



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

PROFESSIONAL EXAMINATIONS

INTERMEDIATE LEVEL

PERSONAL TAXATION

JUNE 2016

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*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 booklet.
6. All workings **MUST** be shown as marks will be awarded.
7. Answers should be written in either black or blue ink.
8. No question paper or answer booklet are to be removed from the examination hall.

**DO NOT TURN OVER THIS PAGE UNTIL INSTRUCTED BY THE INVIGILATOR**

### Question 1

ABC Sdn Bhd (ABC), a resident company, operates a manufacturing business in Melaka. In the financial year ending 31 December 2015, ABC incurred the following expenditure for the purpose of its manufacturing business:

- a) RM500,000 being cost of purchasing a machine, Model KR-iXL from Incho Plc, a Korean company not resident in Malaysia, and having no permanent establishment in Malaysia.
- b) RM800,000 being cost of purchasing another machine, Model IPD-09, also from Incho Plc.  
Both the machines were shipped from Korea to Port Kelang at Incho Plc's expense.
- c) RM100,000 to lease a special long trailer from Road-Logistic Plc, a non-resident operator to transport the two machines from Port Kelang to ABC's factory site in Melaka.
- d) RM150,000, being fees payable to Incho Plc for the installation of machine, Model KR-iXL at ABC's factory in Melaka.
- e) RM80,000, being fees payable to Jerlun Sdn Bhd, a resident company, for the installation of machine, Model IPD-09 at ABC's factory in Melaka.

### Required

- (i) **Advise ABC on the treatment pertaining to the withholding tax requirements (if any) in respect of each of the payments listed in items a) to e).**  
(12 marks)
- (ii) **Discuss the implications in the event ABC fails to comply with any of the withholding tax requirements under ITA 1967.**  
(8 marks)

**[Total: 20 marks]**

## Question 2

- (a) Nathan, an Indian national and a non-resident, is an Information Technology (IT) specialist. In 2015, Nathan entered into an agreement with Jay-Jay Sdn Bhd, a resident company for him to “trouble shoot” some IT problems encountered by Jay-Jay Sdn Bhd in Malaysia. The “trouble shoot” service was completed within 40 working days as agreed and Nathan was paid RM300,000 for the service. Nathan does not have any other sources of income in Malaysia.

### Required:

In relation to the above, discuss the tax treatments and determine Nathan’s tax liability if:

- (i) **The agreement between Nathan and Jay-Jay Sdn Bhd is a contract of service.**
- (ii) **The agreement between Nathan and Jay-Jay Sdn Bhd is a contract for service.**

(8 marks)

- (b) Joe Lee commenced employment with Suria Sdn Bhd in March 2009 as a factory floor supervisor under a ten year contract of employment, ending in February 2019. However, in August 2015, at the age of 45 years old, Joe Lee’s employment with Suria Sdn Bhd was prematurely terminated, and he was paid RM50,000 by Suria Sdn Bhd. In the EA Form for the year of assessment 2015, issued by Suria Sdn Bhd, this RM50,000 was termed as “*gratuity*”.

In his income tax returns for the year of assessment 2015, Joe Lee reported the RM50,000 pre-matured termination payment as gratuity under s.13(1)(a) in compliance with PR 8/2013 on *GRATUITY*, although Joe Lee felt that the RM50,000 should be treated as compensation for loss of employment under section 13(1)(e), for which he could claim exemption under paragraph 15(1), Schedule 6. Joe Lee wishes to file an appeal.

### Required

**Advice Joe Lee whether he has any valid grounds to appeal against the deemed notice of assessment under the provisions of the ITA1967.**

(3 marks)

- (c) Alan Teoh, who is married, derived income from his employment with a private university in Selangor.

**Discuss the circumstances under which Alan Teoh may, for the year of assessment 2015, elect not to furnish a return to the Director General of Inland Revenue.**

(3 marks)

- (d) For the year of assessment 2015, Linda Ong, a non-resident, was employed in Malaysia, and received an annual salary of RM90,000 and bonus payment of RM20,000. She has no other sources of income. After Linda Ong submitted her income tax return for the year of assessment 2015 on 20 March 2016, she realized that she had only reported the RM90,000 salary, and had paid the tax due only on the RM90,000 salary, and had forgotten to report the RM20,000 bonus. Linda Ong now wished to report the full amount of salary and bonus received.

**Required**

**Advise Linda Ong on the course of action she has to take and compute the penalty that may be imposed for failing to report the RM20,000 bonus in her tax return for the year of assessment 2015 that was filed on 20 March 2016.**

(6 marks)

**[Total: 20 marks]**

### Question 3

Chris and Renuka provided to their tax accountant the following details of their stay within Malaysia and abroad in the years 2014 and 2015:

#### Chris

01.01.2014	-	20.01.2014	(20 days)	In Malaysia
21.01.2014	-	02.07.2014	(163 days)	In New Zealand
03.07.2014	-	14.09.2014	(74 days)	In Malaysia
15.09.2014	-	30.09.2014	(16 days)	Attended an accounting seminar in Singapore
01.10.2014	-	31.12.2014	(92 days)	In Malaysia
01.01.2015	-	31.01.2015	(31 days)	In Malaysia
01.02.2015	-	31.12.2015	(334 days)	In Singapore

#### Renuka

01.01.2014	-	24.02.2014	(55 days)	In Malaysia
25.03.2014	-	27.08.2014	(124 days)	In Switzerland
27.08.2014	-	31.12.2014	(126 days)	In Malaysia
01.01.2015	-	31.05.2015	(149 days)	In Indonesia
01.06.2015	-	17.09.2015	(109 days)	In Malaysia
18.09.2015	-	30.09.2015	(13 days)	Social visit to Indonesia
01.10.2015	-	30.11.2015	(61 days)	In Malaysia
01.12.2015	-	31.12.2015	(31 days)	In South Africa

#### Required:

- (i) Ascertain the residence status of Chris and Renuka for the years 2014 and 2015 under the Malaysian ITA.

State the relevant section of the tax legislation and explain the reasons for arriving at each of your answers.

(15 marks)

- (ii) Explain the advantages of being a tax resident in Malaysia in respect of an individual.

Candidates are required to provide any **FOUR** advantages of being a tax resident in Malaysia for tax purposes.

(8 marks)

**[Total: 23 marks]**

#### Question 4

Arjun Gill was earning a salary of RM12,000 per month and he retired from NaxisBerhad (Naxis) on 30 September 2015 at the age of 48 due to ill health after having worked with the telecommunications company for 13 years. He received a gratuity of RM90,000 which he used to set up a mobile phone retail business on 1 November 2015. Just before retiring, he underwent an elbow ligament surgery at the Singapore Health Centre in July 2015. The surgical and medical expenses incurred amounted to RM100,000 of which RM75,000 was paid by Naxis.

His wife, Sujata Gill earned RM6,000 per month teaching part-time at Mannix College in Kuala Lumpur. During her spare time, she translated literary works for the Ministry of Education, Malaysia as well as performed in cultural shows organised by the Ministry of Culture, Arts and Tourism, Malaysia. Sujata traveled often to Mumbai, India to visit her aged parents and in 2015, she was not a resident for income tax purposes under section 7 Income Tax Act 1967.

Arjun and Sujata have 3 children, Ray, Orca and Anemone. Ray, aged 21, is pursuing engineering at Melbourne University in Australia and the annual cost of maintaining him was RM60,000. Orca, aged 13, studies at a secondary school in Petaling Jaya and Anemone, aged 20, is physically handicapped and is pursuing a business degree in University Malaya.

Arjun Gill has provided the following additional information in respect of the year ended 31 December 2015 for both his wife and himself:-

	<b>Arjun Gill RM</b>	<b>Sujata Gill RM</b>
Adjusted Business Loss sec 44(2)	60,100	-
EPF - Employer's portion	3,200	2,080
- Employee's portion	2,800	1,700
Insurance - Capital sum insured	80,000	50,000
- Premium paid	2,100	1,800
Leave passage provided by employer	4,200	5,000
	(overseas)	(2 local trips)
Children's maintenance expenses		
- Ray	60,000	-
- Orca	8,000	-
- Anemone	22,000	-
Medical expenses incurred in respect of		
- Arjun Gill's parents	1,700	-
- Sujata Gill's parents	-	7,000
Donations to approved institutions		
- Computer (worth)	3,000	-
- Cash	600	4,000
Dividend income		
- MobicoBhd (Single Tier System)	19,320	37,300
Translation fees received from Ministry of Education	-	12,200
Interest from RM120,000 savings account each in Public Bank Berhad	4,200	4,200

**Required:**

- (i) **Compute the income tax payable, if any, by Arjun and Sujata Gill for year of assessment 2015. Sujata did not elect for joint assessment under section 45(2) of the ITA. It is assumed that all child reliefs are to be given to Arjun under section 48(1) Income Tax Act 1967.**

(22 marks)

- (ii) **List three (3) benefits of Arjun and Sujata Gill opting for separate assessment instead of joint assessment.**

(3 marks)

**[Total: 25 marks]**

**Question 5**

- (a) James Lee, a member of the Chartered Tax Institute of Malaysia (CTIM), is an approved tax agent, licensed under section 153 of the Income Tax Act, 1967. James Lee who is being employed as an in-house tax consultant of Super Sdn Bhd is also being instructed by the management to advise and assist George Ong, the Marketing Manager in preparing and filing the George's personal tax returns.

**Required:**

**Discuss James Lee's professional relationship with George Ong and briefly comment on matters pertaining to the latter's (George) tax affairs.**

(5 marks)

- (b) Johnny, a taxpayer approaches you in your capacity as an approved tax agent to advise him on his tax affairs. Preliminary discussions with Johnny revealed that he is not satisfied with his existing tax agent, and that being the main case, he wishes to replace his tax agent.

**Required:**

**Discuss the course of action that the new tax agent should consider before agreeing to act for Johnny.**

(7 marks)

**[Total: 12 marks]**

**(END OF QUESTION PAPER)**