Answers

Note: ACCA does not require candidates to quote section numbers or other statutory or case references as part of their answers. Where such references are shown below they are given for information purposes only.

1

Tax Consultants
Firm's address

Mr Tao
Client address

15 June 2012

Dear Sir

Singapore tax implications on investment and subsequent divestment in properties in Singapore

I refer to your request for tax advice on the various Singapore tax implications relating to your investment and subsequent divestment in properties in Singapore. As requested, I am pleased to advise as follows:

(i) Corporate income tax implications

Basis of assessment in Singapore

Singapore adopts a modified territorial basis of taxation by which income accruing in or derived from Singapore or received in Singapore from outside Singapore is subject to tax. Such income is only non-taxable if it is specifically exempt under the relevant provisions in the Singapore law.

Singapore also follows a preceding year basis of taxation, which means that tax for any year of assessment ('YA', based on the calendar year) is assessed based on the income earned in the calendar year preceding that YA. However, businesses whose accounts are prepared up to a date other than 31 December are allowed to adopt the accounting year basis of taxation (instead of the calendar year basis) for both their trade and non-trade income.

Taxability of rental income and deductibility of expenses

The location of the source of rental income for immovable properties is usually dependent on the place where the immovable property is located. Hence, if a foreigner rents out his bungalow in Singapore, the rental income derived by him will be considered as Singapore-sourced since the immovable property is located in Singapore. Therefore, the rental income earned by the British Virgin Islands (BVI) company from properties in Singapore will be taxable in Singapore.

Rental income derived from immovable properties (regardless whether it is received in money or in money's worth or 'in kind') is taxable when it is due and payable to the property owner, even though the actual payments may be received at a later date. Rental income is generally chargeable to tax as non-trade income under s.10(1)(f) of the Singapore Income Tax Act ('SITA'). However, if the property owner is in the business of letting properties, the rental income derived could be assessed as a trade-source under s.10(1)(a) of the SITA.

The Inland Revenue Authority of Singapore ('IRAS') takes the view that the 'pure' letting of properties such as houses and flats, etc is not tantamount to carrying on a trade or business. As a result, the ordinary principles on which profits or gains are computed will not be applicable and the rental income will be assessable to tax under s.10(1)(f) of the SITA. Accordingly, any rental deficits (i.e. the excess of allowable expenses over rental income) will be disregarded and not allowed to be offset against any other income derived in that year or any other years, neither can the deficits be offset against rental income in any other years. Capital allowances claims are also not granted in respect of non-trade income. Such restrictions are lifted if the rental income is assessed to tax as a trade or business-source under s.10(1)(a) of the SITA.

In arriving at the net assessable income chargeable to tax in Singapore, property owners are allowed to claim a tax deduction for the revenue expenses incurred in the production of the rental income during the period of tenancy, unless the claim is specifically prohibited under s.15 of the SITA. Some common allowable expenses include repairs and maintenance, property tax, interest on loans/mortgages taken to purchase the rental property, fire insurance, costs of securing subsequent tenants, utilities, replacement of furnishings, etc.

The net rental income (after deducting any allowable expenses) derived by corporate real property owners (including non-Singapore tax residents) is taxed at the prevailing corporate tax rate of 17%, after taking into account partial tax exemption of up to $300,000 – 75% of the first $10,000 and 50% of the next $290,000 (i.e. the maximum partial tax exemption claimable is $152,500). There are no conditions to be satisfied before this partial tax exemption is granted. The only companies which are not entitled to this partial tax exemption are those enjoying special tax incentives which entitle them to pay tax at a rate lower than the prevailing rate of 17%.

Compliance requirements on rental income

Under s.62(4) of the SITA, every person (including a company) chargeable to tax for any YA who has not been required within three months after the commencement of such YA to make a return of income for that year shall, within 14 days after the end of that period, give notice to the IRAS that he is so chargeable.

Assuming the BVI company starts deriving rental income from Singapore in the year 2011 and has not been notified by the IRAS by 31 March 2012 to file any tax return (Form C) for the YA 2012, the company is obliged to inform the IRAS of its chargeability to tax by 14 April 2012.

The BVI company is also required to furnish an estimate of its Singapore chargeable income (i.e. the net rental income) to the IRAS within three months after the end of the accounting period relating to that YA.

In addition, the BVI company must file a complete set of returns comprising the Form C, certified statement of accounts of its income and expenses derived from its income-generating (i.e. rental) activity and a tax computation to the IRAS by 30 November of each year. The IRAS will assess the tax liability based on these documents submitted and issue a notice of assessment (i.e. the income tax bill) to the BVI company. Payment of the tax assessed must be settled within one month from the date of the notice of assessment, notwithstanding any objection.

Existing tax concessionary treatments on rental income

We have listed below some of the Singapore tax concessions (no applications required) which could be available to the BVI company on its rental activity.

– **Continuing source concession**
  Strictly speaking, expenses that are incurred during the period when the rental property is left vacant are not deductible for tax purposes.

  In practice, the IRAS allows a continuing source concession, such that the above-mentioned expenses incurred (except for property tax relating to a vacancy period of more than one month as it is eligible for refund) would be tax-deductible so long as a subsequent tenant is obtained, which may be later in the same year or after the year end. However, this concession will not apply in a situation when a subsequent tenant is not found and the property is sold after the vacancy period.

– **Subsequent tenancy and property concession**
  Under the SITA, expenses incurred to acquire a source of income are generally regarded as capital in nature and disallowable for tax purposes.

  In the case of rental income, each tenancy is treated as a separate source of income and, hence, expenses incurred to secure a tenant each time (e.g. agent commission, advertising expenses, etc) are not deductible because they are incurred to acquire a source of income. However, in practice, the IRAS allows deduction for such expenses if they are incurred for a subsequent tenancy. This is notwithstanding that the tenancy may relate to a subsequent new property.

– **Block basis concession**
  As mentioned, under a strict interpretation of s.10(1)(f) of the SITA, each tenancy is treated as a separate source of rental income. Consequently, any rental deficits arising from one property are not allowed to be offset against the net rental income of another property. However, under the block basis concession, the IRAS allows the 'consolidation' of all rental-income-producing properties to arrive at the total net rental income chargeable to tax.

  The block basis concession does not include owner-occupied properties or properties that have been occupied on the owner's behalf rent-free. Further, any total net rental deficits after applying the block basis concession are not allowed to be offset against other sources of income in the current year, neither can they be offset against the rental/chargeable income of any other year(s).

Taxability of potential gains on the sale of real property

There is no capital gains tax regime in Singapore, thus only trading gains are subject to tax in Singapore, capital gains are not taxable.

The taxability of any gains on the sales of properties depends on whether the properties constitute the trading stocks or investment properties of the seller. If the seller is carrying on a trade of buying and selling properties and the properties form part of his trading stocks, the gains would be taxable.

Trading requires an intention to trade. As such, the IRAS will usually examine the existence of the badges of trade to ascertain whether there is the intention to trade. The badges of trade are:

– subject matter of realisation;
– length of ownership period;
– frequency or number of similar transactions by the same person;
– supplementary work on or in connection with the property realised;
– circumstances responsible for realisation; and
– motive.

Based on experience, some of the factors which may indicate the taxpayer's intention to trade in properties include:

– lack of financial ability to hold the property as a long-term investment;
– lack of a feasible plan for the use of the property;
– weak grounds for the sale of the property;
– previous sales of properties by the taxpayer;
– failure to reinvest proceeds from sale;
– short period of ownership; and
– stated intention is inconsistent with the actions or the accounting treatment adopted, etc.

In this case, if the BVI company holds the private residential property for the long term to derive a steady stream of rental income and the company does not have any historical record of trading in real properties in Singapore, there will be a better chance of claiming that the gain on disposal of the private residential property is capital in nature. The position taken can be further strengthened if there are also good commercial reason(s) why the property is disposed of. Examples would include an urgent need of cash by the BVI company, the availability of other long-term investment opportunities with better returns, etc.

If you intend to own additional real properties in Singapore, you can consider setting up a separate individual company to own each property. By doing so, each company is entitled to claim partial tax exemption and this may also mitigate the possibility of treating the gain on a disposal of property as revenue in nature by the IRAS, as compared to a situation when a single company owns several properties and subsequently disposes of them, even though at different dates. However, doing this may compromise the group's tax position as the block basis concession will not be enjoyed by a 'single-property' company.

Withholding tax

The proceeds from sales of real property in Singapore by a non-resident property trader are subject to Singapore withholding tax of 15% on the gross proceeds. In reality, the purchaser of the property or his/her solicitor would usually, as a precautionary measure, withhold tax from the proceeds due to a non-resident seller, even though the latter may not be a property trader.

The seller of property, in this case, should put forward a submission to the IRAS substantiating that the gain is capital in nature. The IRAS will refund the tax withheld to the seller if it agrees with the seller's basis of claim. In the event that the IRAS disagrees with the stance taken by the seller and the seller does not wish to lodge any objection, the seller may attempt to file a tax return to claim a tax deduction for any allowable expenses incurred in deriving the gain on disposal of the real property and to reduce his/her Singapore tax liability in this respect. The income (gain) net of tax deductible expenses, and after deducting partial tax exemption, would be subject to tax at the rate of 17%.

(ii) Other tax implications

Singapore personal tax exposure

Since the private residential property is to be owned by the BVI company, you and your wife will not be exposed to any Singapore personal taxation on the rental income and/or the gains on the disposal of the properties, if applicable, as such income is assessable only in the name of the company. There is also no further Singapore tax payable, either when dividends are paid by the company to the trust (as shareholder), or when you and your wife (as beneficiaries) receive any income or proceeds from any distributions made by the trust.

Stamp duty

When the BVI company buys the private residential property, it will be required to pay stamp duty at the rate of 3% less $5,400 (assuming the property value is more than $360,000) within 14 days of the date of the contract/agreement.

If the same property is sold within four years of acquisition, the BVI company will be required to pay seller's stamp duty ranging from 4% to 16%, depending on the value of the property.

Property tax

While the BVI company is required to pay income tax on the rental income, the private residential property is also subject to property tax at the prevailing rate of 10% on the annual value of the property if non-owner-occupied.

As the buyer, the BVI company should ensure that the seller has settled all his/her outstanding property tax liabilities in respect of the property being transferred before the purchase.

Property tax is payable yearly, in advance, by 31 January of each year by the person who has the legal or beneficial interest in the property. At the end of each year, the IRAS will send the property tax bill for the following year to the owner of the property.

You should note that when the BVI company rents out the private residential property or changes the rental charged, it is required to notify the IRAS within 15 days after the rental/change in rental charged. The notification can be done electronically. Failure to do so may result in a non-compliance fine of up to $5,000 and interest on the tax outstanding at such rate as may be prescribed (if any).

Goods and services tax (GST)

The sale and lease of residential properties is exempt from GST in Singapore. Hence, the BVI company should not be liable to pay GST when you buy the residential property nor be required to charge its Singapore tenants GST on the rental.

On the other hand, if you purchase a non-residential (e.g. commercial or industrial) property, then GST will be payable at the prevailing rate (currently at 7%). This GST suffered can only be reclaimed if you are registered for GST in Singapore. Similarly, the rental of non-residential properties is subject to GST. If the rental income exceeds the GST registration threshold (currently $1 million), then the BVI company will be required to register for GST in Singapore and to collect GST at the prevailing rate on the rental charged to its tenants and account for it to the Comptroller of GST.

Should there be any questions or further advice you require, please contact me.

Yours sincerely

Tax Advisor

2 Acetech Holdings Pte Ltd (AHPL)

(a) Utilisation of Cystech Pte Ltd (CPL)'s prior years' unabsorbed capital allowances in the year of assessment 2012

The $120,000 unabsorbed capital allowances for the year of assessment (YA) 2009 will already have been partly utilised against CPL's adjusted trade income of YA 2010 and YA 2011. Therefore, a remaining unutilised balance of $105,000 ($120,000 – ($5,000 + $10,000)) is available to be set off against CPL's adjusted trade income before capital allowances of $80,000 for YA 2012, provided that there has been no change in trade and no substantial change in the ultimate shareholders and their shareholdings on the two relevant dates of 31 December 2009 and 1 January 2012.

Abraham Tan is the only common shareholder on these two relevant dates with an effective shareholding of 70% and, hence, there is no substantial change in the shareholdings. Also, there is no indication that the company has made any change in its trade. Therefore, CPL can utilise the balance of the $105,000 unabsorbed capital allowances for the year of assessment 2009 to set off its adjusted trade income before claiming capital allowances of $80,000 for the year of assessment 2012. It cannot, however, set off this balance against any of the statutory income for the other group members.

(b) Utilisation of Beestech Pte Ltd (BPL)'s current year adjusted trade loss

Potentially, AHPL, CPL and Distech Pte Ltd (DPL) can all benefit from inheriting the current year of assessment 2012 adjusted trade loss of BPL to set off their respective adjusted trade profit for the same year of assessment, YA 2012, as they are all incorporated in Singapore and have the same year end. Eastech Pte Ltd (EPL) is not incorporated in Singapore and therefore cannot avail itself of the group relief provisions.

AHPL owns 100% of BPL and so passes the minimum 75% threshold. Therefore, AHPL can utilise BPL's current year trade loss.

BPL and CPL are not directly related. BPL is 100% owned by AHPL but CPL is only 60% owned by AHPL, a common parent. CPL therefore cannot utilise BPL's current year trade loss as it does not meet the minimum 75% threshold.

Similarly, BPL and DPL are not directly related. BPL is 100% owned by AHPL but DPL is only effectively 72% (i.e. 100% x 30% + 60% x 70%) owned by AHPL, a common parent. Therefore, DPL also cannot utilise BPL's current year trade loss as it does not meet the minimum 75% threshold.

(c) Charging of fees by AHPL for the provision of management services to its subsidiaries

As AHPL is providing services to all its subsidiaries, it has to charge management fees at an arm's length basis.

For the fees to be acceptable to the Inland Revenue Authority of Singapore (IRAS), they must be commercially realistic and reflect the commercial value of the services provided. If this is not the case, it can result in the denial of a tax deduction for the Singapore entities paying the management fees. In addition, the basis applied to allocating and charging the expenses to the Singapore and overseas subsidiaries should be consistently applied to all of AHPL's entities, unless variances may be justified to the IRAS's satisfaction. The IRAS could otherwise view it as a profit siphoning or transfer pricing mechanism.

The allocation of management expenses by way of a management fee or charge should generally adhere to the following rules:

- all direct expenses applicable to each entity must be charged to that entity; and
- all indirect common expenses should be allocated, adopting a practical and fair allocation, and be charged by way of a management fee to the relevant territory.

As a guide, all costs directly incurred on behalf of related companies should be paid directly by the relevant entities and should not form part of the central costs to be allocated. Such direct costs would generally be deductible to the relevant entities if they are incurred in respect of the entity's business operations.

Apart from direct costs, costs such as those incurred on behalf of shareholders (i.e. one that the headquarter company usually performs solely because of its ownership interest), costs to acquire or develop new businesses, and costs incurred to develop intangibles, if any, should be excluded.

The remaining costs would then constitute headquarter costs, which are presumably incurred for the benefit of all the related companies, for which an appropriate management charge should be determined and allocated based on an acceptable basis. To be acceptable by the IRAS, the management charge should be based on a commercially appropriate basis of allocation. The basis adopted should be reasonable and equitable, justifiable and consistently applied over time and across territorial boundaries to avoid any inferences of profit shifting and tax avoidance, unless circumstances have changed significantly, such that the allocation basis which had previously been adopted is no longer relevant.

The more commonly used allocation bases would include 'Turnover', 'Time Incurred', 'Volume of Transactions', 'Rate of Utilisation', 'Floor Area' or 'Headcount'. These bases are not necessarily exhaustive and their acceptability by other tax jurisdictions would largely depend on the tax practices of these countries; the general acceptability of such bases internationally; the appropriateness of the bases adopted in relation to the services provided; and the verifiability of such bases where necessary by a third party, e.g. an external auditor.

Based on the transfer pricing guidelines issued by IRAS, AHPL can use a minimum 5% mark-up as the basis to charge its subsidiaries, provided the services it provides fall within the approved list of routine support services. Out of the services rendered by AHPL, only the specialised purchasing functions fall outside the approved routine support services for which a minimum 5% mark-up may be acceptable without a transfer pricing analysis. AHPL would have to conduct a transfer pricing analysis to determine the appropriate fees to be charged for providing this higher level of services.

Due to the non-deductibility and withholding tax of 10% faced by EPL, AHPL may decide not to charge EPL management fees since it cannot benefit from the deduction and, more importantly, to avoid the withholding tax in China. However, this may not be acceptable to the IRAS, who may insist on deeming management fees to be derived by AHPL from the rendering of the management services to EPL.

(d) Charging of interest by AHPL for the extension of loans to its subsidiaries

As AHPL is extending loans to all its subsidiaries, it has to charge interest to them at an arm's length basis.

However, based on the transfer pricing guidelines by IRAS, AHPL is allowed not to charge interest or alternatively charge interest below the market rate for domestic loans extended to local entities. There are no adverse tax consequences since AHPL did not use external loans to fund these loans and, hence, will not face any restriction on claims for interest deduction.

However, from 1 January 2011, for related party loans that are also cross-border loans, the interest rate charged must reflect arm's length conditions. Thus, in relation to any loans to EPL, AHPL should ensure compliance with the arm's length principle.

To determine the arm's length interest rate, factors to consider include:

- the nature and purpose of the loan,
- market conditions at the time the loan was granted,
- the principal amount,
- tenure and terms of the loan, etc.

Despite the China withholding tax, AHPL has no choice but to charge a market interest rate on the cross border loans to EPL, as failure to do so is likely to result in the IRAS deeming the interest income to have been derived by AHPL, notwithstanding that no payment is made by EPL. Therefore, rather than suffer the interest income to be taxed on a deemed basis, AHPL should charge interest, as EPL will then be able to claim a tax deduction in China. Moreover, the tax deduction value is higher in China due to its higher corporate tax rate of 25%. Further, the 10% withholding tax suffered on the interest payment to AHPL should not be a concern as this can be claimed as a credit against the tax payable on the interest in Singapore when it is remitted.

3 Mustapha Mahmud

(a) Acquisition of EE Pte Ltd's (EEPL) business (Option A)

The following tax consequences would ensue if Mustapha takes over the business and business assets of EEPL:

Equipment and other fixed assets

Equipment and other fixed assets (both moveable and immovable) would ordinarily have to be transferred at market value.

The transfer is between two unrelated parties, so the option to transfer the assets at written down value using a s.24 election is not available. The buyer can claim capital allowance on the assets taken over based on a value which represents the consideration.

Accounts receivable

Accounts receivable can be transferred to the transferee without any tax consequences. However, it is important to review the collectibility of the debts before they are transferred. All known doubtful or bad trade debts should be provided for or written off in the books of the transferor prior to their transfer. A doubtful debt provision or any bad debts written off after the transfer would not be tax-deductible for the transferee.

Inventory

Where inventory is sold or transferred for valuable consideration in connection with the discontinuance of a business to a transferee who is carrying on a trade or business in Singapore, the cost of which will be deductible as an expense of his business, the inventory may be transferred at book value. This will avoid crystallising any profits for the transferor. In all other cases, the transfer would be deemed to be effected at the open market value.

Stamp duty

Stamp duty only applies to transfers of immovable properties and of shares executed in Singapore.

Stamp duty is payable on any transfer, assignment and conveyance on sale of any property by instruments executed in Singapore, unless specifically exempted under the provisions of the Stamp Duties Act. Stamp duty is payable by the purchaser based on the higher of the purchase consideration or the market value of the real property. The rates at which the duty is payable are as follows:

On the first $180,000	1%
On the next $180,000	2%
Balance thereafter	3%

Goods and services tax (GST)

GST is currently imposed at the standard rate of 7% on the supply of goods and services made in Singapore by a GST-registered person. The transfer of assets would ordinarily give rise to a disposal of assets and the transferor (if GST-registered) would need to account for the 7% GST based on the market value of the assets transferred, unless the transfer qualifies as a transfer of a going concern between two GST-registered persons.

The transfer of a business (or part of a business that is capable of separate independent operation) as a going concern between two GST-taxable persons is treated as neither a supply of goods nor a supply of services for GST purposes, i.e. the transfer would be an out-of-scope supply for GST purposes and so GST will not be chargeable on such a transaction. However, this treatment applies only if both the transferor and the transferee are GST-taxable persons and the assets are to be used by the transferee in an existing or new business of the same kind as that carried on by the transferor.

Unabsorbed capital allowances

The transfer of the business to Mustapha will result in the forfeiture of the unabsorbed capital allowances as these cannot be transferred to the new entity/owner.

(b) Mergers and acquisitions (M&A) scheme

The M&A scheme applies only to share deals and not asset deals, so cannot be applicable in the case of Option A.

To take advantage of the M&A scheme, the acquiring company must meet the following qualifying conditions:

- The acquiring company and its ultimate holding company (if any) must be incorporated and tax resident in Singapore.
- It must carry on a trade or business on the acquisition date.
- It must have at least three local employees (excluding company directors) throughout the period of 12 months preceding the acquisition date.
- It must not be connected to the target company for at least two years prior to the acquisition date.

These conditions would rule out an acquisition by Mustapha in a personal capacity as well as through one of Mustapha's companies in India. Acquiring through a newly incorporated Singapore company remains the only viable option but all the above conditions must be satisfied. In particular, the company must wait for another 12 months before it can meet the third condition of at least three local employees.

In addition, a qualifying acquisition must be a share acquisition that results in the acquiring company or its acquiring subsidiary:

- owning more than 50% of the ordinary shares in the target company (where 50% or less of the ordinary shares in the target company was owned before the acquisition date); or
- owning at least 75% of the ordinary shares in the target company (where more than 50% but less than 75% of the ordinary shares in the target company was owned before the acquisition date).

Hence, acquiring 70% of EEPL shares from Mr Edwards would be sufficient to qualify for the M&A scheme.

Under the M&A scheme, an M&A allowance (based on 5% of the cash consideration paid for the acquisition and/or the value of any shares issued as consideration) is granted to the acquiring company which acquires ordinary shares in the target company directly or through a wholly-owned acquiring subsidiary. The allowance is capped at $5 million for acquisitions made in each year of assessment and is claimed over five years on a straight-line basis.

In addition to the M&A allowance, there is also stamp duty relief available to an acquiring company under the scheme but this is capped at $200,000 per financial year.

4 Prothink Pte Ltd (PPL)

(a) Double taxation relief by either tax exemption or foreign tax credit

1. The dividend from Country A does not qualify for full exemption as although the 'subject to tax' condition is met, the 'headline tax rate' condition is not met as Country A's corporate tax rate (12%) is below 15%. As there is a tax treaty, double taxation relief can be claimed instead.
2. The dividend from Country B does qualify for full exemption as both the 'headline tax' and 'subject to tax' conditions are met. The headline tax rate is determined by the highest corporate tax rate, which for Country B is 20%, i.e. above 15%.
3. The interest income from Country C is not covered by the foreign income tax exemption regime. As there is no tax treaty, double taxation relief is not applicable. Instead, unilateral tax relief may be claimed, as this now (from year of assessment 2009) extends to all income, including interest income.
4. The consultancy fees from Country D were not derived from a permanent establishment in Country D. Hence, although a 10% withholding tax was suffered, there is no relief in the form of full tax exemption since there is no fixed place of business. Due to the absence of both a tax treaty and also a permanent establishment, foreign tax credit is also not applicable. The IRAS is likely to regard the service income to be sourced in Singapore and consequently no relief from double taxation is available.

(b) **Tax liability for the year of assessment 2012 (assuming no FTC pooling)**

YA 2012 tax computation

	$	$
Adjusted trading profit		100,000
Add service income from Country D treated as Singapore source		100,000
		200,000
Add:		
Dividend from Country A ($200,000 less $10,000)	190,000	
Dividend from Country B (exempted)	0	
Interest from Country C ($20,000 less $4,000)	16,000	
		206,000
		406,000
Less: partial tax exemption		(152,500)
Chargeable income		253,500
Tax at 17%		43,095
Less Foreign tax credits		
Dividend from Country A (Lower of 200,000 at 12% or 190,000/406,000 x 43,095)		(20,168)
Interest from Country C (Lower of 20,000 at 15% or 16,000/406,000 x 43,095)		(1,698)
Net tax payable		21,229

(c) **Foreign tax credit (FTC) pooling system**

(i) The FTC pooling system (effective from the year of assessment 2012) can only be used if the following conditions are satisfied:

- Foreign income tax is paid on the income in the foreign country from which the income is derived;
- The highest corporate tax rate (headline tax rate) of the foreign country from which the income is derived is at least 15% at the time the foreign income is received in Singapore; and
- The company is entitled to claim for FTC under the Income Tax Act and there is Singapore tax payable on the income.

Based on the above conditions, PPL is only able to avail itself of the FTC pooling system for the dividend income from Country B and the interest income from Country C. The dividend income from Country A fails the headline tax rate condition, whereas the service income from Country D is not entitled to claim FTC.

(ii) The dividend income from Country B qualifies for full exemption and claiming this exemption will be more tax efficient than subjecting the dividend income from Country B and interest income from Country C to FTC pooling.

Pooling these two incomes would increase chargeable income by the $30,000 dividend income from Country B and result in additional tax of $5,100 ($30,000 x 17%).

But the proportionate increase in foreign tax credit would only be $4,221 as follows:

Revised total foreign tax credit:

	$
($236,000/436,000 x 48,195 ($43,095 + $5,100)	26,087
Less foreign tax credit as per (b) above ($20,168 + $1,698)	21,866
	4,221

Hence, the FTC pooling system is not useful for PPL.

5 **Blue Brothers Properties Pte Ltd (BBPPL)**

(a) **Impact of goods and services tax (GST)**

Analysis of taxable supplies:

	$
Value of taxable standard-rated supplies	4,160,000
Value of taxable zero-rated supplies	600,000
Value of exempt supplies	240,000
Total supplies	5,000,000

Value of average exempt supplies per month: $240,000/3 = $80,000 per month

Percentage of exempt supplies to total supplies: $240,000/5,000,000 x 100% = 4·8%

The value of exempt supplies does not exceed 5% of the total value of supplies, but does exceed an average of $40,000 per month; as both conditions have to be satisfied, the *de minimis* rule is not met.

Consequently, the input tax claimable for the quarter is calculated as follows:

	$
Input tax directly attributable to taxable supplies (50% of $200,000)	100,000
Residual input tax attributable to taxable supplies (95·2% of $40,000)	38,080
Total input tax claimable for the quarter	138,080

(b) Button Neeson's tax liability for the year of assessment 2012

As Button only started work in Singapore in January 2011, he qualifies to be treated as 'Not Ordinarily Resident' (NOR) since he is tax resident for the year of assessment 2012, but was non-resident for the prior three years of assessment.

As Button qualifies for NOR status, he is eligible for the benefit of the time apportionment basis in respect of his employment income since he also satisfies the following two additional conditions:

- he spent more than 90 days in Singapore in the year 2011; and
- his salary is more than $160,000 in the year 2011.

Tax computation

	$	
Salary ($20,000 x 12)	240,000	
Contractual bonus ($20,000 x 2)	40,000	
Sign-on bonus (taxable as it is for future employment)	100,000	
Air tickets for wife (private, taxable in full)	15,000	
	395,000	
Taxable employment income (185/365 x $395,000)	200,206	
Less Personal reliefs		
Earned income	1,000	
Chargeable income	199,206	
Tax on first $160,000	13,950	
Tax on balance $39,206 at 17%	6,665	
Tax payable	20,615	A
10% of employment income	39,500	B
Final tax (higher of A or B)	$39,500	

	Available	*Maximum*
1 Mr Tao		
(i) Corporate income tax implications for BVI Company		
Basis of assessment in Singapore	2·0	
Source of income for rental of immovable properties	1·0	
Taxable as s.10(1)(f) income	3·0	
Deductible expenses under s.10(1)(f)	2·0	
Partial tax exemption and tax rate	2·0	
Compliance requirements	4·0	
Existing tax concessionary treatments	4·5	
Gains on sale only taxable if from trading	0·5	
Determination of trading/badges of trade	3·0	
Application to Mr Tao/recommendations	2·0	
Withholding tax implications	2·0	
	26·0	24·0
(ii) Other tax implications		
Individual tax and taxation of trust	3·0	
Stamp duty implications	2·0	
Property tax implications	4·0	
GST implications: residential property	1·0	
non-residential property	2·0	
	12·0	10·0
Appropriate format and presentation of letter	1·0	
Effectiveness of communication	1·0	
Structure including relevant headings	1·0	
Logical flow	1·0	
		4·0
		38·0

		Available	Maximum
2	**Acetech Holding Pte Ltd (AHPL) and its subsidiaries**		
(a)	**Utilisation of Cystech Pte Ltd (CPL)'s prior years' unabsorbed capital allowances**		
	Unabsorbed capital allowances available in YA2012	0·5	
	Conditions to utilise prior years' unabsorbed capital allowance, including dates	1·0	
	Application and correct conclusion	1·5	
	Cannot be utilised to set off other entity's income	1·0	
			4·0
(b)	**Utilisation of Beestech Pte Ltd (BPL)'s current year adjusted trade loss**		
	Discussion of the Singapore incorporation and same year end conditions	2·0	
	AHPL passes the 75% threshold test	1·0	
	CPL fails the 75% threshold test	1·5	
	DPL fails the 75% threshold test	1·5	
			6·0
(c)	**Charging of fees for the provision of management services to all its subsidiaries**		
	Need to charge management fees at arm's length	1·0	
	Basis of charge must be reasonable and reflect value of services	1·5	
	Need to be consistent in method used to charge all entities	1·0	
	Discussion of bases for allocation of direct and indirect expenses	2·5	
	Acceptability of 5% for routine support services but not specialised purchasing	2·0	
	IRAS may deem management fees if no fees are charged to certain entities	1·0	
			9·0
(d)	**Charging of fees for the extension of loans to all its subsidiaries**		
	Need to charge interest for loans extended to related parties at arm's length	1·0	
	Acceptability of interest-free loans for domestic loans with no adverse tax consequences	1·0	
	Need to charge arm's length interest for cross border loans from 1 January 2011	1·0	
	Guidance on how to determine the arm's length interest rate	1·0	
	IRAS may deem interest income for interest-free cross border loans	1·0	
	Better to charge interest so that payer can claim deduction	1·0	
	Foreign tax suffered on interest is creditable against Singapore tax payable	1·0	
			7·0
			26·0

		Available	Maximum
3	**Mustapha Mahmud**		
(a)	**If Option A adopted**		
	Equipment and fixed assets	1·0	
	Unabsorbed capital allowances cannot be transferred	1·0	
	Accounts receivable	1·0	
	Inventory	1·0	
	Stamp duty	1·5	
	GST	2·5	
			8·0
(b)	**Mergers and acquisition scheme**		
	Only applies to share deals not asset deals	0·5	
	Qualifying conditions for M&A scheme	4·0	
	Application to Mustafa	1·0	
	Qualifying share acquisition conditions	2·0	
	Application to Mustapha qualifies	0·5	
	Benefits of scheme	2·0	
			10·0
			18·0

	Available	Maximum
4 Prothink Pte Ltd (PPL)		
(a) Relief from double taxation by claiming for either tax exemption or foreign tax credit		
Dividend income from Country A qualifies for FTC	1·0	
Dividend income from Country B qualifies for tax exemption	1·0	
Interest income from Country C qualifies for FTC	1·0	
Service income from Country D is local source income, so no relief.	2·0	
		5·0
(b) Tax liability for the year of assessment 2012		
Service income from Country D treated as local source income	1·0	
Gross dividend from Country A, net of expenses, taxable	1·0	
Dividend from Country B, fully exempt	0·5	
Gross interest from Country C, net of expenses, taxable	1·0	
Chargeable income after partial tax exemption	1·0	
Tax at 17%	0·5	
FTC for dividend from Country A	1·0	
FTC for interest from Country C	1·0	
		7·0
(c) Entitlement to the foreign tax credit (FTC) pooling system		
(i) Conditions to qualify	2·0	
Only qualify for dividend income from Country B and interest from Country C	1·0	
		3·0
(ii) Better to use full exemption for dividend income from Country B	1·0	
Supporting calculations	2·0	
		3·0
		18·0

	Available	Maximum
5 Blue Brothers Properties Pte Ltd (BBPPL)		
(a) Impact of goods and services tax (GST)		
Value of the three types of supplies	3·0	
Application of the *de minimis* rule and conclusions	3·0	
Total input tax claimable	2·0	
		8·0
(b) Button's tax liability for the year of assessment 2012		
Conditions to claim NOR status	4·0	
Taxable employment income	3·0	
Apportionment of employment income	1·0	
Chargeable income after personal reliefs	0·5	
Tax at normal rates	0·5	
Final tax payable subject to minimum tax based on 10% of employment income	1·0	
		10·0
		18·0