Examiner’s report

P6 Advanced Taxation (MYS)
December 2012

ACCA

General Comments

The examination consisted of five compulsory questions. Section A contained question 1 for 30 marks and question 2 for 32 marks. Section B comprised three further questions of 19 marks each, of which two must be answered.

The vast majority of candidates attempted all four questions, and there was little evidence of time pressure. Where questions were left unanswered by candidates, this appeared to be due to a lack of knowledge, rather than time pressure.

Candidates performed reasonably well on Q1, Q4(b) and Q5, and particularly well on questions 2(a), 2(c), and 3. The questions candidates found most challenging were questions 2(b) and 2(d). This is mainly due to failure to read the question requirements carefully.

A number of common issues arose in candidate’s answers:

- Failing to read the question requirement carefully and therefore providing irrelevant answers which scored few, if any, marks.
- Incomplete understanding of the subject matter, e.g. the relative treatment of unlisted and listed investment holding companies, and the stamp duty relief.

Specific Comments

Question One

This 30-mark question was based on an investment holding company, Grand Sdn Bhd (Grand), and tested candidates’ knowledge of the special tax treatment of an investment holding company.

Part (i) for 11 marks required candidates to explain the tax treatment accorded to Grand as an unlisted investment holding company, supported by a tax computation of its chargeable income for the year of assessment 2012.

Most candidates performed adequately on this part of the question, identifying correctly the permitted expenses and the restriction to 5% of gross income. The main problem was that most candidates launched an explanation of the definition of investment holding company *per se*, which scored no marks. Many candidates also did not realise that although not eligible for capital allowances generally, Grand, in this case, did qualify for industrial building allowance as the building let for rent was used as an industrial building by its tenant. Another error was some candidates did not accord the group treatment to the three rental properties.

Part (ii), for 10 marks, tested the candidate’s knowledge of the tax treatment of a listed investment holding company as opposed to an unlisted investment holding company.

While most candidates managed part (ii) competently, some candidates did get mixed up over the respective treatment, attributing permitted expenses to listed investment holding company while ascribing common expenses to unlisted investment holding company. Many candidates also failed to point out the difference in the treatment of “secretarial fees” in the permitted expenses and in the common expenses. The allocation of common expenses and capital allowance proportionate to gross income was well understood.

Part (iii), for 5 marks related to transfer pricing. This was fairly well responded to.

The 4 professional marks were generally well taken up as most candidates presented the correct letter format, and explained with reference to accompanying appendices.

Question Two

This 32-mark question covered the transfer of properties within the AA group of companies, and required a holistic understanding of the interplay of provisions relating to income tax, real property gains tax (RPGT) and stamp duty.

Parts (a)(i) and (ii) for 5 marks required candidates to explain when and why the companies became real property companies (RPC) and when they ceased to be RPC. This was well done, with many candidates scoring full marks.

Part (b), for 16 marks, called for the income tax and RPGT implications of the transfer of the three properties by AA, BB, CC to Newco. A significant majority of candidates did not read the question requirement fully, and so did not consider the issue of controlled transfer of the warehouse which was an asset qualifying for industrial building allowance. Some candidates mistakenly concluded that income tax was not applicable because the transactions were treated under RPGT.

Many candidates responded adequately on the RPGT implications with respect to the disposers, but neglected to comment on the fact that Newco inevitably became an RPC. Instead, many commented irrelevantly that Newco would be subject to RPGT if it disposed of the properties in future.

More concerning was that some candidates commented that a transfer of properties between related companies was not subject to RPGT.

Part (c) for 3 marks required the computation of stamp duty for the acquisition of the three properties by Newco. However, a significant minority of candidates did erroneously lump up all three properties and levied stamp duty on the total amount instead of treating them separately.

Parts (d)(i) and (ii) respectively tested the relief available under RPGT and stamp duty. The 4 marks allocated to each sub-part were surprisingly under-subscribed. While many candidates knew about the RPGT relief related to corporate reorganisation to achieve greater efficiency, they failed to realise the fact (of Newco taking bank loans to settle the full consideration) to necessarily mean that the "75% consideration in shares" requirement was not satisfied. This demonstrated the importance of being able to apply knowledge to given situations.

The answers on stamp duty relief were not well presented, suggesting that many candidates did not sufficiently prepare for this area.

Question Three

This 19-mark question was based on WasteNot Sdn Bhd, which operated a recycling business in a few countries in this region. The question tested the tax incentive of regional distribution company (RDC).

Part (a) for 8 marks required candidates to determine whether and how WasteNot was eligible for approval as an RDC, while part (b), also for 8 marks, called for the computation of the chargeable income featuring the tax incentive.

Many candidates scored full or the majority of marks for both parts. Those who did not invariably did not fully understand the rationale for the partial exemption regarding drop shipment sales and local sales. This demonstrated that candidates must strive to understand the rationale underpinning tax provisions instead of learning by rote.

Part (c) for 3 marks required an explanation of the exempt income, exempt account, and exempt dividend. This was well responded to.

Question Four

This 19-mark question was based on the Yummy Wok chain of restaurants and its shareholders who received dividends.

Part (a), for 6 marks, tested the application of the capital versus revenue arguments with reference to legal expenses in three different situations.

Future candidates must take note that general principles relating to chargeability of receipts and deductibility of expenditure, are and will continue to be an important element of the syllabus and must be understood, and they would do well to understand and to be able to explain the basis rather than merely regurgitating stock phrases like "wholly and exclusively incurred in the production of gross income", etc.

Part (b) for 3 marks required the explanation of the mechanism of the imputation system and the transition to the single-tier system. Where candidates did not score well, this was mainly due to a failure to provide sufficient depth to their answers. The franking credits necessary for the proposed dividend distribution was not well worked out.

Part (c) for 10 marks required candidates to explain the relative tax circumstances of each of the three shareholders and how the franked dividend would be treated in their hands. This was not well responded to, due, in part, to the inability to visualise and appreciate the differences in the tax position of each shareholder.

Question Five

This 19-mark question was based on Mr AnakMalaysia, an individual who returned to live and work in Malaysia after a long absence.

Part (a) for 10 marks required a comparative analysis of the two employment packages, testing the impact and relative merits of benefits-in-kind, free share, and cash remuneration. This was well responded to, with most candidates correctly arriving at the conclusion that Package B was more beneficial even though it had a lower cash value.

Part (b) for 3 marks tested the scope of charge and the specific exemption of remittances from abroad. This was generally well done.

Part (c) for 6 marks required a discussion of tax treatment of the yields of the proposed investment plan. This was also generally well understood.

Conclusion

Generally, a good effort was made by most candidates.

It must be stressed that at this professional level, candidates must learn to apply tax principles to given scenarios and situations with cogent reasoning.