
Answers

Notes:

- All references to legislation or public rulings shown in square brackets are for information only and do not form part of the answer expected from candidates.
- Marks indicated as '*' are awarded for the allocation of the appropriate description of the figure calculated, not the figure itself.

	RM	RM	Marks
1 May, Teng, Yusof and Jane			
(a) (i) Provisional adjusted income and divisible income of the partnership – Year of assessment 2009 (Basis period 1 January to 31 December 2009)			
Net profit per partnership accounts		276,900	1/2
Less: Rental income		<u>(18,000)</u>	1/2
		258,900	
<i>Add:</i> Depreciation	33,100		1/2
Private expenses	7,000		1/2
Partners' salaries	84,000		1/2
Interest on capital	10,100		1/2
Donations (RM10,000 + 18,000 + 4,000)	<u>32,000</u>		1 1/2
		<u>166,200</u>	
Provisional adjusted income		425,100	*1/2
Less: Private expenses:			
May	3,000		
Yusof	<u>4,000</u>		
Partners' salaries:		7,000	1/2
May	30,000		
Teng	36,000		
Jane	<u>18,000</u>		
Interest on capital:		84,000	1/2
May	5,700		
Yusof	2,400		
Jane	<u>2,000</u>		
		<u>10,100</u>	1/2
		(101,100)	
Divisible income		<u>324,000</u>	*1/2
			<u>7</u>

(ii) Total income of the partners – Year of assessment 2009
(Basis period 1 January to 31 December 2009)

	May RM	Teng RM	Yusof RM	Jane RM	
Profit sharing ratio					
1 January to 30 June	2/4	1/4	1/4	Nil	
1 July to 31 December	1/3	1/3	Nil	1/3	
Salary	30,000	36,000	Nil	18,000	1 ^{1/2}
Interest on capital	5,700	Nil	2,400	2,000	1 ^{1/2}
Private expenses	3,000	Nil	4,000	Nil	1
Divisible income:					
RM324,000 x 6/12 = 162,000					1 ^{1/2}
(RM162,000)	81,000	40,500	40,500	–	1 ^{1/2}
(RM162,000)	54,000	54,000	–	54,000	1 ^{1/2}
Adjusted income	173,700	130,500	46,900	74,000	*1 ^{1/2}
Less:					
Capital allowance:					
(RM21,000/3)**	(7,000)	(7,000)	Nil	(7,000)	3
Statutory income	166,700	123,500	46,900	67,000	*1 ^{1/2}
Add:					
Rental income:					
(RM18,000 x 6/12 = 9,000)					1 ^{1/2}
1 January to 30 June					
(RM9,000)	4,500	2,250	2,250	Nil	1 ^{1/2}
1 July to 31 December					
(RM9,000)	3,000	3,000	Nil	3,000	1 ^{1/2}
Aggregate income	174,200	128,750	49,150	70,000	*1 ^{1/2}
Less:					
Approved donations					
1 January to 30 June					
(RM10,000/4)	(5,000)	(2,500)	(2,500)	Nil	1 ^{1/2}
1 July to 31 December					
(RM18,000/3)	(6,000)	(6,000)	Nil	*(4,900)	1 ^{1/2}
Total income	163,200	120,250	46,650	65,100	*1 ^{1/2}

* Restricted to 7% of aggregate income

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** Tutorial note: In accordance with the law, the allocations of capital allowances is based on the profit sharing ratios of the partners at the end of the basis period

(b) The factors that determine the existence of a partnership are:

- the purpose of carrying on a business;
- the sharing of profits; and
- the combining of resources such as property, rights, skill and labour.

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2 (a) Tipware Sdn Bhd

Computation of total income – Year of assessment 2009
(Basis period 1 October 2008 to 30 September 2009)

	Note	RM000's	RM000's	
		+	–	
Profit before tax		5,698		
Unrealised foreign exchange gain	1		40	1/2
Provision for damaged tyres	2	27		1/2
Warranty payment	2	Nil		1/2
Payment to manager	3	Nil		1/2
Legal cost on goods lost in transit	4	Nil		1/2
Legal expenses to obtain trading licence	4	8		1/2
Extension to existing factory	5	32		1/2
Depreciation		988		1/2
Annual general meeting expenses	6	19		1/2
Practical training	7	Nil		1/2
Donations	8	600		1/2
Insurance proceeds	9		625	1/2
Export credit insurance premiums	10		17	1/2
Library facilities (RM110,000 – 100,000)	11	10		1
Penalty for late tax return		15		1/2
Hire purchase interest	12	Nil		1/2
		<u>7,397</u>	<u>682</u>	
		(682)		
Adjusted income		6,715		
Less: Capital allowances				
RM845,000 + 50,000 (W1)		(895)		1
Statutory/aggregate income		5,820		*1/2
Less: Donations (restricted to 10% x RM5,820,000 = RM582,000):				1/2
Approved institution	530,000			1/2
Sports activity and project of national interest RM16,000 + 48,000 = 64,000 (restricted to RM52,000 being RM582,000 – 530,000)	<u>52,000</u>			
		(582)		1
Total income		<u>5,238</u>		*1/2
[s.44(6) proviso; s.44(11B) proviso; and s.44(11C), Income Tax Act (ITA)]				
Workings:				
W1 Accelerated capital allowance				
		RM		
Communication technology equipment				
Deposit		20,000		1/2
Instalments (RM3,200 – RM200) x 10		<u>30,000</u>		1
		50,000		
Initial allowance 20%	10,000			1/2
Annual allowance 80%	<u>40,000</u>			1/2
		(50,000)		
Residual expenditure as at 30 September 2009		<u>Nil</u>		<u>15</u>

(b) (i) Payment to manager (note 3)

The cost of getting rid of an unsatisfactory employee is a deductible expense, incurred in the ordinary course of the business. [*Mitchell v BW Noble Ltd* (11 TC 372)]

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<p>(ii) Practical training (note 7)</p> <p>Expenditure incurred in providing practical training in Malaysia is specifically allowed in view of the fact that:</p> <ul style="list-style-type: none"> - the practical training is in relation to Tipware Sdn Bhd's business; - the individuals are resident; and - the individuals are non-employees of Tipware Sdn Bhd [s.34(6)(n), ITA] 	<p>1/2</p> <p>1/2</p> <p>1/2</p> <p>1/2</p>
<p>(iii) Cash (<i>ang pow</i>) handed to old folks home inmates (note 8)</p> <p>The distribution of cash (<i>ang pow</i>) to the old folks home inmates is not tax deductible. Even though the old folks home is an approved institution, the old folks themselves do not constitute an approved institution. [s.44(6), ITA]</p>	<p>1</p>
<p>(iv) Insurance proceeds (note 9)</p> <p>The insurance proceeds received by Tipware Sdn Bhd are not taxable. This is due to the fact that the 'key-man' policy is a whole life policy, which is regarded as an investment so the premiums are not deductible. [Public Ruling 2/2003 on 'Key-man' Insurance]</p>	<p>1</p>
<p>(v) Export credit insurance premiums (note 10)</p> <p>Premiums for export credit insurance are allowed a double deduction as the insurance is provided by a company approved by the Ministry of Finance. [Deductions of Premiums for Export Credit Insurance Rules, 1985 PU(A)526/1985]</p>	<p>1</p>
<p>(vi) Library facilities (note 11)</p> <p>A cash donation to provide library facilities is specifically allowed, subject to the maximum of RM100,000, as the facilities are open to the public. [s.34(6)(g), ITA]</p>	<p>1</p>
<p>(vii) Penalty for late submission of tax return</p> <p>A penalty for the late submission of a tax return is not deductible as it is not incurred as a trading expense.</p>	<p>1</p> <hr/> <p>8</p>
<p>(c) Information and communication technology (ICT) equipment (note 12)</p> <p>Information and communication technology equipment qualifies for accelerated capital allowances as:</p> <ul style="list-style-type: none"> - Tipware Sdn Bhd is resident in Malaysia, - the equipment is in use at the end of the basis period, and - Tipware Sdn Bhd is not entitled to incentives under the Promotion of Investment Act 1986, or Schedule 7A, Income Tax Act 1967. <p>Tipware Sdn Bhd is regarded as the owner of the equipment which was bought under hire purchase. [Income Tax (Accelerated Capital Allowance) (Information and Communication Technology Equipment) Rules 2008. P.U. (A) 358]</p>	
	<p>1/2</p> <p>1/2</p> <p>1/2</p> <hr/> <p>1/2</p> <hr/> <p>2</p> <hr/> <p>25</p> <hr/>

3 (a) (i) Encik Kumar

The formula for determining the amount of tax that can be collected from a husband who elects for joint assessment:

Formula: $A/B \times C$

A = Total income of husband

B = Aggregate total income of husband and wife

C = Tax charged

[s.103(11), ITA]

The tax that can be collected from Encik Kumar is computed as follows:

$$RM20,000/RM80,000 \times RM6,745 = RM1,687$$

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(ii) A husband can elect for joint assessment under the circumstances stated below:

- the husband and his wife were living together in the basis year for the year of assessment and did not in that basis year cease to live together or to be husband and wife of each other; 1
 - the husband is resident in that basis year, or if not, he is a Malaysian citizen; 1
 - no election was made by a wife or wives for the year of assessment; and 1
 - the election can only be made with one wife. 1
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[s.45(2)(b) and s.45(3), ITA]

(b) Jusin Sdn Bhd

The stock-in-trade for Jusin Sdn Bhd at the time of cessation of operations is valued at RM190,000, based on the sale proceeds. This is due to the following factors: 1

- Jusin Sdn Bhd had permanently ceased operations; 1
 - the stock-in-trade was sold to a company, Boonpin Sdn Bhd, which intended to use the stock-in-trade in its business; and 1
 - the purchase price of the stock-in-trade is deductible in determining the adjusted income of the purchaser, Boonpin Sdn Bhd. 1
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[s.35(5), ITA and Public Ruling 4/2006 Valuation of stock-in-trade and work in progress – Part 1]

(c) Tax avoidance and tax evasion

Tax avoidance is the mitigating or minimising of income as a result of tax planning, by applying the appropriate provisions; and taking advantage of the ambiguities or technical deficiencies in the tax legislation. 2

Tax evasion, on the other hand, is the omission of income or deliberate understatement of income. Tax evasion is illegal. 1

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(d) Resident status of a citizen

An individual who is a citizen is deemed to be a resident for the basis year, for a year of assessment and for any subsequent basis years when he is not in Malaysia under the following circumstances:

- he is employed in the public services or the service of a statutory authority; and 1
 - he is not in Malaysia on any day in the basis year for that particular year of assessment by reason of: 1/2
 - having and exercising his employment outside Malaysia; or 1/2
 - attending any course of study in any institution or professional body outside Malaysia which is fully-sponsored by the employer. 1
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(e) Puan Soosi

Puan Soosi is entitled to the personal relief of RM1,300 for basic supporting equipment for her mother-in-law who is disabled. 1 1/2

The medical expenses are not eligible for personal relief. 1/2

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4 (a) Hosin Sdn Bhd

Capital allowances computation – Year of assessment 2009
(Basis period 1 October 2008 to 30 September 2009)

(i) Small value assets

Special allowance under para.19A, Schedule 3, ITA
100% x RM10,000 = RM10,000 1/2

Normal allowance under para.10 and para.15, Schedule 3, ITA

	RM	RM	
Qualifying plant expenditure (QPE)		800	1/2
Initial allowance (IA) 20%	160		1/2
Annual allowance (AA) 10%	<u>80</u>		1/2
		(240)	
Residual expenditure (RE) as at 30 September 2009		<u>560</u>	

(ii) General machine

	RM	
RE as at 30 September 2008	22,800	1/2
Deemed disposal value (greater of market value RM44,000 or insurance proceeds RM39,000)	<u>(44,000)</u>	2
Balancing charge	<u>21,200*</u>	1/2

* Restricted to RM20,400 being the total capital allowances previously claimed. 1
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(b) Nin Sdn Bhd

Industrial buildings allowance computations – Year of assessment 2009
(Basis period 1 July 2008 to 30 June 2009)

(i) Building A

	RM	RM	
Office is 10% or less of total cost of the building RM183,000 + 17,000 = RM200,000 (10% x RM200,000 = 20,000)			1
Qualifying building expenditure (QBE)		200,000	1
IA 10%	20,000		1/2
AA 3%	<u>6,000</u>		1/2
		(26,000)	
RE as at 30 June 2009		<u>174,000</u>	

(ii) Building B (rented premises)

Office is more than 10% of the cost of renovation of the building, therefore office is not eligible. 1

	Qualifying expenditure		
	RM	RM	
RM300,000 x 85%		255,000	1
IA 10%	25,500		1/2
AA 3%	<u>7,650</u>		1/2
		(33,150)	
RE as at 30 June 2009		<u>221,850</u>	<u>6</u>

[Para 37A, Para 66, Schedule 3, ITA]

(c) (i) Birthday gift for supplier

The sum of RM1,000 is not deductible since it is not wholly and exclusively incurred in the production of income. 1

(ii) Hampers for customers

Only 50% of the sum incurred on hampers for customers is deductible because it is treated as the provision of entertainment and it does not come under the proviso to s.39(1)(I), ITA. 1

(iii) Sponsoring golf tournament

100% of the cost of sponsoring the golf tournament is deductible since the sporting event was open to members of the public, and the provision of entertainment was wholly for the promotion of the company's business. [proviso (v) to s.39(1)(l), ITA]

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5 (a) The circumstances for exemption from the licensing and payment of sales tax are:

(i) A manufacturer of taxable goods

The amount of taxable goods sold or otherwise disposed of by the manufacturer of taxable goods did not in the last 12 months exceed RM100,000, and for the next 12 months is not likely to exceed RM100,000;

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(ii) A contract manufacturer

The amount of charges for work done by the contract manufacturer did not in the last 12 months exceed RM20,000, and for the next 12 months, is not likely to exceed RM20,000.

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(b) (i) Invoice A:

Taxable period is 1 July 2009 to 31 August 2009
Deadline for remittance is 28 September 2009

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(ii) Invoice B:

Taxable period is 1 July 2009 to 31 August 2009
Deadline for remittance is 28 September 2009

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Tutorial note: Where the whole or any part of the payment for any taxable service provided by the taxable person is not received from the customer within a period of 12 calendar months from the date of the invoice for the taxable service provided, service tax shall be due on the day following that period of 12 calendar months. [s.14(2) Service Tax Act 1975]

Any service tax which falls due during any taxable period shall be payable to the Director General within 28 days from the expiration of that taxable period. [s.14(3) Service Tax Act 1975]

(c) Sun Employment Agency Sdn Bhd

		RM	
Service tax due on 28 July 2009		1,000	1
29 July 2009 to 27 August 2009 (30 days)	10%	100	1
28 August 2009 to 26 September 2009 (30 days or part thereof)	10%	100	1
Total amount of service tax and penalties		<u>1,200</u>	<u>3</u>
			<u>10</u>