MOMETRIX
SMARTER PREP. BETTER RESULTS.

PRACTICE QUESTIONS

The State Bar of California (Legal Specialist Examination) - Test Center

BAN

Bankruptcy Law

EDITION	QUESTIONS	FORMAT
Demo	9	Limited Edition PDF

WEB www.mometrix.net

SUPPORT support@mometrix.net

Before you begin

What this is

9 practice questions for The State Bar of California (Legal Specialist Examination) - Test Center `BAN`, each with its answer key and an explanation. Answer a question before you read its key — the explanation is worth more once you have committed.

If something looks wrong

Send us three things and we will check it:

- the exam code, `BAN`
- the question number
- the email address on your order

Write to **support@mometrix.net**. We reply within one business day.

QUESTION 1 SINGLE CHOICE

Under Chapter 7 of the Bankruptcy Code, which of the following best describes the "means test"?

A A test applied only to business debtors to determine whether they may file under Chapter 7.

B A calculation comparing a debtor's current monthly income to the median income of a similarly sized household in the debtor's state, used to determine whether an individual debtor's debts are primarily consumer debts and whether the debtor has the ability to pay.

C A mechanism by which a creditor can challenge the dischargeability of a particular debt.

D A requirement that the debtor liquidate all nonexempt property before the court will grant a discharge.

ANSWER **B**

WHY The means test under 11 U.S.C. § 707(b) is applied to individual debtors with primarily consumer debts. It compares current monthly income to the applicable median income for the debtor's state and household size to determine eligibility for Chapter 7 relief. It does not apply to business debtors, is not a creditor's tool for challenging dischargeability of a specific debt, and is not a requirement to liquidate all nonexempt property.

QUESTION 2 SINGLE CHOICE

On the petition date, the automatic stay of 11 U.S.C. § 362(a) generally operates to:

A Stay only secured creditors from continuing to enforce their liens against the debtor.

B **Operate as a stay of the commencement or continuation of any action against the debtor, of any act to obtain possession of property of the estate, and of any act to enforce a pre-petition judgment, with statutory exceptions.**

C Permanently discharge all of the debtor's pre-petition obligations upon filing.

D Apply only to actions filed in federal court and not to actions pending in state court.

ANSWER **B**

WHY Section 362(a) provides a broad stay against the commencement or continuation of judicial, administrative, or other proceedings against the debtor, actions to enforce pre-petition judgments, acts to obtain possession of estate property, and acts to enforce liens. The stay applies to proceedings in both state and federal court, and contains important statutory exceptions (e.g., certain criminal matters and certain regulatory actions). It does not, by itself, discharge any debt.

QUESTION 3 SINGLE CHOICE

Which of the following debts is generally excepted from discharge under 11 U.S.C. § 523(a)(2)?

A A credit card purchase made by the debtor within 90 days before the petition for ordinary household expenses.

B **Money, property, or services obtained by false pretenses, false representations, or actual fraud (other than a statement in writing respecting the debtor's financial condition).**

C Student loan obligations, unless undue hardship is established.

D Debts arising from a pre-petition divorce decree that are not in the nature of support.

ANSWER **B**

WHY Section 523(a)(2) excepts from discharge debts for money, property, or services obtained by false pretenses, false representations, or actual fraud. It also addresses written statements about the debtor's financial condition under a separate subparagraph. Student loans are addressed separately under § 523(a)(8). Routine pre-petition credit card purchases are not categorically nondischargeable.

QUESTION 4 SINGLE CHOICE

Under 11 U.S.C. § 547(b), the trustee may avoid a pre-petition transfer of property of the debtor if which of the following elements is satisfied?

A The transfer was made with the specific intent to hinder, delay, or defraud creditors.

B **The transfer was of property of the debtor, made on or within 90 days before the petition date, to a non-insider, on account of an antecedent debt, while the debtor was insolvent, that enabled the creditor to receive more than it would in a Chapter 7 distribution.**

C The transfer was a charitable contribution, regardless of amount.

D The transfer was made by a partnership debtor to one of its general partners.

ANSWER **B**

WHY Section 547(b) sets forth the elements for avoidance of a preferential transfer: a transfer of property of the debtor, to or for the benefit of a creditor, on account of an antecedent debt, made while the debtor was insolvent, within 90 days (or one year for insiders) before the petition, that enables the creditor to receive more than it would receive in a Chapter 7 liquidation. Fraudulent transfers are governed by § 548 (and similar state law under § 544). Charitable contributions have a separate provision in § 547(c)(4).

QUESTION 5 SINGLE CHOICE

Which of the following is required for confirmation of a Chapter 13 plan under 11 U.S.C. § 1325?

- **A** **The plan must provide that all unsecured creditors receive no less than they would receive under Chapter 7, and that the plan be proposed in good faith.**
- **B** All secured creditors must receive, at a minimum, the present value of their allowed secured claims paid over the plan's term.
- **C** The plan must pay all priority and unsecured creditors in full on the petition date.
- **D** The plan must be filed only by a debtor who is a partnership.

ANSWER **A**

WHY Section 1325(a) sets forth confirmation requirements, including that the plan be proposed in good faith and that unsecured creditors receive no less than they would receive in a Chapter 7 liquidation (the so-called "best interests of creditors" test). Section 1325(a)(5) addresses the treatment of secured claims where the creditor accepts the plan or where the plan provides for retention and payment of the secured claim. Chapter 13 is available only to individuals (and certain entities in limited circumstances), not partnerships.

QUESTION 6 SINGLE CHOICE

In a California bankruptcy case, a debtor's selection of exemptions is governed primarily by:

A The Internal Revenue Code, which provides a uniform federal exemption regime.

B **The federal exemption provisions of 11 U.S.C. § 522, the California exemption statutes (subject to the debtor's election between the federal nonbankruptcy exemptions listed in § 522(b)(3)(A) and California state exemptions), and applicable case law.**

C Only the Uniform Commercial Code, as adopted in California.

D Only the California Constitution, with no role for the Bankruptcy Code.

ANSWER B

WHY Exemption law in a bankruptcy case is governed by 11 U.S.C. § 522, which permits certain states (including California, which has opted out of the federal exemption scheme) to limit debtors to that state's exemptions. California debtors generally may choose between the federal nonbankruptcy exemptions listed in § 522(b)(3)(A) and the California exemptions, subject to statutory requirements and judicial interpretation. The UCC and the California Constitution are not the exclusive sources.

QUESTION 7 SINGLE CHOICE

Which of the following best describes the role of a debtor-in-possession (DIP) in a Chapter 11 case?

A A court-appointed official who exclusively represents the interests of secured creditors.

B **The debtor, absent appointment of a trustee, who continues to operate the business and is generally vested with the rights and powers of a trustee, subject to court oversight and the requirements of the Bankruptcy Code and Rules.**

C An attorney for unsecured creditors appointed under 11 U.S.C. § 1102.

D A federal judge who oversees the reorganization case.

ANSWER B

WHY In most Chapter 11 cases, the debtor continues in possession of its property and operates the business as a DIP. Under 11 U.S.C. § 1107, the DIP has the rights and powers of a bankruptcy trustee (with limited exceptions) and is subject to oversight by the court and the U.S. Trustee, and to certain requirements such as those imposed by the Sarbanes-Oxley Act and the U.S. Trustee's operating guidelines.

QUESTION 8 SINGLE CHOICE

Under 11 U.S.C. § 507, which of the following describes the general priority of claims in a bankruptcy case?

A Secured claims have first priority over all other claims, including administrative expenses.

B Unsecured claims are paid in full before any secured claim receives any distribution.

C **Administrative expenses and certain priority claims are paid first from estate assets, then secured claims from their collateral, with general unsecured claims paid from remaining proceeds.**

D All creditors share pro rata without distinction.

ANSWER **C**

WHY Section 507 establishes priorities for unsecured claims (administrative expenses, certain wage and benefit claims, certain consumer deposits, certain tax claims, etc.). Priority claims are paid ahead of general unsecured claims. Secured claims are satisfied from the proceeds of their collateral, with any deficiency treated as a general unsecured claim. Distributions do not occur pro rata without regard to lien and priority status.

QUESTION 9 SINGLE CHOICE

Under 11 U.S.C. § 707(b), a court may dismiss a Chapter 7 case filed by an individual debtor whose debts are primarily consumer debts if the court finds that:

A the debtor has any outstanding tax liability

B **granting relief would be a substantial abuse of the provisions of Chapter 7**

C the debtor's income exceeds the state median for all households

D the debtor failed to attend the creditors' meeting

ANSWER **B**

WHY 11 U.S.C. § 707(b) authorizes dismissal (or, with the debtor's consent, conversion to Chapter 11 or 12) of a Chapter 7 case of an individual debtor whose debts are primarily consumer debts when granting relief would be a substantial abuse of Chapter 7. The means test under § 707(b)(2) provides a mechanical framework for finding substantial abuse, but the statutory ground remains 'substantial abuse.' The other options either describe unrelated grounds or misstate the statute.