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

PROFESSIONAL EXAMINATIONS

INTERMEDIATE LEVEL

BUSINESS TAXATION

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 **FIVE** questions.
3. Answer **ALL** questions.
4. The Income Tax Act 1967 (as amended) is referred to as ITA.
5. Each answer should begin on a separate answer booklet.
6. All workings **MUST** be shown as marks will be awarded.
7. Answers should be written in either black or blue ink.
8. No question papers or answer booklets are to be removed from the examination hall.

DO NOT TURN OVER THIS PAGE UNTIL INSTRUCTED BY THE INVIGILATOR

Question 1

Jayaria Sdn Bhd (JSB) was incorporated in Malaysia with a paid-up ordinary share capital of RM3.3 million.
JSB's Statement of Profit or Loss for the financial year ended 30 September 2018 is as follows:

		Note	RM'000	RM'000
Sales revenue				197,823
Less:	Cost of sales	(1)		(122,300)
	Gross profit			75,523
Add:	Other income	(2)		383
				75,906
Less:	Expenses			
	Salaries and wages	(3)	31,680	
	Rental of premises	(4)	129	
	Bad and doubtful debts	(5)	115	
	Travelling expenses	(6)	410	
	Foreign exchange loss	(7)	130	
	Selling and distribution expenses	(8)	7,350	
	Administration expenses	(9)	1,204	
	Donations	(10)	116	
	Maintenance of plant and machinery	(11)	7,917	
	Other business expenses	(12)	25,952	
				(75,003)
Net profit before tax				903

Notes:

1. Cost of sales includes RM25,000 representing cost of goods manufactured by the company which were withdrawn from inventory for use as fixed assets by the company. No further recording was made of this transaction. The normal selling price of these goods withdrawn was RM36,000.

2. Other income consisted of:
   i. Income of RM340,000 received from the rental of a factory building in Malaysia. JSB does not provide comprehensive and active maintenance and support services;
   ii. Interest income of RM43,000 on a loan given to a local subsidiary.

3. Included in salaries and wages are the following:
   i. Wages totalling RM33,000 paid to disabled staff;
   ii. The Employees Provident Fund contributions was at the rate of 15% for staff based on their wages of RM25,562,609 and 25% for executives and directors based on their salaries of RM1,800,000.

4. Rental of premises included a sum of RM25,000 paid in respect of early termination of the lease of a building which the company vacated in March 2018. The lease was for another 10 years. The building was no longer suitable as a showroom for the company due to the construction of a new highway. In the lease agreement, the sum of RM25,000 was labelled as a "penalty for early termination".

5. Bad and doubtful debts were in respect of:

		RM'000
i.	Bad trade debts recovered	(170)
ii.	General provision brought forward	(205)
iii.	Bad trade debts written off	250
iv	General provision carried forward	240
		115

6. Travelling expenses included:

   i. Vacation airfare and hotel accommodation costing RM18,000 was for the entertainment of an important existing customer;

   ii. Reimbursement to the company directors the sum of RM110,000 being salaries and RM15,000 being contributions to Employees Provident Fund in respect of drivers employed by the directors These were declared and reported in their respective remuneration forms (EA form) as perquisites to the directors.

   iii. RM267,000 was incurred on airfares for a company trip to Bandar Seri Begawan (Brunei). The trip was to facilitate a yearly event which involved the employer and all the employees.

7. The foreign exchange loss was in respect of the purchase of manufacturing component parts. The realised loss amounted to RM70,000 only.

8. Selling and distribution expenses included RM108,000 for gifts to customers at the company's annual dinner. These gifts did not bear JSB's business logo.

9. Administration expenses included:

		RM'000
i.	Statutory audit fees (fees were outstanding at 30 September 2018)	249
ii.	Tax audit consultation fees	44
iii.	Depreciation	872
iv.	Quit rent and assessment relating to factory building [See Note 2(i)]	39
		1,204

10. Donations was in respect of contributions made to a fund-raising campaign organised by a distributor of the company.

11. Maintenance of plant and machinery included RM17,000, being the installation cost of a machine (see note 13a).

12. Other business expenses [all qualified for deduction under section 33(1)].

13. Capital allowances was computed at RM822,000 for the year of assessment 2018, but without taking into account the following acquisitions:

   i. Machine

      On 14 January 2018, the company purchased a machine at a cost of RM183,000. This is NOT a 'heavy machinery'. The sum of RM17,000 mentioned in Note 11 was incurred on preparing the site for installation of this machine. The machine commenced operation two weeks after acquisition.

   ii. Motor Vehicle

      A new car costing RM220,000 was purchased on 9 December 2017 for use by the general manager.

Required:

(a) Compute the Chargeable Income of JSB for the year of assessment 2018.

Note:
Your computation should start with the 'Net profit before tax' figure and should include all items referred to in Notes 1 to 13, indicating 'NA' where no adjustment is needed**.**

(26 marks)

(b) JSB has a subsidiary, Kayaraya Sdn. Bhd. (KSB), with a paid-up ordinary share capital of RM2.8 million. The following is relevant to KSB:

	YA 2018 RM	**YA 2017 RM**
Chargeable income from business	800,000	100,000
Approved donation	NIL	NIL
Capital allowances carried forward	NIL	NIL
Unabsorbed business losses carried forward	NIL	NIL

Assume that JSB qualifies for the preferential tax rate granted for 'Increase in Chargeable Income from Business' from year of assessment 2017 to 2018.

State, with reasons, the two corporate income tax rates applicable to KSB for year of assessment 2018.

(4 marks)

[Total: 30 marks]

Question 2

(a) Mercury Sdn Bhd [MSB] and Venus Sdn Bhd [VSB] (both having a 31 December year-end) are two agricultural based companies, respectively operating padi fields and vegetable plots in Kedah. For irrigation purposes both companies installed huge water gates to facilitate collection and dissemination of water to their respective fields at appropriate times. The system installed by MSB comprised of ten water gates whilst that of VSB comprised of only one huge water gate.

In September 2018 VSB installed a new water gate to replace the existing water gate that was leaking. Meanwhile, one of the ten water gates of MSB sprang a leak and was replaced with a new water gate.

Required:

State with reasons whether the cost of replacing the water gate is deductible respectively for both MSB and VSB for the year of assessment 2018.

(4 marks)

(b) Earth Sdn Bhd ("ESB") [a Malaysian resident company with a 31 December year-end] rented oil rigs and an office building (all oil rigs and the building are located in Malaysia) from Mars Ltd ["ML"] (a non-resident company). ESB made rental payments of RM 50,000 for the office building and RM 80,000 for the oil rigs on 15 October 2018. The payments were made in the country in which ML was resident, and not in Malaysia.

Required:

(i) **Explain whether the payments for the rental of the oil rigs are deemed derived from Malaysia.**

(2 marks)

(ii) **Explain whether any of the two rental payments will attract withholding tax in Malaysia or not.**

(3 marks)

(iii) **In the event if any one of the two rental payments is subjected to withholding tax, compute the withholding tax and state the due date for remitting the tax withheld to the IRB.**

(2 marks)

(iv) **State any three (3) consequences of non-compliance with the withholding tax provisions in Malaysia.**

(3 marks)

(c) Jupiter Sdn Bhd ("JSB") operated a trading business for decades but in the recent years its volume of business had declined and it had accumulated huge amounts of unabsorbed capital allowances and unabsorbed tax losses.

The shareholders of JSB decided to cease the trading business and sell all the assets of the company to Saturn Sdn Bhd ["SSB"]

JSB however may venture into a separate business of providing shared services in the near future.

Required:

Discuss the tax implications on the utilisation of the unabsorbed capital allowances and unabsorbed tax losses if JSB ceased its trading business and sold all the assets of the company to SSB.

(6 marks)

[Total: 20 marks]

Question 3

Jothi and Johan are partners in a conventional partnership. The following information relates to the partnership for the year ended 31 December 2018:

	Note	RM	RM	RM
Service fee income				690,000
Less:				
Business expenses	(1)		50,000	
Partners' salaries – Jothi		180,000		
Johan		120,000	300,000	
				(350,000)
Net profit				340,000

Notes:

1. The business expenses included:

		RM
i.	Renovation of office premises	10,000
ii.	Depreciation	15,000
iii.	Business travelling	8,000
iv.	Water and electricity	9,000
v.	Approved cash donation	1,000

2. During the year of assessment 2018, the partnership incurred capital expenditures for its business as follows:

		RM
i.	4 sets of computers	4,000 each
ii.	2 sets of photocopiers	2,500 each
iii.	5 sets of tables and chairs	1,000 each

Required:

(a) **Compute the provisional adjusted income, divisible income and the capital allowances at the partnership level for the year of assessment 2018.**

(7 marks)

(b) Suppose Jothi and Johan had incorporated a limited liability partnership ("LLP") instead of a conventional partnership as (a) above.

(i) **Explain the differences in the tax treatments of the following items in the LLP as compared to the conventional partnership.**

a. **The legal deadline for submission of annual tax return for the year of assessment 2018.**
(Ignore any 'extension of time' granted by the Inland Revenue Board)

(3 marks)

b. **The taxability of "partners' salaries" on the partners.**

(3 marks)

(ii) **Using the capital allowances calculated in (a) above, compute the tax payable of the LLP for the year of assessment 2018.**

(5 marks)

Note:
The capital contribution of the LLP is RM800,000. Assume the LLP is a tax resident in Malaysia and assume that the “partners’ salaries” are specified in the LLP agreement.

(iii) **Explain the tax treatments when a partner receives a distribution of profits from the LLP.**

(2 marks)

[Total: 20 marks]

Question 4

(a) **Being a tax resident company provides some advantages from the income tax perspective. State <u>two (2)</u> benefits to a company for being tax resident in Malaysia.**

(3 marks)

(b) Kelly Sdn Bhd (Kelly) is a company incorporated in Malaysia in 2018. Its holding company, Holder Pte Ltd, incorporated in Singapore, holds 100% of Kelly’s share capital.

Kelly has five directors as follows:

i. One Malaysian director who resides in Malaysia; and
ii. Four Singaporean directors (who are not tax resident in Malaysia).

Kelly set up a small factory in Malaysia which commenced production in 2018.

During the Year of Assessment 2018, the directors of Kelly held five meetings to set policy decisions that controlled and managed the company, as follows:

i. One such meeting was held in Johor Baru (Malaysia); and
ii. Four such meetings were held in Singapore.

Required:

State, with reasons, whether Kelly Sdn Bhd is resident in Malaysia for Year of Assessment 2018 for income tax purposes.

(4 marks)

(c) Izzaaz Sdn Bhd ("Izzaaz") was incorporated in Malaysia in 2018 with a paid-up ordinary share capital of RM100. Izzaaz was tax resident for Year of Assessment 2018. Izzaaz adopted 31 December as its financial year end.

On 1st July 2018, Izzaaz increased its ordinary share capital from RM100 to RM3,000,000. All its shares are held by an individual.

Izzaaz's chargeable income for Year of Assessment 2018 was RM 400,000.

Required:

What is the corporate tax rate applicable to Izzaaz for Year of Assessment 2018? Justify your answer.

(3 marks)

(d) Kenken Sdn Bhd ("Kenken") was incorporate in Malaysia in 2017 with the following paid-up capital structure:

		RM
i.	Ordinary share capital	1,000,000
ii.	Preference share capital	2,000,000

All the ordinary shares and preference shares were held by its holding company, Leelee Sdn Bhd (Leelee). Leelee's ordinary share capital was RM6,000,000 in 2017 and remained unchanged in 2018.

Both Kenken and Leelee adopt 31 December as their financial year end.

Kenken was dormant for Year of Assessment 2017 and did not derive any income. During Year of Assessment 2018, Kenken commenced operations and its chargeable income was RM 900,000.

Kenken was tax resident for Year of Assessment 2018.

Required:

What is the corporate tax rate applicable to Kenken Sdn Bhd for Year of Assessment 2018? Discuss the factors that you had considered in arriving at your answer.

(5 marks)

[Total: 15 marks]

Question 5

(a) Hakimas Sdn Bhd closes its accounts every 30th September.

For the year of assessment 2018, Hakimas Sdn Bhd submitted its original tax estimate of RM98,000 within the stipulated timeline pursuant to Section 107C(2).

However, the management of Hakimas Sdn Bhd approached you in February 2018 and requested you to revise the tax estimate for YA 2018 to RM50,000.

Required:

Explain if Hakimas Sdn Bhd can revise its tax estimate in February 2018.

(3 marks)

(b) Continuing from the above, after the end of the basis period 2018, you computed the actual tax of Hakimas Sdn Bhd to be RM100,000 for Year of Assessment 2018. The actual tax (RM100,000) was very much higher than the revised tax estimate (RM50,000).

Required:

(i) **Compute the penalty under Section 107C (10), if any, which may arise due to the actual tax payable having exceeded the revised tax estimate.**

(4 marks)

(ii) **If Hakimas Sdn. Bhd. did NOT revise its tax estimate, but had stuck to its original tax estimate of RM98,000, would there still be any penalty under Section 107C(10) in view of the fact that the actual tax was RM100,000?**

(Support your answer with reasons and calculations).

(2 marks)

(c) Assume that the "balance tax payable" by Hakimas Sdn Bhd for YA 2018 (financial year ended 30 September 2018) is RM50,000 (i.e. actual tax of RM100,000 less RM50,000 already paid through tax instalments).

(i) **If Hakimas Sdn Bhd will only settle the "balance tax payable" of RM50,000 on 25 August 2019, compute the total amount of late-payment penalty.**

(Follow the deadlines stipulated in the ITA; ignore any administrative 'extension of time' granted by the IRB).

(4 marks)

(ii) **The management of Hakimas Sdn Bhd prefers to submit the income tax return form for Year of Assessment 2018 using a manual form. How would you advise them?**

(2 marks)

[Total: 15 marks]

(END OF QUESTION PAPER)