

INTERMEDIATE LEVEL BUSINESS TAXATION

OBJECTIVES:

1. To examine the understanding of the principles of basis period.
2. To examine the principles of deductible and non-deductible expenses.
3. To examine the computation of Schedule 3 Allowances of the Income Tax Act, 1967 ("the Act").
4. To examine the principles and application of Malaysian income tax law on businesses.
5. To examine the understanding of key principles in selected case laws (see *List of Cases* below).

CONTENTS:

(A) Business Source (Section 12, Section 24, Section 33, Section 34 & Section 39 of the Act)

1. Definition of business
2. Commencement and cessation of business
3. Derivation of business income
4. Capital and revenue receipts (*case laws are included*)
5. Deductibility of expenses (*case laws are included*)
6. Computation of business income

(B) Special Classes of Income (Section 4A of the Act)

(C) Capital Allowances (Schedule 3 of the Act)

1. Plant and Machinery
 - a. Definition of plant and machinery
 - b. Determination of Initial Allowance, Annual Allowance, Notional allowance, Balancing Allowance and Balancing Charge
 - c. Claw back of Capital Allowances and the exception
2. Industrial Building Allowances
 - a. Definition of Industrial Building
 - b. Determination of Initial Allowance, Annual Allowance, Notional Allowances, Balancing Allowance and Balancing Charge
3. Agriculture Allowance
4. Forest Allowance
5. Disposals subject to control

(D) Basis Periods

1. Commencement of accounting period
2. Changes of accounting date
3. Failure years and overlapping period

(E) Partnerships

1. Existence of a partnership
2. Characteristics of a partnership
3. Ascertainment of provisional adjusted income/loss, divisible income/loss
4. Change in partners
5. Allocation of capital allowance to partners
6. Computation of partners' total divisible income, chargeable income and tax payable

(F) Limited Liability Partnership

1. Tax treatment of remuneration of partners
2. Tax treatment of Limited Liability Partnership

(G) Withholding Tax

1. Section 107A of the Act: Contract payment to non-resident contractors in respect of services under a contract
2. Section 109 of the Act Payment of interest and royalty to non-residents
3. Section 109A of the Act Payment to non-resident public entertainers
4. Section 109B of the Act Payments to non-residents for :
 - a. Services in connection with use of property
 - b. Technical and non-technical services under Section 15(b) of the Act
 - c. Rents for use of movable property
5. Section 109F of the Act Gains and profits falling under Section 4(f) of the Act

(H) Corporate Taxation

1. Determination of residence status of companies
2. Significance of residence status
3. Self-assessment system
4. Computation of Tax Liability
5. Treatment of losses
6. Computation of tax payable
7. Allowable expenses (Section 33 & 34 of the Act)
8. Disallowable expenses (Section 39 of the Act)
9. Double deductions
10. Determination of adjusted income, statutory income, aggregate income, total income and chargeable income

(I) Tax Administration

1. Organizational structure of the Ministry of Finance, Inland Revenue Board of Malaysia and the Royal Malaysian Customs Department
2. Duties and powers of the Director General of Inland Revenue Board of Malaysia
3. Taxpayers' responsibilities to notify chargeability to tax and record-keeping
4. Returns and Assessments
5. Monthly tax installments and final tax
6. Compensation for late refund of income tax
7. Tax estimates and revised estimates, including deadlines and penalties
8. Collection and recovery
9. Appeals
10. Offences and penalties

READING LIST – BUSINESS TAXATION

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. Veerinderjeet Singh. **Veerinder on Taxation.** (Latest edition)
6. CCH Tax Editors. **Malaysian Master Tax Guide.** (Latest edition)
7. **Tax Guardian,** Journal of the Chartered Tax Institute of Malaysia

Business Taxation – *List of Cases*

The following tax cases below may be tested in the Business Taxation paper where relevant.

1. Port Elizabeth Electric Tramway Co Ltd v CIR
2. Ward & Co Ltd v CIT
3. Ketua Pengarah Hasil Dalam Negeri v Multi-Purpose Holdings Bhd
4. The Law Shipping Co Ltd v CIR
5. Odeon Associated Theatres Ltd v Jones
6. Bullcroft Main Collieries Ltd v O'Grady
7. Samuel Jones & Co v CIR
8. English Crown Spelter Co Ltd v Baker
9. Charles Marsden & Sons Ltd v CIR
10. Allen v Farquharson Brothers & Co
11. CIR v Alexander von Glehn
12. Curtis v J&G Oldfield Ltd
13. Mallalieu v Drummond
14. UDI Sdn Bhd v DGIR
15. NV Alliance Sdn Bhd v Ketua Pengarah HDN
16. Ketua Pengarah HDN v Eli Lili (M) Sdn Bhd
17. Fernrite Sdn Bhd v Ketua Pengarah HDN