



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

PROFESSIONAL EXAMINATIONS

FINAL LEVEL

ADVANCE TAXATION 2

DECEMBER 2014

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 papers or answer booklets is to be removed from the examination hall.

DO NOT TURN OVER THIS PAGE UNTIL INSTRUCTED BY THE INVIGILATOR

Question 1

Ms. A and her sister Ms. B own between them 100% of White Bhd. White Bhd owns directly 100% of Blue Inc, Grey Sdn Bhd, Pink Sdn Bhd and Black Sdn Bhd.

Black Sdn Bhd owns a residential property in Singapore. Ms. A and Ms. B spend their holidays in this property and hold board meetings while they are there. Black Sdn Bhd also owns 80% of Brown Sdn Bhd which has a profitable trading business.

All the companies in this question have 31 December 2014 year ends.

- (a) Ms. A informs you that although Blue Inc has a business in Malaysia the company has never filed Malaysian tax returns as Blue Inc was incorporated outside Malaysia.

Ms. A now seeks your advice on whether this approach is correct for Malaysian tax purposes.

(2 marks)

- (b) Grey Sdn Bhd expects to make a tax loss in the year ending 31 December 2014 due to adverse market conditions.

Ms. B seeks your advice on whether Grey Sdn Bhd can transfer its loss to either Brown Sdn Bhd or Pink Sdn Bhd as both companies are profitable. You are required to advise Ms. B.

(3 marks)

- (c) Ms. A consults you on a proposal for Pink Sdn Bhd to transfer an office building that it owns in Kuala Lumpur to Grey Sdn Bhd. Ms. A tells you that Grey Sdn Bhd will pay for the property through an issuance of shares.

(i) You are required to advise Ms. A of the taxes that would arise on the transfer of the property. You are also required to identify any reliefs or exemptions which might be available.

(ii) You are also required to comment on the impact, if any, on Grey Sdn Bhd of acquiring the property.

(7 marks)

- (d) X Sdn Bhd which has a trading business is also 100% directly owned by White Bhd. Ms. B notifies you that X Sdn Bhd has borrowed RM10 million which will be used to buy a property in the United Kingdom (UK). The property will be held for rental.

Ms. B seeks your advice on the treatment of the interest expense on the loan for Malaysian tax purposes. Your advice is also required on the Malaysian tax position in respect of the rental income received by X Sdn Bhd from the UK property.

(3 marks)

- (e) (i) Having purchased the UK property X Sdn Bhd engages a UK architect to redevelop the building. The work in the UK is extensive, however, the architect has had to come to Malaysia for a week to work through the detailed plans with Ms. B. X Sdn Bhd has now received a bill of £250,000 from the UK architect. You are required to advise X Sdn Bhd of the Malaysian tax consequences relating to settlement of this bill.

(3 marks)

- (ii) If the UK architect was engaged by X Sdn Bhd to perform services after 31 March 2015 you are required to advise X Sdn Bhd on the Malaysian Goods and Services tax position.

(2 marks)

[Total: 20 marks]

Question 2

Mr Abu is married to Puan Aminah (a housewife) with one (1) daughter aged 20 years old. He is the managing director of Starlight Sdn Bhd ("SLSB"), a company incorporated in 2000. SLSB is a manufacturer with a paid up capital of RM500,000 and Mr Abu owns 80% of the company's share capital and his wife owns the balance 20%.

In October 2014, the Inland Revenue Board (IRB) informed Mr Abu that his Company has been selected for tax audit for Year of Assessment (YA) 2013 and subsequently the IRB personnel visited Mr Abu at his office premise to commence a tax audit on Mr Abu and his Company for YA 2013 and based on the IRB's review of the documents provided their audit findings are as follows:-

1. Sale invoices amounting to RM1,500,000 have not been reflected as income. Mr Abu informed that the said amount has not been received from the respective customers.
2. Business class air tickets to UK by the Mr Abu and wife for leave passage has been charged as travelling expenses in the accounts. This amounts to RM45,000.
3. The factory building is owned by Mr Abu and it is rented to the Company as factory since 2000. The rental of RM240,000 per annum was claimed as expenses in Company but was not declared by him as income.
4. It was noted from maintenance of office equipment account that an amount of RM3,000 for purchasing of computer was charged and claimed as revenue expense in the accounts.
5. Mr Abu maintains very prudent accounting system and he had provided RM100,000 for staff bonus for the year, which is normally paid in the following year after finalization of the accounts.
6. Debtors of RM80,000 (i.e. RM60,000 trade and RM20,000 non trade) was provided as bad debts for the year and has claimed deduction for YA 2013 and based on records furnished by the Mr Abu, RM45,000 (i.e. RM25,000 trade and RM20,000 non-trade) of the said debts had legal action been initiated.
7. The Company had purchased machineries amounting to RM100,000 for the year and the factory manager informed that these machineries are to replace the old machineries which have broken down. Please note the company had claimed Reinvestment Allowance of 60% for these machineries on the basis of expansion.
8. Mrs Abu is in charge of all the household expenses (day to day expenses including utilities) and she says that the total estimated expenses for 2013 was RM180,000.

9. His child is in a private school and the school fees are approximately RM40,000 per term. Each year has 2 terms.
10. Currently Mr Abu drives a BMW 520d which cost RM340,000 purchased in 2010 by SLSB. Mrs Abu drives a Toyota Estima bought in 2008 for RM180,000 and she further informed that there is no loan outstanding on the car.
11. Mr Abu's residence was purchased in 2001 for RM1,000,000. He obtained a housing loan of RM900,000 to purchase the house. Monthly loan statements showed the following:

	2012	2013
	RM	RM
Closing balance	520,000	480,000
Interest for the year	50,000	45,000
Fire insurance	2,580	2,580

12. Balances of Mr Abu and his wife's bank accounts at the end of 2011 and 2012 are as follows:

	2012	2013
	RM	RM
Mr Abu's bank overdraft	(1,000,000)	(500,000)
Overdraft interest for the year	100,000	50,000
Mr Abu's savings bank	500,000	10,000
Interest earned for the year	14,000	100
Mrs Abu's savings bank	25,000	50,000
Interest earned for the year	750	1,250

13. Based on Mr Abu's tax returns for YA 2013, his declared income for the year is RM60,000 and has been paying taxes of RM2,500 per Year of Assessment without much variation.
14. Mr Abu stated that he uses his credit card to pay for his private expenses. The total credit card expenses for January to December 2013 were RM32,000. His monthly bill was always settled at the end of each month.
15. Based on the tax computation for YA 2013 submitted to the IRB, please take note of the following:
 - a. Adjusted income is RM 200,000
 - b. There is no unabsorbed Capital Allowance brought forward and the current year Capital Allowance is RM 50,000.
 - c. Reinvestment Allowance for the year is RM 100,000 and there is no balance brought forward.

Required:

- (a) Please compute the revised chargeable income for SLSB based on IRB's audit findings.

(8 marks)

- (b) Assuming that Mr Abu and Mrs Abu have no other sources of income apart from those admitted above, prepare a statement of their assets and liabilities as at 31 December 2012 and 31 December 2013 and determine the amount of their understated income for the year ended 31 December 2013.

(8 marks)

- (c) The Director General is vested with many powers under the Income Tax Act 1967. Some of the powers are specifically for carrying out investigations.

Please state briefly four such powers.

(4 marks)

[Total: 20 marks]

Question 3

- (a) Tax mitigation can be distinguished from tax avoidance. With reference to the general anti-avoidance provisions in the Income Tax Act in Malaysia and decided cases, **discuss the relevant provisions and principles.**

(10 marks)

- (b) A multi-national company seeks your advice on expansion plans on their business activity in manufacturing, distribution and other services in the Asia Pacific region and intends to use Malaysia as a base for their exports. Of particular interest to the company are incentives given to Regional Development Centres (RDC), International Procurement Centres (IPC) and Operational Headquarters (OHQ). **Advise the client on the general requirements of the 3 forms of investment incentives in Malaysia prior to commencement of business in Malaysia.**

(10 marks)

[Total: 20 marks]

Question 4

(a) The Goods and Services Tax (GST) will take effect on 1st April 2015.

(i) Name the taxes the GST replaces. (2 marks)

(ii) State :

a. the current rate(s) for each tax the GST replaces (3 marks)

b. the proposed rate of GST? (1 mark)

(iii) What is the proposed registration threshold for GST? (1 mark)

(iv) A trader who is registered under GST may be making standard rated supplies of goods or services. Standard rated supplies means the trader is required to charge GST on the value of the supplies with the proposed rate of GST and will be allowed credit for his input tax in making the standard rated supplies. **Describe the tax treatment for these two supplies made under the GST with regards to the supply's chargeability to GST and its respective input tax:**

a. Zero rated supplies (4 marks)

b. Exempt supplies (4 marks)

(b) Describe the time when a ruling can be sought from the Customs department in respect of:

(i) Imported goods (1 mark)

(ii) Manufactured goods (1 mark)

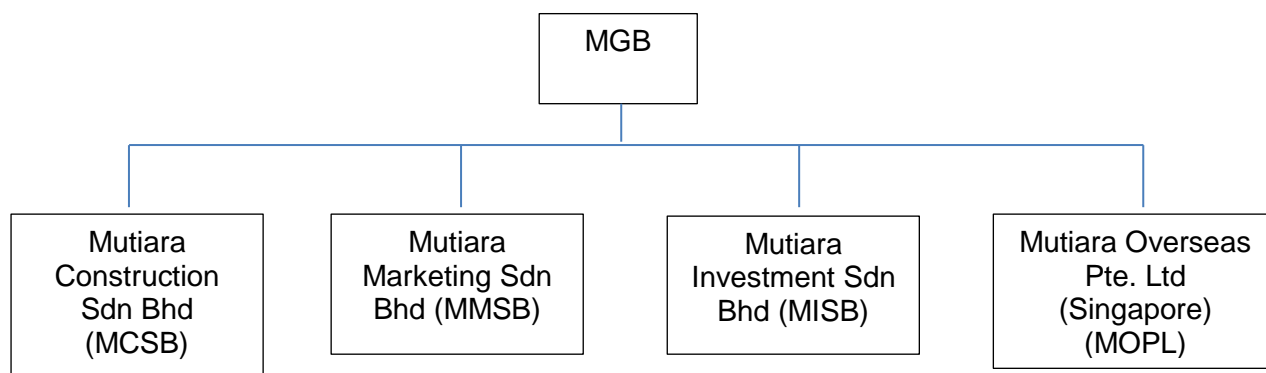
(c) Describe three situations when a Customs ruling issued by the Director General can be amended. (3 marks)

(d) State one reason why a Customs ruling may be declared null and void. (1 mark)

[Total: 20 marks]

Question 5

Mutiara Group Berhad (“MGB”), listed in Bursa Malaysia, is principally involved in the business of building and infrastructure construction projects in Malaysia. The current corporate structure of the Group is as follows:



The principal activities of the companies are as follows:

Company	Country of incorporation / Tax residence	Business activities
MGB	Malaysia	Investment holding and provision of management fees and funding to its subsidiaries. All the costs incurred by MGB are fully recharged to the subsidiaries on a cost recovery basis.
MCSB	Malaysia	Undertaking construction activities
MMSB	Malaysia	Trading of building materials. The company is mainly involved in the purchase of materials for its construction company, MCSB.
MISB	Malaysia	Dormant
MOPL	Singapore	Dormant

As part of its expansion strategy, the Board of Directors are currently evaluating the following projects:

Indian project

The Indian project involves the construction of a highway in Mumbai. The expected total construction sum for the project is RM500 million. Based on the requirement of the Indian Highway Authority, the contract would need to be signed by the main construction company of the group i.e. MCSB. MCSB will set up a branch in India for this purpose and the project will take 3 years to complete.

Indonesian project

The project involves the construction of an office tower in Bali. The construction sum is estimated to be RM200 million. Based on the preliminary discussion with the Indonesian customer and the Indonesian tax consultant, the project should be undertaken through an Indonesian subsidiary to be owned by MGB Group. The project will take 2 years to complete.

Malaysian hypermarket project

A multinational approached the Group to lease a building to them. In this respect, MGB plans to acquire an office tower in Damansara and thereafter let out the office tower to the multinational.

The Finance Director has approached you, as his tax consultant to advise him on the Malaysian taxation matters of the Group.

Required:

(a) Advise MCSB on the Malaysian tax implications of the Indian project, specifically covering the taxability of income in Malaysia and the eligibility for MCSB to obtain relief in respect of the taxes suffered in India.
(4 marks)

(b) In respect of the Indonesian project, MGB Group has decided to form a subsidiary in Indonesia. However, the Finance Director is still undecided whether the Indonesian subsidiary should be held by MGB or MOPL. Identify 3 tax issues which need to be considered by the group in deciding on the appropriate tax efficient holding structure.
(6 marks)

(c) In undertaking the acquisition of the office tower, the Group would require borrowings of RM100 million. The management is considering the following options:

- MGB to undertake the borrowings and inject the funds to MISB through increase in paid-up capital;
- MISB to undertake the borrowings directly.

Comment on the tax efficiency of the 2 options and recommend the most tax efficient option to MGB Group.
(5 marks)

(d) The Finance Director would require some advice on their related party transactions. He has requested that you comment on the following:

- **Identify the various related party transactions which are inherent within the current group structure**
- **Timing when the contemporaneous transfer pricing documentation need to be prepared**
- **In relation to the provision of management fees, comment on the appropriateness of the current charging policy.**

(5 marks)

[Total: 20 marks]

(END OF QUESTION PAPER)