

Examiner's report

P6 Advanced Taxation (MYS)

June 2013



Introduction

Performance was generally good. Majority of candidates answered all parts of the requisite questions, which helped to build up the total marks.

General Paper Comments

The examination consisted of five questions, four of which must be attempted. Section A contained two compulsory questions: question 1 for 35 marks and question 2 for 25 marks. Section B comprised three further questions of 20 marks each, two of which must be attempted.

The vast majority of candidates attempted all four questions, and there was no evidence of time pressure. Where questions were left unanswered by candidates, this appeared to be due to a lack of knowledge or preparation rather than lack of time.

Candidates performed well on questions 2a, b, c, 4a, b, 5c, and d. Q3b appears to be the most challenging.

It is manifest that many candidates came to the examination reasonably well-prepared. In addition, there was a discernible improvement in the level of language and writing skills.

Some common issues arose in candidates' answers:

- Failing to read the question clearly and understanding the requirement, therefore providing extraneous/irrelevant answers i.e. writing down whatever the candidate knew about the subject matter, which did not score any marks.
- Lack of planning of the answers to the various parts of the question, leading to repetition of the contents
- To a lesser degree, illegible handwriting.

Specific Comments

Question One

This 35-mark question was based on a hospital operator, Medico Sdn Bhd (Medico), and tested candidates' knowledge of the deductibility of interest expense, transfer pricing issues and the comparative merits of the various modes of acquiring fixed assets for the business.

Part (a) for 7marks required candidates to advise on the tax deductibility of the interest expense on the RM10 million loan. Part (b) for 8 marks called for identifying transfer pricing issues, their implications and advice to Medico. Part (c) involved the tax treatment and relative merits of procuring the use of medical equipment by means of outright purchase, operating lease and finance lease.

Most candidates performed adequately, but only just, on this question. Instead of directly addressing the requirements, some candidates launched into general discussion of tax deductibility, interest restriction and the various methods of determining arm's length prices, all of which scored no marks.

Some candidates tended to use terms or phrases like "interest is subject to deduction", "income is restricted", "expense is exempted" which usage is evidently incorrect. Future candidates must take care that terms and phrases are correctly used i.e.

- Interest expense qualifies for deduction,
- part of the income is not subject to tax,



- expense is tax deductible,
- interest is restricted in deduction against the business source of income

Question Two

This 25-mark question involved the Pelaburan Group of companies testing the topics of reinvestment allowance and group relief .

Part (a) for 14 marks required candidates to explain how Subsidiary One satisfied the requisite conditions for reinvestment allowance (RA) and how the RA was computed and absorbed over two years.

Part (b) pertained to how the Pelaburan Group was or was not eligible for group relief, while part (c) called for the computation of group relief (surrendering and claimant amounts) based on the scenario.

Candidates' performance was good on this question.

Question Three

This 20-mark question presented a scenario where technical fees were paid to Miss Smart, a foreign expert, to advise and supervise the upgrading of kitchen equipment, and the work processes of NumberWan, a chain of restaurants.

Part (a) for 6 marks relating to the derivation rules for technical fees and the withholding mechanism for a non-resident recipient was satisfactorily responded to.

Part (b) for 5 marks required stating both the capital and revenue arguments for the nature of the payment of technical fees by NumberWan. Performance for this part was unsatisfactory.

Future candidates must take note that the ability to analyse and argue the pros and cons of a given payment or incoming is absolutely required at this advanced stage.

Part (c) for 9 marks required the analysis of the tax consequences of non-compliance or late compliance with withholding tax provisions. This part was poorly attempted, reflecting a lack of understanding on the subject matter.

Question Four

This 20-mark question consisted of two parts: part (a) for 13 marks relating to Labuan entities, and part (b) for 7 marks relating to tax treatment of lump sum receipts upon cessation of employment. Part (a) was knowledge-based but part (b) required analysis of the facts before making a recommendation.

Both parts were well performed.

One point to note however: many candidates alluded to the treatment of lump sums receivable due to ill health. This is indicative of candidates writing down everything they knew about the subject matter, even though it was completely irrelevant in the given scenario. Future candidates are urged to refrain from this practice as it gains them no marks, but takes up precious time.

Question Five

This 20-mark question tested candidates' knowledge of real property gains tax (RPGT) with respect to conditional contracts, the compliance requirements, and the computation of RPGT. Additionally, 8 marks went for the income tax treatment of income from the letting of the two blocks of buildings purchased.



Many candidates failed to identify the conditional contract and thus erred on the date of acquisition. The compliance requirement of retaining 2% was surprisingly not as well understood as expected, while the computation of RPGT was well-performed.

As regards the rental income, while many candidates correctly classified the income as investment and business income respectively, majority of candidates neglected the eligibility for industrial building allowance based on the usage of the buildings.