



Examiners' report

P6 Advanced Taxation (CHN)

December 2007

The examination consisted of two sessions. Section A had two compulsory questions (60 marks). And there were three optional questions in Section B and candidates were required to attempt two out of three questions of 20 marks each.

Most candidates attempted all four questions and it appeared that they managed to allocate the appropriate time for attempting the questions. Among the three questions in Section B, Question 4 appeared to be the least popular question.

The overall performance of candidates for this sitting was not satisfactory and showed that candidates lacked the ability of applying further Chinese tax knowledge to identify and evaluate tax impacts on given situation. A considerable number of candidates appeared to be not well prepared.

Many candidates presented their answers poorly and it is suggested that candidates should consider the layout and organization of their answers more. The English proficiency of the candidates also made difficulties for them to express their viewpoints clearly.

Question 1

This 30 marks question tested the knowledge of the candidates about the tax implications of technology transfer and related tax planning measures.

For Part (a) (i), many candidates properly identified the tax non-compliance and quantified the underpaid taxes.

In Part (a) (ii), most of the candidates failed to appreciate that different late tax payment interest rate and tax penalties were applied to the period before and after 30 April 2001. Some candidates wasted time to quantify the late tax payment interest which was not required in the question.

In Part (b), most of the candidates failed to discuss the provisions stipulated by the Chinese tax authorities under the tax circulars, Guoshuifa [1999] No. 273 with respect to the business tax exemption requirement on technical service, and Guoshuifa [2000] No. 166 with respect to the tax treatment on trademark license fee. As such, only a few candidates presented a good structure for the proposed agreements to minimize the China taxes. One interesting observation showed that many students failed to read the requirements of the question and used memo style format rather than the requested letter to present their answers. Only a few candidates managed to gain a satisfactory mark from this part.

Question 2

This question focused on the subject of VAT implications on barter transaction, sales of used fixed assets and selling goods at cost. Many candidates demonstrated a general understanding of the principles involved, resulting in good marks.

In Part (a), even though some candidates mixed up the terms of "deemed sales" and "barter transaction", they managed to properly analyse the VAT implications on RedStars and the tyre factory and gained marks.

In Part (b) (i), most candidates gave good answers to these questions.

In Part (b) (ii), some candidates managed to provide correct answers but failed to use gross up formula to quantify VAT liabilities, which led to loss of some marks.

In Part (b) (iii), most candidates gave good answers to these questions.

In Part (c), many candidates failed to realize a transfer out of the input VAT should be made for the compensation received by the distributor. Some candidates wasted their time to calculate the VAT payable for the distributor.

Question 3

This question was set to test the awareness of the candidates on FEIT consolidated filing for foreign invested enterprise's ("FIE") head office and branches and tax knowledge of reinvestment refund. While a considerable number of candidates attempted this question, the overall result was not satisfactory. It showed there was a lack of good understanding or appreciation of the topic.

In Part (a) (i), the candidates managed to gain marks on the general principles applicable to FEIT calculation on a consolidated basis for FIE's head office and branches.

In Part (a) (ii), most of the candidates failed to apply the provisions stipulated by the Chinese tax authorities under the tax circulars, Guoshuifa [1997] No. 49 with respect to the FEIT rate applied to a selling branch to analyze two options listed in the question. Only a few candidates managed to gain a satisfactory mark from this part.

In Part (b) (i), some candidates failed to realize the proposed total reinvestment is RMB 10,000,000 and some candidates failed to appreciate that within three-year reduction period, the local tax rate is also exempted, which led to loss of some marks.

In Part (b) (ii), many candidates managed to offer correct answers on this part.

In Part (b) (iii), many candidates managed to offer correct answers on this part.

Question 4

This question was set to test the tax knowledge of associated enterprises and transfer pricing adjustment. This is the least popular question in Section B. For those candidates attempted this question, the overall result was not satisfactory.

In Part (a), the question asked for the definition of associated enterprises and eight circumstances that creating an associated enterprise but only a few managed to give a complete and comprehensive answer on this question. In Part (b), many candidates managed to list out the name of transfer pricing methods but failed to give detailed explanation.

In Part (c), the candidates managed to give correct answers.

Question 5

This question was intended to test the knowledge on individual income tax ("IIT") implications for expatriates and IIT self reporting liabilities.

In Part (a), some candidates failed to read the requirements of the question and spent great effort in quantifying the individual income tax payable for each kind of income derived by Mr. Lee while the examiner expected the candidates to list out the individual income tax implications of such incomes. Most candidates failed to realize that for years 2006 and 2011, only part of the annual bonus should be subject to IIT. For overseas rental income, some candidates fail to realize Mr Lee is not China tax resident as he will live in China for less than five years.

In Part (b), many candidates gave the correct answers on general circumstances that an individual taxpayer must perform IIT self reporting. However, many candidates failed to analyse Mr Lee's IIT self report liabilities based on both his annual income and his physical presence in China in each year, which led to loss of some marks.