

# Examiner's report

## P6 Advanced Taxation (MYS)

### September 2017

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#### **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.

Most candidates attempted all four questions and there was little evidence of time pressure. Where parts of questions were left unanswered by candidates, this appeared to be due to insufficient knowledge or poor exam technique, as opposed to time pressure.

Candidates preparing for this paper must ensure that they have a comprehensive grasp of fundamental tax principles because this paper requires efficient application of said principles to practical scenarios/situations. In many cases, candidates have not demonstrated good knowledge or application of these fundamentals.

Candidates are again urged to read the requirements carefully and calmly, and tailor their answers to what has been asked, rather than writing everything they know about the topic being examined.

#### **Specific Comments**

##### **Question One**

This 35 mark question covered a range of topics, including group relief, the impact of related party transactions on income tax and GST, and stamp duty.

The information provided in the question on group relief confirmed eligibility for the relief and also identified the group entities that qualified for the relief. In part (a)(i) candidates were then tested on the procedural requirements and mechanism of group relief. The majority of candidates wrote at length about the eligibility conditions and neglected the actual requirements in this part. Valuable time was thus taken up, earning no marks.

The computations in part(a)(ii) to demonstrate how the group relief is calculated were generally well done. Not as well done was part (a)(iii) on the consequences of providing incorrect information in relation to a group relief claim.

In part (b), transfer pricing issues were generally well understood in the context of related party transactions, although some candidates did not realise that a discount which is also available to third parties would render it a non-issue.

The GST requirement in part (b)(ii) was satisfactorily responded to. Most candidates missed the mixed supplier aspect while some candidates did not comment on the adoption of market value where the supply is between connected persons.

With reference to part (c) on stamp duty on the transfer of shares, while the applicable rate was generally known, the eligibility for relief was less well understood.

## **Question Two**

Part (a) of this question dealt with the research and development (R&D) incentive and offered two options; Either carry out the R&D in-house with seconded personnel, or outsource to a university. The facts in the question indicated that only expenses were involved and no mention of capital expenditure was made. However, many candidates wrote everything they know about R&D incentives including pioneer status and investment tax allowance. Both of these topics were irrelevant as no capital expenditure was involved. Additionally, many candidates did not calculate the after-tax effect of each option.

Part (b) tested related-party financing, and required candidates to explain how and when interest income and interest expense would be taxable and deductible. Some candidates seemed unaware of the fact that there is specific tax treatment prescribed.

Part (c) tested the differences in the tax treatment of an employee and an independent consultant. This was generally well answered. It was noted that many candidates did not stipulate what should or should not be in the proposed service contract.

## **Question Three**

This 20 mark question tested real property gains tax (RPGT), withdrawal of stock, and the application of a private advance ruling.

The RPGT aspects tested in part (a) were conditional contracts (whether the contract described was a conditional contract and the significance of being one) and enhancement costs. Surprisingly, it appears that both topics are not well understood by candidates.

In part (b)(i), the scenario provided facts which candidates were expected to use selectively to argue the case for or against a 'withdrawal of stock'. This style of this question represents a useful practical skill: know the law, collate the facts of the case, then build a case "for" or "against". Some candidates did well in this.

Part(b)(ii) on private advance ruling was generally poorly answered. Candidates would do well to know this aspect as it is often encountered in professional practice.

## **Question Four**

This question comprised two parts. Part (a) dealt with trust income and trust beneficiaries. The computation of chargeable income of the trust was very well answered. However, when it came to the tax treatment of the beneficiaries, many candidates did not read the requirement carefully enough. Instead of discussing how each beneficiary is subject to tax in respect of the amounts received from the trust, they discussed the deductibility of the said payments from the perspective of the trust.

Part( b) tested the pre-operational business expenditure under Schedule 4A of the Income Tax Act, and the basis of recognising advance business receipts.

Apart from stating the general principle of pre-operating expenditure being non-deductible, many candidates were not aware of the specific deduction for such pre-operating expenditure overseas. Similarly, many candidates did not know of the specific treatment of business income received in advance and its subsequent refund.

### **Question Five**

Part (a) of his 20 mark question tested the tax treatment of a Labuan entity under the Labuan legislation and under the Income Tax Act. This was reasonably well answered.

Part (b) tested error and mistake relief and the right of appeal after a delay. While many candidates correctly said that the wrong casting of the income figure constituted an error, they did not know about the five year time limit for error and mistake relief. As for not claiming the tax incentive because of ignorance, some candidates went on to discuss the eligibility for the incentive and did not address the eligibility for error and mistake relief. Also, candidates tended to confuse the time lines under error and mistake relief with the statutory time bar for raising an assessment/additional assessment and irrelevantly made reference to the presence/absence of fraud and wilful default.

Applying for an extension of time to exercise the right of appeal appears to not be well-grasped by candidates. Understanding error and mistake relief and the pursuit of the right of appeal despite a delay is important to a tax consultant. Thus, candidates should be well-versed in these aspects.