Strategic Professional – Options

Advanced Taxation – Malaysia (ATX – MYS)

March/June 2019 – Sample Questions

ATX MYS ACCA

ATX – MYS

Time allowed: 3 hours 15 minutes

This question paper is divided into two sections:

Section A – BOTH questions are compulsory and MUST be attempted

Section B – BOTH questions are compulsory and MUST be attempted

Tax rates and allowances are on pages 2–4

Do NOT open this question paper until instructed by the supervisor.

This question paper must not be removed from the examination hall.

Think Ahead ACCA

The Association of Chartered Certified Accountants

SUPPLEMENTARY INSTRUCTIONS

1. You should assume that the tax rates and allowances shown below will continue to apply for the foreseeable future.
2. Calculations and workings should be made to the nearest RM.
3. All apportionments should be made to the nearest whole month.
4. All workings should be shown.

TAX RATES AND ALLOWANCES

The following tax rates, allowances and values are to be used in answering the questions.

Income tax rates

Resident individual
Chargeable income

	RM	RM	Rate %	Cumulative tax RM
First	5,000	(0–5,000)	0	0
Next	15,000	(5,001–20,000)	1	150
Next	15,000	(20,001–35,000)	3	600
Next	15,000	(35,001–50,000)	8	1,800
Next	20,000	(50,001–70,000)	14	4,600
Next	30,000	(70,001–100,000)	21	10,900
Next	150,000	(100,001–250,000)	24	46,900
Next	150,000	(250,001–400,000)	24.5	83,650
Next	200,000	(400,001–600,000)	25	133,650
Next	400,000	(600,001–1,000,000)	26	237,650
Exceeding	1,000,000		28	

Resident company

Paid up ordinary share capital	First RM500,000	Excess over RM500,000
RM2,500,000 or less	18%	24%
More than RM2,500,000	24%	24%

Non-residents

Company	24%
Individual	28%

Labuan entity – income from a Labuan trading activity

All chargeable profits	3%

Trust body – resident or non-resident

All chargeable income	24%

Personal reliefs

		RM
Self		9,000
Disabled self, additional		6,000
Medical expenses expended on parents	(maximum)	5,000
Medical expenses expended on self, spouse or child with serious disease, including up to RM500 for medical examination	(maximum)	6,000
Parental care	(each)	1,500
Basic supporting equipment for disabled self, spouse, child or parent	(maximum)	6,000
Study course fees for skills or qualifications	(maximum)	7,000
Lifestyle allowance		2,500
Spouse relief		4,000
Disabled spouse, additional		3,500
Child – basic rate	(each)	2,000
Child – higher rate	(each)	8,000
Disabled child	(each)	6,000
Disabled child, additional	(each)	8,000
Childcare (below six years old)	(maximum)	1,000
Breastfeeding equipment	(maximum)	1,000
Life insurance premiums and contributions to approved funds	(maximum)	6,000
Private retirement scheme contributions, deferred annuity premiums	(maximum)	3,000
Medical and/or education insurance premiums for self, spouse or child	(maximum)	3,000
Deposit for a child into the National Education Savings Scheme	(maximum)	6,000
Contribution to Social Security Organisation (SOCSO)	(maximum)	250

Rebates

Chargeable income not exceeding RM35,000	**RM**
Individual – basic rate	400
Individual entitled to a deduction in respect of a spouse or a former wife	800

Capital allowances

	Initial allowance (IA) Rate %	**Annual allowance (AA) Rate %**
Industrial buildings	10	3
Plant and machinery – general	20	14
Motor vehicles and heavy machinery	20	20
Office equipment, furniture and fittings	20	10
Agriculture allowance		
Buildings for the welfare of or as living accommodation for farm employees	Nil	20
Other buildings used in the business	Nil	10
All other qualifying agriculture expenditure	Nil	50

Real property gains tax (RPGT)

	Companies	Individuals – non-citizens and non-permanent residents	All other persons
	Rate %	Rate %	Rate %
Category of disposal			
Disposal within three years after the date of acquisition	30	30	30
Disposal in the fourth year after the date of acquisition	20	30	20
Disposal in the fifth year after the date of acquisition	15	30	15
Disposal in the sixth year after the date of acquisition or thereafter	5	5	0

Goods and services tax (GST)

Standard rate	6%

Stamp duty

Rates of duty under the First Schedule
Conveyance, assignment, transfer or absolute bill of sale

	Rate %
Sale of property	
For every RM100 or fractional part thereof:	
On the first RM100,000	1
On the next RM400,000	2
On the excess over RM500,000	3
Sale of company shares	
On every RM1,000 or fractional part thereof	0·3

Section A – BOTH questions are compulsory and MUST be attempted

1 Assume today's date is 4 June 2019.

You are a tax associate of Tax Firm, and one of your clients is PandaiBuat Sdn Bhd (PBSB), a Malaysian resident company which manufactures air purifiers. Last week, your tax manager held a meeting with PBSB's chief financial officer, Mr Bok Chek Wai (Mr Bok), and took the following notes:

Notes from meeting with Mr Bok

– PBSB has paid up ordinary share capital of RM4·3 million, of which 75% is held by Malaysians and the remaining 25% is held by a foreign company.

– It started producing air purifiers in January 2017 at its Shah Alam, Malaysia manufacturing complex for the domestic market. Its domestic sales are wholly transacted through its wholly-owned subsidiary, Niaga Sdn Bhd (NSB), a company incorporated in Malaysia.

– NSB also exports rubber wood, and uses Malaysian banks, insurance companies and the Klang, Malaysia port facilities in its trading business.

– In the year of assessment (YA) 2019, PBSB started to export its air purifiers directly, i.e. not through NSB.

– The value-added rate is 40%.

– Both PBSB and NSB close their accounts annually to 30 April.

Sales revenue for the financial year ended 30 April 2019, and the revenue forecasts for the following year are as follows:

	y.e. 30 April 2019 (actual)	**y.e. 30 April 2020 (forecast)**
	RM'000	**RM'000**
PBSB		
Export sales of air purifiers	2,500	3,500
NSB		
Export of rubber wood	1,000	2,000
Domestic sales of air purifiers	9,500	9,500

– Mr Bok has approached your firm as he wants advice on whether it will be more advantageous for PBSB to continue exporting air purifiers directly, or to export the air purifiers through NSB. He would like to know the tax treatment and related tax issues for each option and your recommendation as to the best way to export the air purifiers in YA 2020.

– During the period January to March 2019, PBSB conducted a feasibility study regarding a plan to diversify into manufacturing air coolers. The study cost RM170,000.

– Following the positive outcome of the study, PBSB now intends to incur capital expenditure of RM2·75 million in March 2020 to set up an air cooler manufacturing facility (factory, plant and machinery) in its Shah Alam manufacturing complex. Mr Bok understands that this project will be eligible for the reinvestment allowance (RA).

Following the meeting, your tax manager has asked you to draft a report to PBSB addressing the following issues:

(a) PBSB's eligibility for the allowance for increased export (AIE)

(i) On the basis that PBSB exports the air purifiers directly, explain how PBSB fulfils the eligibility requisites for the AIE in YA 2020.

By the way, your tax manager has checked the law and found out that for exports with value added of at least 30% but not exceeding 50%, the allowance is 10% of the increase in exports.

(ii) Compute the tax savings from the AIE claimable by PBSB in respect of YA 2020.

(b) NSB's eligibility for the Malaysian international trading company (MITC) incentive

(i) Assuming NSB were to export the air purifiers, explain how NSB qualifies for certification as a MITC and is therefore eligible for the MITC incentive in the YA 2020.

(ii) Compute the tax savings from the MITC incentive claimable by NSB in respect of YA 2020.

(c) The diversification project

(i) Explain how PBSB is eligible for the reinvestment allowance (RA) in respect of the diversification into air coolers.

(ii) Compute the tax savings from the RA claimable by PBSB.

(d) Tax planning

Advise whether PBSB or NSB should export the air purifiers in YA 2020.

With regard to the diversification project, advise the best course of action in view of the mutual exclusion of the AIE and RA.

(e) Deductibility of the feasibility study costs

Consider whether the cost of the feasibility study carried out by PBSB would be treated as revenue or capital expenditure, and conclude as to its tax deductibility.

(f) Distribution of dividends by NSB

Assuming NSB claims the MITC incentive in YA 2020, and distributes both exempt dividends from an exempt account and single-tier dividends to its holding company PBSB, state:

– how much of each type of dividend may be distributed, and
– how each type of dividend is treated in the hands of PBSB.

For effectiveness, your tax manager has asked you to prepare a separate appendix to present the computations of tax savings in requirements (a)(ii), (b)(ii) and (c)(ii).

Required:

Draft the report to PandaiBuat Sdn Bhd (PBSB) as instructed by your tax manager.

The following marks are available:

(a) (i) PBSB's eligibility for the allowance for increased export (AIE). (4 marks)

(ii) Computation of tax savings. (3 marks)

(b) (i) Niaga Sdn Bhd's (NSB) eligibility for the Malaysian international trading company (MITC) incentive. (5 marks)

(ii) Computation of tax savings. (3 marks)

(c) (i) The reinvestment allowance (RA) available in respect of the diversification project. (5 marks)

(ii) Computation of tax savings. (2 marks)

(d) Tax planning regarding the choice of incentives by PBSB and NSB. (3 marks)

(e) Deductibility of the feasibility study costs. (3 marks)

(f) Tax treatment of distributions by NSB to PBSB by way of:

- **exempt dividends from exempt account; and**
- **single-tier dividends.** (3 marks)

Professional marks will be awarded in question 1 for adopting a logical approach, the appropriateness of the format and presentation of the report, and the effectiveness with which the information is communicated. (4 marks)

(35 marks)

2 You are a tax associate of Tax Firm. Mr Phoriner, a non-resident of Malaysia, called at the offices of your firm yesterday, and appointed Tax Firm as his tax agent. Your manager held a meeting with Mr Phoriner and took the following notes:

Notes of meeting with Mr Phoriner on 3 June 2019

- Mr Phoriner arrived in Malaysia for his first visit on 15 April 2019 and will leave on 18 July 2019. With effect from the year 2020, he intends to live in Malaysia for up to 100 days each year to develop his business interests in the country.

  Mr Phoriner would like to know how he can attain Malaysian tax residence status in the years 2020 to 2022 inclusive. He is highly flexible regarding the timing of his stays in Malaysia: visits may be any time during the year as long as visits total a maximum of 300 days in the three-year period from 1 January 2020 to 31 December 2022, due to Mr Phoriner's other commitments.
- Mr Phoriner is in the process of acquiring a warehouse building in Port Klang, Malaysia. The warehouse will cost RM838,000, which is below the market price of RM949,000, because the current owner needs a quick sale to avoid foreclosure by a lender. Mr Phoriner would like to know the stamp duty he will have to pay in connection with the acquisition of the warehouse assuming the purchase takes place on 1 July 2019.
- On 1 May 2019, Mr Phoriner, together with two Malaysian resident individuals, incorporated a company, Artsy Sdn Bhd (Artsy), and immediately commenced a business buying and selling art works. All three founder members are directors, each holding one-third of the ordinary paid up share capital of RM3·3 million. Artsy will close its first set of accounts to 30 June 2020, and thereafter to 30 June each year.
- With effect from 1 July 2019, Mr Phoriner will receive director's remuneration of RM11,500 a month, payable to his bank account in Singapore, and will also be provided with free accommodation by Artsy. The monthly rental cost of the accommodation, paid for by Artsy, will be RM13,000. The accommodation in Malaysia is provided exclusively for use by Mr Phoriner, and in his absence, by his immediate family when they are in Malaysia.

  Mr Phoriner stated that as he will not receive any cash payments in Malaysia, he should not be subject to income tax in Malaysia on his income from Artsy.
- Mr Phoriner will divert some of his professional fees earned overseas to Malaysia to service his loan repayment for the warehouse purchase. He expects to remit about RM100,000 into his Malaysian bank account in 2019 for this purpose.

Your manager has instructed you to prepare notes on the following issues which will be discussed with Mr Phoriner at the next meeting.

(a) Mr Phoriner's residence status

(i) Explain why Mr Phoriner will not be a Malaysian tax resident for the year of assessment (YA) 2019.

(ii) Considering his flexibility on the timing of days spent in Malaysia, explain how Mr Phoriner can achieve Malaysian tax residence status for YAs 2020 to 2022 by pre-planning his visits to Malaysia.

(b) Basis periods for Artsy

(i) Determine the basis periods for Artsy for the YAs 2019, 2020 and 2021.

(ii) Identify the first YA for which the following income tax compliance requirements will apply for Artsy:

- provision of a tax estimate,
- payment of tax instalments, and
- submission of an annual tax return

and state the deadlines for each of these compliance requirements.

(c) Stamp duty

Compute the stamp duty payable by Mr Phoriner on the purchase of the warehouse property on 1 July 2019.

(d) Income tax payable

Compute the income tax payable by Mr Phoriner for YA 2019, and include explanations of how each item of income included in the information above is treated for Malaysian income tax purposes. You should consider the availability of personal reliefs to Mr Phoriner.

Required:

Carry out the work as instructed by your tax manager.

The following marks are available:

(a) **(i)** **Residence status of Mr Phoriner for YA 2019.** (2 marks)

(ii) **Residence planning for the YAs 2020 to 2022.** (5 marks)

(b) **(i)** **Basis periods for Artsy Sdn Bhd for the YAs 2019 to 2021.** (3 marks)

(ii) **Compliance requirements.** (4 marks)

(c) **Stamp duty.** (2 marks)

(d) **Income tax payable.** (9 marks)

(25 marks)

Section B – BOTH questions are compulsory and MUST be attempted

3 **(a)** LGE Sdn Bhd (LGE) acquired two commercial buildings, a warehouse and a retail outlet, in Selangor, Malaysia for a total cost of RM15 million during the financial year ended 31 December 2017.

The first building, a warehouse, was let throughout the financial year ended 31 December 2018 for a monthly rent of RM12,000. The tenant uses the warehouse in its business of providing storage space to the public. LGE is required to provide comprehensive repair, maintenance, cleaning and security of the property during the tenancy period.

The second building, a retail outlet, was first let on 1 July 2018 to CKT Sdn Bhd (CKT) for use as a restaurant at a monthly rent of RM10,000 for a period of three years.

Under the tenancy agreement, CKT is required to pay:

– No rent for the first two months to allow CKT to undertake renovation works
– On 1 September 2018, one month utility deposit together with one year's advance rent of RM120,000.

LGE incurred legal fees of RM10,000 in May 2018 in relation to advice taken on the tenancy agreement.

LGE is required to install moveable partitions at the back portion of the building to configure eight private dining rooms and to provide one security guard throughout the tenancy period with effect from 1 July 2018 but does not provide repair, maintenance or cleaning services.

Required:

Explain how the rental income received by LGE Sdn Bhd in respect of the letting of the two commercial buildings during the year of assessment 2018 will be taxed in Malaysia, and also the tax treatment of the rental expenses and building expenditure. (8 marks)

(b) Tony recently commenced employment with TP REIT (TPR), a real estate investment trust (REIT) listed on Bursa Malaysia, as its financial controller. TPR has a portfolio of commercial properties in Klang Valley, Malaysia and Singapore. Investors in TPR include Malaysian resident and non-resident companies and resident and non-resident individuals.

For the financial year ended 31 May 2019, TPR had the following income:

	RM'000
Statutory rental income	5,000
Dividend income from Singapore	1,000

During the financial year, TPR made a cash donation of RM500,000 to an approved institution. In the prior year, TPR's deductible expenses exceeded its rental income by RM800,000.

Tony understands that the REIT will be exempt from income tax if it distributes enough of its profits to its unit holders.

Required:

(i) Describe the special tax treatment accorded to a REIT compared to a property investment company carrying out a business of letting property from the perspective of:

– **Deductibility of expenses;**
– **Deductibility of donations; and**
– **Eligibility to carry forward tax losses/capital allowances.** (5 marks)

(ii) Compute the amount of total income TP REIT (TPR) is required to distribute for the year of assessment 2019 to qualify for the income tax exemption available for REITs. (2 marks)

(iii) Explain the tax treatment for the different types of unit holders of the distributions made to them by TPR based on the assumption that TPR qualifies for the REIT income tax exemption. (5 marks)

(20 marks)

4 **(a)** Timothy, a Malaysian citizen, owned a piece of commercial land. The following information is available in relation to Timothy's ownership of the land:

(1) Timothy inherited the land from his father's estate when his father died on 10 December 2008. On this date, the market value of the land was RM900,000. The land had been acquired by Timothy's father in 2000 for RM300,000. The executor transferred the land to Timothy on 4 April 2011 when its market value was RM1,000,000.

(2) In 2012, Timothy constructed a warehouse on the land for RM1,200,000, funded by a loan which he repaid in full in 2014. The total interest expense he incurred on the loan amounted to RM80,000. On 10 May 2014, Timothy received compensation of RM2,500,000 from his neighbour who had caused significant damage to the land such that the entire warehouse needed to be demolished. In January 2015, Timothy constructed a new warehouse building on the land for RM800,000.

(3) Timothy then transferred the commercial property to his daughter, Joanna, as her wedding gift on 30 March 2015, when the market value of the property was RM1,800,000.

(4) Joanna subsequently sold the property for RM2,800,000. The sale and purchase agreement, dated 14 March 2019, was conditional upon obtaining consent from the State Government which was obtained on 19 May 2019.

Required:

Explain the real property gains tax (RPGT) implications of the property transactions (1) to (4) above for Timothy and Joanna. Wherever relevant, compute the disposal price, acquisition price and RPGT liability arising. (10 marks)

(b) Malas Patuh Sdn Bhd (MPSB), which closes its accounts to 31 December each year, has not filed income tax returns since its incorporation on 4 May 2011 because the company had only incurred losses. As the company became profitable in the year of assessment 2018, it filed its first income tax return on 15 May 2019, reporting an income tax liability of RM50,000 (before taking account of past losses).

On 28 May 2019, the Inland Revenue Board (IRB) issued estimated assessments of RM50,000 for each of the years of assessment 2011 to 2017.

Required:

(i) State, with reasons, whether the Inland Revenue Board (IRB) is authorised to issue the assessments for the years of assessment 2011 to 2017. (3 marks)

(ii) Explain how Malas Patuh Sdn Bhd can appeal for the discharge of the assessments, and state whether the past losses can be brought forward and utilised against the profits of the company after the year of assessment 2017. (3 marks)

(c) Gading Sdn Bhd (GSB), a GST registrant, provides management services and holds investments. GSB receives an annual management fee of RM1 million from its subsidiaries, and annual dividend income ranging from RM300,000 to RM500,000 depending on the performance of the subsidiaries. In addition, when GSB had surplus cash, it invested in short-term bank deposits with local banks and receives interest income.

To support its activities, GSB incurred direct expenses in relation to the provision of management services, and common overheads for the overall management of the company.

Required:

Explain the goods and services tax (GST) implications of the supplies made by Gading Sdn Bhd and how the input tax attributable to the expenses incurred will be treated. (4 marks)

(20 marks)

End of Question Paper