



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

PROFESSIONAL EXAMINATION

INTERMEDIATE LEVEL

BUSINESS TAXATION

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 **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 template.
6. All workings **MUST** be shown as marks will be awarded.

DO NOT TURN OVER THIS PAGE UNTIL INSTRUCTED BY THE INVIGILATOR

Question 1

Wira Waja Bhd (WWB) was incorporated in Malaysia with a paid-up ordinary share capital of RM2.7 million. WWB's Statement of Profit or Loss for the financial year ended 30 June 2021 is as follows:

	Note	RM'000	RM'000
Sales revenue			5,872
Less: Cost of sales	(1)		(2,826)
			3,046
Add: Other income	(2)		44
			3,090
Less: Expenses			
Staff remuneration and welfare	(3)	510	
Bad and doubtful debts	(4)	228	
Feasibility Study	(5)	38	
Freight and insurance	(6)	192	
Marketing expenses	(7)	361	
Rental of premises	(8)	150	
Motor vehicle expenses	(9)	140	
Legal and professional fees	(10)	38	
Gift to hospital	(11)	260	
Other business expenses	(12)	350	
			(2,267)
Net profit before tax			823

Notes:

- Cost of sales includes the WWB's products costing RM36,600 donated to an approved orphanage. The selling price was RM40,000.
- Other income is in respect of the interest income derived from loan to related company in Thailand and received in Malaysia.
- Staff remuneration and welfare consist of::

	RM'000
i. Staff training conducted at a branch in Singapore	41
ii. Provision for sales incentives	62
iii. Salaries of disabled employees	74
iv. Salaries of other employees	333
	510

- Bad and doubtful debts include a write off of loan owing by an associated company amounted to RM96,000. The balance of the bad and doubtful debts written off is in respect of trade debts.
- WWB incurred RM38,000 on a feasibility study undertaken in January 2021 in connection with a proposal to undertake investments in a business venture in Thailand which is approved by the Minister of Finance.
- Freight and insurance include insurance premium amounted to RM31,000 paid to Fargo Insurance Berhad, a company incorporated in Malaysia, to undertake risks on the importation of raw materials.
- Marketing expenses include a sum of RM190,000 embezzled by the managing director.

8. Rental of premises includes rental paid in advance for four months period 1 April 2021 to 31 July 2021 amounting to RM32,000.

9. Motor vehicle expenses comprise:

		RM'000
i.	Depreciation	61
ii.	Purchase of a new lorry	78
iii.	Fine for traffic offences committed by the lorry driver	<u>1</u>
		<u>140</u>

10. Legal and professional fees are for the following:

		RM'000
i.	Drafting of hire purchase agreement	15
ii.	Tax filing services	14
iii.	Secretarial services	<u>9</u>
		<u>38</u>

11. WWB contributes two (2) medical equipment (ventilators) to University Malaya Medical Centre (UMMC) that has been selected as one of the centres in managing COVID-19 cases in Malaysia. The cost of each ventilator was RM130,000.

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

13. Other information:

i. Existing commercial motor vehicle comprises:

Qualifying Expenditure	Tax Written Down Value (as at 01 July 2020)	Rate of Annual Allowance
RM280,000	RM112,000	20%

ii. During the year ending on 30 June 2021, an existing commercial motor vehicle costing RM20,000 with a tax written down value of RM8,000 was written off as the asset was damaged and could not be repaired. The asset had no resale value.

Required:

(a) Compute the Chargeable Income of WWB for the year of assessment 2021.

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.

(22 marks)

(b) Kulim Plantations Sdn Bhd (KPSB) (accounting date 30 June) had worked an oil palm estate for several years. The company had incurred the following expenses:

		RM
01.05.2014	Expenditure on planting	35,500
01.08.2014	Construction of estate office	10,000
15.09.2015	Construction of labourers' quarters	60,000
01.01.2016	Expenditure on replanting	19,000

The estate was sold to Batu Pekaka Estate Sdn Bhd (BPESB) (accounting date 31 March) on 31 December 2017. The agreed prices were as follows:

	RM
Plantation	250,000
Estate office	10,000
Labourers' quarters	45,000

Determine the qualifying agriculture expenditure (QAE), and calculate the agriculture allowances (AA) and agriculture charges (AC) if applicable due to KPSB and BPESB up to the year of assessment 2021. KPSB has elected for the agriculture charge be spread back evenly over the year of assessments for which the allowances were given.

(8 marks)

[Total: 30 marks]

Question 2

Pearl Sdn Bhd (Pearl), with a 31 December year end, is involved in the education industry and operates an accountancy college conducting degree and professional courses.

- (a) For many years, the Management of Pearl in realising the need to set up a retirement benefits scheme opted for the monthly payment of premiums to an insurance company. The policy was such that when any one of the employees of Pearl is retiring, the insurance company will provide Pearl with the funds to pay out the retirement benefits to that employee.

Required:

State the tax implications in relation to:

- (i) **the deductibility of the monthly payment of premiums to the insurance company.**
(2 marks)
- (ii) **the taxability of the amounts received from the insurance company.**
(2 marks)
- (iii) **the deductibility of the retirement benefits payments to the retiring employees.**
(2 marks)
- (b) In March 2021 Pearl made a compensatory payment to three (3) key staff in respect of a restrictive covenant whereby they are prohibited from being engaged with any other firms in the educational industry in Malaysia for a period of two (2) years. This was because the key staff were providing specialised training for a course which was not available in any of the other colleges.

Required:

Explain the deductibility of the payment by Pearl in respect of the restrictive covenant.
(2 marks)

- (c) In August 2021, the Management of Pearl decided to cease its education business by 31 December 2021. It is contemplating two alternatives in relation to the payment of retrenchment benefits.

Alternative A

Pearl will cease its business and then pay out the retrenchment benefits to its employees.

Alternative B

Pearl will close down each of the courses individually, pay out the retrenchment benefits to the employees involved in these courses and finally cease its business.

Required:

Discuss the difference (if any) in relation to the deductibility of the retrenchment benefits under the two scenarios. (4 marks)

- (d) Pearl signed a contract with a consultancy firm resident in Taiwan (and not resident in Malaysia) for technical services to be performed in Malaysia amounting to RM90,000 on 12 September 2021. The work was completed and Pearl settled the amount due to the consultancy firm on 15 October 2021.

Assumption A

Pearl made the full payment to the consultancy firm and will remit any withholding tax in respect of the payment to IRB on /before the due date.

Assumption B

Pearl made the "net of payment" to the consultancy firm and will remit the withholding tax in respect of the payment to IRB on /before the due date.

Required:

- (i) **State the differences (if any) with regard to the deductibility of the payments in relation to the technical services under the two alternatives giving details of the components of the payments made by Pearl.** (4 marks)
- (ii) **Compute the withholding tax payable to the IRB under the two alternatives.** (2 marks)
- (iii) **What is the due date for the settlement of the withholding tax payable to the IRB and compute the penalties imposed if the withholding tax was not settled by the due date under the two alternatives.** (2 marks)

[Total: 20 marks]

Question 3

Peter and Jane are in a partnership business of providing website design services. Their business accounts for the year ended 31 December 2021 showed a net profit RM30,500 which include the following expenses:

	RM
Depreciation	54,000
Approved cash donation on 30 April 2021	1,200
Payment of food for Jane	1,000
General provision for doubtful trade debts	22,000

The terms of agreement for the partnership are as follows:

	Peter (RM)	Jane (RM)
Capital contribution	100,000	80,000
Interest on capital per annum	10,000	8,000
Partners' salary per month	4,200	3,400
Profit-sharing ratio:		
1 January 2021 to 30 June 2021	60%	40%
1 July 2021 to 31 December 2021	50%	50%

Other information for the year 2021:

1. Jane rented out her condominium in Petaling Jaya. The statutory income from the rental income is RM15,000.
2. The partnership claimed capital allowance of RM20,000.
3. Peter is a tax resident but Jane is a non-tax resident.

Required:

- (a) **Compute the provisional adjusted income and divisible income of the partnership for the year of assessment 2021.** (6 marks)
- (b) **Compute the chargeable income of Peter and Jane for the year of assessment 2021.** (6 marks)
- (c) **Assuming Peter and Jane are to convert their conventional partnership to a limited liability partnership.**
- (i) **Explain the tax treatments in respect of unabsorbed capital allowances and unabsorbed business loss from the conventional partnership.** (2 marks)
 - (ii) **Explain any THREE (3) differences in the tax treatments in respect of a conventional partnership and a limited liability partnership.** (6 marks)

[Total: 20 marks]

Question 4

- (a) Residency for companies is decided by where “management and control” is exercised.

Required:

Explain what constitutes “management and control” and quote the relevant case laws to support your answers.

(9 marks)

- (b) ADG Pte Ltd a company based in Indonesia carries out its business in Malaysia, Thailand and Indonesia. During the year 2021, most of the board meetings were held in Indonesia expect for a particular board of directors meeting which was held in Kuala Lumpur where crucial management decisions were made.

Required:

Determine if ADG Pte Ltd is a tax resident of Malaysia in the year 2021. Give reasons to support your answer.

(2 marks)

- (c) Dollar Investment Sdn.Bhd (DISB) an Investment Holding Company which is a wholly owned subsidiary of Dollar Ltd. a company incorporated and resident in India. DISB board consists of ten (10) directors, of which seven (7) directors are citizens as well as residents of India while the remaining three (3) are citizens and tax residents of Malaysia. Board of Directors meetings are held in India as well as in Malaysia. The meetings in India are attended only by all the seven (7) Indian directors where decisions pertaining to major investment and financial policies are taken. However, the meetings held in Malaysia are only physically attended by the three (3) Malaysian directors while the other seven (7) Indian directors sat through the meeting via video conferencing. No decision on management policies has ever been taken during the meetings in Malaysia. The purpose of the meetings in Malaysia is merely to update the Malaysian directors on the decisions taken during the meetings held in India.

Required:

Determine if Dollar Investment Sdn.Bhd is a tax resident of Malaysia in the year 2021. Give reasons to support your answer.

(4 marks)

[Total 15 marks]

Question 5

(a) Discuss the powers of the Director General of Inland Revenue Board as to when to raise the following assessments on a taxpayer:

(i) Advance assessment (5 marks)

(ii) Protective assessment (3 marks)

(b) Dhanya, an insurance agent in Seremban, filed her 2020 income tax return on 18 April 2021. On 3 June 2021, she found out that she had failed to submit the commission that she received for putting together a business deal for a client of hers. Dhanya wants to make amendment to her tax return for the error in omitting this income.

Required:

Explain to Dhanya the process that is available to her under the Income Tax Act 1967 for making amendment to her tax return and the related implications.

(7 marks)

[Total 15 marks]

(END OF QUESTION PAPER)