

FINAL LEVEL ADVANCED TAXATION 1

OBJECTIVES:

1. To examine the application of advanced aspects of Malaysian taxation.
2. To examine the principle and tax treatments of specialized industries.
3. To examine the principle and tax treatment of Real Property Gains Tax.

CONTENTS:

(A) Estates

1. Allocation of income & tax computation - deceased individual & executor(s)
2. Domicile status of deceased & tax implications
3. Annuity & distribution
4. Remuneration of executor(s)
5. Time-frame to raise tax assessment on deceased individual
6. Filing of Tax Returns and Distribution of Income to beneficiaries

(B) Trusts

1. Residence status & significance
2. Fixed trusts
3. Discretionary trusts
4. Trust with accumulation
5. Distributable income
6. Statutory income from ordinary source
7. Mixed trusts
8. Tax credit for beneficiary
9. Resident trust & resident beneficiary Section 61(2) of the Income Tax Act ("the Act")
10. Tax Treatment of Trust Body and Beneficiary

(C) Settlements – Section 65(1) to (4) of the Act

(D) Unit Trusts

1. Special deduction for qualifying expenditure (at 10%)
2. Permitted expenses & fraction deductible
3. Tax Implications of Unit Trusts and scope of charge
4. Taxation of Unit Trusts and Unit Holders

(E) Real Estate Investment Trusts (REIT)

1. Sources of income – rent as business income
2. Exempt income
3. Deduction of expenses & capital allowances
4. Exemption of total income & requirements
5. Distribution of dividends & withholding tax implications

(F) Business Trusts – Resident Status / Taxation of Business Trusts

(G) Co-operative Societies

1. Exemption for co-operative societies – Schedule 6, Paragraph 12 of the Act
2. Determination of gross income – Receipts dealing with members, Business and Investment Income
3. Special deductions in arriving at chargeable income (Section 65A ITA 1967)

(H) Trade Association and Clubs & Societies

1. Definition
2. Residence status
3. Principles of Mutuality (Clubs & Society)
4. Dealings with Members & Non-Members
5. Determination & Assessability of gross income (Entrance Fees & Subscriptions, Business Income, Investment Income & Donations)
6. Income tax exemption

(I) Trade Union

1. Tax administration
2. Tax treatment
3. Exemption

(J) Charitable Institutions

1. Legislation
2. Approved institution/ organization status
3. Tax treatment on Income including business
4. Scope of Exempted Income
5. Tax rate

(K) Investment Holding Company (IHC)

1. **Unlisted IHC**
 - a. Definition and determination of IHC status
 - b. Permitted expenses & fraction deductible
 - c. Computation of tax payable
 - d. Differences in tax treatments (in comparison with listed IHC or investment dealing company)
2. **Listed IHC**
 - a. Deemed business
 - b. Allocation of common expenses & capital allowances
 - c. Disregarding of excessive expenses & unutilized capital allowances
3. **Tax Treatment**

(L) Leasing

1. Legislation & regulations
2. Meaning of lease
3. Leasing as a separate source of income (Regulation 2)
4. Tax treatment for lessor & lessee
5. Tax implication
6. Allocation of common expenses and capital allowances between leasing business and non-leasing business
7. Cross border leasing

(M) Property Developer & Construction

1. Commencement date
2. Pre-commencement expenses
3. Revenue recognition
4. Treatment of expenses
5. Stock withdrawal for own use
6. Transfer of assets into trading stock
7. Disposal of real property – whether carrying on a business

(N) Investment Incentives

The Government encourages investments in various types of qualifying economic activities and projects undertaken in Malaysia. In this regard, conducive tax incentives have been offered for manufacturing, agriculture and tourism activities. Students are required to keep abreast of the incentives. Tax incentives are predominantly available in the following forms:

1. Pioneer Status
2. Investment Tax Allowance
3. Reinvestment Allowance
4. Other tax Incentives provided for in the Income Tax Act 1967 among others double deductions, capital allowances, industrial building allowances and agriculture allowances.

Students will be tested on important areas of the incentives, among others:

1. Legislation
2. Application
3. Qualifying company & activities
4. Definitions & meaning of key terms in relation to the promoted product or promoted activity and incentives
5. Mechanisms and treatment of the Incentives
6. Computation of the exempted income

(O) Real Property Gains Tax

1. Conceptual framework and principles and scope of charge
2. Chargeable assets (including leases & options) and persons
3. Exemptions
4. Computation of chargeable gains and allowable losses
5. Tax rates
6. Circumstances of 'disposal price deemed equal to acquisition price' & 'no loss & no gains' treatment
7. Connected persons
8. Circumstances to apply market value
9. Conditional contract
10. Returns and assessments
11. Payment and recovery of tax
12. Responsibilities of disposer/acquirer
13. Consequences of non-compliance
14. Real property company (RPC)

(P) Taxation of Specialized Industry

Note: Students are expected to know the overall aspects. World scope, remittance basis, bilateral relief/unilateral relief are inclusive

1. **Banking industry**
2. **Insurance industry**
 - a. Life insurance
 - b. General insurance
3. **Sea and air transport undertaking**
 - a. Resident operator and exemption under s54A

(Note: These areas will be tested under Investment Incentives)

READING LIST – ADVANCED TAXATION 1

1. **Income Tax Act 1967.** (as amended)
2. **Public Rulings** and **Operational Guidelines.**
3. Jeyapalan Kasipillai. **A Guide to Malaysian Taxation.** (Latest edition)
4. Choong Kwai Fatt. **Malaysian Taxation Principles & Practice.** (Latest edition)
5. Choong Kwai Fatt. **Advanced Malaysian Taxation Principles & Practice.** (Latest edition)
6. Veerinderjeet Singh. **Veerinder on Taxation.** (Latest edition)
7. CCH Tax Editors. **Malaysian Master Tax Guide.** (Latest edition)
8. **Tax Guardian**, Journal of the Chartered Tax Institute of Malaysia