



CHARTERED TAX INSTITUTE OF MALAYSIA (225750 T)
(Institut Percukaian Malaysia)
Registration Number: 199101015438 (225750-T)

PROFESSIONAL EXAMINATION

FINAL LEVEL

ADVANCED TAXATION 1

JUNE 2022

Student
Registration No.

Date

Desk No.

Examination Centre

Time allowed: 3 hours

INSTRUCTIONS TO CANDIDATES

1. This paper consists of **SIX** questions. **Candidates are ONLY REQUIRED TO ANSWER FIVE QUESTIONS.**
2. The Income Tax Act 1967 (as amended) is referred to as ITA.
3. Each answer should begin on a separate answer template.
4. All workings **MUST** be shown as marks will be awarded.
5. All figures to be rounded to RM1.00.
6. For this examination question paper, you are to assume that the basis year ending 30 June 2022 has elapsed.

DO NOT TURN OVER THIS PAGE UNTIL INSTRUCTED BY THE INVIGILATOR

Question 1

- (a) Mr James Jayakumar ('Kumar') was an enterprising businessman who actively operated two businesses in Malaysia and one in Cambodia. The Cambodian business is overseen by his brother-in-law, Rathana Nimol ('Nimol') who is a resident of Cambodia. Kumar had always wanted to write a will but he was so busy with his business matters that he failed to find the time to consult with a lawyer to prepare one. However, on 30 September 2021, he passed away suddenly after attending a late-night party in Phnom Penh to celebrate the appointment of a new agent for the company's supplies there – without ever writing a will. He was domiciled in Malaysia at the time of his death.

After his death, Kumar's accountant worked out the financial details for the year ended 31 December 2021 and had provided the following information:

- The two Malaysian businesses had a statutory income of RM151,060 and an adjusted loss of RM61,077 respectively. Due to the losses, this second business was actually closed down in June 2021.
- The business in Cambodia had an adjusted income of RM25,188 and a sum of RM20,000 was remitted to Malaysia in December 2021.
- A single tier dividend of RM5,000 was received from the shares held in a public listed company that Kumar invested in 2020.
- Interest of RM3,000 was received in May 2021 from the fixed deposit in a local bank that had provided business loans to Kumar on the security of the fixed deposit.
- A double storey bungalow owned by Kumar in Klang had been rented out for the whole of the year 2021 and the net rental was RM24,000.

Kumar leaves behind a wife, Ms Shanthy who has no source of income of her own; and a daughter who was at the time of his death, only nine (9) years old. It was agreed that Ms Shanthy's brother, Mr Stevens Dorai ('Dorai'), who is a lawyer by profession, would administer the estate.

Dorai made legal arrangements for the business in Cambodia to be transferred and carried on in the name of Nimol with effect from 1 January 2022. He paid an annuity of RM20,000 in October 2021 to Shanthy to cover her financial needs till the end of the year; and a distribution of RM900,000 in December 2021 from the winding up proceeds of the Malaysian business after settling all outstanding debts.

Required:

With reference to the provisions of the Income Tax Act 1967, compute the chargeable income for the year of assessment 2021 in respect of:

- (i) Mr James Jayakumar [you may assume that he had claimed wife and child relief];
- (ii) The estate of James Jayakumar (deceased); and
- (iii) Ms Shanthy, wife of the deceased.

(14 marks)

- (b) Assuming that the late James Jayakumar was not domiciled in Malaysia at the time of his death, what is the significance for the determination of the income tax liability on the executor of his estate?

(6 marks)

[Total: 20 marks]

Question 2

Since the inception of Real Estate Investment Trust ('REIT') or is also known as Property Trust Fund, the Malaysian Government has granted preferential tax treatment for the development and promotion of REIT in Malaysia.

- (a) (i) Explain what is a Real Estate Investment Trust ('REIT')? (2 marks)
- (ii) What is the definition of REIT as provided for in the Income Tax Act 1967? (2 marks)
- (Sub-total: 4 marks)**
- (b) (i) Explain the tax treatment on rental income and capital allowance on REIT? (7 marks)
- (ii) Explain the withholding tax implications on distribution by REIT to unit holders (other than resident unit holders). (4 marks)
- (iii) Irene Investment Fund, a REIT, has investments in real properties and securities. Irene Investment Fund is approved by Securities Commission Malaysia. Based on the information provided in the table below, compute the chargeable income and income tax payable for Year of Assessment 2021.

Irene Investment Fund (Basis Period 1 January 2021 – 31 December 2021)

		RM
Adjusted Income from Rent	-	250,000
Capital Allowance	-	40,000
Section 4(c) Interest Income(taxable)	-	5,000
Gains from realization of securities	-	10,000
Approved Donations	-	6,000
During the year 2021, Irene Investment Fund distributed dividends amounting to RM200,000.		

Note: You are strongly encouraged to quote the relevant provisions in the Income Tax Act 1967 in your answers.

(5 marks)
(Sub-total: 16 marks)

[Total: 20 marks]

Question 3

- (a) With reference to the definition of ‘trade association’ in section 53(3) of the Income Tax Act 1967, briefly discuss the implication of the new definition of 2009 effective for the year of assessment 2009 and subsequent years of assessment, giving an example to illustrate your discussion.

(6 marks)

- (b) The Malaysian Snack Food Merchant’s Association (‘the Association’) had submitted the following Statement of Income and Expenditure for the year ended 31 December 2021:

Malaysian Snack Food Merchant’s Association		
Statement of Income and Expenditure For the year ended 31 December 2021		
		RM
Income		
Entrance fees		38,700
Subscriptions		225,000
Seminar and workshop fees		97,200
Chinese New Year Celebrations ticket sales		63,000
Dividend (Malaysian single-tier)		7,200
Fixed deposit interest		<u>1,800</u>
Total income		432,900
Less: Expenses		
Salary and wages	63,000	
Rental of seminar hall	8,100	
Speakers’ fees	18,000	
Chinese New Year celebration expenses	18,000	
Employees’ Provident Fund	10,800	
Stationery	4,500	
Utility expenses	2,700	
Compound and fines for SOP breaches	4,200	
Rental of office premises	5,400	
Cash donation to an approved body	<u>9,000</u>	<u>143,700</u>
Surplus of income over expenditure		<u>289,200</u>

The Secretary of the Association, Mr Vincent Chong (‘Vincent’) had met you and provided the following information:

- The Association was registered sometime in 1997 with the main objective of safeguarding and promoting the interest of the manufacturers, distributors and traders involved in the snack food industry.
- A steady income of the Association is derived from its entrance fee and subscription fees from members.
- Additional income is derived from conducting seminars and workshops for the members. The Association invites leading merchants, professionals, industry experts and senior government officials to give talks and training to the members so that they can benefit from the latest technology, marketing strategy and government incentives available for the industry, especially in this period of the Corona-19 pandemic which is very challenging for the business, and the Association tries its best to help out.

- The Association celebrated the Chinese Lunar Year on a low scale and it involved most of the members and their families. Despite best efforts by the Association some of the exuberant revellers disregarded safety precautions, and were compounded or fined for Covid SOP breaches, by the authorities, which amounted to RM4,200. The Association paid these out of the collections received.
- The Association has office equipment and motorised vehicles for its general use, and Mr Vincent has worked out that the capital allowance for the year of assessment 2021 is RM2,800.
- In 2021 the Association's current Management Committee decided to donate cash of RM9,000 to a charitable body that provided food packets to the needy in Kajang, affected by both the Covid-19 pandemic and a recent flood where some of its members suffered when their houses were flooded and cars were swept away. The charitable body is an approved body for the purposes of the Income Tax Act 1967.

Required:

With reference to the provisions of the Income Tax Act 1967 and the Income Tax (Exemption) (No. 19) Order 2005, compute the chargeable income of the Malaysian Snack Food Merchant's Association for the year of assessment 2021.

[Note: All figures should be computed to the nearest RM1.00]

(14 marks)

[Total: 20 marks]

Question 4

Johan Investment Sdn Bhd ('JISB') is a resident investment holding company and it has a paid-up ordinary share capital of RM3 million.

For the year ended 30 September 2021, the company's statement of income and expenditure is as follows:

	RM	RM
Gross income		
Interest from fixed deposits with local banks		90,000
Rental income (shophouse)		150,000
Management fee		120,000
Single tier dividend		250,000
Gains from the disposal of shares		<u>330,000</u>
		940,000
Less: Expenses:		
Directors' fee	80,000	
Salaries and wages	220,000	
Audit and secretarial fee	15,000	
Quit rent and assessment (for shophouse)	3,500	
Maintenance of office	6,000	
Depreciation	78,000	
Cash donation to an approved welfare organisation	25,000	
		<u>427,500</u>
Net profit before taxation		<u>512,500</u>

Required:

- (i) Explain the basis to determine whether a company is an investment holding company for tax purposes. (2 marks)
- (ii) Compute the chargeable income of Johan Investment Sdn Bhd for the year of assessment 2021. (8 marks)
- (iii) Assuming that JISB is a listed investment holding company.
Explain the difference in tax treatments of its "deemed business" and its "genuine business" in respect of its unabsorbed deduction of expenses and the unabsorbed capital allowance. (4 marks)
- (iv) "An unlisted investment holding company has fewer advantages in its tax treatments as compared to an investment dealing company."
Discuss whether you agree with the above statement. (6 marks)

[Total: 20 marks]

Question 5

Tax incentives are offered to companies in Malaysia which are participating or intending to participate in promoted activity or promoted product. Among the significant tax incentive is Investment Tax Allowance.

- (a) (i) **“Capital Expenditure” incurred for the purposes of the promoted activity or product for several types of businesses, that qualifies for Investment Tax Allowance, is defined in the law. State three (3) types of business and list the qualifying capital expenditures. You are also required to state the relevant law and provision in the law.** (3 marks)
- (ii) **What are the capital expenditures that do not qualify for Investment Tax Allowance?** (4 marks)
- (iii) **State the circumstances where Investment Tax Allowance can be withdrawn and the tax implications.** (4 marks)
- (b) Margaret Chocolate & Chocolate Confectionary Sdn Bhd made an application for “Investment Capital Allowance” and was approved on 23 June 2019. The company closes its accounts on 31 December.

Margaret Chocolate & Chocolate Confectionary Sdn Bhd

	31 Dec 2020	31 Dec 2021
	RM'000	RM'000
Qualifying Capital Expenditure	900	800
Adjusted Income from Business Source	2,000	1,500
Capital Allowances	300	600
Interest Income	50	30
Approved donations	10	5

Based on the information provided in the table above, compute the total income and the amount to be credited in the exempt account for Year of Assessment 2020 and Year of Assessment 2021.

(9 marks)

[Total: 20 marks]

Question 6

- (a) A trustee-manager has been appointed to operate the business of Investec Healthcare Trust ('IVT'), a business trust in Malaysia. It owns on trust for IVT, some hospitals in Kuala Lumpur, and Singapore.

Required:

- (i) Explain the basis to determine IVT is a tax resident in Malaysia. (3 marks)
- (ii) Explain the tax treatment to IVT on the income received in Malaysia from Singapore. (1 mark)
- (iii) List and briefly explain any FOUR (4) differences between a business trust and a company. (4 marks)
- (b) Tips Unit Trust was incorporated in Malaysia to invite the public to invest in its units. In March 2021, the trust purchased a 3-storey commercial property that comes with lifts in Kuala Lumpur for RM5 million. The purchase price of the property includes the cost of the lifts of RM500,000. The property was let out to a local bank.

Its income statement for the year ended 31 December 2021 was as follows:

	RM
Gross income	
Foreign dividends received in Malaysia	120,000
Rental income from the commercial property	180,000
Interest from local banks	240,000
Interest income from convertible loan stocks	450,000
Gains from the sale of a piece of land	1,450,000
Expenses	
Permitted expenses for unit trust (Section 63B)	870,000
Salaries and wages	420,000
Security charges for the property in Kuala Lumpur	90,000
Depreciation	110,000

Required:

- (i) List any FOUR (4) types of income of a unit trust that is exempted from tax. (2 marks)
- (ii) Explain the tax treatment on the unitholders of the taxable income distributed by a unit trust. (2 marks)
- (iii) Compute the tax payable of Tips Investment Sdn Bhd for the year of assessment 2021. (8 marks)

[Total: 20 marks]

(END OF QUESTION PAPER)