

# Examiner's report

## F6 Taxation (MYS)

### December 2015

#### General Comments

This was the first session with the new exam format. There were two sections to the examination paper and all of the questions were compulsory. Section A consisted of 15 multiple choice questions (MCQs) of two marks each which covered a broad range of syllabus topics. Section B had a total of six questions, four worth 10 marks each and two longer questions worth 15 marks, each testing the candidates' understanding and application of the core areas of taxation including income tax, real property gains tax (RPGT) and goods and services tax (GST). This is the first examiner's report since the introduction of the new exam format and question types. The following paragraphs report on each section and focus on some of the key learning points.

#### Specific Comments

##### Section A

From a total of 15 questions, it was pleasing to note that many candidates performed well in the MCQs which helped their overall performance. Candidates are encouraged to work through the specimen exam for F6 (MYS) as well as carefully reviewing the examples explored below. Section A questions aim to provide a broad coverage of the syllabus, and future candidates should aim to revise all areas of the F6 syllabus. As advised previously, question or syllabus spotting should be avoided. The following two questions are reviewed with the aim of giving future candidates an indication of the types of questions asked, guidance on dealing with exam questions and to provide a technical debrief of the topics covered by the specific questions selected.

#### Sample Questions for Discussion

##### Example 1

TUV Sdn Bhd (TUV), which makes up its accounts annually to 31 December, make the following gifts to one of its employees, Alan, during the year of assessment 2015.

- On 10 April 2015, a hamper as a birthday gift. The hamper was acquired on the same day it was gifted for a cost of RM318 (including goods and services tax (GST)).
- On 25 December 2015, a laptop acquired earlier in the year for RM4,240 (including GST). The open market value of the laptop on 25 December 2015 was RM2,500.

TUV gives surprise birthday gifts to its employees at its discretion but there is no written policy on the matter nor is anything contained within the employees contract of employment.

**What is the total amount of output tax which TUV Sdn Bhd will have to account for in respect of the two gifts made to Alan?**

- A RM160
- B RM169
- C RM258
- D RM230

This question tested on the determination of output tax in respect of gifts made to an employee and the open market value concept under the goods and services tax (GST) legislation.

Generally output tax applies on supplies and also on deemed supplies. Gifts of goods made to employees are subject to GST although there are limited exceptions including –

- the RM500 gift rule or
- if the goods provided are within the employee's contract of employment or
- if the goods are zero-rated or exempted.

In the case given in the question, both the gifts are goods which are standard-rated and nothing is stated in the employment contract. The employee was given a hamper and a laptop during the company's financial year end from 1 January 2015 to 31 December 2015. GST is applicable here as the total value of goods given to the sale employee exceeds RM500 during the company's financial year. For GST purposes, tax year refers to the financial year end of the company.

The correct answer is A. GST applies on the hamper and, since it was gifted on the same day it was bought, and the value inclusive of GST was RM318, then the output tax is RM18 ( $RM318 \times 6/106$ ). The laptop was acquired earlier in the year and at the point it was gifted, the open market value was RM2,500. The open market value is always stated inclusive of GST. In this case, output tax for the laptop gifted to the employee is RM142 ( $RM2,500 \times 6/106$ ). The output tax will not be based on the original acquisition cost of RM4,240. Therefore, the answer is R160 (RM18 + RM142).

Candidates are reminded that precision is very important when attempting the MCQs as the distractors will always be plausible.

If candidates applied 6% to the open market value of the laptop of RM2,500 (ie. wrongly assuming that the value was GST exclusive) the output tax would have been calculated as RM151 and combined with the output tax of RM18 for the hamper, it would give an answer of RM169 as shown in option B, which is incorrect. As stated earlier, open market value is always stated inclusive of GST.

In option C, if the incorrect assumption was made that the GST on the laptop is on the value at the point it was acquired of RM4,240, the total amount of output tax would be RM240 ( $RM4,240 \times 6/106$ ) which, combined with the output tax of RM18 for the hamper, would give an answer of RM258 (RM240 + RM18).

In option D, the candidate may have applied the gift rule whereby only the excess over RM500 is subject to GST output tax. If the correct value inclusive of GST of RM318 was used for the hamper and the incorrect value of RM4,240 was used for the laptop (as in option C, above) and this was then incorrectly reduced by the gift rule amount of RM500 then the output tax would have been calculated as RM230 ( $(RM318 + RM4,240 - RM500) \times 6/106$ ). This answer is wrong because (as in option C) the value for the laptop should be the open market value of RM2,500 and the RM500 gift rule amount is not applicable here because the total value to the same employee for the same year exceeded RM500.

## Example 2

**In which of the following case(s) does the Director General of Inland Revenue have the authority to raise an assessment on the acquirer of a property in respect of the amount of real property gains tax (RPGT) payable for the disposer?**

- (1) The acquirer failed to remit 3% of the consideration to the Inland Revenue Board
- (2) Both the acquirer and disposer failed to submit returns in respect of the transaction
- (3) The two parties exchanged their real properties
- (4) The consideration for the disposal of the real property is below market value

- A 1 only  
 B 1, 3 and 4  
 C 2, 3 and 4

**D** 2 and 4 only

This question tested on the powers of the Director General of Inland Revenue (DGIR) to raise an assessment on an acquirer of a property, which is testing an area of the syllabus dealing with the administrative aspects of real property gains tax (RPGT). Generally, both the disposer and acquirer have responsibilities under the Real Property Gains Tax Act, 1976 (as amended) including filing of return obligations and payments.

The applicable RPGT on the chargeable gain arising from the disposal, if any, is imposed and payable to the Inland Revenue Board by the disposer. There is a requirement for the acquirer of a chargeable asset, i.e. the real property, to withhold / retain either 3% of the total value of consideration or the monetary portion of the consideration, (whichever is lower) and remit to the Inland Revenue Board (IRB) within the stipulated due date.

Statement 1 states that the acquirer can be issued with an assessment by the DGIR if the acquirer does not remit 3% of the consideration to the Inland Revenue Board (IRB). This should have got candidates thinking because RPGT is payable by a disposer and therefore, it may be assumed that no payment is due from the acquirer to the IRB and their obligation is to make payment to the disposer. The requirement under the RPGT act to require the acquirer to retain and remit the 3% ensures that a portion of the consideration is remitted to the IRB and this amount can be applied to reduce the RPGT payable, if any, by the disposer. There are limited circumstances that the acquirer may not be required to deduct and remit the 3% retention sum to the IRB. Candidates should have come to the conclusion that this statement is incorrect.

Statement 2 states that the DGIR has the authority to raise an assessment when both acquirer and the disposer failed to submit returns in respect of the transaction. Under the RPGT act, both the acquirer and disposer complete the relevant RPGT forms stating they have acquired / disposed a property respectively. If the disposer had completed the form then the DGIR will assess and raise the assessment on the disposer. But in a situation where the disposer does not complete and report the transaction the other source of information for the DGIR would be when the acquirer completes the form and reports the transaction. This could arise in situations where the disposer attempts to evade paying his RPGT or the disposer is based overseas. Therefore, as long as the acquirer complies with his obligations to submit the return, he would not be assessed. However, if, as in the statement, both the acquirer and disposer fail to submit their returns – then the acquirer could be assessed. Therefore, this statement is correct.

Statement 3 refers to the situation that where two parties exchange their real properties, the acquirer can be issued with an assessment. Even in an exchange of real properties the disposal value of the asset disposed of would normally be the market value of the asset acquired in exchange and both parties are required to report the transaction. This statement is correct.

Statement 4 refers to case where the disposal is below market value. This could arise where the parties are unable to agree to agree on the market value or the DGIR disputes with market value and the disposer does not co-operate. The DGIR may raise an assessment on the acquirer to protect its revenue base. This statement was correct.

As statement 1 was incorrect and all the others were correct, the correct answer was C, statement 2, 3 and 4.

## **Section B**

### **Question One**

This 10-mark question covered agriculture and capital allowances.

Part (a) for 3 marks required candidates to identify the types of capital expenditure that qualify for agriculture allowance. Candidates' performance was not satisfactory on this question as many did not state the full details of

the types of capital expenditure which qualify. Candidates must state the full type of capital expenditure such as “construction on a farm of a road” or “construction of a building for living accommodation for employees working on the farm” to get the full mark. Note the importance of stating word “construction” or “planting of crops”. Stating merely “road or bridge”, for example, would not be sufficient for the marks.

Part (b) for 5 marks required candidates to determine the qualifying agriculture expenditure (QAE) and compute the agriculture allowance for two companies – both Choc Farm Sdn Bhd who constructed the estate office and then disposed of it and then Tawau Farm Sdn Bhd (Tawau), who acquired it. Most candidates computed the QAE and agriculture allowances for the relevant years of assessment correctly. However, there were some who time-apportioned the agriculture allowance in the first year (i.e. YA 2013). Other candidates did not correctly determine the QAE for Tawau and some even failed to compute the agriculture allowance. Candidates are reminded of the importance of reading the question set. Candidates must distinguish the tax treatment for agriculture allowance and normal capital allowance. The time- apportionment only applies in the year of disposal and another key difference is that the acquiring company will continue to claim agriculture allowance based on the disposer’s original QAE. Thus, the amount of RM88,000 paid by Tawau was not relevant in determining the QAE and computing the agriculture allowance. Candidates must also understand the tax treatment on the disposal of an asset subject to agriculture allowance and a normal asset subject to capital allowances.

Part (c) for 2 marks tested candidates in a scenario-context on who is entitled to claim capital allowances - the brother, Zaid, who incurs the expenditure to purchase the van or the sister, Sarimah, who uses the van for her business. This part was not well answered as many candidates assumed either that the person who uses the asset for the business is eligible to capital allowance or the person who incurs the expenditure can claim capital allowances. Candidates need to be aware that, in addition to the other relevant conditions, a person has to incur the expenditure and also use the asset in their business in order to claim capital allowance. A few candidates suggested that both parties could claim capital allowance since the sister is using the asset for her business and the brother incurred the expenditure to acquire it, which is not correct. Capital allowance is an important area of the syllabus.

### **Question Two**

This 10 mark question required candidates to compute the income tax payable for two individuals in a partnership, one a resident and the other a non-resident. The question also tested the divisible loss arising from a partnership and the current year adjusted loss arising from other business sources. This question was well answered and a majority of candidates showed that they knew the adjustments to compute the divisible loss and thus many performed well.

In a partnership computation which results in a divisible loss, candidates must distinguish between the treatment of a current year adjusted loss arising from other business sources and divisible losses arising from the partnership business. The former should be set off against aggregate income from all sources and the divisible loss must be deducted in arriving at the adjusted income partnership business. For the non-resident partner, there were some candidates who incorrectly claimed self-relief of RM9,000 but correctly subjected the chargeable income to the non-resident rate. Care must be exercised when transposing figures to the appropriate partners. There were some candidates who assessed the rental income on the wrong partner. However, there were some highly satisfactory answers to this question.

### **Question Three**

This 10-mark question was on RPGT.

Part (a) for 7 marks required a RPGT computation for a non-Malaysian citizen. This part was well answered by the majority of candidates.

The majority of candidates were aware of the appropriate adjustments against the disposal consideration and acquisition cost. However, there were some who incorrectly deducted the legal fees incurred in defending legal



title from the acquisition cost instead of deducting it from the disposal consideration. Candidates should refer to the latest updates and should realise that the exemption from chargeable gains under PU 486/ 2009 is not relevant any more. Candidates should focus on the conditions to claim exemption (under Schedule 4 of RPGT 1976 (as amended)) and understand that it is available to all individuals including non-citizens and permanent citizens and does not depend on the residence status of the individual.

Part (b) (i) for 2 marks required candidates to advise the non- Malaysian citizen of his RPGT obligations. Some candidates failed to answer this part of the requirement at all. The administrative aspects of all taxes including RPGT are an important part of the syllabus. Another problem was that some candidates' knowledge was not up-to-date. For example, some candidates were not aware that RPGT returns are required to be submitted within 60 days from the date of signing the sales and purchase agreement and instead indicated the old rule of 30 days. In addition, a sizeable number of candidates did not know that the acquirer has an obligation to retain and remit 3% of the consideration to the Inland Revenue Board. Therefore, in general, this part of the question was not well answered.

Part (b) (ii) for 1 mark tested candidates on whether is the non-Malaysian citizen was entitled to elect for the private residence exemption. Quite a few candidates were able to state that he was not entitled to the exemption although some failed to add that the reason for this was because he is not a citizen nor a permanent resident.

#### **Question Four**

This 10-mark question covered the new syllabus area of GST.

Part (a) for 3 marks required at least 3 items that must be included on a valid tax invoice for GST purposes. This question part was reasonably well answered. Candidates must take note that when answering such a question attention must be paid to the description given – for example, a valid response would be the GST identification of the supplier (here Mas Enterprise's) or the name of the customer. It is not enough just to state "name", without indicating whether this requirement relates to the supplier or customer.

Part (b) for 2 marks was on the time of supply rules and performance on this part of the question was mixed. Most candidates were able to correctly identify that the time of supply was 2 November 2015 based on the delivery date but did not indicate that the tax invoice was not within issued 21 days of the date the goods were delivered.

Part (c) for 4 marks was on the calculation of GST output tax. This question was generally well answered although some candidates failed to compute the output tax for the supply to the customers who were not GST registrants.

Part (d) was for 1 mark and most candidates were aware that the supplier can claim the input tax in the month the invoice is received and not when paid.

Overall, it was pleasing to note that candidates have understood the basic concepts of GST.

#### **Question Five**

This 15-mark question was based on a company which manufactured Malaysian branded hardwood products. This question required candidates to compute the income tax payable of the company (Emory Sdn Bhd).

This question was not answered particularly well. The question examined candidates' knowledge of the taxability of income and deductibility and non-deductibility of expenses and double deductions for certain expenses.

The question required candidates to start with the gross sales figures and, therefore, to bring into tax receipts/ income which are taxable such as income from the sale of scrap inventory but to include nil adjustments for

non-taxable items such as dividend income and unrealised foreign exchange gains. Candidates should be able to identify that export sales are taxable on the accruals basis (and therefore are taxable even where payment has not been settled by the customer).

Many candidates were able to demonstrate knowledge that non-deductible expense items such as depreciation and cash donations should not be deducted from the sales income in arriving at chargeable income and therefore, a “nil” adjustment would be required for such items. Where gross sales are shown, deductible expenses such as audit fees could be claimed and therefore, the amount should have been deducted in arriving at the chargeable income. A claim for expense which is entitled to double deduction such as insurance premiums for export of cargo, should be deducted from gross sales twice.

For future exams involving such claims for special single and double deductions, candidate must be aware whether the expense can still be claimed as a single or double deduction.

There will always be one question on company taxation under the new format.

#### **Question Six**

This 15-mark question on tested on various sources of income, employment benefits and expenses and reliefs and required the income tax computation for an individual, Karam.

Satisfactory answers to this question were presented by the majority of the candidates. There will always be one question on income tax for individuals under the new format.

Common mistakes encountered in this question were as follows:

- Entertainment allowances incorrectly shown as net of entertainment expenses incurred. Candidates should show the entertainment allowances in full under Section 13(1)(a) and then deduct the entertainment expenses from the gross employment income. This is important to compute the correct value of the living accommodation (which is based on 30% of the s13(1)(a) amount).
- Erroneously claiming relief for the employer’s EPF contributions of RM5,760 or claiming the maximum amount of RM6,000 without limiting to the actual amount contributed by the employee of RM5,280.
- Claiming the brought forward losses from business sources against all sources of income. Such losses can only be claimed against business source income under Section 4(a).