

Strategic Professional – Options

Advanced Taxation – Malaysia (ATX – MYS)

Tuesday 3 March 2020



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.

ATX – MYS

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 individuals

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	17%	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%
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Trust body – resident or non-resident

All chargeable income	24%
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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	(maximum)	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	(maximum)	3,000
Contributions to approved funds	(maximum)	4,000
Life insurance (public service)	(maximum)	7,000
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)	8,000
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
Computers	20	20
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
Category of disposal	Rate %	Rate %	Rate %
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	10	10	5

Sales and service tax

Sales tax rate	5%/10%
Service tax 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 next RM500,000	3
On the excess over RM1,000,000	4
Sale of company shares	
On every RM1,000 or fractional part thereof	0.3

**This is a blank page.
Question 1 begins on page 6.**

Section A – BOTH questions are compulsory and MUST be attempted

1 Assume today's date is 3 March 2020.

You are a tax associate of Tax Firm and one of your clients, the BungaRaya group of companies, requires some tax advice.

On 24 February 2020, the managing director of the BungaRaya group, Cik Michfara, came to Tax Firm's office for a meeting with your tax director. You have been given the following extracts from the notes of the meeting:

Notes of meeting

1. The BungaRaya group of companies was incorporated in Malaysia, is resident in Malaysia and is wholly owned by Malaysian citizens.
2. The group companies close their accounts annually to 31 August.
3. BungaRaya Sdn Bhd (BRSB), with issued share capital of RM10 million, has been manufacturing medical supplies since 2015. It does not enjoy any tax incentives under the Income Tax Act or the Promotion of Investments Act.
4. BRSB plans to manufacture and export surgical supplies, a promoted product, from September 2020.
5. The manufacture of surgical supplies will require an investment of RM45 million to be incurred by July 2020 as follows:

	RM'000
Factory, production area	8,000
Factory, warehouse area	3,500
Plant and machinery	33,500
	<hr/>
	45,000

No further capital expenditure is expected to be incurred in the following four years.

The manufacturing of surgical supplies will commence on 1 August 2020.

Production day, for the purposes of pioneer status, is expected to be 1 September 2020.

6. BRSB's forecasts for the new business are as follows:
 - In terms of tax adjusted profit, break even in the year of assessment (YA) 2021.
 - Thereafter, cumulative profits (which approximate to statutory income) are estimated at a total of RM100 million for the four-year period YA 2022 to YA2025.
 - The free-on-board (FOB) value of exports will be RM10 million in YA 2020, and thereafter will be RM30 million (YA 2021), RM50 million (YA 2022), RM80 million (YA 2023) and RM 150 million (YA 2024).
7. Cik Michfara would like Tax Firm to provide a comprehensive analysis of the various tax incentives available to BRSB, and their respective tax savings for the first five years of operation.
8. In YA 2017, BRSB claimed a loss of RM500,000 from Orkid Sdn Bhd (Orkid), a subsidiary company, under the group relief provisions.

In October 2019, a tax audit of Orkid resulted in Orkid not having any loss available for surrendering under the group relief regime. Cik Michfara wants to know the implications and consequences of this outcome for BRSB and Orkid.

Your tax director has requested that you prepare a letter to Cik Michfara, addressing the following issues:

(a) Tax incentives available

Explain how BRSB is potentially eligible for each of the following incentives:

- (i) Pioneer status.
- (ii) Investment tax allowance.
- (iii) Reinvestment allowance.
- (iv) Allowance for increased exports. You should note the significant increase in export value from YA 2021 onwards, bearing in mind the incentive will be at 30% of the value of increased exports.

In each case, identify the period for which tax relief is available, or the years of assessment in which the incentive applies, and explain the mechanism for each incentive measure.

(b) Computation of tax savings

Compute the tax savings arising from each incentive measure for the first five years of operation. Attach your computations as an appendix to the letter.

(c) Recommendations

- (i) Based on the computations above, state your recommendation; and
- (ii) If your recommendation in (i) is not approved, recommend your next best incentive or combination of incentives.

(d) Group relief

In respect of the tax audit and the group loss relief claim which has proved to be excessive, explain the consequences for BRSB as the claimant company, and Orkid as the surrendering company. State any penalties which may be payable and whether there is any right of appeal regarding any penalties arising.

Required:

Draft the letter to Cik Michfara as instructed by your tax director.

The following marks are available:

- (a) The four tax incentive measures.** (12 marks)
Note: The total marks will be split evenly between each measure.
- (b) Tax savings.** (9 marks)
- (c) Recommendations.** (5 marks)
- (d) Group loss relief claim.** (5 marks)

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

(35 marks)

- 2 You are a tax associate of Tax Firm and you have been assigned to prepare the tax computation for RichieRich Bhd (RRB) for the year of assessment 2019.

RRB is an investment holding company listed on the Bursa Malaysia, has paid up share capital of RM13 million and closes its accounts to 30 June each year.

You have been provided with the following extracts from RRB's statement of profit or loss for the year ended 30 June 2019:

	Note	RM'000	RM'000
Revenue			
Interest on loans to subsidiaries			52
Lease rental income from vacant land			780
Dividends from foreign companies			938
Management fees from subsidiaries	1		<u>1,290</u>
			3,060
Expenditure			
Audit fees		18	
Secretarial fees		8	
Office expenses		105	
Wages, salaries and allowances	2	379	
Directors' remuneration	1	480	
Professional fees	3	300	
Quit rent, and maintenance of vacant land		21	
Depreciation	4	<u>19</u>	<u>(1,330)</u>
Profit before tax			<u>1,730</u>
Notes:			
1. Approximately 40% of the directors' time was spent on managing the subsidiaries, for which RRB received management fees.			
2. Salaries included a gratuity of RM300,000 paid to the chairman. The gratuity was paid on 2 June 2019, on the occasion of his retirement at the age of 60 years, after having served seven and a half years with RRB in various roles.			
3. The professional fees were incurred in respect of a group reorganisation exercise. An independent advisory firm charged their consultancy fees and included in their invoices legal fees incurred for legal opinion, and out-of-pocket (OPE) expenses such as travelling, accommodation and incidental expenses.			
4. Capital allowances for common assets amounted to RM23,000 for YA 2019.			

Your tax manager has requested you to carry out the following work:

(a) Tax computation of RRB for YA 2019

- (i) Explain how RRB will be taxed in Malaysia.
- (ii) Prepare RRB's tax computation for YA 2019.

Remember to determine the common expenses for attribution to the various income sources.

Your computation should commence with gross income from each source, and indicate by the use of '0' any items which are not taxable or deductible.

(b) Group reorganisation exercise

- (i) In the course of providing professional services to RRB (see note 3 to the statement of profit or loss), the independent consultant charged service tax on the total amount billed, including the legal fees and expenses.

Explain how professional fees are chargeable to service tax.

(ii) Tax avoidance

In implementing the recommendations of the group reorganisation exercise, the group effected the takeover of a profitable business of subsidiary, Untung Sdn Bhd, by a loss-making subsidiary, Rugi Sdn Bhd. Due to the synergy of the two businesses, the independent advisers believe that the takeover will expedite the absorption of the accumulated losses of Rugi Sdn Bhd.

Prepare notes to defend against any potential allegation there may be of tax avoidance.

(c) Retirement gratuity to the chairman

Explain whether the RM300,000 gratuity payable to the chairman is tax deductible for RRB, and explain the tax treatment of the gratuity in the hands of the chairman.

Required:

Carry out the work as instructed by your tax manager.

The following marks are available:

- (a) (i) **Basis of taxation for RichieRich Bhd (RRB).** (3 marks)
(ii) **RRB's tax computation for the year of assessment 2019.** (12 marks)
- (b) **Group reorganisation exercise:**
- (i) **Service tax charge.** (3 marks)
(ii) **Tax avoidance notes.** (3 marks)
- (c) **Retirement gratuity to the chairman.** (4 marks)

(25 marks)

Section B – BOTH questions are compulsory and MUST be attempted

- 3 (a) Link City Sdn Bhd (LCSB) normally closes its accounts to 30 April each year, and its last set of accounts were prepared to 30 April 2019. In 2020, LCSB is considering changing its financial period end date to either 30 June 2020 or 31 December 2020.

LCSB has previously submitted a tax estimate of RM240,000 for the year of assessment (YA) 2020 with a monthly instalment of RM20,000.

The tax projections for the relevant periods are as follows:

Adjusted income/(loss)	RM'000
1 May 2019 to 30 June 2020	2,000
1 July 2020 to 31 December 2020	1,000
1 January 2021 to 30 June 2021	(800)
1 July 2021 to 31 December 2021	500

The company acquired furniture and fittings of RM2,000,000 during YA 2015 when it first commenced business and has not incurred any further qualifying expenditure.

Required:

- (i) **Determine Link City Sdn Bhd's (LCSB) basis periods, and calculate its statutory income for the years of assessment 2020 and 2021 on the assumption the change of accounting date is to:**
- **30 June 2020; or**
 - **31 December 2020.** (6 marks)
- (ii) **Explain why it is preferable for LCSB to change the accounting date to 30 June 2020 instead of 31 December 2020.** (3 marks)
- (iii) **Assuming that LCSB has decided to change its accounting date to 30 June 2020, state the tax notification requirements and deadline date.** (2 marks)
- (iv) **If LCSB did not comply with the notification requirements, state the consequences in respect of the following:**
- **Failure to make notification;**
 - **Tax instalment payments.** (3 marks)
- (b) Anwar and Izzah, both Malaysian residents, intend to start a tax consultancy practice with a total capital contribution of RM4.8 million. They are contemplating whether they should establish a partnership or a limited liability partnership. Based on the agreement to be signed, Anwar and Izzah will be paid an annual salary of RM100,000 each and will share profits and losses on a 60:40 basis. The partnership business is expected to make annual profits of RM3 million. The partnership income will be the only source of income for both Anwar and Izzah.

Required:

Provide a comparative analysis of the tax treatment of a partnership and a limited liability partnership from the perspective of the:

- (i) **taxable entity;**
- (ii) **salaries payable to the partners; and**
- (iii) **share of profits allocated to the partners.**

Based on your analysis, recommend the most tax efficient vehicle for Anwar and Izzah. (6 marks)

(20 marks)

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Question 4 begins on page 12.**

- 4 (a) Banyak Mall Sdn Bhd (BMSB), a tax resident company, owns and operates a mall in Petaling Jaya, Malaysia. In 2016, BMSB acquired the entire shareholding in Lebih Gedung Sdn Bhd (LGSB), a tax resident company, which owns and operates two malls in Kuala Lumpur, Malaysia.

On 4 September 2019, to achieve operational efficiency by rationalising all properties under one company, BMSB signed an agreement to transfer the mall property in Petaling Jaya, Malaysia to LGSB. The transfer took place at its market value of RM15 million in cash and BMSB incurred a valuation fee of RM50,000. The agreement is conditional upon the approval from the State Government, which was obtained on 15 October 2019. The legal title of the property was transferred on 30 November 2019.

BMSB acquired the land on which the mall was built on 14 September 2008 for RM3 million. The mall building was constructed for RM10 million and was completed on 1 March 2010. A loan to finance the construction of the mall was taken out and interest incurred on the loan amounted to RM500,000. In 2015, BMSB received insurance compensation of RM1 million for the repair of the mall which was partly destroyed by fire. The cost of the repair was RM800,000.

BMSB has filed the real property gains tax return for the disposal of the mall property on 15 January 2020, well within 60 days of the date of transfer of the legal title. The return was filed on the basis that the transfer qualified for intra-group relief, i.e. the transfer was deemed to have occurred on a no gain or no loss basis.

The Inland Revenue Board (IRB) issued a notice of assessment for the disposal of the mall property on 20 February 2020 denying the application of intra-group relief and imposed a late submission penalty.

Required:

- (i) **State the requirements of the intra-group relief provision, and discuss whether there is a basis for the Inland Revenue Board (IRB) to deny the relief in respect of the mall property transfer.** (5 marks)
- (ii) **Explain whether the late submission penalty in respect of the filing of the real property gains tax (RPGT) return was correctly imposed.** (2 marks)
- (iii) **Calculate the RPGT payable by Banyak Mall Sdn Bhd in respect of the disposal of the mall property to Lebih Gedung Sdn Bhd.**

Note: Your computation should indicate by the use of '0' any items which are not taxable or deductible. (4 marks)

- (b) Great Faith Sdn Bhd (GFSB) manufactures electrical products and holds investments in local and foreign companies.

In the financial year ending 30 June 2020, the company will execute the following transactions:

Specialised machines

GFSB intends to lease two specialised machines from a US engineering company for a total annual lease rental of RM500,000. One machine will be used in GFSB's new factory while the other machine will be used by its contract manufacturer in China to produce semi-finished components for GFSB.

The company also engaged the services of a US specialist engineer for two months, at a cost of RM200,000, to train its employees to use the machines. The plan is that the first month of the training will be conducted via video conferencing when the engineer is still in the US. The second month of the training will be face-to-face with the US engineer in Malaysia.

Contractually, GFSB is required to bear the withholding tax, if any, on behalf of the lessor and the specialist engineer.

Investment in a foreign company

GFSB is negotiating to acquire the entire shareholding of Hi-Tech Pte Ltd, a Singapore company. The acquisition will be financed by borrowing SGD10 million from a Singapore resident bank and paying 4% interest on the loan. GFSB's sister company, Great Blessing Limited (GBL), which is based in the UK, provided a corporate guarantee to the Singapore bank. GFSB paid an annual corporate guarantee fee of RM300,000 to GBL.

Required:

Explain whether withholding tax is applicable to the transaction payments, and state the applicable rates. State the tax treatment of the payments for the purposes of Great Faith Sdn Bhd. (9 marks)

(20 marks)

End of Question Paper