



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

PROFESSIONAL EXAMINATION

FINAL LEVEL

ADVANCED TAXATION 1

JUNE 2023

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 2023 has elapsed.

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Question 1

- (a) (i) What is the tax implication on income including business income, derived by a Trade Union? (1 mark)
- (ii) What is the definition of trade association as provided for in the ITA 1967 and quote the relevant provision? (1 mark)
- (iii) How is the tax residence of a trade association determined? (1 mark)
- (iv) What is the scope of income of a trade association that is deemed as business income and the treatment of business income arising from trading with non-members? (2 marks)
- (b) The statement of income and expenditure of the Malaysian Indian Barbers Trade Association ("Association") for the year ended 31 December 2021, are as shown in the table below.

Malaysian Indian Barbers Trade Association		
Statement of Income and Expenditure for the year ended 31 December 2021		
	RM	RM
Income		
Entrance fees		200,000
Annual Subscriptions		120,000
Seminar & Briefings		100,000
Sale of tickets for Deepavali dinner		200,000
Malaysian Dividend (single tier)		22,000
Interest from Fixed Deposit		<u>5,000</u>
Total Income		647,000
Less: Expenses		
Salary	24,000	
Rental of Seminar Hall	10,000	
Speaker's Honorarium	5,000	
Deepavali dinner expenses	100,000	
Deepavali Dinner - Payment for Singers/Dancers	50,000	
Employees' Provident Fund	2,880	
Office – Utility Expenses	6,000	
Office – Rent	6,000	
Cash Donation to Hindu Temple Building Fund (approved)	<u>10,000</u>	
		<u>213,880</u>
Surplus of income and expenses		<u>433,120</u>

Notes to accounts:

1. The Association was established in the year 2010 and its objective is to safeguard as well as preserve the interest of its members, namely owners who are operating Indian Barber Salons in Malaysia.

2. The Association organises seminars and briefings for its members to seek updates and latest government policies affecting the industry. The invited speakers are legal professionals and senior government officials from government departments, namely local town/city councils, Health Ministry, Inland Revenue Board of Malaysia and Immigration Department.
3. Capital Allowance for the year 2021 is RM2,000.
4. The Association's committee members decided to donate cash of RM10,000 to a Hindu temple, which is building a new prayer hall. The donation is approved for the purposes of ITA 1967.

Required:

With reference to the relevant provisions in the ITA and tax exemption order, compute the chargeable income for the year of assessment 2021.

Note:

You are required to show the workings and extra marks will be granted.

(15 marks)

[Total: 20 marks]

Question 2

- (a) **With reference to the decision in the case of *American Leaf Blending Sdn Bhd v DGIR* [(1979) 1 MLJ 1], briefly discuss the implication of the definition of an 'investment holding company' and the 'business of holding an investment' under section 60F(2) for the purposes of determining the statutory income of an investment holding company under the Income Tax Act 1967 (as amended).**

Note:

You must state briefly the facts and the decision in the case of *American Leaf Blending Sdn Bhd v DGIR* [(1979) 1 MLJ 1] in your discussion.

(6 marks)

- (b) **With reference to section 60F of the Income Tax Act 1967, discuss the differences between an investment holding company and an investment dealing company, highlighting the issues of deduction of expenditure incurred, treatment of losses, capital allowances and gain from sale of investments.**

(4 marks)

- (c) Madani Investments Berhad ('the company') is a Malaysian resident company. It is listed on the Bursa Saham and its income is derived mainly from the holding of investments. Accordingly, the company's income consists mainly from rental of a shop house property, interest from bank deposits, dividends from investments in local companies and from unit trust.

The company also provides some limited management services to its associate companies. With regard to the shop house, the company does not provide any maintenance or support services to the tenants.

The company closes the accounts to 31 December each year. For the year ended 31 December 2022, the financial statement was as follows:

Madani Investments Berhad		
Financial Statement for the year ended 31 December 2022		
	RM	RM
Gross income		
Rent from property	88,632	
Interest (exempt)	186,127	
Dividend (single tier)	221,580	
Distribution of income from unit trust	44,316	
Management services	<u>17,726</u>	558,381
Less: Expenses		
Audit fee	22,158	
Wages, salaries and allowance	70,049	
Secretarial fees	3,545	
Accounting fees	5,318	
Legal fees to acquire shop lot	4,432	
Stationery and postage	11,818	
Printing	1,477	
Telephone charges	5,171	
Repairs of property	8,125	
Repair of office equipment	3,694	
Travelling expenses	5,171	
Assessment and quit rent	<u>7,386</u>	<u>148,344</u>
Net profit		<u>410,037</u>

Required:

With reference to the Income Tax Act 1967, compute the chargeable income of Madani Investment Berhad for the year of assessment 2022.

Note:

You are not required to show your workings in arriving at the chargeable income.

(10 marks)

[Total: 20 marks]

Question 3

- (a) Malcamb Banking Corporation Bhd ('MBCB') is a Malaysian incorporated bank, resident in Malaysia for income tax purposes, and carrying on the business of banking, both in Malaysia and elsewhere. Mr Ravindran is the company's new assistant accounts manager, appointed to the post last month. He wants to know the scope of charge to Malaysian income tax under the Income Tax Act 1967 in respect of MBCB's banking operation.

Required:

Explain to Mr Ravindran the scope of charge in respect of a person who is resident in Malaysia, and carrying on the business of banking in Malaysia and elsewhere.

(6 marks)

- (b) The Malaysian Green Energy Bank Bhd's ('the Bank') principal business is lending and investing in the manufacturing sector with focus on green technology. It was incorporated in Malaysia in 2011. The company is resident in Malaysia and accounts are closed to 31 December each year.

In 2021, the Bank had opened a branch in Indonesia ('the Indonesian branch') and has significant lending operations to the electric vehicle ('EV') manufacturing sector there. In 2022, the Indonesian branch underwent a short period of dangerous unstable liquidity and to sustain lending operations, borrowed from the Bank a large sum of money. On this sum, an interest of RM500,000 was paid for the year ended 31 December 2022. This money was remitted to Malaysia on the same day.

The Indonesian branch made a profit of RM16 million for the year ended 31 December 2022, and this money was retained in Indonesia to enable further lending operations.

Following the period of unstable liquidity, the Bank provided management services to the Indonesian branch in early 2022, including the setting up of a viable audit system for which the Bank charged fees based on time cost of assets used.

The manager of the finance division at the Bank, Mr Chandran wants a confirmation from you on the tax treatment of the branch profit, the interest and the management fees charged to the Indonesian branch in order to prepare the accounts for the year ended 31 December 2022.

Required:

With reference to the Income Tax Act 1967, explain briefly to Mr Chandran the income tax treatment of the following:

- (i) **The Indonesian branch profits;**
- (ii) **The interest charged on the loan to the Indonesian branch; and**
- (iii) **The management fee charged on the services provided to the Indonesian branch by Malaysian Green Energy Bank Bhd.**

(6 marks)

- (c) In 2020, the Malcamb Banking Corporation Bhd ('the Bank') was incorporated with a bold vision of being the top banker in the ASEAN region by the year 2030. In line with its vision, it opened its first branch in Cambodia ('the Cambodian branch').

The Bank has informed you that for the year ended 31 December 2022 the gross income from the Malaysian operations was RM42,297,154 and the allowable expenses, as ascertained by its finance manager, were RM25,378,292.

The bank is entitled to claim a capital allowance of RM2,114,857 on qualifying capital expenditure on plant and machinery used in its Malaysian business for the year of assessment 2020.

The Cambodian branch operations was incurring losses, and as at 31 December 2022, stood at RM8,459,431.

The Bank has long term investments in local listed companies and for the period ending 31 December 2022, it received single-tier dividends totalling RM684,000.

The Bank had made a donation of RM120,000 to a Malaysian approved charitable body in 2022. The charitable body is engaged in geriatric welfare of the elderly and terminally ill patients.

The Bank closes its accounts to 31 December each year.

Required:

With reference to the Income Tax Act 1967, determine the chargeable income of the Malcamb Banking Corporation Bhd for the year of assessment 2022, computed in a manner prescribed in section 5.

(8 marks)

[Total: 20 marks]

Question 4

Ashley, a Malaysian citizen, purchased a piece of land in Shah Alam, Selangor on 1 June 2018 for RM2,400,000. Her acquisition expenses were RM30,000 for legal fees and RM80,000 for stamp duty. A factory was then constructed on land on 4 July 2018 for RM4,000,000.

Ashely owned 70% of the paid-up share capital of AZ Sdn Bhd ('ASB') and transferred the land with the factory to the company for a consideration of RM10,000,000. This amount comprised of RM8,000,000 in terms of 800,000 shares at RM10.00 per share of ASB, and the balance of RM2,000,000 in cash. At that time, the market value of the factory with the land was RM11,000,000. The sale and purchase agreement ('SPA') between Ashley and ASB was signed and dated 11 November 2022.

On 12 December 2022, Ashley signed a SPA with her uncle Philip to sell 200,000 shares of her ASB that she had acquired on 11 November 2018, for RM3,000,000. The market value of the 200,000 shares on the same date was RM3,300,000.

Required:

- (a) **Advise Ashley regarding the treatment of real property gains tax for the transfer of the land with the factory to ASB.**

(12 marks)
- (b) **Compute the real property gains tax payable by Ashley (if any) on the disposal of 200,000 shares in ASB to her uncle, Philip.**

(6 marks)
- (c) **Explain to Ashely, the disposer, her responsibilities for RPGT compliance in regard to the disposal of shares to her uncle, Philip.**

(2 marks)

[Total: 20 marks]

Question 5

- (a) (i) With reference to the ITA 1967, explain the tax treatment on the contributions received by religious institutions and quote the relevant provision as provided for in the ITA.

(2 marks)

- (ii) Cemetery Management

- a. In order to be eligible for tax exemption, the income of Cemetery Management must be used for designated purposes. State any four (4) of the purposes.

(1 mark for each = 4 marks)

- b. Several types of income of cemetery management of public burial ground are tax exempt pursuant to the Income Tax (Exemption)(No. 36) Order 2005. State any four (4) of the types of income.

(1 mark for each = 4 marks)

- (b) Rural Doctors Foundation of Malaysia ('Foundation') is a charitable institution established in 2017 by a group of experienced medical professionals. Its objective is to improve access to healthcare for people living in rural and remote communities in Malaysia. The Foundation was approved by Inland Revenue Board of Malaysia as an approved organisation under section 44(6) of the ITA 1967 on 1 March 2018. The Foundation closes its accounts on 31 December.

The following information was extracted from Foundation's books and are as shown below:

Year	Balance b/f (accumulated fund) (RM)	Receipts/ Donation during the year (RM)	Amount invested in business activities (RM)	Operating Expenditure (RM)	Charitable Expenditure (RM)	Balance c/f (RM)
2018	-	500,000	-	125,000	350,000	25,000
2019	25,000	400,000	10,000	150,000	250,000	15,000
2020	15,000	500,000	3,000	130,000	200,000	182,000
2021	182,000	500,000	80,000	120,000	350,000	132,000
2022	132,000	500,000	10,000	130,000	300,000	192,000

Required:

- (i) You are required to ascertain whether the Foundation satisfied the required threshold to maintain its approved exempt status for the years of assessment 2019, 2020, 2021 and 2022.

(1 mark for each year = 5 marks)

- (ii) The primary objective of the Foundation is to focus on charitable work. However, in an effort to raise funds as well as create visibility of its noble initiatives, the Foundation sold T-Shirts displaying the logo of the Foundation. As we are aware, there is a restriction on the amount of funds that can be utilised by the Foundation to undertake business activities. You are required to ascertain whether the Foundation complied with the threshold for the years of assessment 2019, 2020, 2021 and 2022.

(1 mark for each year =5 marks)

[Total: 20 marks]

Question 6

Positive Sdn Bhd ('PSB') was incorporated and began its manufacturing operations on 1 July 2020. The company is a tax resident of Malaysia and prepares its annual accounts on 30 June.

PSB is involved in the production of surgical masks and operates its business in Shah Alam, Selangor. It is highly profitable and invested over RM50 million in plants, machinery, and factories in 2022. The company has checked with the Malaysian Investment Development Authority ('MIDA') and found that the surgical masks they produce are listed as a promoted product. PSB immediately applied to MIDA for pioneer tax incentives. However, the company has yet to receive any confirmation from MIDA regarding its application.

In a board of directors meeting, all directors of PSB agreed that if the pioneer status application is rejected, the company will immediately apply for investment tax allowance ('ITA') from MIDA.

The chief accountant of PSB has projected the company's business income and other income as follows:

Year of Assessment	1 st Year	2 nd Year	3 rd Year	4 th Year	5 th Year
	RM'000	RM'000	RM'000	RM'000	RM'000
1. Business income (Pioneer status)					
Adjusted income / (Adjusted loss)	20,000	(12,000)	10,000	15,000	18,000
Capital allowance and Industrial building allowance	3,000	3,000	3,000	4,000	6,000
2. Business income (Non-Pioneer)					
Adjusted income / (Adjusted loss)	(6,000)	1,000	2,000	3,000	(4,000)
3. Non-business income					
Fixed deposit interest received from local banks	100	200	300	400	500
4. Donation in cash to Cheerful Home at Selangor (registered as an approved institution)	100	100	100	100	100

Required:

- (a) Compute PSB's chargeable income and exempt income account and with relevant workings. (15 marks)
- (b) Advise PSB on the tax treatments of business losses during the tax incentive periods for both Pioneer status and Investment tax allowance. (5 marks)

For part (a), a tabular format must be used for your tax computation.

[Total: 20 marks]

(END OF QUESTION PAPER)