

106年公務人員特種考試外交領事人員及外交行政人員、民航人員、稅務人員及原住民族考試試題

考試別：稅務人員特考

等別：四等考試

類科組：各科別

科目：法學知識與英文（包括中華民國憲法、法學緒論、英文）

考試時間：1 小時

座號：_____

※注意：(一)本試題為單一選擇題，請選出一個正確或最適當的答案，複選作答者，該題不予計分。

(二)本科目共 50 題，每題 2 分，須用 2B 鉛筆 在試卡上依題號清楚劃記，於本試題上作答者，不予計分。

(三)禁止使用電子計算器。

- 1 下列何一層級之地方自治，自始至終既非我國憲法本文，亦非歷次憲法增修條文所保障者？
(A)鄉 (B)縣 (C)省 (D)直轄市
- 2 依憲法增修條文之規定，下列敘述何者正確？
(A)立法委員任期 5 年 (B)行政院院長任期 4 年 (C)司法院院長任期 6 年 (D)監察院院長任期 6 年
- 3 下列何者同時具有大法官之身分？
(A)司法院院長 (B)最高法院院長 (C)最高行政法院院長 (D)司法院秘書長
- 4 依憲法增修條文之規定，關於立法院與總統之互動，下列敘述何者錯誤？
(A)立法院得提出總統之罷免案 (B)立法院得提出總統之彈劾案
(C)立法院得聽取總統之國情報告 (D)立法院解散後，不得追認總統發布之緊急命令
- 5 依憲法增修條文之規定，有關行政院與立法院互動機制，下列敘述何者錯誤？
(A)行政院有向立法院提出施政方針及施政報告之責
(B)若行政院就已決議之法律案認為窒礙難行，可循覆議制度表示不贊同
(C)若立法院不贊同行政院之重要政策，可循覆議制度解決僵局
(D)覆議之結果效果僅及於法案成立與否，不發生行政院院長是否應辭職之問題
- 6 衡酌憲法規定及司法院解釋，關於法定預算之敘述，下列何者錯誤？
(A)法定預算為措施性法律
(B)立法院對行政院所提預算案，得為增加支出之提議
(C)立法院對行政院所提預算案，得作成附帶決議
(D)行政院通過重大政策變更涉及法定預算停止執行者，立法院亦有參與決策之機會
- 7 有關憲法保障立法委員言論免責權之敘述，下列何者錯誤？
(A)旨在避免國家最高立法機關之功能與運作遭受其他國家機關之干擾
(B)立法委員之言論免責權範圍包括民、刑事責任
(C)立法委員於院內從事黨團協商之言論，亦受言論免責權之保障
(D)立法委員於電視從事政治評論，亦受言論免責權之保障
- 8 關於總統之職權，下列敘述何者正確？
(A)總統得隨時解散立法院
(B)總統於憲法及憲法增修條文所列舉之行政權範圍內有國家機密特權
(C)總統提名行政院院長，毋須經立法院同意，但應諮詢立法院院長之意見
(D)總統提名檢察總長，毋須經立法院同意
- 9 依憲法及憲法增修條文之規定，關於總統之職權，下列敘述何者正確？
(A)總統為避免國家遭遇緊急危難，得自行發布緊急命令為必要之處置
(B)總統發布經立法院同意任命人員之任免命令，須經行政院院長之副署
(C)總統對於院與院之爭執，得召集立法院及有關各院之院長協商後，提出解決方案
(D)總統未經立法院議決，不得行使宣戰、媾和之權
- 10 下列何者非屬司法院解釋所認為之大學自治事項？
(A)考試規則之訂定 (B)私立大學之設立要件
(C)學生畢業之條件 (D)學生選擇科系與課程自由
- 11 依憲法關於工作權保障及基本國策之規定，下列敘述何者錯誤？
(A)人民得自由選擇從事一定之營業為其職業，並可自主決定營業之相關行為
(B)滿足生活最低需求之竊盜行為，非屬工作權之保障範圍
(C)國家應制定保護勞工之法律
(D)由於工作權具經濟上受益權性質，人民可以直接請求國家給予工作

- 12 憲法保障人民集會之自由。依據司法院解釋，下列敘述何者正確？
(A)法律得授權主管機關於集會、遊行前，就言論之內容為實質審查
(B)事前許可規定未排除緊急性及偶發性集會遊行，違反比例原則
(C)因立法者有不受限制之形成自由，採取許可制未限制集會自由
(D)以言論內容作為不予許可之條件，未侵害人民集會自由權
- 13 甲為無神論者，不信仰任何宗教，關於甲是否受憲法第 13 條宗教自由之保障，下列敘述何者正確？
(A)憲法第 13 條亦保障不信仰宗教之自由，甲為無神論者，故受宗教自由保障
(B)憲法第 13 條僅保障信仰宗教之自由，甲為無神論者，故不受宗教自由保障
(C)憲法第 13 條僅保障宗教行為之自由，甲為無神論者，不實施宗教行為，故不受宗教自由保障
(D)憲法第 13 條僅保障宗教結社之自由，甲為無神論者，不參與宗教結社，故不受宗教自由保障
- 14 關於人身自由之保障，下列敘述何者錯誤？
(A)人身自由之保障亦及於外國人
(B)僅司法機關及警察機關始得對人民為逮捕拘禁
(C)僅法院及檢察機關，始得對人民為審問處罰
(D)憲法第 8 條並未以非法逮捕拘禁作為聲請提審之要件
- 15 憲法規定國家應保障特定職業者之生活，並依國民經濟之進展，隨時提高其待遇。受保障者不包括下列何者？
(A)藝術工作者 (B)科學工作者 (C)教育工作者 (D)身心障礙工作者
- 16 為促進性別工作平等事項，各級主管機關所設之性別工作平等會，其女性委員人數應占全體委員人數之比例為何？
(A)二分之一 (B)三分之一 (C)四分之一 (D)五分之一
- 17 依勞動基準法第 24 條規定，雇主延長勞工工作時間在二小時以內者，應按平日每小時工資額加給多少？
(A)六分之一以上 (B)五分之一以上 (C)四分之一以上 (D)三分之一以上
- 18 A 有限公司之股東為甲、乙、丙、丁、戊共五人，其中甲、乙、丙為董事，並由乙擔任董事長。A 公司依章程規定得置經理人一名，該公司擬聘李四為經理人，須經下列何種方式委任之？
(A)須經甲、乙、丙、丁、戊過半數同意 (B)須經甲、乙、丙過半數同意
(C)須經甲、乙、丙全體同意 (D)由乙自行決定即可
- 19 關於刑法第 134 條準瀆職罪之敘述，下列何者錯誤？
(A)本罪係公務員假借職務上之機會或方法而犯瀆職罪章以外之罪
(B)本罪之成立，不以故意犯瀆職罪章以外之罪者為限
(C)本罪之處罰，係加重所犯之罪法定刑至二分之一
(D)若因公務員身分已有特別規定者，無本罪之適用
- 20 下列何種犯罪，刑法設有處罰未遂之規定？
(A)過失犯 (B)結果犯 (C)行為犯 (D)迷信犯
- 21 下列契約，何者不能約定報酬（對價）？
(A)委任契約 (B)寄託契約 (C)使用借貸契約 (D)消費借貸契約
- 22 管理人明知為他人之事物，而為自己利益管理者，稱為：
(A)誤信管理 (B)不法管理 (C)幻想管理 (D)緊急管理
- 23 有關給付不能之敘述，下列何者正確？
(A)以不能之給付為契約之標的者，其契約為有效
(B)債務人無支付價金之資力，不得調為給付不能
(C)因不可歸責於債務人之事由，致給付不能者，債務人仍不免其給付義務
(D)因可歸責於債務人之事由，致給付不能者，債權人不得請求賠償損害
- 24 有關民法上買賣契約之敘述，下列何者正確？
(A)買賣契約是勞務性契約 (B)買賣契約是要物契約
(C)買賣契約是單務契約 (D)買賣契約是財產權移轉型契約
- 25 下列有關著作權之敘述，何者錯誤？
(A)著作權之保護，為客觀之表達，不及於其思想、程序、概念
(B)著作人於著作完成時享有著作權
(C)著作權僅得由著作創作人享有
(D)著作權包含著作人格權與著作財產權

- 26 下列何者，非屬行政機關適用法律所得之作為？
(A)適用法律，應無待請求 (B)適用法律，得行使裁量
(C)適用法律，一律不受上級機關之指揮監督 (D)適用法律，得頒布行政命令
- 27 依據法律條文之字義或文義所為之解釋，學理上稱謂為何？
(A)文理解釋 (B)論理解釋 (C)當然解釋 (D)類推解釋
- 28 行政程序法施行之前，公法上請求權時效如未規定者，應適用民法請求權時效。此係何項法律適用方法？
(A)準用 (B)文義解釋 (C)類推適用 (D)限縮解釋
- 29 法規特定有施行日期，或以命令特定施行日期者，自何時起發生效力？
(A)該特定日起 (B)該特定日後第三日起 (C)該特定日後第五日起 (D)該特定日後第七日起
- 30 有關習慣法之敘述，下列何者錯誤？
(A)基於罪刑法定主義，刑事法排除習慣法之適用 (B)一般人必須對此習慣具有法之確信
(C)習慣法不屬於民事法之法源 (D)習慣法必須不違背公共秩序及善良風俗
- 31 A lot of money was spent on the _____ of the new computer center, but little was spent on new employee training.
(A)population (B)equipment (C)execution (D)information
- 32 Jack's family were frightened by the _____ of the earthquake and decided to stay at the park overnight.
(A)amount (B)intensity (C)limitation (D)measure
- 33 Joan thought the living room looked _____ depressing, so she decided to get rid of the old furniture.
(A)conditionally (B)constructively (C)incredibly (D)independently
- 34 Those who live longer have a _____ of sleeping well and exercising regularly.
(A)vacancy (B)tendency (C)reception (D)prevention
- 35 The entrepreneur decided to _____ the talented tennis player who can thus pay for his training and tournament.
(A)abandon (B)exhibit (C)finance (D)export
- 36 In most countries, an exchange of business cards is _____ for all formal introductions.
(A)peculiar (B)essential (C)optional (D)irrelevant
- 37 Rosa is _____ by nature, which is why she always carries out every task so actively.
(A)energetic (B)persuasive (C)skeptical (D)arrogant
- 38 More and more people are _____ addicted to the new virtual reality game on smartphones to capture creatures in public spaces.
(A)positively (B)obsessively (C)productively (D)offensively
- 39 A minority government cannot _____ a war of attrition against a majority because eventually it will lose.
(A)apply (B)admit (C)afford (D)amend
- 40 There was an _____ moment at the meeting when no one said anything about the problem.
(A)awkward (B)academic (C)artistic (D)arrogant

請根據上下文，從四個選項中選出最合適者，完成本段文字之語意與語法，回答第 41 題至第 45 題

In the past, when explorers arrived in a strange place, the first thing they did was to 41 their tents or cook a meal. But nowadays, when explorers arrive in a new place, they log on to their social networking site using a satellite phone. Explorers in the past wrote about their adventures in books which were published months or years later. Nowadays, we 42 a message in seconds.

Sites like Facebook and Twitter also help if explorers have a problem. Someone in our group touched a strange plant and suddenly his skin was red and painful. I asked for 43 on Twitter: "Hand touched a strange plant. It's red and hot. Any advice?" Minutes later, someone who knew the region 44, "Probably a Pushki plant. If it is, it'll hurt but it won't kill you!" In the age of modern explorer, 45 like this really helps to make decisions, and sometimes it even saves lives.

- 41 (A)get off (B)put up (C)come out (D)run away
42 (A)post (B)push (C)press (D)possess
43 (A)access (B)attack (C)advice (D)attention
44 (A)replied (B)revised (C)repeated (D)reviewed
45 (A)confession (B)convention (C)computation (D)communication

請依下文回答第 46 題至第 50 題

When a woman writer first starts writing a story, she often chooses to write about her relationship with her mother. As a common experience shared by all women, women writers regardless of her class, race, culture and language all engage themselves in writing about this subject. They do not abandon this topic even after they grow in their craft. Another reason why they are so enthusiastic about writing this theme is because it is one of their most personal and intimate relationships which greatly influences their relationships with other people. In their writing about mother-daughter relationships, they not only express their feelings of joy and happiness but also their fears and anxiety because not all mothers and daughters experience their relationship in the same way. Some have a peaceful and enjoyable relationship while others have a difficult and bitter relationship. As mixed feelings do exist between mothers and daughters, many women writers also attend to the dark side of this relationship. As a result, they often write about the separation between mothers and daughters if their relationship is hard to resolve. Despite this, a common practice between women writers is to establish a reconnection between mothers and daughters after settling down their harsh relationship.

In *The Joy Luck Club*, a classic fiction about mother-daughter relationships, the Chinese American author, Amy Tan, writes about her relationship with her mother, who originally came from China. Being an American herself, Tan cannot totally understand her mother's Chinese way of thinking. As her mother speaks less fluent English and sometimes behaves strangely in front of people, Tan feels ashamed of her and even has quarrels with her often. It is only until her mother dies that Tan begins to realize the truth about her mother. Replacing her mother's position in the joy luck club, a group run by her mother and other friends, who Tan call aunts, Tan starts to know more about her mother's stories and even discovers that her mother has lost daughters in China. Helping her mother to carry out her unfulfilled wish, Tan goes on a journey in search of her mother's lost daughters in China. The story ends by having Tan reunited with her mother's lost daughters in China, symbolizing a restoration of her mother-daughter relationship. The final scene describes a tearful moment when Tan and her half-sisters embrace each other and see their mother's reflection shown in the photo they have taken together.

- 46 Why is the topic of mother-daughter relationship so important to women writers?
- (A) It is a very private and close relationship they have in their life.
 - (B) It is a recovery project every woman needs to launch in her life.
 - (C) Because women care very much about the happiness of their mothers.
 - (D) Because the mother-daughter relationship always confuses and disturbs them.
- 47 Who might find this article useful?
- (A) Scholars who do research on global warming.
 - (B) Scholars who do research on scientific discovery.
 - (C) Experts who focus their studies on digital learning.
 - (D) Students who do research on women's studies and motherhood.
- 48 According to the passage, which of the following is NOT true?
- (A) Daughters are too selfish to know how to appreciate their mothers.
 - (B) Mothers and daughters experience their relationship in various ways.
 - (C) A combination of different feelings exists between mothers and daughters.
 - (D) Mother-daughter relationship influences one's relationship with other people.
- 49 What is the purpose of Amy Tan's novel in the passage?
- (A) As an example to criticize mother-daughter conflicts.
 - (B) As an example to illustrate an experience of traveling in China.
 - (C) As an example to prove Chinese immigrants' success in America.
 - (D) As an example to explain the complex mother-daughter relationship.
- 50 What can be learned from the mother-daughter story in Tan's novel?
- (A) A bitter mother-daughter relationship is beyond restoration.
 - (B) Daughters have to go on a trip to search for their mothers' lost history.
 - (C) Aunts play a crucial role in the make-up between mothers and daughters.
 - (D) The mother-daughter relationship across different cultures can be painful.