



Examiners' report

P6 Advanced Taxation (MYS)

December 2008

It is pleasing to see that this sitting continues a trend of improving results with an enhancement of the pass rate recorded in the previous sittings for this paper. This is the third sitting under the new syllabus and it seems that most candidates have now become familiar with the significant difference in the style and requirements of questions compared with the previous paper, 3.2MYS.

Most candidates achieved their best marks for the two questions set on the topics that had been the subject of recently published articles by the examiner. With the changeover to the new syllabus it has become necessary to update some previous articles and add articles on some new topics. Candidates should appreciate that this will lead to a collection of articles which are continuously available for reference and study and that any particular article should not be regarded as relevant only for the examination following its publication.

Hopefully, students have taken notice of the advice of developing their skills when answering discursive-type questions. A study of past examination questions and answers can help them to improve the necessary analytical skills and techniques required to provide coherent and well-presented discursive answers.

Calculations or computations may be required to support or supplement a narrative answer given by way of a report or letter. These must be placed in an appendix and a summary of the results given in the report or letter. However, candidates should appreciate that such calculations or computations are not answers in themselves but are there to amplify and supplement narrative answers.

General comments

Section A of the paper has two compulsory questions which may attract 50-70 marks. This session, the two compulsory questions had 60 marks in total with 35 for question 1 and 25 for question 2. Consequently, Section B had three questions of 20 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 five professional marks. Although professional marks will usually be used in Section A that will not always be so and they can also be contained in Section B.

It is noticeable that candidates often do well on "spotted" questions but poorly on the others. However, a pass-grade answer on one or two questions will not usually yield sufficient marks for a pass overall unless the other questions are reasonably well attempted. The reasons for poor answers were the same as usual:

- 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

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.

The importance of English language has to be stressed here again 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 his knowledge appropriately. This results in candidates' being unable to express themselves clearly to convey the full meaning of their conclusions. An answer to a technical question requires precision and if

the answer is not correctly worded, the marker is unable to grasp what the candidate is trying to say. Almost all Malaysian students would benefit from thoroughly reading, improving and practicing their written English and perhaps even take an English language course before attempting their professional examinations.

Question 1

This question, for 35 marks, tested candidates' knowledge of the availability and usage of tax incentive under the Promotion of Investments Act 1986, as revised and amended in 2007. It concentrated on the pioneer status incentive, particularly the incentives and choice of incentives available for a company relocating a promoted activity or promoted product to a promoted area. The question had to be answered in report format. Many candidates produced excellent answers but, in some cases, marks were missed due to poor techniques.

Candidates should put themselves into the mind of the hypothetical reader of the report, in this case the Secretary of Rockhard Berhad who has given specific instructions as to what he wants. One thing he does want is for the report to deal with five specific aspects. Candidates should be sure to number the different parts of their report in the same way as the requirement is numbered so that each part of the report can be identified with each part of the requirement. Another thing that he requires is for the report to cover exactly what he has asked for; no more and no less. Candidates who ignore this and spread out an answer without troubling to keep the different sub-topics separate will end up with a muddle. Such candidates are likely to throw in everything they can remember which is vaguely relevant to the subject. The Secretary would not thank the professionals presenting the report for such muddle and verbosity. Candidates should address each part of the report separately and stick strictly to the requirements. Marks are only available for what is required by the question and if an answer is long and disorganised, markers may have difficulty in identifying what is relevant.

For only two marks, part (a) asked for the incentives available on relocation. This was followed by part (b), for nine marks, asking for a brief description of the features of the said incentives and a comparison. This could have been presented as a table or a numbered list as in the model answer. Most candidates included the relevant information but many over answered this part with the result that the salient information was lost in a mass of other information, much of which was either irrelevant or not required. Many candidates listed out all the locations which are promoted areas but this was not part of the requirement. Many candidates also included a discourse either in this part or in another one, on the availability and usage of relief for pioneer and non-pioneer losses. There was no request for such information on this subject.

Part (c) required an explanation of the factors that would influence a choice between the two main tax incentives. Basically there are only two factors, profitability and level of capital expenditure and the relationship between them. For only five marks, this could have been explained quite succinctly but too many candidates took it as an opportunity to "spread" their knowledge.

Part (d) called for a computation based on the incentive presently being enjoyed by Rockhard Sdn Bhd and the amounts entering into the exempt account. This, a popular part of the question, was often well answered. Most candidates provided the computation in an appendix with a summary of the results in the report. An important aspect of this computation was the separation of 30% of the statutory which must be treated as part of the total income. Those who failed to do this, lost marks unable to restrict the approved donation to 7% of statutory income and failure to arrive at the correct chargeable income. Many also lost marks by failing to state that the exempt amount that they had calculated was the amount entering into the exempt account.

Part (e) was the most poorly answered. Many took this as an opportunity to recompute the figures at (d) on the basis of location in a promoted area. This was not necessary as the figures could have been obtained quite easily for the part (d) computation. What was required was a summary to allow a comparison to be made and those who failed to provide an appropriate summary satisfying the requirement would not have gained any of the four marks available.

Three professional marks were available for this question and few candidates were awarded these marks. A report of this kind should always contain a brief conclusion

Question 2

This 25 mark question, to be answered in letter form, was set in the context of reconstruction of personal investment property holdings. It ranged over several tax topics but the topics were specifically described in the five different parts of the answer. As a compulsory question, it could not be avoided and few candidates gave satisfactory answers.

A common problem in part (a) was computing the stamp duty on the basis of the total value for all five properties. A separate calculation applying the scale rates should be made for each property.

In part (b), many candidates identified the level of share capital as a crucial factor in qualifying for the lower rate of tax of 20% on company income and gained marks accordingly. Other aspects that could have been mentioned in this context but rarely were are eligibility of a newly started company for waiver of instalment payments in the first two years and deduction of incorporation expenses. The requirement was to state the appropriate amounts of ordinary share capital to be issued to R Winger and L Winger. Overlooking the fact that two shares had been issued already, many candidates said the appropriate amount was RM2.5 million. Technically, this is a wrong answer because it would take the issued ordinary share capital to RM2,500,002, which is over the limit for eligibility.

Parts (c) and (d) dealt respectively with the related questions of whether Goalpost Sdn Bhd would be an investment holding company and how its rental income would be treated for tax purposes. These are topical but complicated issues. Many candidates showed that they had acquired the technical knowledge needed to provide the answers but only a few were able to apply that knowledge appropriately and provide well-reasoned and coherent explanations.

The answers to part (e) represented the biggest failure to grasp the import of the question. Given that the full amount of any directors fees paid would have been liable to personal income tax but only a very limited amount would be tax deductible for the paying company, it should have been obvious that paying directors fees was not a tax efficient means of extracting what was likely to be substantial amounts of profit from the company.

Two professional marks were available for this question.

Question 3

This was probably the second most popular optional question. In three parts it dealt with overseas aspects and in particular double taxation agreements and permanent establishments. When attempted, it was often fairly well answered given the fact that a question on this topic could not have been anticipated. Candidates should remember that familiarity with the provisions of the OECD model treaty is one of the aspects of the study guide for this paper.

Question 4

Without doubt the most popular optional question, this was all about the transition to the single tier dividend system. This was well answered but candidates still lacked the ability to pay attention to details such as to identify the due date for payment of the balance of income tax for the year of assessment 2007 so as to validate its inclusion in the computation of the 108 balance, and explaining separately the three different tax aspects of the three types of dividend, effectively nine different explanations.

Question 5

This was the least popular question and the one on which most candidates gained few of their marks. The problem seems to be that most candidates have inadequate knowledge on the topics covered. In part (a) this was



share incentives and share options. The two are different in timing and in tax consequences but it seemed that most candidates were not able to distinguish them. Also, many were not familiar with the latest tax treatment of share options. Part (b) was about compensation for termination of employment. This is a common topic but it seemed that most candidates, although they remembered that the limit for the annual exemption is RM6,000, were not very familiar with the other conditions.