

AUE1601 Summary

SEMESTER 2 – 2015

Topic 2: Interpretation, purpose, application and formation of a company

Study unit 2.1

Related and interrelated persons, and control (Sec 2) and Subsidiary relationships (Sec 3)

- **Consanguinity:** blood relationship
 - First degree: children (incl. adopted) and parents
 - Second degree: brother, sister, grandparents, grandchildren – there is at least one generation between you and a person related to you in the second degree
- **Affinity:** due to valid marriage
 - First degree: husband and wife or living together similar to marriage
 - Second degree: same as the underlying degree of relationship by blood
- **An individual related to juristic person:**
 - Individual directly/indirectly controls juristic person
- **A juristic person related to another juristic person:**
 - Either of them directly or indirectly controls the other or the business of the other, or
 - Either is a subsidiary of the other, or
 - A person directly or indirectly controls each of them or the business of each of them

From revision slides:

Relationship between individual and juristic person (company)

- Individual holds majority of shares in company (51% or more)
- Individual together with related/inter related person holds majority of shares (e.g. John, his wife, and his brother together holds 51% or more)
- Individual's wife or brother or child or parents holds 51% or more (even though the individual may hold nothing)
- Individual, although holding 0% or less than 50% of the shares, has the right to appoint or choose directors who controls the board.

From revision slides:

Relationship between juristic person and juristic person (company and company)

- Company A holds 51% or more of the shares in Company B
- Company A is able to appoint or choose the directors that controls the board of Company B
- John and/or his wife together holds 51% or more of the shares in both Company A and Company B
- Company A holds 51% in Company B and Company B holds 100% in Company C (all three are related and part of the same group).

- **A person controls a juristic person or its business if:**
 - If the juristic person is a company:
 - The juristic person is a subsidiary of the first person (refer to first section under subsidiary relationships), or
 - The first person together with a related or interrelated person is
 - Able to directly or indirectly exercise or control the majority of voting rights of securities of the company, whether pursuant to a shareholder agreement or otherwise, or
 - Has the right to (or control of right) appoint or elect directors of the company who control the majority of the votes at a board meeting

Aue1601 Notes

Daniela Niemeyer



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Table of Contents Aue1601 Notes

1. Understanding the eBook Aue1601 Notes
 - The Rise of Digital Reading Aue1601 Notes
 - Advantages of eBooks Over Traditional Books
2. Identifying Aue1601 Notes
 - Exploring Different Genres
 - Considering Fiction vs. Non-Fiction
 - Determining Your Reading Goals
3. Choosing the Right eBook Platform
 - Popular eBook Platforms
 - Features to Look for in an Aue1601 Notes
 - User-Friendly Interface
4. Exploring eBook Recommendations from Aue1601 Notes
 - Personalized Recommendations
 - Aue1601 Notes User Reviews and Ratings
 - Aue1601 Notes and Bestseller Lists

5. Accessing Aue1601 Notes Free and Paid eBooks
 - Aue1601 Notes Public Domain eBooks
 - Aue1601 Notes eBook Subscription Services
 - Aue1601 Notes Budget-Friendly Options
6. Navigating Aue1601 Notes eBook Formats
 - ePub, PDF, MOBI, and More
 - Aue1601 Notes Compatibility with Devices
 - Aue1601 Notes Enhanced eBook Features
7. Enhancing Your Reading Experience
 - Adjustable Fonts and Text Sizes of Aue1601 Notes
 - Highlighting and Note-Taking Aue1601 Notes
 - Interactive Elements Aue1601 Notes
8. Staying Engaged with Aue1601 Notes
 - Joining Online Reading Communities
 - Participating in Virtual Book Clubs
 - Following Authors and Publishers Aue1601 Notes
9. Balancing eBooks and Physical Books Aue1601 Notes
 - Benefits of a Digital Library
 - Creating a Diverse Reading Collection Aue1601 Notes
10. Overcoming Reading Challenges
 - Dealing with Digital Eye Strain
 - Minimizing Distractions
 - Managing Screen Time
11. Cultivating a Reading Routine Aue1601 Notes
 - Setting Reading Goals Aue1601 Notes
 - Carving Out Dedicated Reading Time
12. Sourcing Reliable Information of Aue1601 Notes
 - Fact-Checking eBook Content of Aue1601 Notes
 - Distinguishing Credible Sources
13. Promoting Lifelong Learning

- Utilizing eBooks for Skill Development
 - Exploring Educational eBooks
14. Embracing eBook Trends
- Integration of Multimedia Elements
 - Interactive and Gamified eBooks

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