



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

PROFESSIONAL EXAMINATION

FINAL LEVEL

ADVANCED TAXATION 2

MARCH 2024

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.

DO NOT TURN OVER THIS PAGE UNTIL INSTRUCTED BY THE INVIGILATOR

Question 1

Comfort Sdn Bhd (CSB) is a company incorporated and tax resident in Malaysia. CSB is engaged in the business of manufacturing clothes for adults and children. In view of the good prospect in the apparel business, CSB has decided to manufacture knitted fabric which is one of the raw materials used to manufacture clothes as the final products. To carry out such project, the following capital expenditure will be incurred by CSB in the year of assessment (YA) 2024:

- (i) A vacant land with the cost of RM1,000,000;
- (ii) Construction of a factory building on the land with the cost of RM2,000,000. The total area of the building is 500 square metre (sqm) where 45 sqm will be used as storage area;
- (iii) New machinery with the cost of RM800,000;
- (iv) Machinery acquired from its holding company in Malaysia with the cost of RM500,000 where Reinvestment Allowance (RA) was claimed by the holding company; and
- (v) Closed-circuit television (CCTV) with the cost of RM90,000 to be installed around the fences outside the factory building.

CSB had claimed RA previously for other projects where the first RA claim was made in YA 2008. Assume the above capital expenditure is incurred and put into use in YA 2024.

Required:

- (a) Explain whether CSB is eligible for RA claim in YA 2024 and the type of qualifying project carried out. (4 marks)
- (b) Explain whether each of the capital expenditure mentioned in (i) to (v) above qualifies for RA. (8 marks)

Based on discussion with the Malaysian Investment Development Authority (MIDA), CSB was informed that an application for pioneer status can be submitted to MIDA for approval. Pioneer status will be given for the manufacture of knitted fabric with tax exemption of 70% on the statutory income derived therefrom for a period of 5 years.

The projected statutory income for the manufacture of knitted fabric by CSB is as follows:

	YA 2024	YA 2025	YA 2026	YA 2027	YA 2028
Statutory income	Nil	RM100,000	RM250,000	RM500,000	RM1,200,000

Required:

- (c) Provide the calculations to show each the total RA claim and the total tax exemption from the pioneer status. (6 marks)
- (d) Explain whether CSB is eligible to claim both RA and pioneer status in the same year of assessment and if not, which is the more beneficial tax incentive to CSB. (2 marks)

[Total: 20 marks]

Question 2

- (a) Companies that are approved as Multimedia Super Corridor Malaysia (MSCM) status company by the Malaysia Digital Economy Corporation after 1 January 2015 have the option to operate in certain designated or commercial premises in Malaysia based on certain categories such as tier and startup status.

Required:

Briefly explain the tiering and the startup status in relation to the location of the designated and commercial premises from which these categorised companies could operate highlighting the implication of operating in these areas.

(6 marks)

- (b) It is the aim of the Malaysian government to provide world class information and communication technology services to facilitate the growth of multimedia technologies in the country that will enable the production of products and services based on these cutting-edge technologies. With that in mind, the Malaysian government had provided ten (10) Bill of Guarantees that entitles these approved companies certain rights, incentives, and privileges.

Required:

Briefly explain any TWO (2) Bill of Guarantees made available by the Government of Malaysian to companies with Multimedia Super Corridor Malaysia status, and the objectives of the particular Bill of Guarantee.

(4 marks)

- (c) 3MD Malaysia Sdn Bhd (the company) is engaged in the field of 3-D printing and the related technology, software design and support. The company has complied with the Malaysia Digital Economy Corporation's Guidelines as a Category 3 company and was awarded with the Malaysia Digital (MD) Status sometime in late 2021 and subsequently was approved by the Minister, granting it with an income tax exemption of 70% on its statutory income for the first five years from the date of commencement. The company which has a paid-up capital of RM3 million commenced its business on 1 January 2022 and closed the accounts to 31 December each year.

For the basis period for the year of assessment 2023 in respect of its MD Approved Activity, the company's accountant has confirmed that it had an adjusted income of RM966,050 and has claimed a capital allowance of RM182,350 on assets used in its business. He also confirmed that the company has an unabsorbed loss of RM8,835 from the previous year of assessment from the approved activity.

Required:

With reference to the ITA 1967 compute the income tax charged for the year of assessment 2023, indicating in your computation, the exempted income available to 3MD Malaysia Sdn Bhd.

(10 marks)

[Total: 20 marks]

Question 3

- (a) Highlight three (3) main differences between the principles of sales tax implemented in Malaysia, and the typical goods and services tax (GST) or value-added tax (VAT) systems adopted in other countries. (3 marks)
- (b) Highlight three (3) main differences between the principles of service tax implemented in Malaysia, and the typical goods and services tax (GST) or value-added tax (VAT) systems adopted in other countries. (3 marks)
- (c) What is defined as 'manufacture' for the purposes of sales tax? (4 marks)
- (d) Name the types of professional services that are prescribed as taxable services for service tax purposes. (6 marks)
- (e) Define imported taxable services and state what a business is required to do when it acquires imported taxable services. (4 marks)

[Total: 20 marks]

Question 4

- (a) Explain the general principles of stamp duty. (2 marks)
- (b) SMS Sdn Bhd, a property developer is seeking to sell its business. MMS Sdn Bhd offered to purchase the business of SMS Sdn Bhd by obtaining 100% ownership of SMS Sdn Bhd via a "share deal". The market value of the shares being transferred is RM5,000,000.
- (i) Explain the method and calculate the applicable stamp duty payable by MMS Sdn Bhd. (4 marks)
- (ii) Advise MMS Sdn Bhd on which Item under First Schedule of the Stamp Act is the stamp duty applicable and the timeline the stamp duty is payable. (4 marks)
- (c) Section 15 of the Stamp Act 1949 exempts stamp duty in connection with a scheme for the reconstruction of any company or companies or the amalgamation of any companies

Explain the conditions that provide the relief from stamp duty in the above scenario?
(10 marks)

[Total: 20 marks]

Question 5

Ravi Global Services Sdn Bhd (RGS) is a local resident company providing management services. RGS has two subsidiaries – Ravi Kuching Sdn Bhd (RK) and Ravi Kota Kinabalu Sdn Bhd (RKK) - both of which RGS fully owns. RGS and its subsidiaries have been in business for several years.

As and when the need arises, RGS often finances the operations of these subsidiaries mainly through its own borrowings from financial institutions to which it pays interest at 7% and lending them out to the subsidiaries at an interest of 10%; and if the subsidiary is not doing too well, RGS may opt to advance funds without charging interest or alternatively take up equity interest.

Using a loan of RM16 million taken in 2021, RGS took up an equity interest of RM4 million in RK in 2023. In December 2023, RK announced a single-tier dividend pay-out of RM600,000 on the shares held by RGS.

RGS extended a loan of RM3 million to RKK to tide over its cash flow issues during the year 2023. But owing to various business factors, including the fact that it is making losses and is projected to make losses for the next three (3) years, RKK needed greater financial assistance. Unable to borrow on its own, it sought assistance from RGS. The holding company then extended a RM2 million by way of advance with no interest.

RGS used the balance of the funds for its own working capital. For the financial year 2023 RGS had an adjusted income of RM4 million (excluding interest charges). All the companies in the group close their accounts to 31 December each year.

Required:

With reference to the ITA 1967, determine the following:

- (a) The amount of interest expense that would be disallowed to Ravi Global Services Sdn Bhd in relation to the utilisation of the bank loan explaining the provisions under which the relevant sum is disallowed;**
(5 marks)
- (b) The amount of interest that would be allowed as a deduction against the relevant income that may be received by Ravi Global Services Sdn Bhd; and**
(5 marks)
- (c) In respect of Ravi Kota Kinabalu Sdn Bhd, advise Ravi Global Services Sdn Bhd on whether it should consider financially assisting it by subscribing additional share capital or extending additional interest-bearing loans or alternatively making non-interest-bearing advances.**

Note: Your advice should also take into account tax aspects of the decision. All loan and interest liabilities should be assumed as applicable for a full financial year.

(10 marks)

[Total: 20 marks]

Question 6

- (a) Article 12(2) of the UN Model is based on three (3) components.

Required:

What are these components?

(5 marks)

- (b) Article 12(2) mentioned that “royalties can be taxed in the Contracting State in which they arise and according to the laws of that State, but if the beneficial owner of the royalties is a resident of that other Contracting State, that tax so charged shall not exceed.....”

Required:

What is your understanding of the term “beneficial owner” requirement and how it would affect the source state?

(5 marks)

- (c) Kinson Air in Country X acquired a personal luxury plane from Manufacturer Speed Jet in Country R for a consideration of USD20 million payable over 10 years. Both parties have signed a hire-purchase agreement where Kinson Air pays a semi-annual payment of USD1 million each year and on the condition that upon the final payment is made, Speed Jet will transfer the title of the personal luxury plane to Kinson Air.

Required:

Discuss whether the payment of USD20 million falls under Article 12(4) and provide your basis of your explanation.

(5 marks)

- (d) Maxcom, an established telecommunication company in Country Nigelland entered into a roaming agreement with Octopus First in Country Groshi which allows its customers in Nigelland to make and receive voice calls, receive, and send emails, or internet services through its network when they are in Country Groshi. Octopus First then bills Maxcom for the use of its network.

Required:

Explain how the billing payments under the roaming agreement by Maxom to Octopus First is viewed by the tax authorities in Groshi.

(5 marks)

Excerpt of the UN Model Convention

Article 12 ROYALTIES

1. Royalties arising in a Contracting State and paid to a resident of the other Contracting State may be taxed in that other State.

2. However, royalties arising in a Contracting State may also be taxed in that State and according to the laws of that State, but if the beneficial owner of the royalties is a resident of the other Contracting State, the tax so charged shall not exceed ___ per cent [the percentage is to be established through bilateral negotiations] of the gross amount of the royalties. The competent authorities of the Contracting States shall by mutual agreement settle the mode of application of this limitation.

3. The term "royalties" as used in this Article means payments of any kind received as a consideration for the use of, or the right to use, any copyright of literary, artistic or scientific work including cinematograph films, or films or tapes used for radio or television broadcasting, any patent, trademark, design or model, plan, secret formula or process, or for the use of, or the right to use, industrial, commercial or scientific equipment or for information concerning industrial, commercial or scientific experience.

4. The provisions of paragraphs 1 and 2 shall not apply if the beneficial owner of the royalties, being a resident of a Contracting State, carries on business in the other Contracting State in which the royalties arise, through a permanent establishment situated therein, or performs in that other State independent personal services from a fixed base situated therein, and the right or property in respect of which the royalties are paid is effectively connected with

(a) such permanent establishment or fixed base, or with

(b) business activities referred to in (c) of paragraph 1 of Article 7.

In such cases the provisions of Article 7 or Article 14, as the case may be, shall apply.

5. Royalties shall be deemed to arise in a Contracting State when the payer is a resident of that State. Where, however, the person paying the royalties, whether he is a resident of a Contracting State or not, has in a Contracting State a permanent establishment or a fixed base in connection with which the liability to pay the royalties was incurred, and such royalties are borne by such permanent establishment or fixed base, then such royalties shall be deemed to arise in the State in which the permanent establishment or fixed base is situated.

6. Where by reason of a special relationship between the payer and the beneficial owner or between both of them and some other person, the amount of the royalties, having regard to the use, right or information for which they are paid, exceeds the amount which would have been agreed upon by the payer and the beneficial owner in the absence of such relationship, the provisions of this Article shall apply only to the last-mentioned amount. In such case, the excess part of the payments shall remain taxable according to the laws of each Contracting State, due regard being had to the other provisions of this Convention.

[Total: 20 marks]

(END OF QUESTION PAPER)