



CHARTERED TAX INSTITUTE OF MALAYSIA (225750 T)
(Institut Percukaian Malaysia)

PROFESSIONAL EXAMINATIONS

FINAL LEVEL

ADVANCED TAXATION 1

DECEMBER 2019

Student
Registration No.

Date

Desk No.

Examination Centre

Time allowed: 3 hours

INSTRUCTIONS TO CANDIDATES

1. You may answer this paper **EITHER** in English **OR** in Bahasa Malaysia. Only **ONE** language is to be used.
2. This paper consists of **SIX** questions. **Candidates are ONLY REQUIRED TO ANSWER FIVE QUESTIONS**
3. The Income Tax Act 1967 (as amended) is referred to as ITA.
4. Each answer should begin on a separate answer booklet.
5. All workings **MUST** be shown as marks will be awarded.
6. Answers should be written in either black or blue ink.
7. No question paper or answer booklets are to be removed from the examination hall.
8. All figures to be rounded to RM1.00
9. You are to assume that the year ending 31 December 2019 has elapsed.

DO NOT TURN OVER THIS PAGE UNTIL INSTRUCTED BY THE INVIGILATOR

Question 1

Star Sdn Bhd (SSB) is a new tax resident company in Malaysia with its factory located in Klang, Selangor. It was incorporated on 1 July 2019 with a paid-up capital of RM6 million. It prepares its annual Income Statement to 31 December.

Soon after SSB was incorporated, it made an application to Malaysian Investment Development Authority (MIDA) for pioneer status tax incentive. It commenced manufacturing a promoted product XO on 1 August 2019 upon receiving an initial approval from the MIDA. MIDA issued a pioneer certificate when SSB achieved the stipulated production target. The production date as stated in the pioneer certificate was 1 January 2020.

You are a tax manager with YES Tax Consultant Sdn Bhd and had a meeting with the chief accountant of SSB on 1 September 2019. He provided you with the following projected tax information and the capital expenditures:

Year of Assessment:	2019	2020	2021	2022	2023	2024
(in '000)		RM	RM	RM	RM	RM
1. Pre-pioneer business: Adjusted loss	(300)					
Industrial building allowance (IBA) & Capital allowances (CA)	2,300					
2. Pioneer business: Adjusted income/(loss)		(1,000)	4,000	8,000	12,000	14,000
IBA & CA		5,000	2,500	2,500	2,500	2,500
3. Rental income		200	200	200	200	200
Capital expenditures:						
Land	5000					
Factory/extension of factory (IBA as above)	6000	4,000				
Plant and machinery (CA as above)	5000	10,000				

Required:

Write a letter to the board of directors of SSB advising them on the following matters in relation to SSB:

- (a) The mechanism by which the pioneer status was given; (3 marks)
- (b) The tax treatments for the following:
- (i) The capital allowance and the pre-pioneer loss for the year of assessment 2019; (2 marks)
- (ii) The pioneer loss for the year of assessment 2020; (2 marks)
- (c) State the total chargeable income and the total exempt income respectively for the pioneer period from the year of assessment 2019 to the year of assessment 2024; (11 marks)

Note:

Two (2) marks are given for appropriate format of presentation and effective communication.

[Total: 20 marks]

Question 2

- (a) With reference to the ITA, explain briefly the special treatment that was accorded to a Real Estate Investment Trust [REIT] in respect of the following:
- (i) **The deductibility of expenses incurred by a REIT;** (4 marks)
 - (ii) **The deductibility of capital allowance on assets used for the purposes of its business;** (2 marks)
 - (iii) **The treatment for donations by way of gift of money made by a REIT;** (2 marks)
 - (iv) **The threshold and condition for exemption on its total income; and** (1 mark)
 - (v) **Assuming the REIT qualifies for exemption on its total income, explain the tax treatment accorded to a unit holder which is a Malaysian resident company to whom a distribution was made.** (3 marks)
- (b) Lucky Star Property Trust [LSPT] is a Malaysian Security Commission approved Real Estate Investment Trust that closes its accounts on 30 June each year. It was incorporated in 2015 with a paid-up capital of RM5 million. For the year ended 30 June 2019, it produced the following statement of accounts:

The Lucky Star Property Trust Fund		
Statement of income for year ended 30 June 2019		
	RM	RM
Income		
Rent		657,000
Dividends (Vietnam - remitted)		11,000
Gains from realization of shares		<u>37,000</u>
		705,000
Expenses		
Interest on loan for acquisition of properties	67,000	
Interest on acquisition of shares	8,000	
Depreciation	20,000	
Quit rent and assessment	33,000	
Repairs and maintenance	54,000	
Property manager's fees	33,000	
Entertainment	32,000	
Secretarial fees	7,000	
Tax filing fees	12,000	
Approved donation	<u>50,000</u>	<u>316,000</u>
Net profits		<u>389,000</u>

For the year of assessment 2019, LSPT was entitled to a capital allowance of RM25,410 on assets used in the carrying on of its business operations.

Required;

- (i) **Compute the total income of LSPT for the year of assessment 2019.** (7 marks)
- (ii) **Determine the amount that should be distributed to the unit holders of LSPT for the REIT to qualify for an exemption under section 61A of the ITA.** (1 mark)

[Total: 20 marks]

Question 3

- (a) **Explain the changes in the definition of a trade association under the ITA before 2008 and from the year 2009.** (3 marks)
- (b) In the case of *Ketua Pengarah HDN v Malaysian Bar* [2006] 5 CLJ 217, the High Court held that the Malaysian Bar, who has advocates and solicitors as members, was not a trade association for the purposes of the ITA.

Required:

Briefly explain the basis for the High Court decision in the context of the then existing law on trade association.

(3 marks)

- (c) The Tea Traders Association, registered under the Society Act 1966, incurred qualifying plant expenditure in relation to several assets in the basis period for the year of assessment 2019. Each of those assets cost less than RM1,300 and the total expenditure incurred on those assets in the basis period was RM10,000.

Required:

Explain the treatment of capital allowance in respect of those assets under Schedule 3 of the ITA to the Tea Traders Association.

(3 marks)

- (d) Malaysian Brew Coffee Association [MBCA] was registered under the Society Act of 1966 in 2010. Its main objective was to promote and safeguard the business of its members who are mainly operators of coffee bars serving coffee-based drinks and bites. MBCA conducted seminars and workshops to train, educate and update members on matters pertaining to their trade. A reasonable fee was charged to the participating member. MBCA was entitled to a capital allowance of RM2,000 on common assets used in the carrying out its activities for the year of assessment 2019.

It closes the accounts on 31 December each year. For the year ended 31 December 2019, MBCA produced the following accounts:

The Malaysian Brew Coffee Association		
Accounts for the year ended 31 December 2019		
Income		RM
Memberships' subscription fees		220,000
Seminar and workshop fees		80,000
Dividend (Malaysian single tier)		25,000
Fixed deposit interest from a local bank		<u>5,000</u>
Total income		330,000
Less: Expenses		
Salary and wages	95,000	
Rental of seminar hall	6,000	
Speaker fees	15,000	
Employee's Provident Fund	12,000	
Stationery and postage	7,000	
Utility expenses	8,000	
Cash donation (approved)	5,000	
Assessment and quit rent	<u>3,000</u>	<u>151,000</u>
Surplus of income over expenditure		<u>179,000</u>

Required:

Compute the chargeable income of Malaysian Brew Coffee Association for the year of assessment 2019. You must show all workings.

(11 marks)

[Total: 20 marks]

Question 4

SS Trust was a trust set up under a will by Mr Dong who passed away in the year 2018. The trust, a tax resident in 2019 was created for the benefit of his two children, Sheryl and Sharon who are the beneficiaries. Their respective shares of distributable income were stipulated in the trust deed.

SS Trust has the following income and other details for the year ended 31 December 2019:

Business in Malaysia:	RM
Adjusted income	220,000
Balancing charge	40,000
Capital allowance	35,000
Unabsorbed business loss brought forward	15,000
Rental from a property in Singapore which was received in Malaysia on 1 May 2019	50,000
Rental from a property in Malacca	30,000
Dividend (Malaysia)	20,000
Interest income from fixed deposit from a local bank	10,000

In the will of Mr Dong upon which the trust was created, it was stated that:

1. Mrs Dong, the widow, was to receive an annuity of RM50,000 per year.
2. The beneficiaries' entitlements were as follows:

Beneficiaries	Residence status	Share of distributable income	Amount received RM
Sheryl	Resident	3/4	55,000
Sharon	Non-resident	1/4	30,000

Other relevant information for the basis year 2019 were as follows:

1. Sheryl (married) received an employment income of RM40,000 from her work in Petaling Jaya. She contributed RM4,400 to the Employees' Provident Fund.
2. Sharon (unmarried) has no income and is currently studying overseas.

Required:

(a) For the year of assessment 2019, compute the followings:

- (i) The tax payable by SS Trust;** (5 marks)
- (ii) The respective tax payable/tax refund for Sheryl and Sharon.** (6 marks)

(b) Assuming there was a third child named Samantha and an accumulation of RM30,000 was for her for the year 2019.

Discuss all the likely tax implications for the year of assessment 2019.

Your answer should include the computation of the net distributable income after accumulation.

(9 marks)

[Total: 20 marks]

Question 5

- (a) Rohan Sdn Bhd is a newly incorporated controlled company with a fully paid up capital of RM4 million. It acquired its first asset of 40% control in Jamal Holdings Sdn Bhd for the price of RM3 million on 21 May 2019.

Jamal Holdings Sdn Bhd is an investment holding company which has “no real property”. It owns 12% of Chong Manufacturing Sdn Bhd and 3% of Dalton Development Bhd. The shares in Chong Manufacturing Sdn Bhd were acquired for RM6 million and Dalton Development Bhd was acquired for RM1 million. The total tangible assets of Jamal Holdings was RM8 million as at 31 December 2019.

Chong Manufacturing Bhd owns “real property” valued at RM 60 million and the total tangible assets of the company amounted to RM75 million.

Dalton Development Sdn Bhd is a housing developer listed in the Kuala Lumpur Stock Exchange with 85% of its tangible assets in real property.

Required:

Determine whether the above companies namely Rohan Sdn Bhd, Jamal Holdings Sdn Bhd, Chong Manufacturing Sdn Bhd and Dalton Development Bhd are real property companies (RPC’s) as stipulated under the Real Property Gains Tax Act.

(8 marks)

- (b) Mr Alexander Khoo acquired 200,000 shares in Zafar Sdn Bhd (ZSB) on 10 July 2018 for RM1,200,000. ZSB has a paid up capital of 500,000 shares and a financial year end of 31 December. As at 31 December 2018, Zafar Sdn Bhd held the following assets:

Book values	RM
Cash at bank	474,000
Accounts receivable	92,000
Amounts due from creditors	120,000
Plant, equipment and property	195,000

In the financial year 2019, ZSB acquired the following properties:

	Date of acquisition	Acquisition price (RM)
Warehouse	7 April 2019	1,110,000
Factory	15 July 2019	2,100,000

Required:

- (i) **When did ZSB become a real property company under the RPGT?** (4 marks)
- (ii) **Are the shares held by Mr Alexander Khoo, RPC shares? What was the deemed date of acquisition?** (2 marks)
- (iii) **Compute the acquisition price of Mr Khoo’s shares if they are RPC shares.** (2 marks)
- (c) **What are the duties of the disposer, on the sale of a real property under the RPGT?** (4 marks)

[Total: 20 marks]

Question 6

(a) Regulation 9 of the Income Tax (Property Development) Regulations 2007 stipulates:

“A property development business shall commence on a date when some significant activities or essential preliminaries to the normal operations of property development are undertaken or on any other date as the Director General considers appropriate and reasonable”

It is important to ascertain carefully whether a property development business had commenced as it may affect the deductibility of expenses incurred pre and post commencement.

(i) **Explain with reasons the tax treatment for the following expenses incurred by a property development business prior to commencement:**

1. **Commission paid for soliciting a new development project**
2. **Interest expenses incurred to purchase land**
3. **Compensation paid to evict squatters from project land**

(6 marks)

(ii) Bank loan is a common method used by property developers to finance purchase of land and development cost for a property development project.

Discuss the tax treatment for interest expenses incurred (after commencement of business) for a property development project.

(2 marks)

(b) TMG Sdn Bhd owns a large piece of industrial land (fixed asset) on which it carried its manufacturing business. TMG decided to cease its current business and in turn, it constructed ten (10) factory units on the industrial land for sale. The land was reclassified from fixed asset to property development cost (current asset). The transfer to current asset in TMG's books was at the cost value of RM1 million. The market price of the vacant land was RM5 million at the time of transfer.

Explain the tax implications of the transfer of the land to property development cost (current asset).

(6 marks)

(c) Jeju Sdn Bhd (financial year ending 31 December) commenced a mixed development project in year 2016 and completed the project in year 2019. Total gross development value (GDV) of the project was RM24 million and total gross development cost (GDC) was RM16 million.

Year of assessment	Progress billing as at 31 December (cumulative)
2016	RM6 million
2017	RM12 million
2018	RM18 million
2019	RM21 million

Determine the gross profit to be recognised for property development business from YAs 2016 to 2019.

(6 marks)

[Total: 20 marks]

(END OF QUESTION PAPER)