Examiner's report

P6 Advanced Taxation (MYS)
December 2010

General Comments

Overall, candidates put up a creditable performance in this session. Optional Question 4 was well-answered, and it was selected by most, if not all candidates. Question 1, a compulsory question, was reasonably well-responded to as well.

Section A of the paper comprised two compulsory questions which, in this session, were worth 64 marks in total with 35 marks for Question 1 and 29 marks for Question 2. Consequently, Section B featured three questions of 18 marks each, only two of which needed to be answered. Questions were predominantly scenario-based.

There were 4 professional marks in this session: 3 for Question 1, which involved a report with accompanying appendix, and 1 for Question 2 which required an internal memorandum. Most candidates were well versed with the appropriate formats of a report and a memorandum, and were comfortable in presenting the analysis with suitable references to the computations in the appendices.

It bears repeating that at the professional level, candidates are expected to apply the technical content, after due analysis, to given scenarios. In this session, many candidates knew the technical content but did not know which elements were relevant and how they pan out in the given scenarios. Examples are given below under the respective questions.

Candidates should take care to be accurate and precise when using terms such as "allowable", "deductible", "exempted" etc. For instance, payment of the retirement benefit should be considered from the deductibility angle: a payment is an expense/outgoing and, as such, cannot be "exempted".

Also, candidates must read carefully what the question calls for. For instance, controlled sales provisions were applicable in Question 1(b)(i) and again in Question 2(ii). However, while the former dealt with the disposer's perspective, the latter examined the treatment in the hands of the acquirer. Many candidates did not appreciate the different perspectives although the respective requirements were clearly stated.

Specific Comments

Question One
This question, for 35 marks, comprehensively examined the topic of the reinvestment allowance: eligibility criteria, whether and how the company qualified, how to quantify the allowance, its absorption, its impact (the tax savings), and the mechanism and significance of the exempt account, and the implications of disposal of qualifying assets. Interfaced with reinvestment allowance were other attendant aspects: controlled sale provisions and the imminence of the "investment holding company" tag with the impending disposals and change of activities.

This question was reasonably well responded to. Candidates knew how to apply the knowledge: they could cite the qualifying conditions and how Precise Sdn Bhd satisfied such conditions. The report component was cogently laid out, and appropriate references were made to the calculations in the accompanying appendix.

Question Two
This 29-marker tested some fundamental and ubiquitous aspects of taxation of a newly-commenced company and the acquisition of an entire business: determination of the basis period, the tax administrative aspect of providing tax estimate and payment of tax instalments, tax treatment of provisions and payment of retirement benefit. It also incorporated an aspect of personal taxation: tax treatment of retirement benefit received. Again,

some candidates did not fully appreciate that parts (ii) and (iv) called for the tax treatment from the opposite perspectives of the employer and the employee.

Surprisingly, this question was not as well answered as expected. It could be that in concentrating on the advanced aspects of taxation, some candidates had lost sight of why a provision is not tax deductible, why a payment of employee benefit is deductible, and why a provision for impaired debt is deductible or otherwise. Indeed, some candidates treated the provision as a general provision just because it was expressed as a percentage of the debt registered after the business had been taken over.

Candidates should therefore strive to remain fully conversant with the fundamental principles of taxation and be prepared to analyse the given facts and circumstances and apply said principles to given situations.

Question Three

This is the capital-versus-revenue question involving the sale of land by an academician after a proposed project went awry due to external factors. A deductibility issue was also included.

Of the three optional questions, this was the least selected by candidates. For a candidate who thought through the issues, this would have represented a good opportunity for arguments on both sides of the coin. This question also epitomises the advanced level of this paper, where facts and knowledge are analysed in context to draw two possible opposing conclusions.

An example of candidates not applying knowledge to the specific scenario was merely efficiently reciting all the badges of trade without once relating them to Miss Frenly's situation.

A good number of the candidates explained the relative merits of treating the gains as capital versus revenue (as though there was a choice) and launched into the computation of real property gains tax.

Nevertheless, it must be said that there were a number of good responses to this question.

Question Four

This question dealt with the transitional imputation account, the treatment of the franked dividend and the single-tier dividend in the context of an investment holding company.

It is without doubt the best-answered question and was almost universally selected as one of the two optional questions in Part B of the paper.

A couple of glitches should be mentioned here: firstly, some candidates surprisingly thought that companies enjoy exemption of interest income, and secondly, some candidates did not realise that the statutory income from franked dividends should be deemed total income.

Other than that, it was a job well done.

Question Five

This optional question story-boarded various payments made by a company to non-residents with potential withholding tax implications.

Some candidates produced commendable answers. However, generally, this question was not as well handled as had been expected. Many candidates recited the usual mantra of withholding tax but failed to relate them to the given scenarios. One issue that many candidates overlooked was that of derivation. It is imperative that the income item be first established to be derived from Malaysia before it can be subject to tax.

Many candidates dutifully listed the compliance and penal provisions of non-compliance with withholding tax although they were not required at all.