Answers

Marks

1 Spitz and Ono

(a) Spitz – Computation of chargeable income for the year of assessment 2012

	– RM	+ RM	Marks
Business income – Café business			
Profit before tax		500	½
Add/Less			
Depreciation		3,506	½
Gain on disposal of fixed assets	26,966		1
	26,966	4,006	
		(26,966)	
Adjusted loss		(22,960)	
Statutory income from business		Nil	
Employment			
[Section 13(1)(a)]			
Salary	240,000		½
Bonus	40,000		½
Meal allowance	Exempt		1
Child care allowance	2,900		½
Less: Exemption	(2,400)		1
		280,500	
[Section 13(1)(b)]			
Furniture (280 x 12)	3,360		½
Medical expenses	Nil		1
Domestic maid (400 x 12)	4,800		½
		8,160	
[Section 13(1(c)]			
Living accommodation			
Lower of			
[30% x Section 13(1)(c)] (30% x 280,500)	84,150		1
or			
Defined value [10,000 x 12]	120,000		1
Lower of		84,150	½
Adjusted income/statutory income from employment		372,810	
Add:			
Royalty income from books	22,000		½
Less: Exemption [Para 32B, Sch 6]	(20,000)	2,000	1
Aggregate income		374,810	
Less: Current year loss		(22,960)	1
		351,850	
Less: Donations			
Cash contribution for medical facility (approved)	30,000		½
Restricted to maximum	20,000	(20,000)	1
Contribution-in-kind to project of national interest (approved)	24,630		½
Restricted to 7% of aggregate income [7% x 374,810]	26,236	(24,630)	1
Total income		307,220	

	– RM	+ RM	Marks
Less: Personal reliefs			
Self	9,000		½
Employees provident fund (maximum)	6,000		½
Books (maximum)	1,000		½
Medical expenses for parents (maximum)	5,000		½
Medical insurance (maximum)	3,000		½
Sports equipment	Nil		1
Conference fees	Nil		1
		(24,000)	
Chargeable income		283,220	
			20

Tutorial note: *The child care allowance would be exempted up to an amount of RM2,400 and the excess would be a perquisite subject to income tax.*

He is not entitled to claim relief for sports equipment in the year 2012 as the expenditure relates to the previous year, 2011, and not entitled to claim relief for the conference fees as these are not for an approved course up to tertiary level or at Masters or Doctorate level.

(b) Ono – Residence

Ono was a non-resident for the year of assessment 2012 as she was present in Malaysia for a period of less than 182 days during the year 2012. 1 + 1 = 2

(c) Ono – Computation of income tax payable for the year of assessment 2012

	RM	
Salary	32,000	½
Gross income	32,000	
Less: Personal relief		
Self	Nil	½
Computer	Nil	½
Chargeable income	32,000	
Tax liability		
Non-resident rate – 26%	8,320	1
Less: Tax rebate	Nil	½
Tax payable	8,320	
		3
		25

Marks

2 (a) Hybrid Sdn Bhd

(i) Chargeable income for the year of assessment 2012
(Basis period 1 July 2011 to 30 June 2012)

	Note	RM	RM	
		–	+	
Profit before taxation			6,004,000	
Compensation	1		Nil	½
Depreciation	2		2,600,000	½
Gain on disposal of shares	3	750,000		1
Interest income	4	26,000		½
Audit fees			Nil	½
Company secretarial fees			8,000	1
Interest expense (working 1)	4		6,000	½ + 1
Payment to non-resident for testing for exports	5		Nil	1
Staff cost for training	6	3,000		1
Leave passages	7		11,000	½ + ½
Provision for the year	8		200,000	½
Amount written off	8	30,000		½
Amount no longer required	8	70,000		½ + ½
Repairs	9		Nil	1
Foreign exchange gain – capital	10	10,000		1
Contributions to public library (120 – 100)	11		20,000	1
Contributions to approved charitable institution	11		800,000	½
Information technology related expenses	12		Nil	1
Staff entertainment	13		Nil	½
Entertainment of suppliers (88 x 50%)	13		44,000	1
Lease rentals: Car (sales team)	14		Nil	½
Lease rentals: Car (director) (60,000 – 50,000)	14		10,000	1
Lease rentals: Lorry	14		Nil	½
		889,000	9,703,000	
			(889,000)	
Adjusted income			8,814,000	
Add: Balancing charge			120,000	½
			8,934,000	
Less:				
Capital allowances for existing assets		1,300,000		½
Capital allowances for new asset (working 2)		102,000		W
Balancing allowances		20,000		½
			(1,422,000)	
Statutory income			7,512,000	
Less: Unabsorbed losses brought forward			(922,000)	1
			6,590,000	
Add: Interest income		26,000		½
Less: Interest expense attributed		(6,000)	20,000	1
Aggregate income			6,610,000	
Less: Cash donation to approved institutions				
Amount paid		800,000		
Restricted to 10% x Aggregate income		661,000	(661,000)	1
Total/Chargeable income			5,949,000	

Workings

1. Interest restriction

$$\text{Interest expense x } \frac{\text{Investment :}}{\text{Borrowings}} \qquad 12{,}000 \text{ x } \frac{250{,}000}{500{,}000} = 6{,}000 \text{ Add}$$

[Interest restriction can be computed based on year-end balances if the investment does not exceed RM500,000 based on the public ruling on interest restriction.]

			Marks
2. Capital allowance on new assets			
		RM	
Cost of plant and machinery		310,000	½
Less: Foreign exchange gain		(10,000)	1
Qualifying expenditure		300,000	
Initial allowance	20%	60,000	½
Annual allowance	14%	42,000	½
		102,000	
			26

(ii) Compensation received (note 1)

The compensation is taxable as a revenue receipt as it relates to the loss of income. It offsets the loss of profits which was suffered due to the temporary disruption of the factory operations. The disruption did not affect the profit-making apparatus and did not affect the whole structure and, therefore, is not capital in nature. 1 + 1 = 2

(b) Company A – Potential importer expenses deduction

	RM	
Hotel accommodation – RM300 per day maximum for 3 days	900	1
Sustenance expenses – RM150 per day maximum for 3 days	450	1
Amount allowed as single deduction	1,350	2
		30

3 (a) Oxygen Sdn Bhd – Capital allowances

(i) Office equipment

	RM	RM	
Qualifying expenditure		60,000	
YA 2011			
Initial allowance (IA) (20%)	12,000		½
Annual allowance (AA) (10%)	6,000	(18,000)	½
Residual expenditure (RE)		42,000	
YA 2012			
Asset written off –			
Cost of asset written off	10,000		
RE RM10,000 (100% – 30%)		7,000	1
Disposal proceeds		0	½
Balancing allowance		7,000	½

Tutorial note: *Paragraph 71, Schedule 3 generally applies for disposals made within two years of acquisition but does not apply here on the grounds that the disposal arose for valid commercial reasons.*

Qualifying plant expenditure	60,000	
Less: Disposal – asset written off	(10,000)	
Qualifying plant expenditure	50,000	½
RE (100% – 30%)	35,000	½
YA2012		
AA (10%) [50,000 x 10%]	(5,000)	½
RE carried forward to YA 2013	30,000	½
		5

			Marks
(ii) Factory building			
	RM	**RM**	
Qualifying building expenditure		1,000,000	
YA 2011			
Initial allowance (IA) (10%)	100,000		½
Annual allowance (AA) (3%)	30,000	(130,000)	½
Residual expenditure (RE)		870,000	
YA 2012			
Annual allowance (AA) (3%)		(30,000)	½
RE carried forward to YA 2013		840,000	

Warehouse building for storage of goods for import processing and export

	RM	RM	
Qualifying building expenditure		300,000	
YA 2011			
Initial allowance (IA)	n/a		½
Annual allowance (AA) (10%)	30,000	(30,000)	1
Residual expenditure (RE)		270,000	
YA 2012			
Annual allowance (AA) (10%)		(30,000)	½
RE carried forward to YA 2013		240,000	½
			4

(iii) Option 1: the warehouse building would be eligible for industrial building allowance (IBA) as the warehouse is within the curtilage of the factory building. 1

Option 2: the warehouse building will not be within the curtilage of a factory building and is not to be used exclusively for goods to be imported, processed and re-exported. As such, it will not be eligible for IBA. 1½

Therefore, option 1 would be more tax efficient as the warehouse building is eligible for IBA. ½

3

(b) Self-assessment system for companies

Under the self-assessment system in Malaysia, a taxpayer company:

(i) has to compute and assess the taxpayer's own tax liability: the tax payable as per the tax return is a deemed assessment and is deemed agreed;
(ii) has to furnish an estimate of income tax payable no later than 30 days before the beginning of the basis period;
(iii) is allowed to revise its tax estimate in the sixth month and/or ninth month of the basis period;
(iv) has to submit the company's tax returns within seven months from the close of the company's accounting year;
(v) has to settle any balance of income tax payable on or before the last day of the seventh month following the close of the accounting year;
(vi) is subject to the penalty regime for non-compliance of due dates or underestimation of tax;
(vii) where it commences business in a year of assessment, is required to furnish an estimate within three months from the date of commencement of its operations; and
(viii) has to commence its instalment payments in the sixth month of the basis period equal to the length of the basis period in the first year of assessment.

1 mark per item maximum 6

Exception for 'new' companies:

A new company with a paid-up share capital of RM2,500,000 and below is not required to furnish an estimate of income tax payable and not required to pay income tax by monthly instalments for the year of assessment in which it commences and the following year of assessment, provided that the company is not part of a group of companies which has a company with a paid-up share capital of more than RM2,500,000. 2

Note: *Credit will also be given for any other acceptable factors not shown above.* 8

20

Marks

4 Esther and Yee – Real property gains tax (RPGT)

(a) Esther – Gift of land to Yee

The transfer of real property as a gift between parent and child, grandparent and grandchild, or husband and wife is treated as at no gain no loss. 1

Therefore, there will be no real property gains tax payable by Esther on the gift she made to her husband, Yee. 1

The acquisition price of the property for Yee would be the acquisition price incurred by the donor, Esther, and any permitted expenses incurred by Esther. 1

3

(b) Yee – Chargeable gain on disposal of the land

	RM	RM	Marks
Disposal consideration		3,500,000	1
Less: Permitted expenses			
Enhancement costs (storage building)		(490,000)	1
Incidental costs (valuation fees)		(10,000)	1
Disposal price		3,000,000	½*
Acquisition consideration	2,000,000		1
Add: Stamp duty	50,000		1
Less: Deposit forfeited	(10,000)		1
Acquisition price		(2,040,000)	½*
Chargeable gain		960,000	
Less: Schedule 4 exemption – higher of 10% of the gain or RM10,000		(96,000)	1
Chargeable gain		864,000	
			8

**Marks given for correct description (not figure)*

(c) Yee – Disposal of shop lot

The holding period is within five years based on the date of acquisition of 10 July 2008 and the proposed date of disposal of 28 June 2013 and, therefore, the effective tax rate which would apply based on the holding period is 5% as the disposal takes place in the fifth year of acquisition. 1 + 1

Yee can minimise his exposure to real property gains tax if he defers the disposal to a date on or after 11 July 2013, as such a disposal will take place in the sixth year for which the tax rate is nil. 1 + 1

4

15

5 (a) Carbon Sdn Bhd – Service tax compliance

(i) The annual sales turnover for a new business is determined by reference to its expected sales turnover for the 12-month period or part thereof immediately before that month. 2

(ii) The minimum annual sales turnover threshold applicable for a private agency is RM150,000. 1

(iii) The taxable period is a period of two months and the due date to remit the service tax is within 28 days from the end of the taxable period. 2

(b) Govind

(i) Penalty for the late payment of service tax

Taxable period January and February 2012. ½

Due date 28 days from the end of the taxable period: 28 March 2012. ½

			Marks
Penalty due:			
29 March 2012 to 27 April 2012	10%		½
28 April 2012 to 27 May 2012	10%		½
28 May to 3 June 2012 (part thereof)	10%		½
Total penalty: 30% x RM6,000		RM1,800	½
			3

(ii) Application for refund of overpaid service tax

Govind may make an application to the Royal Customs and Excise Department within one year from the date the erroneous overpayment was made.	1
The Director General of the Royal Customs and Excise Department may refund partially or not refund any amount to the extent that the refund would unjustly enrich the claimant.	1
	2
	10