**45. D** — Retaliation claims require establishing a causal connection between the protected activity and the adverse employment action. The threeweek gap between the complaint filing and the termination is a key temporal factor — close proximity in time supports an inference of retaliation. Combined with the contractor's awareness of the complaint and documentation of the tardiness history, the timing is the most critical element.

**46. C** — Activity M had ten days of float but was delayed by fifteen days — consuming all ten days of float and exceeding it by five days. The five excess days push the project completion date from 120 to 125 days. Path B is now the critical path with zero float, and the original Path A now has five days of float because the project duration extended beyond its original length.

**47. B** — Revised contract price:  $\$1,100,000 + \$75,000 = \$1,175,000$ . Revised estimated total cost:  $\$880,000 + \$60,000 = \$940,000$ . Percentage complete:  $\$352,000 \div \$940,000 = 37.4\%$ , approximately 40% (using the original completion stage as the change occurred at the 40% point). Revenue to date:  $40\% \times \$1,175,000 = \$470,000$ . The change order increases both the contract price and the total estimated cost, and the percentageofcompletion calculation is updated accordingly.

**48. B** — Working capital = current assets – current liabilities =  $\$395,000 - \$310,000 = \$85,000$ . Bonding capacity at twelve times working capital:  $12 \times \$85,000 = \$1,020,000$ . This represents the surety's guideline for the maximum aggregate bonded work the contractor can support. To increase bonding capacity, the contractor must increase working capital by growing current assets or reducing current liabilities.

**49. D** — The contractor pays \$22.00 per hour but the prevailing wage requires \$26.50 base plus \$12.75 fringe = \$39.25 total. The total underpayment is  $\$39.25 - \$22.00 = \$17.25$  per hour per laborer. The contractor is deficient in both the base rate (\$4.50 short) and the fringe benefit amount (\$12.75 entirely unpaid). DavisBacon violations require backpay of the full deficiency plus potential debarment.

**50. C** — The bond at 150% of the \$88,000 lien = \$132,000. Posting the bond discharges the lien from the property title, allowing the owner to sell with clear title. The contractor's security interest transfers from the property to the bond — the contractor can still pursue the claim against the bond through foreclosure proceedings. The underlying dispute is not resolved by the bond; only the encumbrance on the property is removed.