



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

PROFESSIONAL EXAMINATION

FINAL LEVEL

ADVANCED TAXATION 2

DECEMBER 2020

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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 template.
5. All workings **MUST** be shown as marks will be awarded.

**DO NOT TURN OVER THIS PAGE UNTIL INSTRUCTED BY THE INVIGILATOR**

## Question 1

- (a) In Malaysia, there are different types of tax incentives offered in the form of tax exemptions, allowances related to capital expenditure and enhanced tax deductions.

Companies undertaking Approved Services Projects (ASPs) can apply for either income tax exemption of 70% to 100% of their statutory income for a period of five (5) to ten (10) years or investment allowance for an allowance amounting to 60% to 100% on the qualifying capital expenditure incurred within five (5) years from the date the first capital expenditure is incurred.

### Required:

- (i) Define what is meant by “Approved Service Projects” (ASPs). (3 marks)
- (ii) State the criteria which needs to be fulfilled for a company to be eligible for the tax incentives for APS. (5 marks)
- (iii) Explain the types of capital expenditures that are eligible for ASP. (2 marks)
- (b) AB Logistics Bhd (ABLB) is interested to expand its logistic services to cover the cold chain logistics segment. Towards this end, ABLB has incorporated a new company, AB Perishable Sdn Bhd (ABP), with a paid-up capital of RM500,000. ABP will commence the cold storage and temperature-controlled transportation for customers in the agricultural produce in September 2020.

ABP plans to incur capital expenditure on cold warehousing, material handling equipment, refrigerated trucks and others over the next two (2) years. ABP expects to register a decent profit from its first year of operation.

ABLB understands from the Malaysian Investment Development Authority (MIDA) that ABP might be eligible for a tax incentive.

### Required:

- (i) State the conditions which must be fulfilled by ABP in order to be eligible for the incentives from the MIDA. (3 marks)
- (ii) Assuming ABP is eligible for the incentives, explain the types of incentives available. (2 marks)
- (iii) In respect of each of the tax incentives in (ii) above, discuss the mechanism by which the incentives are given and the period of the tax incentive. (5 marks)

[Total: 20 marks]

## Question 2

- (a) List five (5) different categories of professional services that are taxable services pursuant to the provisions of Service Tax Regulations 2018.

(5 marks)

- (b) Who are the taxable persons and what are the taxable services for which a taxable person is required to register for service tax purposes irrespective of the total value of the taxable service provided?

(4 marks)

- (c) Sedap Sdn Bhd began operating a restaurant in January 2017 from the ground floor of a two-storey shop lot it owns and lets out the first floor for use as an office. Sedap Sdn Bhd's restaurant business generates income of RM100,000 per month and it receives a rental of RM50,000 per month from the tenant.

The restaurant gained popularity and many entrepreneurs sought advice from Sedap Sdn Bhd to start similar restaurants. Sedap Sdn Bhd decided to provide consultancy services from January 2019 and anticipates it will charge interested parties a total of RM60,000 per month.

- (i) Determine Sedap Sdn Bhd's liability to register for service tax purposes.

(4 marks)

- (ii) When is Sedap Sdn Bhd liable to register for service tax and the deadline to submit the application for registration?

(2 marks)

- (iii) State the first taxable period for Sedap Sdn Bhd and the deadline to file the service tax returns.

(2 marks)

- (iv) Compute the total value of taxable services and service tax payable for Sedap Sdn Bhd's first taxable period.

(3 marks)

**[Total: 20 marks]**

### Question 3

- (a) Explain the general principles of stamp duty. (2 marks)
- (b) Describe six (6) instruments that are liable to stamp duty under the Stamp Act 1949. (3 marks)
- (c) What do you understand by the term “duly stamped”? (2 marks)
- (d) Section 15 of the Stamp Act 1949 exempts stamp duty in connection with a scheme for the reconstruction of any company or companies or the amalgamation of any companies.

**Explain the conditions that provide the relief from stamp duty in the above scenario.**

(10 marks)

- (e) Briefly describe what you understand by the term “reconstruction” under the Stamp Act 1949. (3 marks)

**[Total: 20 marks]**

### Question 4

- (a) Explain in detail what you understand by “residual profit split method” under transfer pricing methods applicable to sales and other transfer of tangible and intangible property.

(10 marks)

- (b) Lefsa, a MNC based in Canada develops, manufactures and markets a line of products for security market globally. Its research department has developed a patented material useful in the manufacture of bulletproof vests. It licenses the patent to Quinten, its wholly-owned subsidiary in Malaysia. The research department of Quinten alters the material to make it useful in heat resistant clothing useful for fire proofing clothing. Quinten manufactures the fire-resistant clothing out of the modified material and sells the fire-resistant clothing to many countries under its brand name.

During 2019, Quinten has gross revenue of RM500 million and related expenses of RM300 million. Its operating assets relating to the production and sale of fire-resistant clothing are valued at RM200 million. It is determined under some specific pricing method that a 10% rate of return on assets is normal for businesses performing functions similar to those performed by Quinten.

**Calculate the residual profits of Quinten based on the above information.**

(8 marks)

- (c) Explain the objective of the residual profit split method.

(2 marks)

**[Total: 20 marks]**

### Question 5

- (a) Discuss briefly the Rosette Principle in the context of tax evasion and the powers of the Director General of Inland Revenue under the ITA to make an assessment or an additional assessment as the case may be.

**Quote any ONE (1) case law in support of your discussion.**

(2 marks)

- (b) Zahid Properties Sdn Bhd is a local property developer whose accounts are closed on 31 December each year. It was audited in early 2019 by the Inland Revenue Board. Arising from the audit findings, a notice of additional assessment, inclusive of penalty, in the sum of RM350,000 was made for the year of assessment 2013, and posted on 1 September 2019 to the company.

**Required:**

**With reference to the ITA, advise Zahid Properties Sdn Bhd on its income tax liability on account of the notice of additional assessment for the year of assessment 2013.**

(2 marks)

- (c) In identifying a taxpayer for possible tax evasion, the Director General of Inland Revenue has available to him several tests for its determination.

**Required:**

**Explain briefly any TWO (2) tests that could be used by the Director General of Inland Revenue to identify a case as appropriate for commencing a tax investigation.**

(2 marks)

- (d) Haji Adnan Mohamad (Adnan) carries on the business of manufacturing office furniture for several years and closes the accounts to 31 December each year. Following a recent Inland Revenue Board's desk audit of his financial affairs, the case was recommended for investigation.

An investigation team then raided the business premises and the home of Adnan. Arising from those raids, the following information had been obtained in respect of the years 2018 and 2019:

1. **Statement of financial position for years ended 31 December 2018 and 2019**

	31/12/2018		31/12/2019	
	RM	RM	RM	RM
Capital		95,000		135,000
Balance of PL ac b/f	179,000		391,000	
Profit for the year	147,000		180,000	
Less: Drawings	<u>65,000</u>	<u>391,000</u>	<u>82,000</u>	<u>653,000</u>
Proprietor's funds		<u>486,000</u>		<u>788,000</u>
Represented by:				
Non-current assets		371,000		641,000
Current assets	278,000		318,000	
Less: Current liabilities	<u>163,000</u>	<u>115,000</u>	<u>171,000</u>	<u>147,000</u>
Total net assets		<u>486,000</u>		<u>788,000</u>

2. **Additional information based on seized documents and interview with Adnan are as follows:**

- (i) He had bought a new car for cash in 2019 for his family use, costing RM185,000.
- (ii) In 2016 he had invested RM35,000 in a public listed oil palm dealing company based on some 'tips' from his friend. However, after its purchase the share price kept sliding downward. He decided to cut loss and sold off the shares in late 2019 for RM25,000.
- (iii) In 2019, he bought a two-story factory for RM450,000 on the outskirts of town. He paid a down payment of RM45,000 and the balance was financed by a bank loan. No payment was made to the bank in 2019 because the loan repayment will only start sometime in 2020.
- (iv) The house that Adnan stays was bought for RM680,000 in 2005. He took a bank loan, and settled the loan in 2017.
- (v) Through several sessions of detailed discussions with Adnan, it was agreed that his 'personal and private expenses' is RM160,000 (included household, medical, entertainment and travelling expenses).
- (vi) Adnan had made a donation of RM5,000 to an approved charitable body in 2019.

**Required:**

**With reference to the ITA and the information provided above in respect of Haji Adnan Mohamad, determine the omitted income for the year ended 31 December 2019.**

Note: Marks will be awarded for proper presentation.

(14 marks)

**[Total: 20 marks]**

**Question 6**

- (a) What are the aims of transfer pricing documentation?** (3 marks)
- (b) (i) Country-by-Country Reporting (CbC Report) should comprise of a three-tiered approach to transfer pricing documentation. Outline the three-tiered approach.** (3 marks)
- (ii) Describe briefly what is contained in the CbC Report and explain how this affects multinational enterprises (MNEs) in the context of transfer pricing.** (9 marks)
- (c) Outline what is provided in the master transfer pricing file under the CbC Report.** (5 marks)

**[Total: 20 marks]**

**(END OF QUESTION PAPER)**