



# Examiner's report

## P6 Advanced Taxation (MYS)

### June 2011

#### **General Comments**

Performance was generally satisfactory. It is noted that candidates are quite comfortable with the discursive nature of questions in this paper. However, candidates still need to improve on the ability to apply relevant tax principles and tax knowledge to given scenarios.

#### **General Paper Comments**

Section A of the paper comprised two compulsory questions worth a total of 68 marks: 36 marks for Question 1 and 32 marks for Question 2. Section B featured three questions of 16 marks each, only two of which needed to be answered. Questions 3 and 5 were predominantly scenario-based while Question 4 was mainly computational. Section A was relatively better responded to. In Section B, Question 4 was well done, but performance in Questions 3 and 5 left much to be desired.

There were 5 professional marks in this session: 3 for Question 1, which involved a letter to a client with an accompanying appendix, and 2 for Question 2 which required a report to a client. Most candidates were well versed with the appropriate formats of a letter and a report, and did reasonably well in presenting the analysis with suitable references to the computations in the appendices.

#### **Specific Comments**

##### **Question One**

This 36 mark question examined the topic of the allowance for increased exports: the eligibility criteria, how and when the company qualified, how to calculate the allowance, its absorption, exemption mechanism, and how to quantify the tax savings. Interfaced with this export incentive were other tax aspects: treatment of unabsorbed business loss brought forward and current year business loss, approved donation and the treatment of franked dividend in the transition from imputation system to the single-tier system.

Candidates responded reasonably well to this question. They knew the requisite conditions such as Malaysian tax residence, involved in manufacturing and exporting manufactured goods, and not having been granted with tax incentives. Surprisingly few candidates knew that quality furniture was not an excluded product. On the other hand, some candidates covered all bases and cited requisites relevant to other export incentives as well, which earned no marks, but would have taken up valuable time. The attendant issues on losses, donation and franked dividend were well responded to.

Most candidates understood the professional approach i.e. addressing the main issues in the letter to the client with supporting calculations in the appendix, with suitable references made to the latter.

##### **Question Two**

This question carried 32 marks and tested real property company shares comprehensively. It also tested the meaning and tax treatment of a small and medium company.

The concept of real property company shares was well understood by most candidates. Curiously, many candidates overlooked the element of "controlled company" in the definition and many forgot about the exemption period of 1 April 2007 to 31 December 2009. The working out of the acquisition price and disposal price relating to the 300,000 shares was not well done by many candidates, although they were fully conversant with the exemptions under Schedule 4 and under PU order 486.

Overall, this question was reasonably well attempted.

### **Question Three**

This question concerns the oft-encountered situation that calls for tax planning: to expand business activities under the same entity or start a new company altogether. The scenario involved an established profitable oil palm plantation contemplating going downstream into processing of palm fruits into crude oil. Five areas were identified for consideration: the deductibility of feasibility studies and preparatory expenses, the transfer of palm fruits from the plantation to the mill, the deductibility of loan interest, the capital allowances and initial losses.

The minority of candidates who selected this optional question were able to pick up marks rather easily as they thought through the issues in a structured way. It was heartening to note that most candidates who attempted this question managed to pick up on the transfer pricing issue.

### **Question Four**

This question dealt with the tax treatment of Kawan REIT and was easily the best responded question. It dealt with the tax computation of the REIT, the distribution to unit holders and the tax treatment of the distribution in the hands of the resident individual and resident corporate unit holders.

Nevertheless, some marks were needlessly lost because candidates did not clearly state the reasons for their treatment of items in the income statement: they merely stated “not deductible”, “deductible” without offering the reasons why the items were deductible or not deductible. Another surprise was that most candidates said that “depreciation” was not deductible because it was capital or because capital allowance would be given.

### **Question Five**

This question examined the fundamental tax concept of derivation of business and employment income in a scenario where some of the activities were executed outside Malaysia and some moneys were paid in Malaysia and some paid outside Malaysia.

Very few candidates produced correct answers to this question. This demonstrates that many candidates did not fully understand the concept of derivation of income. Most candidates brandished the words “deemed derived”, “paid by a Malaysian resident company”, “incidental to employment in Malaysia” etc. Many also did not understand the twin issues of scope of charge and residence status.

### **General comments**

Candidates are urged to read the text of the questions and the requirements carefully and refrain from rushing in to write all and everything they know about the topic or issue.