



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

PROFESSIONAL EXAMINATIONS

FINAL LEVEL

ADVANCE TAXATION 2

JUNE 2015

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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 **SIX** questions. **Candidates are ONLY REQUIRED TO ANSWER FIVE QUESTIONS**
3. The Income Tax Act 1967 (as amended) is referred to as ITA.
4. Each answer should begin on a separate answer booklet.
5. All workings **MUST** be shown as marks will be awarded.
6. Answers should be written in either black or blue ink.
7. No question paper or answer booklets are to be removed from the examination hall.

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

## Question 1

H Bhd owns directly 100% of 1 Sdn Bhd, 49% of 2 Sdn Bhd, 91% of 3 Sdn Bhd and 100% of 4 Limited. In addition, H Bhd owns 100% of 5 Sdn Bhd which it acquired in May 2014. These six companies are collectively referred to as the H Bhd group.

H Bhd, in addition to being a holding company, sells building materials. 1 Sdn Bhd supplies labour services, 2 Sdn Bhd is a civil engineering company, 3 Sdn Bhd is a property development company building high end apartments and high tech factories, while 4 Limited carries on a design business. 5 Sdn Bhd is a trading company. All companies have 31 December year end.

**(a) You are asked by Mr. X, the Finance Director of the H Bhd group, to advise on the availability of the Goods and Services Tax (GST) group registration. In particular, you are required to advise as follows;**

- i. Identify two advantages in entering into a GST group registration.
- ii. Identify two requirements necessary for making a GST group registration.
- iii. Identify which companies in the H Bhd group can and cannot enter into a GST group registration with H Bhd. You are required to give reasons for your answers.

(7 marks)

**(b) Mr. X informs you that in the year ending 31 December 2015, he expects 1 Sdn Bhd to make a substantial accounting and tax loss.**

Mr. X would like 1 Sdn Bhd to surrender its tax loss to 4 Limited as this company is wholly owned by H Bhd. As an alternative, Mr. X says 1 Sdn Bhd could surrender its tax loss to either 2 Sdn Bhd or 3 Sdn Bhd.

**You are required to advise Mr. X which of the three companies 1 Sdn Bhd can surrender its tax loss to.**

(3 marks)

**(c) Mr. X calls to tell you that Newco Sdn Bhd will be formed to acquire a new office block in Johore Bharu. The office block will be held as a long term investment and used by the H Bhd group as its corporate headquarters.**

Newco Sdn Bhd will be wholly owned by Singapore Co which will be a wholly owned subsidiary of H Bhd.

**Mr. X asks you to identify any Real Property Gains Tax (RPGT) issues for Newco Sdn Bhd, Singapore Co and the H Bhd group. You are also required to advise Mr. X of any RPGT filing obligations for Newco Sdn Bhd.**

(6 marks)

- (d) Mr. X reminds you that H Bhd also acts as the finance company for the H Bhd group. In this respect, H Bhd will borrow money from a non-resident third party on which interest will be charged. H Bhd will lend a portion of the money to 1 Sdn Bhd and the balance to Singapore Co. H Bhd will charge interest on the money it lends.

**Required:**

**Advise H Bhd on the deductibility of the interest on the loan from the non-resident third party and the tax treatment of interest income from 1 Sdn Bhd and Singapore Co.**

(4 marks)

**[Total: 20 marks]**

## **Question 2**

Lotus Design Sdn Bhd is a subsidiary of Lotus UK Pte Ltd based in the UK and the group is involved in the business of software engineering. The ultimate holding company, Lotus Holding UK Pte Ltd is also based in the UK and is involved in investment holding and treasury management activities for the group. Lotus Design Sdn Bhd obtained a loan from a UK bank which was guaranteed by Lotus UK Pte Ltd. The loan was utilized for the working capital of the business. The guarantee fee of one percent of the loan paid to the bank by UK Pte Ltd was reimbursed by Lotus Design Sdn Bhd. The guarantee fee was claimed as a deduction in the tax returns of Lotus Design Sdn Bhd in Malaysia.

**Required:**

**Highlighting the relevant provisions of the Income Tax Act 1967, and ignoring the double taxation treaties and transfer pricing provisions,**

- (a) **state with reasons if the guarantee fee paid to Lotus UK Pte Ltd is subject to tax in Malaysia.**

(6 marks)

- (b) **state with reasons if the guarantee fee paid is deductible in Malaysia and explain the tax compliance requirements to avoid non-deductibility**

(7 marks)

- (c) **suggest any tax efficient option that the group should explore in respect of the guarantee fees to the non-resident.**

(7 marks)

**[Total: 20 marks]**

### Question 3

Stress Free Sdn Bhd is a resident manufacturer of sports equipment, a promoted product under the Promotions of Investment Act 1986. The company is considering the benefits of a claim of Pioneer Status incentive or Investment Tax Allowance based on approvals from the relevant authorities. The company qualifies for Pioneer Status or Investment Tax Allowance as below:

Pioneer status at 70% of statutory income for 5 years,

OR

Investment tax allowance at 60% of qualifying expenditure restricted to 70% of statutory income.

The company provides the following estimates of future profits and capital expenditure:

#### Estimated Capital Expenditure

Year of assessment	2015 RM'000	2016 RM'000	2017 RM'000	2018 RM'000	2019 RM'000
Land	1,500	-	-	-	-
Factory Building	1,200	1,000	-	-	-
Management staff quarters	1,600	-	-	-	-
Plant & Machinery	700	600	500	400	300

#### Projected Revenue

Adjusted Pioneer Income	300	500	700	900	1,000
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Assume the following annual capital allowance rates:

Plant and Machinery	20%
Buildings	3%

**Required:**

**Compute the Pioneer Status Incentive and Investment Tax Allowance and recommend the optimum choice for the company.**

**[Total: 20 marks]**

#### Question 4

- (a) Generally, Malaysian taxpayers will want to pay less tax if an opportunity arises. The issue here is whether they want to avoid tax or evade tax.

**Required:**

- (i) **Explain the difference between tax evasion, tax avoidance and tax mitigation. Provide an example for each of them.**

(6 marks)

- (ii) **With reference to the general anti-avoidance provisions in the Income Tax Act in Malaysia and decided cases, discuss its relevant provisions and principles.**

(6 marks)

- (b) Gigantor Brothers, a partnership, incurred a premium payment of RM8,700 in 2014 in respect of a 'key-man' insurance policy which it had taken out on its managing partner.

**Required:**

**With reference to relevant provisions and principles and decided case studies, advise Gigantor Brothers of the tax deductibility of the premium payment.**

(8 marks)

**[Total: 20 marks]**

#### Question 5

- (a) Trader A is registered under the Goods and Services Tax Act, 2014 ("GST Act"). He is required to charge and collect GST when he makes a standard rated supply of goods or services to his customers. Trader A issues a tax invoice when he makes a standard rated supply.

- (i) **What is the registration threshold for GST?**

- (ii) **Name two other supplies that any trader can make if he is registered under the GST Act?**

- (iii) **What is the standard rate of tax for GST?**

Under the GST Act and Regulations, a registered trader shall display prices of goods whose values are subjected to the standard rate of GST as tax inclusive. However, at the payment counter, the tax invoice issued to a customer shall show the amount of tax charged separately.

- (iv) **A widget has a price tag of RM212 on the shelf, what is the value of the widget?**

- (v) **What is the amount of GST?**

Trader A advertises that his customers do not have to pay any GST shown on the tax invoices issued to them. A widget with a display price of RM5,300.00 was sold to a customer.

- (vi) What is the amount of GST charged on the tax invoice issued to the customer at the payment counter?**
- (vii) What is the amount payable by the customer to Trader A at the payment counter?**

Trader B is one of Trader A's customers and Trader B is also registered under the GST Act. Trader A does not bear GST on sales of widgets to Trader B. Trader B is eligible for input tax credits for GST charged on widgets purchased from Trader A. Trader B sells on to his customers any widgets purchased from Trader A with a profit margin of 20%.

- (viii) Trader B had purchased from Trader A one widget with a display price of RM500.00. What is the display price of that widget to a customer of Trader B?**

(10 marks)

- (b) Company X was granted a license by the Director General of Customs under section 65 of the Customs Act 1967 to warehouse goods liable to customs duties. Customs audit officers discovered a deficiency in the quantity of dutiable goods which ought to be found in the warehouse and the Company cannot disprove the findings.**

- (i) What is the presumption that Company X is liable to pay the customs duties leviable on the goods found deficient?**
- (ii) In what circumstances may the Director General remit the duties leviable?**

The Director General granted an additional license to Company X above to carry on any manufacturing process on the goods liable to customs duties while in the licensed warehouse.

- (iii) Advise the Company if after manufacturing, the Company wishes to sell the manufactured goods to a trader in Malaysia.**
- (iv) In the course of manufacturing, there was a certain quantity of waste or refuse. Advise the Company the provisions of the Customs Act in respect of the waste or refuse.**

The Company after three years has wound up and you are appointed as liquidator.

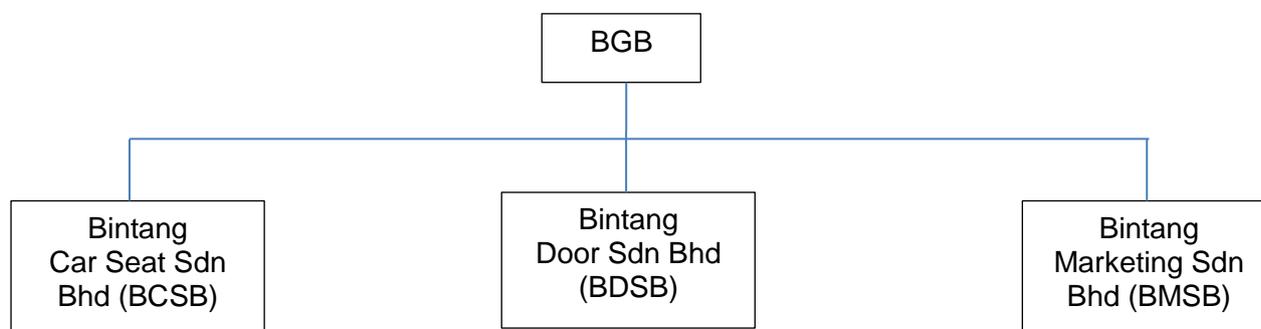
- (iv) What are your duties under the Customs Act?**

(10 marks)

**[Total: 20 marks]**

## Question 6

Bintang Group Berhad (“BGB”), listed in Bursa Malaysia is principally involved in the business of manufacturing of car components. The current corporate structure of the Group is as follows:



The principal activities of the companies are as follows:

<b>Company</b>	<b>Country of incorporation / Tax residence</b>	<b>Business activities</b>
BGB	Malaysia	Investment holding
BCSB	Malaysia	Manufacturing of car seat modules. Where relevant, the company has been claiming reinvestment allowance in relation to qualifying project undertaken. The company made its first claim in year of assessment 2006.
BDSB	Malaysia	Manufacturing of door trim modules for automotive industry. The company is currently enjoying pioneer incentive but the company is in a loss making position.
BMSB	Malaysia	Distribution and marketing of automotive modules manufactured by the Group. The car seat and door trim modules are sold through BMSB. The marketing company is very profitable due to its aggressive marketing strategy.

BCSB's Income Statement for the financial year ended 31 December 2014 are as follows:

	<b>RM'000</b>	<b>RM'000</b>
Sales to BMSB		150,000
<b>Less:</b> Cost of sales		(140,000)
		-----
		10,000
Interest on late settlement by BMSB		1,500
		-----
		11,500
Depreciation	4,000	
Repair and maintenance	500	
Consultancy fees on feasibility to set up an Indonesian company	300	
Other deductible expenses	7,200	
	-----	12,000
		-----
<b>Loss before taxation</b>		(500)
		=====

The balancing charge and capital allowance (including current year additions) for the year of assessment 2014 were RM1.0 million and RM4.5 million respectively.

**Additional information for year of assessment 2014:**

- The company had undertaken the following capital expenditure spending:

**Project 1 – Expansion of additional capacity.**

BCSB invested a new production line to manufacture the car seats. The capital expenditure incurred were as follows:

	<b>RM'000</b>	<b>Remarks</b>
New plant and machinery	2,500	
Used machinery (market value)	500	Transferred from BDSB, with residual expenditure of RM400,000.
New factory building	4,000	25% of the area is designated as storage of raw materials
Forklifts	400	Used to carry finished goods from warehouse to trucks
Moulds	600	Replacement of existing moulds
	8,000	

## **Project 2 – Additional activity to produce car seat frames.**

1. Currently, BCSB purchased car seat frames from another manufacturer which forms the input for the assembly of the car seat modules. However, due the inconsistent deliveries of the frames affecting the production schedules, the management has decided to invest a small facility adjacent to its current manufacturing facility to undertake the production of car seat frames in the calendar year 2014. The total investment consisting of factory building and machinery were RM2.0 million and RM1.5 million respectively.  
During the year, the company disposed of one machine costing RM1 million acquired 3 years ago. The company has previously claimed reinvestment allowance on the asset.

As part of its expansion strategy, the Board of Directors of BGB are exploring diversifying its operations to include the manufacturing of airbag systems. The construction of the plant will commence in calendar year 2015, with the expected commencement of operations by December 2016.

### **Required:**

- (a) Compute the statutory income of BCSB for the year of assessment 2014, including the reinvestment allowance available for carry forward, if any. In your answer, explain the basis of the reinvestment allowance claims for both projects.  
(12 marks)
- (b) In relation to the proposed activity to manufacture airbag systems, identify the tax incentives available and recommend the company within BGB Group which should undertake the proposed activity. The management is only contemplating undertaking the proposed activity in BCSB or BDSB.  
(4 marks)
- (c) Consider the tax efficiency of undertaking the marketing activities for the group under BMSB and how this activity can be restructured to improve the overall income tax efficiency.  
(4 marks)

**[Total: 20 marks]**