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

PROFESSIONAL EXAMINATIONS

FINAL LEVEL

ADVANCE TAXATION 1

DECEMBER 2018

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

DO NOT TURN OVER THIS PAGE UNTIL INSTRUCTED BY THE INVIGILATOR

Question 1

Damansara (M) Sdn Bhd, a tax resident company in Malaysia is planning to set up a manufacturing plant in Johor Bahru to manufacture electronic components. The company has been notified by the Malaysian Industrial Development Authority that it may qualify for either Pioneer Status or Investment Tax Allowance (ITA).

Encik Ahmad, the financial controller understands that choosing the correct tax incentive is crucial in order to maximise return for the company's shareholders. He has prepared the capital expenditure projections for the next 5 years as follows:

Year of Assessment:	**2018**	**2019**	**2020**	**2021**	**2022**
	RM '000	**RM '000**	**RM '000**	**RM '000**	**RM '000**
Capital expenditure projection:					
Plant & machinery	2,000	14,000	16,000	25,000	12,000
Office equipment (for office use only)	3,400				
Factory building	17,000	9,000			
Factory land	15,000				

You, the tax consultant, have assisted the company in arriving at the projected adjusted income/(loss) and capital allowances for the next five years as follows:

Year of Assessment:	**2018**	**2019**	**2020**	**2021**	**2022**
	RM '000	**RM '000**	**RM '000**	**RM '000**	**RM '000**
Adjusted income / (adjusted loss)	(5,300)	30,000	8,000	12,000	22,000
Capital allowances	2,700	3,800	7,000	2,800	12,000

Required:

Advise Encik Ahmad on whether the company should apply for either the Pioneer Status or Investment Tax Allowance incentive.

You are to support your answers with detailed workings.
Assume an income tax rate of 24% for the projected 5 years of assessment.

[Total: 20 marks]

Question 2

(a) **With reference to Paragraph 12 of Schedule 6 of the ITA and the Public Ruling No. 9 of 2011 on Co-operative society issued by the Inland Revenue Board of Malaysia on 16 November 2011, explain briefly the treatment of the income of a co-operative society, having regard to the Principle of Mutuality.**

(6 marks)

(b) The Kampung Manjung Fishermen Co-operative Society (the society) which was formally registered in 2008, declared a dividend of 12% on the capital contribution by its members, for the financial year ending 31 December 2018. The society closes the account to 31 December each year. As at 1.1.2018, the members' fund was RM500,000.

Required:

(i) **Explain the treatment of the dividend income declared by the Kampung Manjung Fishermen Co-operative, in the hands of the members.**

(ii) **What would be your answer if the members' fund as at 1.1.2018 was RM800,000**

(2 marks)

(c) The Tanjung Karang Fishermen Co-operative Society (the society) is made up of members in the district of Tanjung Karang who are mostly fisherman. The society was formed to eliminate middleman in the marketing of its members' catch and improve the returns for their efforts. The society closes the account to 30 June each year and was registered in 2010 under the Co-operative Societies Act 1993.

Encik Manaf Abdullah, the secretary of the society has made an appointment with you to discuss the society's income tax matters for the year of assessment 2018. During the meeting he furnished the following information:

1. The society deals mainly with its members and distributes and markets their catch of prawns and shell fish. The gross sale was RM112,000. The operating expenses amounted to RM32,737 which included depreciation cost of RM2,047 and a cash donation of RM15,000 made to the local government hospital. You were able to verify that the balance of the expenses was tax deductible within the meaning of section 33 of ITA. Also based on the information provided, it was ascertained that the capital allowance claimable for the year of assessment 2018 on the assets used by the society amounted to RM5,115.

2. The secretary informed you that the society earned a net rental of RM78,920 from motor boats rented out and interest of RM28,810 on fixed deposits placed with a local commercial bank.

3. The members' fund as at 1 July 2017 is ascertained as follows:

Members' funds as at 1.7.2017	**RM**
Share capital	500,000
Member's subscription	20,000
Share redemption fund	10,000
Accumulated profit	90,000
Balance of statutory reserve fund	200,000
Total	820,000

4. The secretary has produced an audited account for the financial year showing a net profit of RM158,183 and confirmed, with supporting documents, that the society had made statutory contributions for the year ended 30 June 2018 as follows:

- Statutory reserve fund: RM25,547
- Education trust fund: RM4,258
- Co-operative development fund: RM2,129

Required:

Compute the chargeable income of the Tanjung Karang Fishermen Co-operative Society for the year of assessment 2018.

Note:
All figures should be rounded to the nearest RM1.00

(12 marks)

[Total: 20 marks]

Question 3

(a) Mr Joseph Lim (Joseph) a successful businessman died in June 2016 in a car accident while travelling from Johore Bharu to Kuala Lumpur. He was survived by his wife, Madam Lilian Wong (Lilian). He left behind a will, naming his wife as the executor of the trust (the trust) and his four children as beneficiaries of the trust. The will provided the following:

1. Lilian will carry on the business after his death and will be entitled to an annuity of RM72,000 from the trust.
2. The first child would be paid one quarter of the distributable income. The amount to be paid, however, will be at the sole discretion of Lilian.
3. The last child, a girl, would have a sum of RM60,000 per annum accumulated for her until she reaches the age of 21 years. In the basis period for the year of assessment 2018, this child was only 15 years old.
4. The second and the third child each would be entitled to one-half of the balance of the distributable income.

Accordingly, for the year ended 30 June 2018, the first child was paid RM50,000; the second and the third child each received a sum of RM122,639.

For the year ended 30 June 2018 the business gross income was RM725,192. Expenses incurred and charged to the accounts was RM310,604 giving a net profit of RM414,588.

Lilian had made the following charges in the accounts in arriving at the net profit:

1. Trust management fee (paid to Lilian herself): RM30,000;
2. Legal fee on a claim dispute from a relative for a share of the trust income: RM5,000
3. A payment to the relative to withdraw the claim: RM65,000
4. Cash donation of RM5,000 to an approved charity home

The trust has a property in Malaysia and the net rent received for the relevant basis period was RM20,845. A sum of RM5,687 accrued on 1 June 2018 from a fixed deposit placed with a local bank, and a single tier dividend of RM9,458 was received in May 2018 from an investment in a local listed company. An investment in a listed company in China paid a dividend of RM13,461 and this was remitted to Malaysia on 15 January 2018.

For the year of assessment 2018 there is a balancing charge of RM2,618 and a capital allowance of RM12,400 on assets used in the trust business.

Required:

For the year of assessment 2018, compute the following:

(i) The chargeable income of the trust;

(ii) The beneficiary's share of the total income of the trust.

Notes:

i. Assume that the Director General of Inland Revenue has allowed the application of section 61(2) of the ITA to the trust income. The trust and all the beneficiaries are resident in Malaysia in the basis year of the year of assessment 2018.

ii. All figures should be computed to the nearest RM1.00

(14 marks)

(b) The resident status of a trust is determined under section 61 of the ITA.

Required:

Explain under what circumstances would, a trust be regarded as not a resident in Malaysia for the basis year of a year of assessment.

(2 marks)

(c) Ah Sang was a successful businessman who accumulated substantial landed properties and shares in listed companies during his lifetime. He passed away sometime in 2010. Before his death, he created a trust and named his three grandchildren, born of his only daughter, as beneficiaries of the trust, entitled equally to the benefits of the trust.

The trust provided for the income of the trust to be accumulated to the grandchildren until they reach the age of 24 years. This amount, to be accumulated in the trust, and would be paid out to the grandchildren at that time (i.e. upon reaching the age of 24 years), by way of a fixed deposit to be opened by the trustee in a local bank for each of the grandchild in the amount accumulated; and only the interest accruing on the fixed deposit would be paid out to the grandchildren.

The grandchildren will also be given shares from the trust totalling not more than 10,000 each for each year until they reach the age of 24 years. However the actual number of shares to be given will be determined from time to time by the trustee, who is the mother of the children.

Required:

With reference to section 62 of the ITA, discuss whether the trust is a discretionary or non-discretionary trust, giving reasons for your determination thereof, and the tax implication of such a trust to the beneficiaries.

(4 marks)

[Total: 20 marks]

Question 4

Ashok Trading Sdn Bhd is a company dealing in curry powder and spices and it is based in Butterworth. The company signed a sale and purchase agreement on 20 April 2018 to sell a piece of land it held in Bukit Mertajam for RM2,450,000. The land was originally acquired on 1 May 2013 for RM1,350,000. The stamp duty and legal fees paid on the original acquisition was RM33,500 and RM12,000 respectively.

In the course of selling the land, the company incurred the following expenses:

1. Commission to agent: RM73,500
2. Valuation fees: RM6,000
3. Building a wall around the land for a sum of RM65,000

The company had collected RM25,000 as a deposit on a previous unsuccessful deal to sell the land and had forfeited the money.

Required:

(a) Compute the real property gains tax payable by Ashok Trading Sdn Bhd.

(8 marks)

(b) Would there be any difference in the real property gains tax payable if the sale and purchase agreement had been postponed by another month?

(2 marks)

(c) Azlan Ramli, a Malaysian citizen, was the owner of many properties and transacted three properties in Malaysia in the last five years, the details are as follows:

Type of property	**Kulim house**	**Land in Seremban**	**Penang house**
Date of acquisition	12 December 2012	17 May 2008	31 December 2015
Date of disposal	14 March 2014	25 June 2015	17 October 2018
Acquisition price(RM)	360,000	300,000	1,600,000
Disposal price (RM)	280,000	350,000	1,920,000

Required:

Compute the chargeable gains / allowable losses on the above transactions and the real property gains tax payable on the above transactions under the Real Property Gains Tax Act 1976.

(10 marks)

[Total: 20 marks]

Question 5

(a) Regulation 9 of the Income Tax (Property Development) Regulations 2007 stipulates the criteria to ascertain the date of commencement of a property development business. The determination of the commencement date is crucial as it has direct implications on deductibility of certain expenses.

Required:

(i) **Explain with reasons whether the following cost/expenses that are incurred prior to the commencement of a property development business qualifies for a tax deduction.**

a. **Staff salary and overhead expenses**
b. **Legal fee for purchase of land held for development**
c. **Site preparation and preliminary works**

(6 marks)

(ii) **In relation to cost/expenses that qualify for tax deduction incurred prior to commencement of business, explain when the tax deduction can be claimed.**

(2 marks)

(b) In the basis period a project is deemed completed, the actual profit or loss for a property development project must be ascertained and adjustment made accordingly.

Required:

Explain when a project is deemed to be completed pursuant to the Income Tax (Property Development) Regulations 2007.

(2 marks)

(c) SMC Land Sdn Bhd undertook a residential development project. In order to part finance the project, SMC obtained a RM100 million bridging loan from several financial institutions. Legal fees incurred by SMC in the year of assessment 2018 in relation to the loan agreements was RM100,000.

As part of its marketing and promotional package to attract buyers, SMC absorbed the legal fees for the sale and purchase agreement signed with purchasers. The total legal fees absorbed and recognised as expenses in year of assessment 2018 was RM1 million.

Required:

Explain the tax treatment for the legal fees incurred by SMC Land Sdn Bhd in year of assessment 2018.

(4 marks)

(d) DJ Sdn Bhd, an investment holding company, acquired a piece of industrial land in 2014 for RM10 million. The land was recognised as an investment property in the company's accounts.

In 2015, the taxpayer obtained an approval from the authorities to construct twenty units of factory building which was to be leased out to generate future recurring income. Upon completion in 2017, the company sold 5 units of the factory to a manufacturing company. Only 4 out of the remaining 15 were rented out (the rest were vacant). In 2018, another 5 units was sold to various purchasers.

Required:

Discuss, with reference to relevant factors, the tax treatment for the profit / gain derived from the disposal of the completed investment properties.

(6 marks)

[Total: 20 marks]

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Question 6

(a) **With reference to Section 60F, briefly explain the scope of the 'Permitted Expenses' and the restriction placed on the deduction of such expenses in arriving at the adjusted income and the chargeable income of an investment holding company under that section.**

(5 marks)

(b) Malaysia Baru Investment Company Bhd (the company) is listed on the Bursa Malaysia and closes the accounts to 30 June each year. The company derived income from investments including rental from a property acquired during the year and to which the company provides active maintenance and support services to accommodate the convenience of the several tenants.

The company provided the following statement of accounts for the year ended 30 June 2018:

	RM	RM
Gross income		
Rent from property	73,860	
Interest (exempt)	155,106	
Dividend (exempt)	184,650	
Distribution of income from unit trust	36,930	
Management services	14,772	
Gain from realisation of investment	49,240	514,558
Less: Expenses		
Audit fee	18,465	
Wages, salaries and allowance	58,374	
Secretarial fees	2,954	
Accounting fees	4,432	
Legal fees to acquire shop lot	3,693	
Stationery and postage	9,848	
Printing	1,231	
Telephone charges	4,309	
Repair of property	6,771	
Repair of office equipment	3,078	
Travelling expenses	4,309	
Assessment	3,693	
Quit rent	2,462	123,619
Net profit		390,939

The capital allowance on the assets used by the company for the year of assessment 2018 was RM24,000.

Required:

With reference to section 60FA of the ITA, compute the chargeable income for Malaysia Baru Investment Company Bhd for the year of assessment 2018.

You must show all workings. (15 marks)

[Total: 20 marks]

(END OF QUESTION PAPER)