



# Examiners' report

## P6 Advanced Taxation (MYS)

### December 2007

This is the first sitting under the new syllabus, and the results are very disappointing. I commented in my last examiners report under paper 3.2MYS that an over-dependence upon computational question would let many candidates down when they had to tackle paper P6. The new syllabus presents less opportunity to use computational skills and requires more competency in handling questions requiring the application of mature analytical skills and the provision of coherent and well-presented discursive answers. This message does not seem to have got across or, if it has, it has hardly been heeded.

#### General comments

Section A of the paper has two compulsory questions which may attract 50-70 marks. This time each question had 34 marks. Section B consisted of three optional questions, each for 16 marks, of which two must be answered. Questions are mostly scenario-based with Section A questions requiring answers by way of a letter or report involving professional marks. Computations are used to support the narrative answers.

Candidates are now given 15 minutes to read the question and plan their approach to the paper before beginning to write. In most cases they seem to have found this useful as there was less evidence that candidates had overlooked an important requirement. However, many candidates are still over-answering questions by not keeping to what is required and this wastes time and effort. The time spent reading a question thoroughly and gaining a proper understanding of it is not time wasted. This is particularly relevant for candidates who are weak in English.

Many of the any questions were poorly answered and the reasons included:

- Inadequate fundamental knowledge
- Inadequate advanced knowledge
- Poor application of knowledge
- Difficulty in expressing reasoned conclusions in narrative form.
- Lack of technique in putting together a complete and comprehensive answer to a question

In order to tackle this paper, satisfactory candidates need to have a good knowledge of the extra topics which are introduced to them at the professional (P6) level as well as good grasp of the fundamental knowledge required for paper F6. Whilst some candidates are deficient in one or the other, many are deficient in both. Paper P6 builds on fundamental knowledge and candidates should ensure that the basic knowledge they 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 contain helpful articles. Technical articles written by the examiner are a valuable resource for candidates. Two relevant articles both of which are or have recently been on the ACCA website are 'the taxation of investment holding companies from 2006 onwards' published in September 2006 and 'residence and non-residence of individuals' published in August 2005. It is disappointing to have to conclude that most candidates could have gained many more marks in their answers if they had been familiar with these articles.

The English language is not a first language for most Malaysian candidates and some allowances are made for that. However, a candidate will definitely be at a disadvantage if his or her proficiency in English is below a certain level. A student will find it useful to read relevant articles written in English and to work through as many exam questions as possible, writing the answer out fully in the time available. This will assist with their exam technique too.

## **Marks available in respect of professional skills**

Marks were available for professional skills in questions 1. In order to earn these marks candidates first had to satisfy the requirement in relation to the format of the document requested. Further marks were then available for the clarity of the answer, including the ease with which it could be marked and the degree to which the conclusions reached followed logically from the explanations and calculations provided. These latter marks were more likely to be earned by those candidates who thought about the manner in which they intended to satisfy the requirement such that there was a sense of purpose and a coherency to their answers.

### **Question 1**

This question, for 34 marks, was set in the context of a holding company and its three subsidiaries. The special advanced knowledge topic of investment holding companies was an integral aspect of both part (a) and part (b). Sadly, most candidates did not have a sufficient knowledge and the majority of them were unable to identify the fact that a listed investment holding company is taxed quite differently from an unlisted one, its income being treated as business income. They went astray by assuming that expenses incurred by the company would be dealt with by the permitted expenses formula when that is not the case. This had a detrimental effect on the awarding of marks. On the other hand, in considering the allowability of interest expense, they often saw it as a situation where interest restriction needed to be applied. There is an inconsistency here because interest restriction under section 33(2) only applies where money has been borrowed for the purposes of a business. These costly pitfalls could have been avoided if candidates had read and understood the clear explanations contained in the article on investment holding companies mentioned above.

Part (a) involved the basic knowledge topic of company tax estimates, deadline dates and penalties for late submission and many marks were missed by knowledge deficiencies. Too many candidates made the elementary error of overlooking the section 110 credit for dividend tax. Candidates do need to learn how to present a report in a satisfactory format. Five sub-topic headings were given in the question and it should have been obvious that the report should be set out under the headings as given. Often there were no headings at all or the topics were mixed up. The calculation part was required to be shown as an appendix but many candidates started off with the calculations completely ignoring the instruction. An appendix is something that is separate from the main body of the report but is referred to in the report. Part (a)(i), for one mark, asked simply for a statement of the estimated tax payable. That should have been one sentence referring to the figure calculated in the appendix but with many answers the calculations became part (i). Two marks are available for the format and effectiveness of the report and they will not be earned where this kind of lack of attention to detail applies.

Part (b), in the form of letter, concentrated on a proposal to set up a system for the charging of management fees to subsidiaries. More marks could have been obtained if candidates had realised that all of the investment income of the holding company would be treated as business income. However, the more important aspects relating to the subsidiary companies and the commerciality of the proposed system were brought out reasonably well. No marks were available for bringing in the topic of group relief. Had this been required, the question would have mentioned it. Marks were missed again for poor construction of the letter of advice. Candidates should study good examples of such a professional presentation and strive to emulate them.

### **Question 2**

This question in several parts was based on a husband/wife property owning scenario. The main elements involved recognition and application of the badges of trade, income-splitting and stamp duty. It was not well answered.

Most candidates seemed to be able to recognise the relevance of badges of trade but the conclusions were not always well-reasoned or well presented. In assessing the benefits of income-splitting false conclusions were often produced due to the faulty application of basic knowledge and almost invariably, by not recognising or evaluating the potential stamp duty cost.

Real property gains tax has been in suspense since April 2007 and the fact that it is no longer examinable has been well publicised. A simple reference to the exemption would have been sufficient. However, many candidates seem to be living in the past and spent a large part of their efforts on answering the question in the context of that tax. Another problem was treating Alex as non-resident even though the question stated specifically that both Alex and Kate were resident in Malaysia. The calculations required at part (a) for 7 marks represented a popular aspect of the question but few candidates gained full marks. Some stated the rent after interest when they should have known from the question that the interest must be added to get back to the gross rent. Many gave Alex relief for a half share of the interest without recognising or discussing the fact that his borrowing did not have a qualifying purpose. Too may also read the words 'joint ownership' as meaning 'joint assessment', a fatal error.

Parts (b) and (c) were reasonably well answered but many candidates failed to comment on the consequences of the disposal being treated as an adventure in the nature of trade.

#### Question 3

As this question stated that the target company would be operating in the multimedia super corridor, it was obvious that the answer should deal with incentives available in that location. It was the least popular question and it seemed that many candidates, even most of the ones who attempted, it had a very poor knowledge in this area.

Most answers were opportunistic attempts to gain a few marks by talking generally about pioneer status and investment tax allowance. In nearly all cases, nothing useful was said in answer to parts (b), (c) and (d).

#### Question 4

This question, mainly about tax residence, husband and wife taxation and joint assessment was a popular choice. However, candidates could have done much better if their knowledge had been adequate. The amendment to section 7, allowing a period of absence over a year end to qualify as a link between a long period in one year and a short period in the adjoining year was introduced in 2002. I wonder where candidates have been in the meantime. Hardly any recognised that aspect as being vital to Suhaimi's residence position for the year of assessment 2007. As a result many of the 10 marks available for part (b) were not awarded. Another problem is that candidates often stated their knowledge without any real attempt to apply it. In many cases they stated all of the four residence factors under section 7 without any application to the scenario. Only one of those factors is really of interest.

At part (b) the appropriate conclusions about joint assessment and the reasons why Rohaya could and should elect were not brought out.

Generally, candidates often spent too much time talking about tax planning when they had not been asked to. This gains no marks.

#### Question 5

In this question based on the wrongdoing of a taxpayer and wife who were business partners, candidates were required to show their knowledge of the law on wilful evasion and submission of incorrect returns. It was a popular question. Part (a) was dealt with reasonably well by those candidates who had some relevant knowledge. It is not easy to remember all the amounts of the monetary penalties and a relaxed view was taken where candidates were right about the circumstances and punishment for the offence but wrong about the actual amounts.

Part (b) presented candidates with the difficult task of deciding whether the tax agent had done wrong and acted unprofessionally in disregarding information about his clients which had come to him from a close but uninvolved party. Some guidance as to the extent of a tax agent's responsibility in the circumstances can be gleaned from

the law and the relevant public ruling but candidates were challenged with the need to take an ethical stand in this borderline case. Many interesting answers were produced and thoughtful candidates who came to a well reasoned conclusion could earn marks even if the conclusion did not quite coincide with the view of the examiner.