Examiner’s report
P6 (MYS) Advanced Taxation
December 2016

ACCA

General Comments

The examination consisted of two sections. Section A contained Q1 for 35 marks and Q2 for 25 marks, both questions being compulsory. Section B contained three questions of 20 marks each, from which candidates had to answer two questions.

The level of preparedness on the part of many candidates was disappointing in this session. It must be emphasised that there is no substitute for proper and comprehensive understanding of the entire syllabus. Candidates would do well if they build a strong foundation in tax principles and practise their skills by applying them to simulated inter-connected multi-faceted scenarios.

It is noted that certain question parts were not responded to by some candidates. Candidates are strongly urged to refrain from spotting topics for preparation: tax issues tend to be inter-connected, so it is not advisable to leave out some topics.

Candidates are once again urged to read the questions and the requirements carefully and refrain from writing down all they know about a topic, without thinking out whether these were relevant in the context of the given scenario/facts.

Specific Comments

Question One

This 35-mark question examines the typical issues of a potential investor: selection of the optimum investment incentive, the tax-efficient method of funding the investment, personal tax issues of key personnel, and GST issues.

Parts (i) and (ii) concern the comparative benefits and mechanism of the tax incentive measures of pioneer status and investment tax allowance. Many candidates earned no marks for writing about the eligibility and pre-requisites, when the emphasis should be more on how each incentive works and on the relative tax savings. Some candidates suggested applying for increased export and reinvestment allowance, which was not relevant in the scenario: this was a new business and there were no facts at all relating to increase in exports or reinvestment.

Part (iii) deals with the relative merits of debt or equity financing "bearing in mind the tax incentive... and the ability to pay financing cost during the initial years". Many candidates wrote generally about paying interest or dividend, but did not address the fact that an interest deduction may not be desirable during the tax relief period, and that the business would be profitable only in the third year.

Part (iv) pertains to the tax treatment of a non-resident individual coming to work in Malaysia for seven months straddled over two calendar years. It mainly calls for tax planning to minimise his overall Malaysian tax liability "based on his tax residence status". Many candidates correctly suggested that he extend slightly his stay in Malaysia in 2017 to qualify for tax residence for both 2016 and 2017, thereby qualifying for personal tax reliefs and the preferential scale rates. Yet many candidates wondered whether he was seconded and who paid his remuneration when the facts clearly stated he was "employed" by the Malaysian company. Some also suggested seeking exemption under double tax treaty when he was stated to be from the US, a non-treaty country (the limited Malaysia-US treaty only covers sea and air transport activities). This points to candidates not reading the facts carefully.

Parts (v) and (vi) relate to GST: the need for registration, the claim for inputs, and the applicability of GST output regarding four sets of trading transactions. Many candidates did not attempt these parts, indicating their non-preparedness. On the other hand, a number of candidates performed well here, obviously because they were duly prepared.

Question Two

This 25-mark question examines the issues arising from a group reorganisation: listed investment holding company (LIHC), tax implications of transfer of business and intra-group transfer of shares.

Part (a) relating to the LIHC was reasonably well attempted. Some candidates did not respond to this part, indicating they were not prepared for this topic.

Part (b) for 11 marks requires candidates to discuss the tax treatment of the transfer of business to a subsidiary, namely office equipment, customer database, inventories, trade receivables and provision for retirement benefits. This was well responded to, except for the provision for retirement benefits.

Part (c) basically tests the eligibility for relief from stamp duty. This was poorly attempted.

Question Three

This 20-mark question contains two parts, one dealing with lump sum receivable from employment while the other tested aspects of tax administration.

Part (a) for 10 marks relates to a lump sum payment upon cessation of employment income and requires tax planning. Most candidates performed well in this part.

Part (b) tests the validity of a tax appeal and the DGIR's responsibility. Many candidates did not appreciate the fact that the appeal was not duly supported with grounds and that specific timelines applied for DG's response to the appeal.

Question Four

This 20-mark question in three parts relates to an angel investor but it tests general tax principles as well. The performance regarding the treatment of the investment made by an angel investor was better than the performance on fundamental principles such as the treatment of business losses, and capital-versus-revenue arguments. This should not be.

Question Five

This 20-mark question tests real property gains tax (RPGT) issues in part (a), while part (b) deals with the taxpayer's responsibilities and a tax adviser's ethics.

Part (a) for 15 marks comprehensively tests the determination of real property company status, the computation of RPGT for a company, a legatee and a non-citizen. This part was reasonably well done although performance could have been better.

Part (b) for 5 marks tested the taxpayer's responsibility to keep sufficient and authentic records and the tax adviser's ethics. Some candidates robotically wrote that a taxpayer must keep records for seven years and file tax return by 30 June of the following calendar year. These aspects were not relevant in the context of the given scenario.