
Answers

Marks

1 Judlee Sdn Bhd

(a) Income tax computation – Year of assessment 2010

	RM	RM	
Net profit before taxation		271,000	
Bad debts: trade debt	NIL		1/2
Employee advance	4,000		1/2
Depreciation	2,000		1/2
Entertainment	1,500		1/2
Tax advisory fees	6,000		1/2
Subscription to political party	1,500		1/2
Motor vehicle expenses: insurance of business vehicles	NIL		1/2
Traffic summons	500		1/2
Bereavement donation	500		1/2
Water and electricity: consumption	NIL		1/2
Late payment penalty	750		1/2
Legal fees: collection of debts	NIL		1/2
Bank loan arrangements	1,500		1/2
Income tax appeal	500		1/2
Compensation	NIL		1/2
Loss on disposal of an asset	500		1/2
		19,250	
Adjusted income		290,250	1/2*
Balancing charge (working)		300	1
		290,550	
Less: Capital allowance		(4,000)	1/2
Chargeable income		286,550	1/2*
Tax payable: RM286,550 at 25%		71,638	1/2
			11

Working: Balancing charge

	RM
Sales proceeds	1,000
Less: Residual expenditure	(700)
	300

*marks are allocated for correct description.

- (b)
- Bad debts written off are only allowable in the case of trade debtors. 1
The write-off of an advance made to an employee is not allowable unless the nature of the business is the making of advances. 1
 - Entertainment of clients is fully deductible as it relates wholly to sales. The remaining portion is subject to a 50% disallowance (50% x 3,000). 1
 - The insurance premium paid on the motor vehicles is a business expense and allowable. 1
The traffic summons is incurred in violation of the law, so is not a trading expense and is disallowed. 1
The bereavement donation to the staff of the insurance company is not a trade expense as it does not relate to its own staff welfare. 1
 - The water and electricity for the business premises is a business expense and allowable. 1
The late payment penalty on the electricity bill is a deterrent or punishment imposed on the offender and not an expense of trading, so is not deductible. 1
 - The legal fees for collecting debts are allowable as a business expense as it relates to sales. 1
Fees for obtaining financing are capital in nature, so the legal fees relating to the bank loan arrangements are not deductible. 1

		Marks
	The cost of the income tax appeal is disallowed because it is to determine the quantum of tax to be paid on income and not to earn that income.	1
6.	Compensation paid to an employee for injury at the business premises is allowable as the injury was incurred in the course of his employment and is deductible as staff welfare.	1
7.	The loss on the disposal of an asset is disallowed as it is capital in nature.	1
		<u>13</u>
(c)	The determination of whether an expense is capital or revenue in nature is dictated by several tests which are as follows:	
1.	The enduring benefit asset test The cost of bringing into existence an asset or an advantage of enduring benefit to the trade (e.g. an initial contribution to establish a pension fund for the company's clerical and technical staff).	
2.	Fixed and circulating capital test Fixed capital is what an owner turns to profit by keeping it in his possession (e.g. fixed asset), while circulating capital is what he makes profit by parting with and letting it change masters (e.g. stock-in-trade).	
3.	The identifiable asset test The expense relates to the acquisition of an asset of a capital nature, whether tangible or intangible (e.g. a lump sum payment to vary the terms of a lease. The variation has made the lease a more valuable asset to the business).	
4.	Business structure versus process test The expense of establishing a business structure as compared to the continual flow of working expenses related to the operating process of a trade.	
5.	Initial expenditure test Expenditure incurred to start the business of profit making (e.g. a company buys a dilapidated ship and reconditions it before using it for the purpose of its trade).	
6.	The once and for all test Whether the expense is a recurring expense or a one-off payment.	
	Any THREE tests only required	3 x 2 marks – maximum
		<u>6</u>
		<u>30</u>

2 (a) Julliard

(i)	The consultancy services rendered, although performed outside of Malaysia, are duties incidental to Julliard's employment in Malaysia. Regardless of where the payment is made, therefore, the income is derived from and taxable in Malaysia.	2
(ii)	The income from the consultancy services is classed as from employment for the following reasons:	1
	– Julliard earns a fixed salary under a contract to dance and there is a contribution to the Employers Provident Fund (EPF).	
	– He is to work exclusively for the Malaysian Solful Dance Company. This creates a master/servant relationship.	
	– The consultancy service is a contractual obligation under this same contract. The service is to be provided to the same dance company as and when it directs it is to be done. This indicates control by the company.	
	– The nature of the payment, i.e. the sum to be paid for the service, where and when it is to be provided are all fixed.	
	Any THREE reasons only required	1 mark each, maximum
		<u>3</u>
		<u>4</u>

			Marks
(b)	1.	Julliard is able to claim spouse relief for his wife June as she has no income. She does not receive any income from her work as a dance teacher to the deaf.	1
		As she is disabled, Julliard can claim disabled spouse relief.	1
	2.	Julliard can claim child relief for Candy who lives with him and his wife as she is his stepchild and June has not made an election to claim the relief.	2
		However as June's ex-husband provides child support, the relief is limited to 50% of RM1,000.	1
	3.	Julliard can claim disabled child relief of RM5,000 for Brighton, who is blind.	1
		But he is not entitled to the higher rate of relief even though Brighton is at university because Brighton is below the age of 18.	1
	4.	Contributions to the Employers Provident Fund (EPF), approved widows and orphans fund, life insurance and deferred annuity premiums made by Julliard which are eligible for relief comprise:	
		RM	
		Contribution to EPF	3,000 ½
		Contribution to widows and orphans fund	1,000 1
		Life insurance payments for wife June	1,000 ½
			<u>5,000</u>
		Deferred annuity (RM2,500) – claim limited to	2,000 1
		Maximum total relief claimable	<u>7,000</u>
		No relief is available for the life insurance premiums on the policy for his ex-wife, May.	1
			<u>11</u>

(c) Income tax computation – Year of assessment 2010

	RM	RM	
Employment s.13(1)(a)			
Salary (15,000 x 12)		180,000	½
Consultancy fee		60,000	½
		<u>240,000</u>	
Less: reliefs			
Personal	9,000		1
Spouse relief: disabled	6,500		½
Child: Candy (50% x 1,000)	500		½
Brighton disabled	5,000		½
EPF, life insurance and deferred annuities	7,000	(28,000)	½
	<u>212,000</u>		
Chargeable income		<u>212,000</u>	
Tax			
On the first	100,000	14,325	½
On the balance at 26%	112,000	29,120	½
	<u>212,000</u>	<u>43,445</u>	<u>5</u>

(d) The advantages of an individual being tax resident are:

- Availability of personal reliefs.
- Taxed at scale rates.
- Availability of tax rebate.
- A variety of incomes, such as income from cultural performances, royalties from publication and translation, are exempted.
- A resident is not subject to withholding tax (other than on interest and income from unit trust in REITS or property trust).

Any THREE advantages only required	1 mark each, maximum	3
		<u>25</u>

- 3 (a) Income received for work done outside Malaysia can be deemed to be derived from Malaysia and thus, taxable in Malaysia in the following circumstances:

- Directors' fees paid to directors by a company that is tax resident in Malaysia.
- Leave pay received overseas attributable to the exercise of an employment in Malaysia.
- Income that is earned on work done overseas that is incidental to the exercise of an employment in Malaysia.
- Income paid to employees of airlines and shipping lines who are tax resident in Malaysia.
- Any income earned by an employee of the Public Services or Statutory Authority for any period where their employment is exercised outside of Malaysia if the employee is a citizen.

1 mark each 5

- (b) Even an isolated transaction can be taxable as business income if it constitutes either a trade in nature or an adventure in the nature of trade. 1

The 'badges of trade' will be used to determine this and are applicable in this case as follows:

- The subject matter of the realisation – the computers were acquired to be sold, not to be kept as an investment. 1
- The frequency of the transactions – 200 units were sold. 1
- Whether there was a profit seeking motive – the adventure was undertaken in order to capitalise on the opportunity to make a quick profit. 1
- The period of ownership – the goods were held for only a short period because they were bought to trade. 1
- The financing arrangements – a loan was taken out and combined with their savings. 1
- The method of disposal – the sales were organised and done using internet marketing. 1

Thus, on the basis of the above tests, it is likely that the profit from the sale of the computer tablets will be viewed as an adventure in the nature of trade and taxed as business income. 1

8

- (c) Jamlo Sdn Bhd

- (i) Qualifying cost for industrial building allowance:

Construction cost

	RM	
Office	1,000,000	½
Display centre and café	200,000	½
Factory	15,000,000	½
Architect's fee	20,000	½
Total construction cost of buildings within the same curtilage as the factory	<u>16,220,000</u>	

The part of the building used as an office, display centre and café is not industrial in its use, so will only qualify for industrial building allowance if the cost of construction of this part is less than 10% of the total construction cost of the entire building.

The cost of the non-industrial part is RM1,200,000, which is less than RM1,622,000 (i.e. 10% of the total building cost). Therefore, the entire construction cost of RM16,220,000 would qualify for industrial building allowance. 1½

The cost of the land, and the associated legal fees and stamp duty on the acquisition of the land, do not qualify as building costs for the purpose of industrial building allowance. 1½

5

- (ii) In a manufacturing company, a warehouse will qualify for industrial building allowance if it is a building (within the same curtilage as a factory) and it is used for the storage of any raw materials, fuel or stores necessary for the manufacture, processing and storage of that product.

As the warehouse is located on a separate site, i.e. not within the curtilage of the factory, the expenditure on its construction does not qualify for industrial building allowance. 2

20

4 Joe Kerr

(a) Real property gains tax (RPGT) liability

	RM	RM	
Consideration on disposal of property		1,000,000	½
Less: improvements	45,000		1
advertisment	8,000	(53,000)	1
		<u>947,000</u>	
Acquisition price	250,000		½
Less: insurance recovered	(100,000)		1
deposit forfeited	(50,000)	(100,000)	1
		<u>847,000</u>	
Chargeable gain			
Less exemption			
The higher of:			
(a) $(10\% \times 847,000) = \text{RM}84,700$ or			
(b) RM10,000		(84,700)	1
Income subject to RPGT		<u>762,300</u>	
Computation of tax liability:			
The house was acquired in January 2007 and sold in December 2010.			
The disposal is in the fourth year after acquisition, so the applicable tax rate is 15%.			1½
The gain that is exempted in applying the tax rate is as follows:			
$(762,300 \times 15\%) - (762,300 \times 5\%) \times 762,300$		(508,200)	2
$(762,300 \times 15\%)$			
Chargeable income		<u>254,100</u>	
Tax liability at 15%		<u>38,115</u>	½
			<u>10</u>

- (b) 1. The mortgage loan was a refinancing loan which is essentially to obtain cash. The interest on the loan is neither a cost of acquisition or of disposal; and is also specifically disallowed with effect from 1 January 2010. 1½
2. Assessment and quit rent are not capital items but operating expenses, for which a deduction can be claimed against the rental income that Joe Kerr will have earned from letting the property. 1½
- 3

- (c) Where the consideration for the disposal is wholly or partly in cash, the acquirer must retain the lower of the cash sum or 2% of the total value of the consideration and pay that amount to the Inland Revenue within 60 days of the date of disposal. 1

The balance of the tax must be paid by the seller upon service of the notice of assessment and a penalty will be imposed after 30 days from the service of the notice. 1

Tutorial note: This applies whether or not a person wants to appeal against the assessment.

2
15

- 5 (a) (i) For sales tax purposes, a sale takes place essentially when the ownership of the goods passes to the buyer. 1
- In addition to normal sales situations, the following are also recognised as sales:
- Barter trades. 1
 - Goods sold on consignment to a purchaser where the seller retains an interest in the goods. 1
 - Goods delivered with conditions for payment in the future. 1
- 4

		Marks
(ii) All manufacturers of taxable goods are required to be licensed subject to the following exceptions:		$\frac{1}{2}$
–	Persons who manufacture solely any of the goods specifically exempted.	1
–	Manufacturers of taxable goods the annual sales value of which does not exceed RM100,000 and who have obtained a certificate of exemption from licensing.	$1\frac{1}{2}$
–	Persons who manufacture taxable goods whose manufacturing operations are exempted from licensing.	<u>1</u>
		<u>4</u>
 (b) Sales Tax liability:		
	RM	
Value of goods for custom duty	30,000	$\frac{1}{2}$
Customs duty	<u>5,000</u>	$\frac{1}{2}$
Sales value	<u><u>35,000</u></u>	$\frac{1}{2}$
Sales tax at 10%	3,500	$\frac{1}{2}$
		<u>2</u>
		<u>10</u>