



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

PROFESSIONAL EXAMINATIONS

FINAL LEVEL

ADVANCED TAXATION 1

JUNE 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 (5) 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

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Question 1

- (a) Discuss briefly the concept of an 'investment holding company' and the 'business of holding an investment' in the context of the taxation of income from investment for the purposes of the ITA.

Note:

You must cite the relevant provisions in the ITA and decided case law where applicable in your discussion.

(6 marks)

- (b) Briefly discuss the advantages of an 'investment holding company' that is not listed on the Bursa Malaysia for the purposes of the ITA in the context of disposal of investments, and the consequences thereof.

(6 marks)

- (c) Quick Rich Investment Holdings Sdn Bhd ('the company') is a locally incorporated resident company. Its income consists mainly from the holding of investment including fixed deposits with a local bank and rental from a shop house. The company does not provide any support or maintenance services for the shop house. Dividends are derived from investments in companies listed on the Bursa Malaysia.

Part of the funds used for the purchase of the shop house and money invested in the listed companies were borrowed and interest charges were incurred. The shop house cost RM1,500,000 and the cost of shares in the listed companies is RM1,200,000. The company occasionally sells some shares to maintain cash flow.

The company closes the accounts to 31 December each year. For the year ended 31 December 2018, the financial statement was as follows:

Quick Rich Investment Holdings Sdn Bhd		
Year ended 31 December 2018		
	RM	RM
Gross income		
Fixed deposit interest		198,400
Rent – shop house		186,000
Dividends (single tier)		<u>30,000</u>
		414,400
Add:		
Gains from realization of investment		<u>123,000</u>
Total		537,400
Less: Expenses		
Director's remuneration	88,000	
Staff salary	53,253	
Accounting and secretarial fees	17,754	
Audit fees	35,000	
Interest charges (loan for investments)	70,000	
Printing and stationary	3,550	
Management expenses	50,000	
Office rent	88,600	
Quit rent and assessment (shop house)	3,600	
Entertainment	5,323	
Depreciation	<u>7,565</u>	<u>422,645</u>
Net profit		<u>114,755</u>

Required:

With reference to the ITA, compute the chargeable income of Quick Rich Investment Holdings Sdn Bhd for the year of assessment 2018.

Note:

You must show all workings clearly in arriving at the chargeable income.

(8 marks)

[Total: 20 marks]

Question 2

Premium Leasing Sdn Bhd (PLSB) is a Malaysian resident company that was incorporated in 2017 to carry on a leasing business. It closes its annual accounts on 30 June every year.

Required:

- (a) **Identify any THREE (3) situations where a lease agreement or arrangement is deemed to be a ‘sale agreement’ under the Income Tax Leasing Regulations 1986.**

(3 marks)

- (b) PLSB leased out a central air-conditioning system (‘the system’) to a lessee, a manufacturer for a term of 36 months with effect from March 2018. The monthly lease rental is RM20,000 per month. The system was structurally incorporated into the manufacturer’s factory. It requires major alteration to the system if other manufacturers were to use this system.

Required:

Explain the tax treatment of the above lease arrangement and the tax implications for Premium Leasing Sdn Bhd as the lessor and the manufacturer as the lessee.

(6 marks)

- (c) PLSB leased out a heavy machine to a lessee for a lease term of 24 months. The lease rentals payable are as follows:

The Period	Monthly Lease Rental
1 September 2018 – 31 August 2019	RM15,000
1 September 2019 – 31 August 2020	RM30,000

Required:

Discuss the tax treatment in respect of the leased machine to the lessor and the lessee.

Note: In your answer, indicate the gross income of the lessor from the leasing transaction for each of the relevant years of assessment assuming the proviso to Regulation 3 of the Income Tax Leasing Regulations 1986 is not applied.

(6 marks)

- (d) PLSB leased a high-tech machine for its leasing business in Malaysia from a related company, PA Pte Ltd (PAPL), a company that is tax resident in Singapore. The lease rental was paid to PAPL on 1 December 2018.

Required:

Discuss the withholding tax implication to Premium Leasing Sdn Bhd in respect of lease rental paid to PA Pte Ltd of Singapore.

(5 marks)

[Total: 20 marks]

Question 3

- (a) Mr Peter Lim ('Peter') was a Malaysian resident carrying on the business of dealing in motorcycle spare parts. He passed away on 1 September 2018 intestate, leaving behind a wife, Mrs Peter and their three children. The wife did not apply for any letters of administration. However Peter's accountant asked her to sign the Form B (Return of income by an individual) of her late husband as the wife of the deceased in submitting the income tax return for the year of assessment 2018. She signed accordingly.

Required:

With reference to the ITA, explain briefly the consequence of Mrs Peter signing the Form B as the wife of the deceased, Mr Peter Lim.

Note:

You are required to quote relevant sections of the ITA and case laws where appropriate in support of your answer.

(5 marks)

- (b) **For the purposes of the ITA and with reference to an executor or administrator, when does the period of administration in respect of the estate of deceased commence and for how long would this period of administration continue?**

Note:

You are required to quote relevant sections of the ITA case laws where appropriate in support of your answer.

(5 marks)

- (c) Mr Andrew Kuok was a Malaysian resident and had three businesses - two in Malaysia and one in Vietnam. He passed away on 30 September 2018 without a will. The businesses accounts are drawn to 31 December each year.

For the year ended 31 December 2018, the trading results according to the tax agent were as follows:

Business sources	Income/ (loss)	Amount (RM)
Business 1 (Malaysia)	Statutory income	146,362
Business 2 (Malaysia)	Adjusted loss	(59,177)
Business 3 (Vietnam)	Adjusted income	24,405

Business 2 ceased operations in June 2018. Mr Andrew Kuok 's other income consists of a rental from a residential property in Kuala Lumpur, a single tier dividend from a public listed company in Malaysia, and interest from a fixed deposit in a Malaysian bank, the details of which are as follows:

Other income sources	Amount (RM)
Rental (year ended 31 Dec 2018)	28,000
Dividend (Malaysian single tier paid in October 2018)	11,749
Interest from a Malaysian bank(received in May 2018)	4,918

Mr Andrew Kuok, who was domiciled in Malaysia at the time of his death, was survived by a wife and a child aged 10 years in January 2018. The wife had no source of income. The younger brother of Mr Andrew Kuok, Jeremy Kuok administered the estate till the financial year end 31 December 2018. He closed down the business in Vietnam and remitted a sum of RM70,000 to Malaysia in November 2018. He made an annuity payment of RM17,000 to the wife of the deceased, pending the formalities of the winding up of the estate sometime in early 2019.

Required:

Compute the chargeable income for the year of assessment 2018, in respect of:

- (i) **Mr Andrew Kuok, assuming that the wife relief and child relief were claimed by him; and**
- (ii) **The estate of Mr Andrew Kuok (deceased).**

(10 marks)

[Total: 20 marks]

Question 4

- (a) Melissa and James Foundation is a charitable institution established in Malaysia that aims to rescue and protect animals. Melissa and her husband James founded the charity in 2018. They both sit on the Foundation's Board of Trustees along with four other individuals from various external non-profit organisations and these individuals are not involved in the day to day management of the Foundation.

The Foundation derives its income primarily from donations received from Malaysian individuals and large corporations. Additionally, the Foundation also derives business income from sale of pet supplies and products, and such income approximated 20% of the accumulated fund of the foundation. All income received is used primarily to fund its mission of saving and protecting animals. The main expenses comprise of food, veterinary treatments, rental of shelter and other incidental expenses necessary to rescue and protect the animals.

Melissa is currently exploring the option of applying for approval under subsection 44(6) of the ITA so that the donors can avail for tax relief.

Required:

- (i) **Based on the above information, discuss whether Melissa and James Foundation would qualify as an 'organisation' within the meaning of section 44(6) of the ITA.** (8 marks)
- (ii) **Explain the tax treatment for income derived by charitable organisation or institution approved under section 44(6) of the ITA.** (2 marks)
- (iii) **Explain the tax deduction available to individuals and companies who have made cash donations to an institution or organisation approved under section 44(6) of the ITA.** (2 marks)

- (b) Save Lives Foundation (SLF) is a charitable organization with the primary objective of providing free treatment for individuals who suffer from kidney failure and kidney related medical problems. SLF is an approved organization for the purposes of section 44(6) of the ITA.

The income and expenses of SLF for the previous four years of assessment were as follows:

Year of Assessment	2015	2016	2017	2018
Income				
Donations	300,000	460,000	400,000	420,000
Less: Operating expenses				
Depreciation	30,000	30,000	30,000	30,000
Salaries and wages	63,900	78,900	75,670	88,840
Rental expense	31,950	39,450	37,750	44,420
Utilities	15,975	19,725	15,000	22,210
Medical expenses for treatment	95,850	118,350	85,000	133,260
Secretarial fees	2,000	2,500	3,000	3,200
Accounting fees	6,000	7,500	7,200	8,000
Upkeep and maintenance of premises	10,000	15,000	7,500	19,000
Total expenses	255,675	311,425	261,120	348,930
Surplus/(Deficit)	44,325	148,575	138,880	71,070

A charitable institution / organisation must spend, in the current year, at least fifty percent of its income including donation received in the previous year for the activities which were approved to achieve its objectives for the basis period for a year of assessment.

Required:

- (i) **Based on the above, ascertain whether SLF satisfies the prescribed spending criteria in the years of assessment 2016, 2017 and 2018.** (6 marks)
- (ii) **Explain the implication to SLF if the prescribed spending criteria is not met.** (2 marks)

[Total: 20 marks]

Question 5

You are the tax partner of KC Tax Consultant Sdn Bhd, a firm of tax accountants carrying on their business at No. 8, Jalan Satu, Kuala Lumpur. On 12 April 2019, you had a meeting with your client, Mr Lim, the financial controller from Main Manufacturer Sdn Bhd (MMSB). The office of the client is situated at No. 4, Jalan Besar, Kota Damansara, Selangor. At the meeting, you and Mr Lim discussed matters relating to the availability of reinvestment allowance (RA) incentive for MMSB. Mr Lim had provided you the following information:

MMSB, a tax resident company has been operating its business of manufacturing canned food products in Petaling Jaya, Selangor since 2010. Its financial year end is 31 December. It planned to expand its business by automating its production lines starting from 2020.

The projected figures for income and expenditure for the next 3 years of assessment from YA2020 are as follows:

Year of Assessment	2020	2021	2022
	RM'000	RM'000	RM'000
Adjusted income/(loss) from business	(800)	6,000	8,000
Interest income from deposit in a local bank	100	100	100
Expenditure incurred for RA purposes:			
Machinery (Note 1)	50	50	0
Machinery (Note 2)	200	0	0
Machinery (Note 3)	2,000	2,000	5,000
Completion of a factory in 2022 (Note 3)	0	0	8,000
Industrial building allowance (IBA) and capital allowance (CA) due			
IBA and CA for the year of assessment	1,800	1,400	3,500

Notes:

1. These are leased assets.
2. It is to be purchased from a wholly owned subsidiary company of MMSB.
3. These are to be incurred for the qualifying project for RA incentive.

Required:

Draft a letter to Mr Lim on the RA incentive for MMSB with effect from the year of assessment 2020. Your advice should include the following matters:

- (i) The conditions to be fulfilled by MMSB to qualify for RA incentive.
- (ii) The mechanism of the RA incentive.
- (iii) A projected tax computations for the 3 years of assessments 2020-2022.

Note:

You are to assume that the income tax rate is 24% for all the years of assessments. Detail workings are to be shown to support the tax computations. Marks will be awarded for the appropriateness of the format of the letter and the effectiveness of communication.

[Total: 20 marks]

Question 6

- (a) Encik Zamri Ahmad purchased a pineapple plantation in Johor on 12 November 2012 for RM4 million. He incurred incidental legal fees of RM40,000 and stamp duty of RM114,000. On 20 September 2013, he transferred the pineapple plantation to Pelangi Nanas Plantation Sdn Bhd (PNPSB), a company controlled by him, in exchange for 6 million shares of RM1.00 each. PNPSB is a real property company under the Real Property Gains Tax Act 1976. On 5 December 2013, he sold 4 million PNPSB shares for RM5.2 million to a businessman Encik Jamal Ali.

In 2015, PNPSB incurred qualifying agricultural expenditure of RM1.9 million on the plantation to improve its drainage and buildings. On 21 February 2018, PNPSB sold the plantation to Suria Plantation Sdn Bhd for RM9.2 million. Incidental expenses incurred by PNPSB on the sale of the plantation was the legal fees of RM22,000 and sale commission of RM184,000 paid to a broker.

Required:

Compute the real property gains tax payable, if any, for the relevant year of assessment on the following transactions:

- (i) **Transfer of the plantation to PNPSB by Encik Zamri Ahmad;** (5 marks)
- (ii) **Sale of 4 million shares by Encik Zamri Ahmad in PNPSB to Encik Jamal Ali;** (4 marks)
- (iii) **Sale of the pineapple plantation by Pelangi Nanas Plantation Sdn Bhd to Suria Plantation Sdn Bhd.** (7 marks)

Note:

You are to discuss the tax treatment if there are no real property gains tax payable to be computed for any of the above transaction.

- (b) Nurjaya Holdings Sdn Bhd transferred a plantation to its subsidiary company, TJ Sdn Bhd on 1 September 2015 to bring about greater efficiency in the operations of its group of companies in the plantation industry. The transfer was given a 'no gain and no loss' treatment under Paragraph 17(a) Schedule 2 of the Real Property Gains Tax Act 1976.

On 15 August 2018, Nurjaya Holdings Sdn Bhd disposed of the shareholding in TJ Sdn Bhd to JK Sdn Bhd, an unrelated company.

Required:

Discuss the tax consequences for Nurjaya Holdings Sdn Bhd in respect of the disposal of its shareholding in TJ Sdn Bhd to JK Sdn Bhd.

(4 marks)

[Total: 20 marks]

(END OF QUESTION PAPER)