



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

PROFESSIONAL EXAMINATIONS

INTERMEDIATE LEVEL

PERSONAL TAXATION

DECEMBER 2015

**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

Nathan was employed by F&B Sdn Bhd in Shah Alam since 01 March 2009. In 2015, at the age of 40, Nathan's employment was terminated on 30 September 2015 due to down-sizing. Remuneration and benefits that Nathan received from F&B Sdn Bhd are listed below.

1. In August 2014, F&B Sdn Bhd offered Nathan the option to acquire 20,000 ordinary shares in the company at a nominal sum of RM1.00 per share that had a market value of RM2.80 per share. Nathan exercised the option in March 2015, when the market price was RM3.20 per share.
2. In April 2015, Nathan received RM30,000 bonus arrears for the year 2013.
3. In July 2015, Nathan went to England on a holiday, paid by F&B Sdn Bhd. The air-fare amounted to RM4,200 while board and lodging amounted to RM5,000.
4. Upon termination of his employment on 30 September 2015, Nathan was paid RM120,000 gratuity and RM90,000 compensation for loss of employment.
5. While still in the employment of F&B Sdn Bhd in 2015, (i.e. from January to September 2015) Nathan received / enjoyed the following:
 - Monthly gross salary of RM10,000
 - Monthly entertainment allowance of RM500
 - Use of a car provided by F&B Sdn Bhd. The car was purchased new in 2012 at RM120,000. Petrol expenses were fully borne by F&B Sdn Bhd.
 - Unfurnished accommodation in a big condominium in Kuala Lumpur rented by F&B Sdn Bhd at RM48,000 per annum. Nathan found that the condominium was too big, and agreed that two-third of the condominium facilities would be sufficient for his needs. Nathan paid F&B Sdn Bhd a nominal rent of RM100 per month.
6. In September 2015, Nathan withdrew the entire funds from F&B Sdn Bhd's Staff Pension Fund (an unapproved scheme). The total sum withdrawn consisted of:
 - RM110,000 being Nathan's contribution to the fund;
 - RM150,000 being F&B Sdn Bhd's contribution to the fund
 - RM12,000 being accumulated interest on the total contribution to the fund.

In 2015, while in the employment of F&B Sdn Bhd, Nathan incurred RM6,000 expenditure on entertainment of F&B Sdn Bhd's customers. Nathan was not a director of F&B Sdn Bhd.

Required

- (a) **For the year of assessment 2015, compute Nathan's statutory income from his employment with F&B Sdn Bhd.**

Note: candidates are required to clearly indicate the relevant provisions of the Income Act 1967 in relation to the "category" of employment income.

(15 marks)

(b) If Nathan was a director (not a service director) of F&B Sdn Bhd, a controlled company, explain the tax treatment and the amount chargeable to tax based on the above information for the following:

(i) the value of accommodation provided by F&B Sdn Bhd;

(ii) compensation received for loss of employment.

(5 marks)

[Total : 20 marks]

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Question 2

- (a) James is employed as the Chief Marine Engineer by JKL Shipping Bhd in Penang. JKL Shipping Bhd owns a fleet of merchant vessels. James is responsible to oversee the maintenance of all the company's ships. In March 2015, James was sent to Hong Kong for two weeks to supervise repairs and he was paid an overseas allowance amounting to RM20,000.

He was also engaged to conduct a one day workshop on *Shipping Business Opportunities in Malaysia*, organized by a Malaysian based Chamber of Commerce. He was paid an honorarium of RM8,000, which was paid to him in Malaysia.

Required

Determine whether the sum of RM20,000 and RM8,000 received by James would be chargeable to tax in Malaysia. Given reasons for your answers. No computation is required.

(4 marks)

- (b) Charlie Lee, a New Zealander is employed by Kiwi Electro Bhd since 2010, at its factory in Malaysia. In 2014 (from January to November), Charlie Lee's earned a monthly salary of RM50,000, and upon his request, RM30,000 was paid to him in Malaysia and the balance of RM20,000 was credited to his wife's bank account in New Zealand.

In December 2014 Charlie Lee was on a one month annual leave in New Zealand, and upon his request, his leave pay of RM50,000 was fully credited to his wife's bank account in New Zealand.

Required

For the year of assessment 2014, compute Charlie Lee's employment income that should be chargeable to tax in Malaysia. Given reasons for your answers.

(2.5 marks)

- (c) Kilang Kulim Sdn Bhd employs about 20 foreign workers, some of whom do not hold legal working permits, but all are earning at least RM5,000 a month. During any particular year, some of these workers, with the full knowledge of Kilang Kulim Sdn Bhd's management would cease employment and leave Malaysia for six months, while some new workers would be employed. No monthly tax deduction has been made on the income of all these workers.

Advise Kilang Kulim Sdn Bhd's management on their responsibilities as an employer regarding:

- (i) new workers' commencement of employment,
- (ii) existing workers' cessation of employment and
- (iii) workers leaving for six months.

(8.5 marks)

[Total : 15 marks]

Question 3

- (a) Kenneth, a Malaysian citizen was operating a restaurant in Japan since 1998. During the period 1998 to 2006, Kenneth was never in Malaysia. Since 2007, Kenneth have been returning to Malaysia frequently to attend to some family affairs and it was established that Kenneth was a Malaysian tax resident for the basis years 2007 to 2009.

In 2014, Kenneth sold his restaurant in Japan. He was recruited into the Malaysian Civil Service at the Ministry of Foreign Affairs from 01 November 2013. He was posted to the Malaysian Embassy in Tokyo from 01 December 2013.

Kenneth left for Tokyo on 29 November 2013 and reported for duty on 01 December 2013. Since then Kenneth has never been back to Malaysia.

Below are the patterns of Kenneth's duration of stay in Malaysia since 2010:

01 March 2010	to	31 March 2010
01 May 2011	to	31 January 2012
01 April 2013	to	15 May 2013
01 October 2013	to	28 November 2013

During the period Kenneth was not in Malaysia, he was in Japan.

Required

For the purposes of Malaysian income tax, determine Kenneth's residence status for the basis years 2010 to 2014.

Support your answers with reasons and citing the relevant provision of the Income Tax Act 1967 that is applicable for a particular year of assessment and also explain why certain sub-sections of section 7(1) are not applicable for any particular year of assessment.

(13 marks)

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- (b) Ramli, an Indonesian national arrived in Malaysia for the first time on 08 March 2015 to take up a short term employment in Johor from 10 March 2015 to 30 April 2015, earning RM60,000. No contribution was made to any approved pension scheme in Malaysia. During this short period he bought an apartment in Kuala Lumpur, which he managed to rent out, and would be receiving a total rental income of RM24,000 in 2015. Ramli left Malaysia on 02 May 2015, and returned to Malaysia on 10 August 2015. He is considering whether to leave Malaysia either on 10 December 2015 or 17 December 2015. Ramli is a bachelor.

Required

Advise Ramli on the income tax implications:

- (i) if he leaves Malaysia on 10 December 2015 or
(ii) if he leaves Malaysia on 15 December 2015.

Support your advice with relevant computation and provisions of the Income Tax Act 1967.

(12 marks)

[Total : 25 marks]

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Question 4

Mr Sanjay a tax resident aged 52 years, was a manager at Bachan Trading Sdn Bhd from 1 July 2008. On 24 December 2014, his services were terminated as the employer was curtailing his business activity. Mr Sanjay received compensation for loss of employment of RM50,000 on 31 December 2014 and a bonus of RM10,000 paid on 31 January 2015.

Mr Sanjay has also other sources of income during the basis year of assessment 2015:

a) Business sources

Business sources	Business One	Business Two
	RM	RM
Adjusted Income/(Loss)	90,000	(28,000)
Brought forward Loss	(5,000)	Nil
Balancing Charge	Nil	2,000
Capital Allowances	8,000	7,000
Capital Allowances b/f	Nil	3,000

- b) Sanjay had an overseas business income of RM100,000 of which 40% was remitted to Malaysia. The capital allowance attributed to this business was RM20,000.
- c) Sanjay received RM25,000 in respect of musical composition. RM15,000 for the use of his artistic work and RM10,000 for performing at a cultural performance approved by the minister.
- d) Other income received:
Dividend from Italy of RM8,500 (Net of 15% withholding tax).
Gross dividend from XYZ Bhd amounting to RM6,000.
Interest from Mali limited (net of 10% underlying tax) amounting to RM9,000.
- e) Mr Sanjay is married to Kareena a tax resident who is physically handicapped after a car accident. He has two unmarried children. The elder daughter Deepika 22 years is pursuing a medical degree in Australia while the younger daughter Raveena 19 years is pursuing a degree course in Mumbai. He spent RM1,200 on books for which he has receipts. He contributes to Employees Provident Fund at 11% and life insurance premium of RM1900. He deposited RM8,000 into the National Education Savings scheme for his legally adopted daughter's education, Monika, who is studying in standard two.
- f) Mr Sanjay owns a bungalow house in Ipoh which he rents out for RM6,000 per month. He incurred RM17,000 on interest on mortgage, fire insurance of RM2,400, assessment and quit rent of RM1,200. He also spent RM4,200 on electrical and plumbing repairs and RM20,000 on extending the kitchen.
- g) Mr Sanjay donated RM2,000 cash to an approved charity.
- h) Mr Sanjay received bank interest of RM12,000 from a joint account with Kareena.
- i) Kareena also received RM40,000 as annuity income and paid cash donation of RM500 to an approved organisation.

Required:

- (a) **Compute the chargeable income and tax payable for Mr Sanjay and Kareena (separate assessment) for the year of assessment 2015. Child relief will be claimed by Mr Sanjay.**
(24 marks)
- (b) **Assuming Kareena elected for a joint assessment, compute the tax payable/repayable by Mr Sanjay and Kareena for the year assessment 2015.**
(6 marks)
- (c) **Based on the computations, briefly explain whether Mr Sanjay and Kareena should opt for separate or joint assessment.**
(3 marks)

Note: Indicate Nil/Exempt where appropriate.

[Total: 33 marks]

Question 5

- a) Joe a resident of Malaysia received RM11,000 for translating a Mandarin book into Bahasa Malaysia requested by the Ministry of Education.
- b) Suzan a resident non Malaysian citizen who is living in Malaysia since the last 3 years received a royalty payment of RM 9,000 for her literary work.

Required:

Discuss whether the income received by Joe and Suzan is chargeable to tax in Malaysia. Support your answer with the relevant tax provision.

[Total : 7 marks]

(END OF QUESTION PAPER)