



# Examiners' report

## P6 Advanced Taxation (MYS)

### June 2009

#### General Comments

Although some candidates produced an excellent paper achieving a good pass mark it is unfortunate that the majority did not. The results were disappointing overall for June 2009.

Although no question was answered particularly well, it was noticeable that questions 1 and 4 seemed to be the ones on which the best marks were achieved. Both of these topics had been the subject of recent articles. However, the best could have been better if candidates had paid more attention to the guidance given by those articles.

In the last few reports, I have urged that students should take steps to develop their skills in answering discursive-type questions by studying past examination questions and answers and I make no apology for repeating this advice. Although many candidates have now improved their skills in formatting an answer, it is not enough to have the top and tail of a letter or report in appropriate form. What goes in the middle and the way it is expressed is equally important, if not more so. Too many candidates do not seem to study the questions requirements carefully so as to find out what sort of answer is required. In scenario-type questions (usually 1 and 2) candidates will be required to apply their knowledge to the specific situation given in the question. It must be made personal to the company or person referred to in the question. Merely reciting the knowledge as it appears in the text book is not good enough at this professional level

#### Specific Comments

Section A of the paper has two compulsory questions which may attract 50-70 marks. This time, the two compulsory questions had 68 marks in total with 30 for question 1 and 38 for question 2. Consequently, Section B had three questions of 16 marks each, only two of which must be answered. Most questions are scenario-based. Those in Section A which were required to be answered by way of a report or letter provided for a total of 6 professional marks.

Candidates should appreciate that some of the marks available to them do not depend upon their technical knowledge or the way they apply it in the exam room. Professional marks depend upon learning and applying examination techniques. Marks are also available for things like using the correct rate of tax in a calculation. Candidates are expected to be familiar with and to use the tax rates and allowances given in the schedule at the front of the paper. This is given on the ACCA website before the date of the exam so there is no excuse for candidates who use the wrong rate in the exam room. These little non-technical things can make the difference between a pass and a fail.

Students who study past examination papers will realise that answers are often structured in such a way that the section or parts of an answer follow the headings and sequence of the requirements of a question. This is no coincidence. Exam candidates are encouraged to set out their answers in this way so that topics and sub-topics are dealt with in logical order and under appropriate headings. They will also notice that most topics are set out in no more than one or two short paragraphs. Candidates who try to do the same are more likely to gain available professional marks both for the format and effectiveness of an answer. An answer is not effective if it is long-winded, rambling and unnecessarily detailed.

The reasons for poor answers were the same as usual:

- (i) Inadequate fundamental knowledge
- (ii) Inadequate advanced knowledge
- (iii) Poor application of knowledge
- (iv) Difficulty in expressing reasoned conclusions in narrative form.
- (v) Lack of technique in putting together a complete and comprehensive answer to a question

Candidates should strive to improve their all-round knowledge. This means the coverage not only of topics which are specific to Paper P6MYS but also making sure that the fundamental basic knowledge acquired earlier is not lost while striving to acquire advanced knowledge at professional level. All sources of information and knowledge should be used, including the recommended text books, the student accountant magazine and the ACCA website which often contains helpful articles.

English language is important for candidates attempting this exam. A candidate who does not fully understand the question will not know exactly what the examiner requires and will be unable to apply their knowledge appropriately. There is also the problem of the candidates being unable to express themselves clearly so as to convey the full meaning of their conclusions to the examiner. An answer to a technical question requires precision and if the answer is worded in such a way that the marker is uncertain as to what the candidate is trying to say, marks will be missed. Such a candidate is definitely at a disadvantage. Almost all Malaysian students would benefit from more reading, improving and practicing their written English and some from taking an English language course before attempting their professional examinations.

### **Question One**

This question, for 30 marks, tested candidates' knowledge of some ordinary aspects of income taxation from trusts. The emphasis was on application of such knowledge to the scenario posed. The answer was required to be given separately for each of the five parts set out in the question requirement. One part required a computation and the other four parts required brief narrative answers. It was disappointing to see that so many candidates were unable to come to the right conclusions and to state the underlying reasons.

The main reason why the trust was resident in 2008 and not in 2009 is that one trustee was resident in the first year and no trustee was resident in the second year. In exceptional circumstances, a trust can still be non-resident even if one or more trustees is resident. Candidates often concentrated on listing the exceptions rather than dealing with the principal reason.

In the computation of income tax payable by the trustees a common mistake in the year of assessment 2007 was to deduct the annuity payment from the aggregate income in priority to the current year loss. The fact that a current year loss takes priority over all other deductions under section 44 is fundamental knowledge that candidates should not have overlooked. For the year of assessment 2008, few candidates applied the special 15% tax rate which applies to the interest income because the trust was non-resident for that year. Equivalent marks were made available for candidates who applied the standard non-resident rate of 26%.

Three professional marks were available for this question and few candidates deserved to be awarded all of them. A report of this kind should always contain a brief conclusion. Few did.

### **Question Two**

This was a 38 mark question on the topic of group relief. The scenario was very simple with only three companies involved. Part (a) for 13 marks required candidates to apply their knowledge so as to conclude, with reasons, whether each company was eligible to be a surrenderer or a claimant of group relief. Although candidates often came to the correct conclusion (there was no possibility of a valid claim) the reasoning was often muddled, failing to bring out the reasons in a clear and concise way. Part (b), for 25 marks, built on this conclusion by requiring some tax planning to be done in the light of fresh proposals put forward to try to overcome the problem.

In part (a), rather than using their knowledge by applying it to the facts given and come up with an answer specific to the scenario painted for them, many took this as an opportunity to recite what they had learned without attempting to apply it. Knowing the rules about related companies is vital to such an exercise but candidates needed to put themselves into the mind of the Group Financial Controller of the Alpha Berhad Group

who had commissioned the report. He may have no technical tax knowledge and wants to know how his group is affected. Merely listing the rules without interpreting them for him would not be sufficient.

Part (a) was designed to set the scene for part (b) not only by concluding that, as things stood, there could be no valid group relief claim but by identifying the specific impediment for each company. Looking carefully at the proposals to overcome the problem, it could be seen that they are designed to tackle specific impediments such as, for Beta Sdn Bhd, the mutual exclusion of a claim for the cost of acquiring patent rights and a claim for group relief. By not effectively identifying such impediments in part (9a), candidates were often at a disadvantage in part (b). Not knowing what problem they were trying to overcome, they could not effectively comment on whether the solution proposed would be effective or not. Instead they often concentrated on discussing the numbers rather than the principles.

This question was not well answered. The group relief legislation was introduced in 2006 and this is the first time that it has been examined. Candidates should have been well versed in it because it is an important topic which has been well covered by the writers of all recommended text books as well as tuition courses.

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### **Question Three**

The subject matter of this question was the tax treatment of mining operations. It was not a very popular optional question but a few candidates attempted it and produced very satisfactory answers. Because it has not been examined before under this syllabus, it may have been “spotted”. Being partly computational, it was a good chance to pick up a few marks even for candidates whose knowledge was inadequate. However, many of those who attempted it were also able to gain marks for the narrative parts of the answer.

### **Question Four**

Without doubt the most popular optional question, this was a question about the tax treatment of operational headquarters companies. It has been the subject of a recent article on regional hubs. Almost all of the candidates who attempted the question were able to gain good marks on the computational part including the formula for calculating the exemption for income from services in Malaysia. Unfortunately, what let many candidates down was an inability to apply their technical knowledge. Most were able to recite the factors that determine whether one company is related to another but they often failed to focus on a particular company as the OHC. Most candidates failed to identify the fact that Uranus Limited was not related to the OHC due to the fact that the shareholding interest in that company was only 20% and it was not held directly by the OHC. An indirect holding has to be at least 50% in order to qualify.

### **Question Five**

This question was not popular but it was the second choice for many candidates. It should not have been a difficult question for most candidates. Parts (a) and (b) covered tax administration. Although part (a), dealing with the submission of a tax return differing from a public ruling, may not have been a topic familiar to very many candidates, it could have been better answered. Part (b) dealt with one of the few indirect tax topics specifically excluded from paper F6MYS and specifically included for paper P6MYS, but from the way that it was answered, it seemed as though few candidates had studied it, as some answers appeared to be not much more than “inspired guesswork”. The answers to part (c) were also disappointing but for a more crucial reason. The source and derivation of income is part of the foundation of tax knowledge and it should be known and understood at the fundamental level.