



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

PROFESSIONAL EXAMINATION

FINAL LEVEL

ADVANCED TAXATION 1

DECEMBER 2021

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.
6. All figures to be rounded to RM1.00.
7. For this examination question paper, you are to assume that the basis year ending 31 December 2021 has elapsed.

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Question 1

- (a) Mr Chandra Kumar ('Mr Kumar') was recently elected as the Treasurer of the Klara Malaysia Sports Club ('KMSC') that was registered sometime in 2017. KMSC was not active since its registration but sometime in late 2019 it decided to organise various activities (both income producing and non-income producing) for its members who are all staff of a large engineering company in Kuala Lumpur. The company is affiliated with a foreign engineering company having its headquarters in India.

Mr. Kumar, together with the secretary of KMSC has made an appointment with you to discuss on the following matters:

1. What would be the basis period and the year of assessment for the Klara Malaysia Sports Club in relation to its accounting year end, if it becomes liable to Malaysian income tax?
2. As a club whose members are made up of employees of an engineering company affiliated with a foreign company, what would be the resident status of the Klara Malaysia Sports Club for Malaysian income tax purposes?
3. Mr Kumar thinks that invariably the club may deal with the spouses, parents and the children of the club members in the course of carrying on its various activities generally. How would this affect the liability of the Klara Malaysia Sports Club for income tax purposes?

Required:

Explain to Mr Chandra Kumar and the Secretary of KMSC the matters raised with you in (1)-(3) above with reference to the Income Tax Act 1967 and the Public Ruling No. 1/2015 published on 12 January 2015.

Note: Assume that the law as at 1 January 2021 applies.

(6 marks)

- (b) The Augusta Club ('the club') is a local club of motorcycle enthusiasts. The members are usually well-heeled owners of the famous machines both antique and modern makes. The club organises various activities for both members and non-members. These include regular exhibitions, repair and maintenance workshops for owners who like to tinker with their machines on weekends, and sales of spare parts.

For the year ended 31 December 2021 the club has submitted the following accounts:

The Augusta Club		
Statement of income and expenditure for the year ended 31 Dec 2021		
	RM	RM
Members' subscription	200,000	
Workshop fees (non-members)	50,000	
Other transaction with non-members	40,000	
Fixed deposit interest	<u>2,000</u>	292,000
Less: Expenditure		
Rental for hall for workshops	3,000	
Workers' wages	9,000	
Salaries of office staff	30,000	
Maintenance of office equipment	2,000	
Postage and stationery	1,000	

Transport and travelling	3,000	
Cash donation to an approved institution	20,000	
Miscellaneous expenses	2,000	70,000
Surplus of income over expenditure		222,000

The club is entitled to a capital allowance of RM15,000 for the year of assessment 2021.

Required:

With reference to the ITA, compute the chargeable income of The Augusta Club for the year of assessment 2021.

Note: You must show all workings clearly in arriving at the chargeable income as marks will be awarded for workings shown.

(14 marks)

[Total: 20 marks]

Question 2

- (a) Miss Yamuna has a piece of land gifted by her father. It is a valuable piece of land on account of its strategic location and a developer had expressed interest in developing the land with a construction of a fully serviced luxury apartments. After several rounds of negotiations, Miss Yamuna agreed to enter into a joint venture agreement ('the JVA') with the developer, MyCity Developers Sdn Bhd. Under the JVA to be signed between the parties sometime in May 2021, it was agreed that the market value of the land is RM5 million. In return for the land Miss Yamuna would receive six (6) units of apartments and cash of RM200,000. The apartments will be transferred to Miss Yamuna when the construction is completed, sometime in the middle of 2025.

Before committing to the arrangement by signing the JVA with the developer, Miss Yamuna wants to ascertain the tax implications that may arise under the Real Property Gains Tax Act 1976. Miss Yamuna has approached you for advice.

Required:

Advise Miss Yamuna on the tax implications of the joint venture arrangement with the MyCity Developers Sdn Bhd under the Real Property Gains Tax Act 1976.

Note: You may assume that the law as at 1.1. 2021 is applicable throughout the relevant period.

(8 marks)

- (b) Mr Murali Segaran ('Murali') owned a piece of land in Perak on which he cultivated coconut trees. Coconut oil is extracted from the fruit, bottled and exported overseas. The land was acquired in September 2018 for RM5,325,000 as follows:

	RM'000	RM'000
Cost of land		5,000
Add: Incidental expenditure		
Legal fee and stamp duty	175	
Commission to broker	150	325
Total		5,325

In order to increase the coconut yield, Murali incurred expenditure on the land's irrigation and drainage system improvement at a cost of RM2 million in 2019. However, the coconut plantation was not very viable despite the improved yield due to falling prices, and he decided to switch to oil palm, whose price has picked up in the international market.

Accordingly, he exchanged the coconut plantation, which is now valued at RM7.5 million, with a local plantation company, Wilson Plantations Sdn Bhd, for its oil palm plantation in Johore. It was agreed that the market value of the plantation land in Johore is RM8 million. An agreement for the exchange of the properties was signed by the parties on 15 June 2021.

Required:

Compute the real property gains tax payable by Mr Murali Segaran on the exchange transaction under the Real Property Gains Tax Act 1976.

Note: Except for the tax payable, all figures must be worked to the nearest RM1,000.
(12 marks)

[Total: 20 marks]

Question 3

The MJ Trust was resident in Malaysia for the basis year 2021 and has income for the year ended 31 December 2021 as follows:

		RM'000
1.	Business derived from Malaysia: statutory income	500
2.	Interest income from overseas received in Malaysia	10
3.	Single-tier dividend	20

In the Will upon which the trust was created, it was specified on the following:

1.	Michael, the first child was to receive 4/5 of the distributable income.
2.	Jackson, the second child was to receive 1/5 of the distributable income.
3.	Samantha, the trustee was to receive RM30,000 for the administration of the trust.

The distributions for each beneficiary for the year ended 31 December 2021 are as follows:

		RM'000
1.	Michael, a tax resident in 2021	320
2.	Jackson, a non-resident in 2021	90

In 2021, Michael and Jackson do not have other income other than the income from the trust.

Required:

- (a) Explain the basis of ascertaining the residence status of the trust body of a trust created in Malaysia, and the tax implications of its residence status. (7 marks)
- (b) For the year of assessment 2021, compute the following:
- (i) The tax payable by MJ Trust; (3 marks)
 - (ii) The tax payable by Michael and Jackson. (5 marks)
- (c) Explain the tax treatment of the deductibility of the trustee's remuneration of Samantha. (2 marks)
- (d) Explain on the tax implications if Michael's statutory income from the ordinary source is deducted against the total income of MJ Trust. (3 marks)

[Total: 20 marks]

Question 4

- (a) (i) a. Generally, income derived by charitable institutions is taxable under the Income Tax Act 1967.
- What is the scope of exemption as provided for in the ITA which exempts income derived by charitable institutions? Cite the relevant provisions in the ITA.**
- (1 mark for each scope = 3 marks)
- b. A charitable institution undertakes a business venture and profits derived are utilised for charitable activities in tandem with the primary objective of establishment.
- Explain the taxability of the profits derived from such business activities and restrictions imposed by LHDNM, if any.**
- (2 marks)
- (ii) Founded in 1873, the Sri Mahamariamman Temple is among the oldest Hindu temple in Malaysia. The temple had been actively undertaking activities exclusively for purposes of religious worship and advancement of religion among Hindu devotees. The Management of the temple has approached you for tax consultancy on the following issues:
- a. **What is the status of taxability of the temple's income under the ITA and the relevant provision in the ITA?** (2 marks)
 - b. **Is there a requirement for the Management of the Temple to apply for tax exemption and to file tax returns?** (2 marks)

- (iii) Explain the tax treatment on the deduction of cash donations made by individuals and companies to any charitable Institution approved under section 44(6) of ITA 1967 with effect from year of assessment 2020.

(1 mark for each = 2 marks)

- (b) Handicapped Children Welfare Association ('HCWA') is a non-profitable organisation established in Malaysia to serve the needs of children who are physically challenged. Among the key activities undertaken by HCWA is providing medical treatment for handicapped children including making arrangements for prosthesis. HCWA is an approved tax-exempt charitable institution under the ITA.

HCWA's Statement of Income and Expenses for four (4) Year of Assessments are as shown in the table below:

Year of Assessment	2017	2018	2019	2020
	RM	RM	RM	RM
Income				
- Donations	560,000	500,850	545,200	596,600
Less: Operating Expenses				
Secretarial Fees	2,500	2,000	2,800	3,000
Accounting Fees	5,000	5,000	5,000	5,000
Utilities	16,000	15,000	18,000	19,000
Medical treatment	100,000	120,000	250,000	300,000
Upkeep of Site Office	10,000	15,000	12,000	14,000
Salaries & Allowances	76,000	80,000	88,000	95,000
Depreciation	40,000	40,000	40,000	40,000
Rental	20,000	20,000	20,000	20,000
Total Expenses	269,500	297,000	435,800	496,000
Surplus/(Deficit)	290,500	203.850	109,400	100,600

Required:

In order to preserve its approved status as an exempted charitable institution, HCWA is required to spend at least 50% of its income including donations received in the previous years on the charitable activities as approved in line with the objective of its establishment, for the basis period for a year of assessment. Based on above, ascertain whether HCWA was successful in maintaining its approved status for the basis period for the years of assessment 2018, 2019 and 2020.

Note: You are required to show all workings, where applicable.

(3 marks for each year of assessment = 9 marks)

[Total: 20 marks]

Question 5

Refresh Sdn Bhd ('RSB'), a tax resident company in Malaysia was incorporated on 1 January 2015 and immediately commenced a business in manufacturing health drinks. It closes its annual accounts on 31 December.

On 15 October 2021, the directors of RSB held a meeting discussing on RSB's direction and plans for 2022. They expected a strong economic recovery in Malaysia from the second half of 2022. Thus, they intend for RSB to expand its manufacturing business with an initial capital investment of RM20 million for the next three (3) years. They understand that RSB may be able to claim the reinvestment allowance ('RA') under Schedule 7A of the Income Tax Act, 1967.

Mr James, the financial controller provided the following projected figures for income and expenditure for the next three (3) years of assessment from YA 2022 as follows:

Year of Assessment	2022	2023	2024
	RM'000	RM'000	RM'000
Adjusted income/(loss) from business	(1,000)	5,000	10,000
Rental income from a shop-house	300	300	300
Capital expenditure			
Plant & Machinery (note 1)	0	2,500	2,500
Extension to the existing factory	3,000	0	0
New factory land	0	4,000	0
New factory	0	0	8,000
Industrial building allowance ('IBA') and capital allowance ('CA')	390	900	2,100

Notes:

1. These amounts include total leased assets of RM500,000 for each year of assessment.
2. You are to assume that the income tax rate is 24% for all the years of assessments.

On a separate note, the directors were deliberating on a decision to venture into another business of manufacturing a promoted product. They would like to have some advice on the right choice of tax incentive for the business.

Required:

You are to assume that you are the tax manager to your client, RSB. Draft a letter to Mr James. Your advice should include the following matters:

- (a) The eligibility of RSB to claim RA incentive. (4 marks)**
- (b) The situations under which RSB should opt for the following tax incentives under the Promotion of Investment Act, 1986.**
 - (i) Pioneer status; (3 marks)**
 - (ii) Investment tax allowance. (3 marks)**
- (c) A projected tax computations for the three (3) years of assessments 2022-2024. Note: a tabular format must be used for your computation. (8 marks)**

Two (2) marks are given for appropriate format of presentation and effective communication.

[Total: 20 marks]

Question 6

- (a) (i) With reference to the relevant provision in the Income Tax Act 1967 ('ITA'), explain the meaning of "lease". (2 marks)
- (ii) In addition to deriving gross income from leasing business, a Leasing company may derive income from multiple business sources. Explain -
- a. The tax treatment on the gross income derived from other business sources including leasing. (2 marks)
- b. Explain the tax treatment of capital allowance for leasing and non-leasing business source. (2 marks)
- (iii) State any two (2) of the six (6) circumstances where a lease transaction is "deemed to be a sale agreement". (2 marks)
- (b) (i) Explain the basis of allocation of common expenses and capital allowances among leasing and non-leasing business undertaken by a Leasing Entity. You may quote any case law decisions that may be relevant to support your answers. (2 marks)
- (ii) Agro Leasing Sdn Bhd ('Agro') undertakes two (2) types of business activities, namely leasing business and hire-purchase of small-sized machineries used in the plantation industry. Agro closes its books as at 31 December. The tax computation for the two (2) businesses undertaken by Agro for the year ended 31 Dec 2020 is as shown in the table below:

	Leasing	Hire-Purchase
	(RM)	(RM)
Adjusted Income	500,000	200,000
Balancing Charge	20,000	
Capital Allowance		
- Office Equipment	20,000	
- Leased Assets	98,000	
Capital Allowance (Common) – RM20,000		
Unabsorbed Losses b/f	50,000	
Additional Information:		
Gross Profit	700,000	300,000
Approved donation – RM50,000		

Required:

Compute the Chargeable Income of Agro for the year 2020.

(10 marks)

[Total: 20 marks]

(END OF QUESTION PAPER)