



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

PROFESSIONAL EXAMINATION

INTERMEDIATE LEVEL

PERSONAL TAXATION

DECEMBER 2022

Student
Registration No.

Date

Desk No.

Examination Centre

Time allowed: 3 hours

INSTRUCTIONS TO CANDIDATES

1. This paper consists of **FOUR** questions.
2. Answer **ALL** 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.

DO NOT TURN OVER THIS PAGE UNTIL INSTRUCTED BY THE INVIGILATOR

Question 1

- (a) Daniel, an Irishman, was offered a two-year contract by Horwath IT Solutions Bhd (HISB) as a human resources regional director effective from 1 August 2019. He came to Malaysia together with his wife, Fiona, and three children – Jerry, Jane, and Jenny. Both Jerry and Jane are children of Fiona's previous marriage. Fiona gave birth to the youngest child, Jenny, one year after she was married to Daniel.

Particulars pertaining to Daniel's remuneration package and related information are as follows:

Daniel is entitled to a monthly entertainment allowance and meal allowance of RM2,200 and RM200, respectively in addition to his basic salary of RM30,000 per month. He spent 75% of the entertainment allowance on official duty in 2021. On 21 March, 2021, his employer awarded him a bonus of RM60,000 due to his excellent performance.

During the period of his stay in Malaysia, Daniel was provided with a fully furnished bungalow in Petaling Jaya by HISB. The monthly rental of RM4,500, which includes RM1,200 for furnishings was paid by HISB.

A new Honda Civic car costing RM180,000 (together with fuel) has also been provided to Daniel since 2019.

Commencing May 2021, HISB hired a domestic helper for Daniel at a monthly salary of RM1,500.

Daniel is entitled to medical benefits under HISB's group insurance scheme. He claimed reimbursement of medical costs amounted to RM5,000 from this scheme. The details of the bill showed that the amount was related to medical treatments for his wife and children.

In 2021, HISB paid a life insurance premium of RM5,000 for Daniel, whereby his family members are the beneficiaries.

Additional information relating to Daniel during the year 2021 is as follows:

1. Fiona is a fulltime housewife and received fixed deposit interest from Ireland amounting to RM50,000 in 2021.
2. Daniel contributed 11% of his gross salary to Employees Provident Fund.
3. Daniel paid RM5,000 and RM8,000 respectively for life and medical insurance policy taken in Ireland since year 2012.
4. Daniel's father who was staying in Ireland was diagnosed as a heart disease patient in early 2021 and received medical treatments in a private hospital in Ireland. The medical expenses amounting to RM50,000 were borne by Daniel.
5. Daniel spent RM250 to acquire sports equipment for which he was able to produce receipts.
6. Daniel brought his family to Penang and Ipoh for a holiday in December 2021. He spent RM2,300 on accommodation at hotels registered with the Commissioner of Tourism under the Tourism Industry Act 1992.
7. In 2021, Daniel's eldest child, Jerry aged 18, was pursuing his Diploma in Accounting in a private university in Malaysia. The second child, Jane aged 14, was studying in a private international school. Daniel received reimbursement of RM25,000, being tuition fees for Jane's schooling.
8. The youngest child, Jenny, aged 4 is a disabled child, was sent to a registered kindergarten catering for special children.
9. Daniel purchased a new iPhone worth RM3,500 for himself. Besides, he also bought books and magazines costing RM1,500 for his children.
10. Daniel incurred expenses of broadband subscription (under Daniel's name) of RM1,800.

11. In September 2021, Daniel incurred vaccination expense for influenza amounted to RM500 for his youngest daughter, Jenny.
12. Daniel bought a gold necklace costing RM3,000 for his wife's birthday on 1 November 2021.
13. In December 2021, Daniel spent RM30,000 to purchase 5 lots of shares on Bursa Malaysia.
14. Daniel donated RM3,000 in cash to the Salvation Army (an approved institution) in December 2021.

Daniel and Fiona were Malaysian tax residents in 2021.

Required:

Compute the chargeable income of Daniel for the year of assessment 2021.

Note:

All items stated in the question are to be included in the computation. Where any item is not taxable or deductible, indicate 'nil' or "exempt" respectively in the computation.

(23 marks)

- (b) A real estate developer (ABC Bhd) hires Krisna as a salesperson. Due to his excellent work he quickly gained a reputation as a productive and devoted employee. Krisna is being approached by another company (XYZ Bhd) that is interested in hiring him and makes an offer of RM30,000, in addition to the remuneration package to join XYZ Bhd's sales team. This remuneration package is 40% greater than the one Krisna is currently earning in ABC Bhd.

Required:

Should Krisna accept the offer, would the RM30,000 to be paid to him to join XYZ Bhd be taxable? Explain.

(3 marks)

- (c) Christopher and Elaine were married in the year 2021. Christopher plans to elect for joint assessment with his wife.

Required:

Explain to Christopher the conditions to be fulfilled for joint assessment.

(4 marks)

[Total: 30 marks]

Question 2

Liu Fung has been working as an Internal Risk Management Officer with Wing Tai Holdings Ltd (WTHL) in Hong Kong since 2018. Effective from 1 June 2021, he was seconded to a WTHL's subsidiary company in Malaysia, Wing Tai Malaysia Sdn Bhd (WTM), for a period of 3 years.

Liu Fung's remuneration package in Malaysia includes the following:

1. A monthly salary of RM25,000. His contribution towards the Employees Provident Fund is 11% of his salary.
2. Monthly travelling allowance of RM2,500. During the year, he incurred RM16,000 in travelling expenses for his official duties.
3. A new company car costing RM180,000 and petrol were provided to him from 1 July 2021. In December 2021, he incurred RM1,500 for a routine car service on this company car and this expense was subsequently reimbursed by WTM.
4. A fully-furnished condominium was provided by WTM from 1 June 2021. WTM paid a monthly rental of RM3,500 which included RM500 for the rental of furnishings. Liu Fung's wife, Sammy and their two children are staying together with him in Malaysia. During the year, a total of RM3,800 was incurred for the utility bills which were paid by WTM.
5. He employed a domestic helper for two months (June and July 2021) at a monthly salary of RM1,800, which were reimbursed by WTM. Effective from 1 August 2021, a domestic helper at a monthly salary of RM1,800 was provided to him by WTM.
6. Two leave passages were provided to him as follows:
 - Penang RM2,000
 - Sydney RM15,000

Additional information relating to the year ended 31 December 2021:

1. He received a rental income of HK\$60,000 from a property located in Hong Kong, which was directly banked into his bank account in Hong Kong. He remitted a sum equivalent to RM15,000 to Malaysia in December 2021.
2. Sammy is not working and is taking care of their two children at home. She had the following income for the year of assessment 2021:
 - (i) Her hobby is baking. She took orders from her friends and sold her homemade bakeries via Facebook. In 2021, the statutory income from her homemade bakeries business was RM20,000.
 - (ii) She had invested RM50,000 in the Affin Hwang unit trust fund. On 15 November 2021, a 5% income distribution was declared and she received a net income distribution of RM1,900. The tax rate deducted at the source was 24%.
3. Liu Fung and Sammy are both Malaysian tax residents for the year of assessment 2021. Their two children, age 10 and 15, are currently studying at the UCSI International School in Kuala Lumpur. The yearly school fee of RM40,000 for each child was borne by WTM. Liu Fung incurred RM50,000 for the maintenance of his two children and he will claim all the child relief.
4. He also incurred the following expenses:
 - Payment for accommodation costing RM1,200 at a hotel registered with the Commissioner of Tourism under the Tourism Industry Act 1992.
 - Vaccination for COVID-19 of RM1,500 for all his family members.
 - Purchase of 2 personal computers costing RM3,000 each for his two children.

Required:

- (a) With reference to the ITA, compute the chargeable income of Liu Fung and Sammy for the year of assessment 2021 under separate assessment. All items stated in the question are to be included in the computation. Where any item is not taxable or deductible, indicate 'NIL' in the computation. (17 marks)
- (b) Based on your computation in part (a) above, briefly explain to Liu Fung and Sammy whether they are eligible for any tax rebate for the year of assessment 2021. (4 marks)
- (c) Liu Fung has approached you about his salary being subject to Malaysian income tax if it is paid directly into his bank account in Hong Kong.

With reference to the ITA, discuss the taxability of Liu Fung's salary if it is received in Hong Kong.

(4 marks)

[Total: 25 marks]

Question 3

- (a) David works as a pilot at Batik Air Bhd. He is a Malaysian tax resident for the year of assessment 2021. He has served the company for 11 years. David has been experiencing salary reduction during pandemic since 2 years ago.

The details of his remuneration for the year 2021 are as follows:

1. A monthly gross salary of RM13,000.
2. A monthly travelling allowance of RM200.
3. A monthly clothing allowance of RM100.
4. A semi furnished terrace house at Cyberjaya. The house is equipped with air-conditioner, furniture and fittings in the bedroom and dining room. The company paid a monthly rental of RM1,800 for the house, of which RM350 is related to the air-conditioner, furniture and fittings provided.
5. An interest-free loan of RM500,000 from his employer to finance the purchase of his new house. The loan was funded by the employer's internal fund. The interest payable for the loan would have been RM23,000 if it had been borrowed from a local bank.
6. Dental benefits amounting to RM500 per year.

David owns 4 real properties. In order to increase his source of income, David rented out 3 properties two years ago and the rental status of these properties for the year ended 31 December 2021 are as follows:-

Rental: Condominium (acquired in August 2008 and first rented out in November 2019)	RM
January 2021 to December 2021 (RM1,000 per month)	12,000
Deposit for utilities (non-refundable)	2,000
Expenses	
Management fees	3,600
Interest on loan (January 2021 till December 2021)	6,800
Quit rent and assessment	375
Replacement of damaged doors	800

Rental: Terrace house (acquired in August 2012 and first rented out in December 2019)	RM
January 2021 to May 2021 (RM1,500 per month)	7,500
June 2021 to July 2021 (vacant)	Nil
August 2021 to December 2021 (RM1,800 per month)	9,000
Expenses	
Quit rent and assessment	400
Installation of security alarm system	1,600
Fire insurance premium	1,500
Extension of kitchen	5,000

Rental: Apartment (acquired on 2 February 2021 and first rented out on 1 July 2021)	RM
July 2021 to December 2021 (RM950 per month)	5,700
Expenses	
Quit rent and assessment	300
Repairs (carried out in June 2021)	12,400
Cost of getting the first tenant	1,900

David invested in a restaurant business, by forming a limited liability partnership - D&L PLT, together with his best friend, Larry. Both David and Larry are Malaysian residents. The terms and conditions of the partnership agreement are as follows:

- David and Larry share the profit and loss equally.
- David and Larry are to be paid salaries of RM1,500 and RM2,500 per month respectively.

The restaurant business of D&L PLT has been suffering losses due to the Covid-19 pandemic. It is expected that the losses will continue until year 2022.

Details of the income statement for D&L PLT for the year ending 31 December 2021 is as follows:

	Notes	RM	RM
Gross Profit			54,000
Add: Other income			
Gain on disposal of fixed asset			5,000
			59,000
Less: Expenses			
Partners' salaries	i	48,000	
Employer's contributions to EPF and SOCSO on Partners' salaries		6,240	
Operating expenses	ii	11,500	
Depreciation	iii	3,000	
Leave passage to Labuan for Larry		2,000	
Entertainment expense (entertaining clients)		1,500	72,240
Net Loss			13,240

Notes:

- i. Details of partners' salaries are as follows:

		RM
David	RM 1,500 x 12 months	18,000
Larry	RM 2,500 x 12 months	<u>30,000</u>
		<u>48,000</u>

- ii. All operating expenses are allowable deductions under section 33(1).
- iii. Depreciation is in respect of fixed assets used in the business. Capital allowance on qualifying expenditure is RM4,000.

Other information:

The balancing charge for the year of assessment 2021 is RM7,000.

Required:

- (i) **Compute the adjusted rental income for David for the year of assessment 2021 with reference to the ITA.** (8 marks)
- (ii) **Compute the statutory income for the D&L PLT for the year of assessment 2021 with reference to the ITA.** (5 marks)
- (iii) **Determine the gross employment income of David for the year of assessment 2021 with reference to the ITA.** (5 marks)
- (iv) **Determine the type of tax return that David needs to use while filing his income tax and the due date of submission for the year of assessment 2021.** (2 marks)

Note:

Indicate Nil or Exempt where appropriate

- (b) Mei Shin is a sole-proprietor with business and other income. She submitted her tax return, Form B via e-filing on 30 June 2021. She overpaid her tax by RM19,000 and received her tax refund from the IRB on 15 December 2021.

Required:

Explain whether Mei Shin is eligible for any compensation from the IRB for late refund by the IRB and determine the amount of compensation for late refund (if any). (5 marks)

[Total: 25 marks]

Question 4

Joseph is a mechanical engineer who is employed by City Light Berhad, which is based in Kuantan. Joseph joined City Light Berhad on 15 October 2018. Before joining City Light Berhad, Joseph was an Australian tax resident. Joseph is married to Mandy, and they have two children. Since Joseph is in charge of a project based in a rural area in Kuantan, Mandy together with their two children reside in Kuala Lumpur. Joseph travels to Kuala Lumpur frequently to meet his family and at the same time, he travels to Scotland to meet his parents every year in the month of December.

Given below are his periods of stay in and outside Malaysia for the years from 2018 to 2021.

15 October 2018 to 28 December 2018	In Malaysia
29 December 2018 to 15 January 2019 (Visited father who was seriously ill)	In Scotland
16 January 2019 to 31 July 2019	In Malaysia
1 August 2019 to 31 March 2020 (Work Purpose)	In Indonesia
1 April 2020 to 31 July 2020	In Malaysia
1 August 2020 to 30 September 2020 (Holidays with family)	In Japan
1 October 2020 to 30 November 2020	In Malaysia
1 December 2020 to 30 November 2021 (Unpaid leave)	Back to Scotland due to family emergency
1 December 2021 – 31 December 2021	In Malaysia

Required:

- (a) Based on Joseph's pattern of stay, determine his tax resident status in Malaysia from 2018 to 2021 by citing relevant provision of the ITA, assuming that he will be in Malaysia for the whole year in 2022.

(8 marks)

- (b) Being a busy engineer and with his hectic travelling schedule, Joseph only submitted his tax return for the year of assessment 2021 on 30 June 2022.

Briefly explain the penalty (if any) for submitting his tax return for the year of assessment 2021 on 30 June 2022 and when he should have submitted his tax to avoid any penalty.

(3 marks)

- (c) Joseph has a friend from Australia, Owen who came back to Malaysia with Joseph in 2021. Owen is still working from home after the pandemic. Despite being in Malaysia for the whole year in 2021, Owen still works for an Australian firm, as customer support, as he provides support through a cloud server, therefore he can work from anywhere. Owen received income (salary and commission) from the Australian firm (his employer) which was banked into his bank account in Malaysia. Now, the Australian tax authority wants to tax Owen on his income from Australia.

Should Owen pay tax to the Malaysia's tax authority? Justify by incorporating the need of Certificate of Residence (COR).

(9 marks)

[Total: 20 marks]

(END OF QUESTION PAPER)