

EXAM 6 – CANADA, FALL 2012

13. (4.25 points)

a. (1 point)

Identify four reasons for government participation in insurance.

b. (1 point)

For each reason identified in part a. above, provide an example of a government insurance program.

c. (0.75 point)

Identify three criteria for evaluating the performance of the government in providing insurance.

d. (1.5 points)

Evaluate the Terrorism Risk and Insurance Act (TRIA) using each of the criteria identified in part c. above.

CONTINUED ON NEXT PAGE

c.

-RIMS supports the elimination of joint and several liability for all non-economic damages, such as pain and suffering and punitive damages as this would discourage plaintiffs and their counsel from approaching defendants on the 'deep pocket' syndrome.

-Amend it so that defendants pay damages in proportion to their contributory negligence.

-Create a fund to pay for these kinds of lawsuits, similar to PACICC

Actual candidate answer for full marks:

- a) Law that says that a plaintiff can recover losses from multiple defendants collectively or from each defendant individually. Even if a defendant is only 5% liable, he/she may have to cover 100% of damages if other defendants can't contribute their part
- b) Increases efficiency because it keeps the number of trials from being too high resulting in inefficiency. Lawyers only go to trial if believe can prove fully liable, so if only need to prove a % of liability a lot more lawyers would go to trial
- c) –proportionality in awards based on fault
–barring rule for plaintiffs that are a certain % or less at fault

Examiner's report:

- a. This was a foundational definition question. For full marks the graders required the candidate to specify that wrongdoers may be held fully liable even if they were only "partially at fault". Most candidates were able to obtain full marks.
- b. It is important to note that this question pertains to efficiency in the legal system as a whole, not efficiency from the plaintiff's perspective. Many candidates focused only on the plaintiff and stated that the system is beneficial for the plaintiff as it allows the plaintiff to sue only one party. While this is true, it is not the correct answer, as it ignores the settlement process between defendants after the fact where at fault parties could be involved in further negotiations / suits. The graders also gave part marks for "allows the victim full compensation". While this does not directly answer the question as written, part marks were allowed as this was noted as a benefit of Joint and Several in the Harris paper.
- c. This question allowed the candidates several points to choose from. The graders also allowed "set a threshold for joint and several to apply" which, while not directly from the Harris paper was considered a valid answer from other sources.

Question 13

Answer key:

a)/b)

Any 4 of:

- Filling needs unmet by private insurance (examples: crop insurance, flood insurance, TRIA)
- Compulsory purchase of insurance (examples: workers compensation, auto liability in Quebec/Saskatchewan/Manitoba/BC)
- Convenience (examples: Florida Hurricane Catastrophe Fund, TRIA, flood insurance)
- Efficiency (examples: TRIA, government health insurance)
- Social Purposes (examples: workers compensation, social security)

c/d)

Any 3 of:

- Is provision of insurance by the government necessary? (Yes, because availability of terrorism insurance was reduced after 9/11 OR No, because public demand for terrorism insurance has been lower than expected)
- Is it insurance or social welfare? (Insurance, because insurers are reimbursed for a portion of their costs OR Social Welfare, because premiums are not paid until after a loss occurs)
- Is the program efficient? (Yes, because the government works in partnership with private insurers who already have claims handling infrastructure OR No, because there is concern about delays in certifying events)
- Is the program accepted by the public? (Yes, because terrorism insurance is required by commercial lenders, OR No, because demand for coverage has been lower than expected)

Actual candidate answer for full marks:

a) i) Fill need unmet by private ins.

ii) Compulsory nature ins.

iii) Convenience

iv) Social Purpose

b) i) US Flood

ii) WC

iii) Florida Hurricane Cat. Fund

iv) Social Security

c) i) does it fulfill social purpose or nec-ssry to fill need unmet by private ins.?

ii) is it social welfare or insurance?

iii) is it publicly accepted?

d) i) Yes, fills need unmet by private insurers (who thought the risk virtually uninsurable) & social purpose in that economic activity could be disrupted if no ins. available for construction projects, airports/ large properties req. insurance to continue operating, investments (asset backed securities) backed by assets that req. to be insured

ii) Not insurance really as insurers indemnified for their losses & pay no premium upfront.

iii) Small # commercial insureds purchasing this cover likely indicates lack of public acceptance

Examiner's report:

a)/b)

This question was generally well done. The open-ended nature of the question caused a wide variety of answers to be accepted. The most common errors in part b) were Facility Association Residual Market (this is not a government program) and Auto Insurance (this is not a government program in most jurisdictions – it was accepted only if the candidate's answer referred to a specific jurisdiction in which auto insurance is provided by the government).

c/d)

This question was generally well done. The open-ended nature of the question caused a wide variety of answers to be accepted. For d) partial credit was given for answers that were factually correct but not

relevant to the criteria given in c). Some responses to d) were not explained in enough detail to warrant full credit.

Question 14

Answer key:

a)

Production insurance – Manage production risks

CAIS – Mitigate income disruptions and promote long-term income stability

b)

Production insurance – any of flood, drought, hail, fire, wind, etc.

CAIS – any of market price changes, fuel cost increases, labour cost increases, etc.

c)

Individual yield uses offsetting production so it's based on the farm's total output instead of individual fields.

Area-based is based on the average production for the area so it's not based on the farm's actual production.

Therefore, individual yield has a stronger link.

Actual candidate answer for full marks:

a) i) Provide protection for uncontrollable production losses.

Manage the inherent production risk of the agricultural industry

ii)-Mitigate unforeseen income disruption

-Promote long-term income stability

b) i) Drought

ii) Price drops

c) ii)-Individual yield program based compensation on actual production at the farm's level for each commodity insured.

-Whereas area-based plans provide compensation to all producer of the area regardless of their actual production

i) individual yield program.

Examiner's report:

a)

This question was generally well done. The most common error was not being specific enough in the description of production insurance. It does not cover all risks inherent to the agricultural industry, only risks that are specific to the process of production.

b)

This question was generally well done. There were a large number of acceptable answers. The most common error was giving "increase in input costs" as an example for CAIS which was not specific enough to receive credit – a specific example of an input (fuel, labour, etc) was required.