



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

PROFESSIONAL EXAMINATIONS

INTERMEDIATE LEVEL

PERSONAL TAXATION

JUNE 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

- (a) In the basis year for the year of assessment 2014, Latif and his wife, Zaleha derived income from various sources in Malaysia, the particulars of which are as follows:

(A) Latif

- (i) Business sources

Business sources	Catering Business	Printing Business
	(RM)	(RM)
Adjusted Income (Loss)	100,000	(20,000)
Balancing charge	Nil	15,000
Capital allowances	25,000	10,000

There was an unabsorbed adjusted loss of RM12,000 attributable to the printing business, brought forward from the year of assessment 2013.

- (ii) Non business sources

	Note	(RM)
Employment (statutory income)		50,000
Rental (net of allowable deduction)		36,000
Interest (gross)	(a)	12,000
Royalty (gross)	(b)	22,000
Dividend	(c)	10,000

Note (a) The interest is on a fixed deposit account placed with Maybank, Kuala Lumpur.

Note (b) Latif was commissioned by the Ministry of Education (MOE) to translate a book from Tamil to Bahasa Malaysia. The royalty was received from MOE in relation to the sales of the translated book.

Note (c) The dividend was paid by Desa Ria Sdn Bhd, a company resident in Malaysia.

(B) Zaleha

	Note	(RM)
Employment (statutory income)	(d)	60,000
Commission	(e)	20,000
Rental income (gross)	(f)	24,000

Note (d) Zaleha works as a part time music teacher in Shah Alam.

Note (e) The commission income is in relation to the sales of life insurance policies by Zaleha, a freelance insurance agent.

Note (f) The rental is from an apartment in Indonesia, which is rented to a Malaysian student studying there. The rental was paid by the student's father to Zaleha in Kuala Lumpur.

(C) Payments and disbursements

In 2014, the following are the payments or disbursements made by Latif and Zaleha:-

	Note	Latif (RM)	Zaleha (RM)
Contribution to approved PRS		4,000	Nil
Deposit in SSPN account		7,000	Nil
Medical and education insurance premium	(g)	Nil	4,500
Parents' medical expenses		8,000	Nil
Purchase of personal computer	(h)	4,000	3,500
Medical examination fees	(i)	Nil	800
Medical expenses	(j)	Nil	5,800
Payment of zakat		3,800	Nil
Tax deducted under the STD scheme		2,200	Nil
Life insurance premium	(k)	3,000	4,000
EPF contributions		4,000	Nil
Cash donation to a approved institution		13,000	

Note (g) The medical and education insurance premium is for Badrul (see information below on Children).

Note (h) Latif had claimed for relief on purchase of personal computer in YA 2013. As for Zaleha, this is the first personal computer that she has bought.

Note (i) Zaleha went for a full medical examination at a private hospital in Subang Jaya.

Note (j) Zaleha was diagnosed to have suffered from cancer which required medical treatment at the same private hospital in Subang Jaya.

Note (k) The insurance policy is on the life of Zaleha.

(D) Children:

Latif and Zaleha have four children, the particulars of whom are as follows:

Azila (age 23) Married in 2012, but was legally divorced in 2013. In 2014, she continued with her full time tertiary education in a local private university. Financially, she is fully dependent on her father.

Badrul (age 21) Unmarried, physically disabled, but receiving full time tertiary education at a local public university.

Darus (age 19) Unmarried. He set for his SPM examination in November 2013. Since December 2013, he has not been employed nor receiving any education, but receives RM200 a month pocket money from his father.

Ezah (age 10) A standard five student in an international school in Selangor.

(E)

Both Latif and Zaleha are tax residents. Neither of them elected for joint assessment under section 45(2). Zaleha did not elect for relief in relation to their children.

Required:

For the year of assessment 2014, compute the final tax payable by Latif and Zaleha.

(20 marks)

- (b)** In the basis year for the year of assessment 2014, Jamil, a Malaysia tax resident, derived income from a business in Malaysia. His wife, Masnah, an Indonesian national and a non -tax resident derived income from an employment in Selangor. They have no children. Their incomes for the basis year for the year of assessment 2014 are as follows:

Jamil:	Business statutory income:	RM40,000
Masnah:	Employment income (gross)	RM30,000

Required

- (i) Advice Masnah on the possibility of her electing for joint assessment under section 45(2), Income Tax Act 1967.**
- (ii) Based on your advice in (i) above, compute the tax payable by Jamil and Masnah.**

(5 marks)

[Total: 25 marks]

Question 2

(a)

Chan Lee, a Malaysian national, has been residing in Taiwan since 2008, and has not returned to Malaysia since. He is planning to return to Malaysia on 1 December 2015 to take up a short term employment with a Taiwanese company based in Penang from 10 December 2015 until 30 January 2016. The remuneration for the duration of the employment is RM50,000 and to be fully paid in Taiwan.

Chan Lee plans to spend about five months after 30 January 2016, with his parents in Penang, after which he plans to return to Taiwan, either on 25 June 2016 or 5 July 2016. Chan Lee is only likely to return to Malaysia in 2020.

Required:

From the perspective of income tax liability in Malaysia, advise Chan Lee of his plan to spend his time with his parents before returning to Taiwan.

(7 marks)

(b)

In 2013 Mr. Abe, a Japanese national, started a sushi restaurant in Kuala Lumpur. Mr. Abe took an interest bearing loan in Japan from Mr. Yamashita to acquire the necessary equipment for the restaurant in Kuala Lumpur. Since Mr. Abe first came to Malaysia in May 2013, he returned to Japan only once, for two weeks in July 2014.

In 2014, the interest payment amounting to RM10,000 was paid to Mr. Yamashita directly out of Mr. Abe's funds in Japan.

Required:

Discuss whether the RM10,000 interest received by Mr. Yamashita is chargeable to tax in Malaysia. Support your discussion with relevant reasons and provision of the Income Tax Act 1967.

(6 marks)

(c)

Mr. Ravi, an Indian national, is not a Malaysian tax resident. Mr. Ravi is the author of the book, '*Business Opportunities in South Asia*', published by Pustaka Kancil Bhd, its Head Office located in Kuala Lumpur and company resident in Malaysia.

In 2014, Ravi received royalty amounting to RM18,000 from the sales in Singapore for the book '*Business Opportunities in South Asia*'. The royalty was remitted from Singapore to Mr. Ravi in India. Pustaka Kancil Bhd charged the royalty payment against its business income in Malaysia.

Mr. Ravi wanted to know whether the royalty income he received would be exempted from tax or chargeable to tax in Malaysia.

Required:

Advise Mr. Ravi accordingly. Support your advice with the relevant reasons and provisions of the Income Tax Act 1967.

(7 marks)

[Total: 20 marks]

Question 3

(a)

James Lee, a bachelor, is employed with Harumanis Sdn Bhd in Johor from 2012. In the basis year for the year of assessment 2014, he earned a monthly gross salary of RM5,000 of which 11% was contributed to his EPF account. James Lee does not have any other sources of income. His total scheduler tax deduction in 2014 amounted to RM2,000.

James Lee is a resident in the basis year 2014.

In February 2015, for the YA 2014 James Lee was considering either:

- (i) to make an election not to file his tax return under section 77C: or
- (ii) to file his tax return under section 77(1).

Required:

Advise James Lee whether he should make an election not to file his tax return under section 77C or to file his tax return in compliance with section 77(1).

Support your advice with reasons, computations and implications thereof.

(8 marks)

(b)

Eddy derives income from his employment with Jay-Jay Bhd in Penang and rental income from his apartment in Ipoh. On 3 March 2015, Eddy filed his tax return for YA 2014, declaring only his employment income and duly paid RM2,000 to the IRB, being the tax payable based only on his employment income .

Two weeks after filing his tax return on 3 March 2015, Eddy realized that he had forgotten to declare the rental income and wished to make an amendment to his tax return for YA2014. With this amendment, the actual tax payable should be RM2,800.

Required:

- (i) **Advise Eddy as to when he could have filed the amendment to his tax return.**
- (ii) **If Eddy had filed the amendment to his tax return on 15 May 2015, compute the penalty (if any).**
- (iii) **If Eddy had filed the amendment to his tax return on 10 July 2015, compute the penalty (if any).**

(7 marks)

[Total: 15 marks]

Question 4

- (a) Mr. Kamakaminia, an engineer from Cuba, was under an employment contract in Malaysia with Boleh Sdn Bhd for a period of 5 years, commencing from 4 December 2011. His pattern of stay between 2011 and 2015 is as follows:-

Year	Period of stay	Number of days	
2011	04.12.2011 to 31.12.2011	28	(in Malaysia)
2012	01.01.2012 to 30.06.2012	182	(in Malaysia)
	01.07.2012 to 09.07.2012	9	(in Singapore)(note 1)
	10.07.2012 to 31.12.2012	175	(in Malaysia)
2013	01.01.2013 to 31.03.2013	90	(in Malaysia)
	01.04.2013 to 31.12.2013	275	(in Cuba) (note 2)
2014	01.01.2014 to 31.03.2014	90	(in Cuba) (note 2)
	01.04.2014 to 31.12.2014	275	(in Malaysia)
2015	01.01.2015 to 01.06.2015	152	(In Malaysia) (note 3)

Notes:

- 1 On a social visit to Singapore.
- 2 Went back to Cuba on unpaid leave.
- 3 Kamakaminia terminated his contract on 31.05.2015 and left for Cuba permanently on 01.06.2015.

Required:

Determine the residence status of Mr Kamakaminia for all the years of assessment from 2011 to 2015. Give reasons for your answers, supported by relevant sections of Income Tax Act 1967.

(8 marks)

(b)

Jane was a tax resident in 2011, 2012, 2013 and is planning to work in Hong Kong throughout the year 2014. Jane will be returning to Malaysia in February 2015 and will then reside permanently in Kuala Lumpur.

Required:

For the basis year for the year of assessment 2014, determine Jane's residence status. Explain and support your answer with relevant sections of the Income Tax Act 1967.

(2 marks)

(c)

In determining the residence status of an individual, certain periods of absence from Malaysia are deemed as "temporary absence" under Income Tax Act 1967.

Required:

Explain the circumstances under which, absence from Malaysia may be considered as "temporary absence" and when such "temporary absence" provisions are applicable.

(6 marks)

[Total: 16 marks]

Question 5

(a)

Mansoor, a tax resident in Malaysia, was retrenched on 30 June 2014 from Wah Ah Sdn Bhd, where he had worked for ten years and three months. His employment income per annum was RM40,000. As a result of the retrenchment Mansoor received RM110,000 as compensation for loss of office.

On 1 July 2014, Mansoor commenced employment with another company Baba Sdn Bhd with the following remuneration package:

- i. Basic salary RM60,000 per annum.
- ii. Initial bonus of RM7,000 was paid in December 2014 and the balance of the bonus RM8,000 relating to year 2014 was received in March 2015.
- iii. Fully furnished apartment was provided. The rental being RM3,000 per month (including RM500 per month for furnishings) were all fully borne by Baba Sdn Bhd.
- iv. A 7 years old car (costing RM 60,000 when new) and a driver with a monthly salary of RM500. Fuel expenses were also borne by Baba Sdn Bhd.
- v. One overseas leave passage costing RM10,000 (air fare only) was provided.
- vi. Employee's contribution to the EPF was fixed at 11%.

Other information:

- vii. In March 2014, Mansoor's wife, received specialist medical treatments for which Wah Ah Sdn Bhd paid RM5,000.
- viii. In 2014, a cash donation of RM525 was made by Mansoor to an approved institution, while. Mansoor also made zakat/fitrah contributions amounting to RM1,305.
- ix. In 2014, while in the employment of Wah Ah Sdn Bhd, Mansoor incurred RM3,000 expenses for travelling between his home and office.

Required:

- (i) **For the year of assessment 2014, compute Mansoor's gross income from each of his employment sources.**

(Note: In the computation, each item must be classified under the correct relevant sections and sub-sections of the Income Tax Act 1967.)

(10 marks)

- (ii) **In relation to tax computation for Mansoor, discuss the tax treatment for each of the following items:**

- Employee's EPF contribution of 11%
- Zakat/fitrah contribution of RM1,305
- Bonus of RM8,000 for 2014, but received in March 2015
- Cash donation to approved institution: RM525
- Travelling expenses between home and office: RM3,000

(6 marks)

(b)

Discuss the circumstances under which income from an employment is deemed to be derived from Malaysia under section 13(2) and section 13(3) of the Income Tax Act 1967.

(8 marks)

[Total: 24 marks]