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



PROFESSIONAL EXAMINATIONS

INTERMEDIATE LEVEL

PERSONAL TAXATION

JUNE 2019

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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 **FOUR** 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 paper or answer booklet are to be removed from the examination hall.

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

## Question 1

- (a) Mr Rajmohan is the Chief financial officer for Johan Steel Sdn Bhd (“JSSB”) which is a subsidiary of an Indian company based in Port Klang. He has been working with this company since 2008. He is 44 years old and a Malaysian resident.

Mr Rajmohan provided the following information in his income tax return for the year 2018:

	<b>RM</b>
Salary per month	15,000
Bonus for the year 2018	30,000
Service award	10,000
Entertainment allowance per month	2,000
Travelling allowance per month	2,500
Leave passage to South Africa for family	25,000

Further information provided by the taxpayer for the year 2018 is as follows:

1. Mr Rajmohan was given the option to buy 10,000 units of the company’s shares at the price of RM10 per share on 1 June 2018. The market value at that time was RM12 per share. He exercised his option on 21 November 2018 when the price was RM14 per share.
2. He incurred RM12,000 on entertainment expenditure on official duties. The travel allowance is for official duties.
3. The company (“JSSB”) provided a fully furnished bungalow to Rajmohan. The rental of RM12,000 (including RM1,000 for furnishings) was paid for by the company. The company also paid for the gardener to look after the extensive garden.
4. He was provided with a new luxury car costing RM350,000 from the year 2015. JSSB bears the cost of fuel and repairs for Rajmohan. The company also provided him with a driver.
5. Mr Rajmohan took an interest free loan of RM120,000 from his employer to finance the purchase of his second car. The loan was given from the equity funds of the employer. The interest payable for the loan would have been RM15,000 if it had been borrowed from a Malaysian commercial bank.
6. Mr Rajmohan pays RM1,200 as subscription fees to his professional accounting body.
7. The employer paid for Mr Rajmohan’s medical bills of RM22,000 when he was admitted to a private hospital for dengue fever.
8. Mr Rajmohan had invested in the share market and received dividends amounting to RM7,688 and an interest income of RM2,499 from Public Bank. His wife too received an interest income of RM3, 680 from Public Bank.

Other information:

Mr Rajmohan is married to Leela Jeyaram and Mr Rajmohan has provided the following additional particulars:

1. Leela Jeyaram is a housewife and received rental income from India amounting to RM24,000 in 2018. She is a Malaysian citizen and resident in Malaysia.
2. They have three children:
  - i. The first son Devan is ten years old and goes to a local primary school.
  - ii. The second child Anandini is disabled and does not go to school.
  - iii. The third child Praveena goes to a registered kindergarten for which they pay fees amounting to RM12,000 in total.
3. Rajmohan's mother is 78 years old and lives with him. She has no income of her own and is a resident in Malaysia.
4. He pays insurance of RM4,500 on a life insurance policy on his life with a maturity value of RM500,000.
5. He bought a smart phone for himself for RM3,300 and books for his family costing RM980.
6. Rajmohan donated RM5,000 in cash to an approved temple building fund.

**Required:**

**Compute the total income and the income tax payable by Mr Rajmohan for the year of assessment 2018. Leela Jeyaram has elected for joint assessment under sec 45(2) of the ITA.**

(24 marks)

- (b) (i) **Discuss and explain the distinction between benefits in kind and perquisites under ITA.**
- (4 marks)
- (ii) **Discuss the tax treatment of domestic servant's wages paid by the employee and then reimbursed to employee by the employer.**
- (2 marks)

**[Total: 30 marks]**

## Question 2

- (a) With reference to the ITA and the relevant Public Rulings, briefly discuss when would income derived from the letting of real property be treated as a source of income falling to be charged to income tax under section 4(a) or 4(d)?

(3 marks)

- (b) Madam Pearl Lucy ("Lucy") bought a semi-detached house ("property") in 2014 and had it rented out since then. On 1 January 2018 a new tenant moved in. Lucy has furnished the following statement of rental income for the year ended 31 December 2018.

<b>Statement of rental income for the period 1 January 2018 - 31 December 2018</b>		
	<b>RM</b>	<b>RM</b>
Gross rental received	36,000	
Refundable rental deposit from new tenant	<u>3,000</u>	39,000
Less: Expenses		
Quit rent	330	
Assessment	780	
Fire insurance premium on building	1,350	
Replacement of damaged bathroom door	640	
Replacement of the old air conditioner	1,800	
Extension of storage space to kitchen	3,000	
Interest on loan	<u>14,000</u>	<u>21,900</u>
Net rent		<u>17,100</u>

Lucy has provided the following additional information:

- (i) Quit rent of RM330 includes RM30.00 being amount short paid for the previous year.
- (ii) Lucy obtained a bank loan to purchase the property in 2014. In 2018, another bank, MBIC offered a much lower interest rate. The balance of the old loan was RM130,000 at the end of 2017. Lucy then transferred her finance to MBIC which approved a non-revolving loan of RM175,000. She used the balance of RM45,000 as working capital for her business. For the year ended 31 December 2018 she paid an interest of RM14,000 and claimed this against her rental income.

**Required:**

**Compute the adjusted rental income of Madam Pearl Lucy from the property for the year of assessment 2018.**

**Notes:**

1. Round the figures to the nearest RM1.00
2. Show all workings and adjustments, and indicate with the word 'Nil' where no adjustment was required for any item of income or expenditure.
3. The interest adjustment should be worked on the annual balance.

(6 marks)

- (c) Mr Jason Tan is a Malaysian resident and owns a double storey bungalow (“bungalow”) facing the beach, in Port Dickson. He had indicated his intention to sell the bungalow to his old friend Mr Martin, an accountant in Hong Kong. Mr Martin, a resident of Hong Kong arranged for the house to be sold to his client, a Hong Kong merchant who had wanted a holiday home in Malaysia. The bungalow was sold on 15 May 2019 for RM900,000. In appreciation of the assistance, Mr Jason Tan intends to pay a commission of RM9,000 to Mr Martin.

**Required:**

**Explain briefly to Mr Jason Tan on his obligation as the payer of an income to be repatriated outside Malaysia, making reference to the ITA and the relevant Public Rulings issued by the Director General of the Inland Revenue Board Malaysia.**

(7 marks)

- (d) Mr Prasad, an employee with Ravi Manufacturing Sdn Bhd (“company”) was provided with a 6-year old motor car for his official and personal use. The car, when new, cost RM240,000 but the company bought it for RM200,000 last year. The company provided him with fuel worth RM7,000. Mr Prasad is required to pay RM50 per month to his employer on the fuel account. For the year ended 31 December 2018 it was ascertained that the total mileage done was 35,000 of which 10,000 miles was accepted to be private usage.

**Required:**

**With reference to the ITA and the relevant Public Rulings, compute the value of the benefit in kind to be included as Mr Prasad’s employment income under section 13(1)(b) for the year of assessment 2018, using the following methods:**

- (i) The Formula Method; and
- (ii) The Prescribed Value Method.

**Note:**

The relevant value tables are provided in the Appendix.

(6 marks)

- (e) Ms Vasantha, a Malaysian resident working in Penang, received a notice of additional assessment for the year of assessment 2017 on 30 April 2019 for RM5,000 issued by the Penang office of the Inland Revenue Board. Ms Vasantha is not happy with the notice additional assessment and does not plan to pay the additional tax raised. She has asked for your advice.

**Required:**

**Briefly advise Ms Vasantha on matters pertaining to making an appeal against the notice of additional assessment and comment on the time frame to make payment of the additional tax so assessed under the ITA.**

(3 marks)

**[Total: 25 marks]**

### Question 3

- (a) Encik Rahman received a notice of instalment payment from the Inland Revenue Board (IRB) under Section 107B in February 2018 with the estimated tax liability for the year of assessment 2018 of RM120,000. However, Encik Rahman disagreed with this estimation and requested for a variation of the instalment scheme based on the estimation of RM90,000. The IRB agreed with Encik Rahman's request, and issued to him the amended instalment scheme.

The due dates of instalment scheme and actual payment dates by Encik Rahman are as follows:

<b>Due date</b>	<b>Instalment Amount (RM)</b>	<b>Actual payment date</b>
03.03.2018	15,000	07.04.2018
03.05.2018	15,000	28.05.2018
03.07.2018	15,000	13.08.2018
03.09.2018	15,000	25.09.2018
03.11.2018	15,000	30.11.2018
03.01.2019	<u>15,000</u>	10.02.2019
	<u>90,000</u>	

Encik Rahman's deemed assessment shows an actual tax liability of RM125,000 for the year of assessment 2018. He paid the balance of his tax and submitted his Form B on 30 June 2019.

**Required:**

- (i) **Advise Encik Rahman the due date for him to request for a variation of instalments for the year of assessment 2018.** (1 mark)
- (ii) **Compute the penalty, if any, arising from the instalment payments made by Encik Rahman.** (3 marks)
- (iii) **Compute the penalty, if any, arising from the request for variation of instalments made by Encik Rahman.** (2 marks)
- (iv) **Assuming that Encik Rahman only submitted his tax return and paid the balance of his tax on 31 July 2019, with reference to Section 112 of the ITA, advise Encik Rahman on the tax implications and compute the penalty, if any.** (3 marks)

- (b) Mr Terry, an American national, first arrived in Malaysia on 1 August 2014 to take up employment with Xenon Berhad, a Malaysian company under a five-year contract. He was accompanied by his wife, Susan and their 2-year-old son, Jason.

The terms of Mr Terry's employment are as follows:

1. Starting salary of RM12,000 per month and with an annual increment of RM2,000 thereafter. The details of his 5-year salary are as follows;

	2014	2015	2016	2017	2018
<b>Monthly salary (RM)</b>	12,000	14,000	16,000	18,000	20,000

2. Annual 2-month contractual bonus was paid in the month of January in the following year; and
3. Income tax was fully borne by the company. For the year assessment 2017, Mr Terry's income tax was RM62,900.

Mr Terry was a tax resident for the entire period of his 5-year employment contract in Malaysia. His contract will be ending on 31 July 2019. He has made his decision and informed his employer that he does not have any intention to renew his contract and will leave Malaysia permanently.

**Required:**

- (i) **Compute the income tax payable by Mr Terry for the year assessment 2018.**  
(7 marks)
- (ii) **State the three responsibilities of Xenon Berhad, as an employer, under Section 83 of the ITA on the departure of Mr Terry upon cessation of his employment.**

(3 marks)

- (c) Mr Wong is still single and he received a notice of additional assessment for the year of assessment 2018 on 5 May 2019. He noticed that IRB had disallowed the claim on the deposit of RM6,000 into the Skim Simpanan Pendidikan Nasional (SSPN) for his legally adopted son in arriving the chargeable income.

**Required:**

**Briefly explain to Mr. Wong:**

- (i) **Whether the claim of SSPN deposit for his legally adopted son is allowable;**  
(1 mark)
- (ii) **The time frame for him to file in the notice of appeal; and**  
(1 mark)
- (iii) **The general procedure to appeal against a notice of assessment under the ITA.**  
(4 marks)

**[Total: 25 marks]**

#### Question 4

Dr Chandra is an Indian national, and an expert in goat breeding. He was invited to Malaysia in 2001 to assist with the goat breeding and rearing programs under the Ministry of Agriculture. He was in Malaysia until December 2014.

Dr Chandra went to Nepal on 20 December 2014 to assist with the setting up of a goat breeding and research station there.

He returned to Malaysia on 15 November 2016 and continued to work with the Ministry of Agriculture. He took a vacation leave from 1 December 2016 to 14 December 2016 and went on a sight-seeing tour of Angkor Wat in Cambodia.

On 15 July 2017 he was sent to Afghanistan to assist with the goat farming recovery program there. Upon completion of the Afghanistan assignment, he returned to Malaysia on 1 August 2018.

On 1 November 2018 he received an attractive offer from the Australian government to establish goat farming in Australia. Dr Chandra accepted the offer and migrated to Australia. He left Malaysia for good on 15 November 2018.

**Note:** Dr Chandra's job assignments in Nepal and Afghanistan were totally not connected with his job assignment with Ministry of Agriculture in Malaysia.

#### Required:

- (i) Discuss briefly three features of the law as regards to the time of stay in Malaysia, including part of a day, under section 7 of the ITA in the determination of the resident status of an individual for a year of assessment.  
(3 marks)
- (ii) With reference to the ITA determine the resident status of Dr Chandra for the years of assessment 2014 to 2018 explaining briefly the application of the relevant provisions of the law.  
(15 marks)
- (iii) Discuss the treatment of the period 1 December 2016 to 14 December 2016 with reference to section 7(1)(b) of the ITA and related case law and Public Ruling No. 6 of 2011 issued by the Inland Revenue Board of Malaysia.  
(2 marks)

**[Total: 20 marks]**

**(END OF QUESTION PAPER)**