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 Eagle Shoot Pte Ltd (ESPL)

Tax Adviser
Firm's address

The board of directors
Eagle Shoot Pte Ltd
Company address

4 December 2018

Dear Sirs

Singapore tax implications for ESPL and its subsidiaries

With reference to your request for advice following the review of the tax affairs of ESPL and its subsidiaries, we are pleased to set out our comments below:

(i) Tax deductibility of items (a) to (d)

For each of the items of expenditure incurred, we advise below whether you are likely to be able to claim a tax deduction for expenses or capital allowances, including enhanced deductions or allowances under the productivity and innovation credit (PIC) scheme, where applicable.

(a) The costs of $500,000 for the development of office system software will qualify for a capital allowance claim, including an enhanced allowance under the PIC scheme. This is because the software is office system software developed for internal business use.

At a group level, ESPL employs fewer than 200 employees. Hence, the company qualifies as a small and medium enterprise (SME) and is entitled to claim an annual additional enhanced PIC capital allowance. This enhanced allowance can be claimed at 300% of the qualifying expenditure up to $600,000 (instead of $400,000 for a non-qualifying SME) for the year of assessment (YA) for each YA from YA 2016 to YA 2018. In this case, based on $500,000 of qualifying capital expenditure, ESPL can claim a 100% capital allowance of $500,000 plus an enhanced PIC allowance of $1,500,000 ($500,000 x 300%).

Since ESPL has made a trading loss for YA 2018, it may wish to defer the claim for both the 100% capital allowance of $500,000 and the enhanced 300% PIC allowance of $1,500,000. Another alternative available to ESPL is to claim a PIC cash payout which would be capped at $40,000 (40% of up to $100,000 qualifying PIC expenditure), with the excess forfeited.

(b) The costs of $700,000 relating to the salaries of in-house software engineers and consumable items can potentially qualify for a 400% PIC deduction, i.e. $2,800,000, as qualifying research and development (R&D) expenditure if it satisfies the R&D definition and conditions as stated in the Income Tax Act. This comprises a 150% base deduction for R&D conducted in Singapore and a further 250% enhanced deduction under the PIC scheme. This is provided the software is developed for commercial use by multiple customers. Although the annual expenditure cap is $600,000, as ESPL is a qualifying SME, it can avail itself of a higher three-year combined cap of $1,800,000 as it has not claimed any enhanced PIC deduction in either YA 2016 or YA 2017.

To be eligible for the R&D tax benefits, ESPL must be able to demonstrate that it is the beneficiary of the R&D activities before it can claim any deduction on the R&D expenditure incurred.

A beneficiary of R&D activities is expected to:

– bear the financial burden of carrying out the R&D activities; and
– effectively own and be able to commercially exploit the know-how, intellectual property or other results of the R&D activities.

In addition, to qualify for R&D tax benefits, the project itself must satisfy certain conditions, as follows:

– The objective of the project must be:
  – the acquisition of new knowledge;
  – the creation of new products or processes; or
  – the improvement of existing products or processes.

  This condition is met, as the objective in ESPL's case is to develop a cloud-enabled video analytic platform which provides a common exchange repository, employing revolutionary state-of-the-art techniques.

– The project must involve novelty **or** technical risk.

This condition is met, as there is technical uncertainty as to whether the final product can be created. Moreover, this is likely to be the first of its kind in Singapore.

– The project must involve a systematic, investigative and experimental (SIE) study in a field of science or technology.

This condition is met, as the proposed project entails a series of planned iterative steps taken to test the potential solutions to create the new product.

– Finally, the project must not fall into one of the categories on the excluded list.

This condition is also met. The R&D activities planned by ESPL do not fall within the scope of these exclusions, which essentially relate to routine activities in respect of quality control; testing of materials, devices or products and data collection; or post-manufacturing activities, such as efficiency surveys or management studies and market research or sales promotion.

Overall, there is a good chance that ESPL will be able to claim the 400% deduction on the R&D expenditure of $700,000. Unlike capital allowances, the 400% claim for R&D expenditure cannot be deferred.

(c) The minor renovations of $10,000 involving the replacement of doors and windows are claimable as normal deductions instead of as renovation and refurbishment expenditure. In any event, ESPL has already incurred more than the $300,000 cap on renovation and refurbishment expenditure in the previous financial year ended 31 March 2016. There is no option to defer the claim of these expenses unlike capital allowances.

(d) The training expenses are deemed to have been incurred on 2 April 2017 which falls in the basis period for YA 2019. Paying the fees in advance will not enable ESPL to lock in the claim for the expenses in YA 2018. Consequently, as the PIC scheme expires after YA 2018, in YA 2019 ESPL will only be able to claim the 100% deduction in respect of these expenses and not the additional 300% enhanced deduction under the PIC scheme.

(ii) Potential tax liabilities arising from the sale of the industrial property

There are both stamp duty as well as income tax exposures.

As the industrial building was disposed of within more than one year and up to two years from the date of purchase, ESPL will have to pay seller's stamp duty based on 10% of the transacted price, or the market value, whichever is higher.

There is no land intensification allowance (LIA) or industrial building allowance (IBA) claimable in respect of the purchase of the industrial building. A claim for LIA would only be possible if ESPL had constructed the building instead of buying it. IBA is not available due to it being phased out. Consequently, there is no balancing adjustment on sale of the industrial building.

On the other hand, there is a high possibility of an income tax liability arising on the gain of $3 million. ESPL's original intention when acquiring the building was to use it for commercial purposes (i.e. housing ten of its software engineers). However, the decision to sell the building within two years of purchase, i.e. with a short holding period, suggests a strong motive to trade, unless ESPL can explain why there are compelling reasons for it to sell the building so soon after buying it. The facts do not suggest that there are any such reasons. Moreover, ESPL had taken a short-term loan to fund the purchase of the long-term asset suggesting that the company had no intention of holding the building for the long term.

(iii) Impact of (i) and (ii) on tax payable and group relief considerations

Option 1

Assuming ESPL claims the 400% capital allowance on the $500,000 costs incurred on the development of the office system software, it will be in a tax loss position for YA 2018 as follows:

	$
Adjusted trade loss before capital allowances	(100,000)
Less: 400% R&D claim (item (b))	(2,800,000)
Less: claim for replacement of doors and windows (item (c))	(10,000)
No claim for item (d)	0
Add: gain on sale of industrial building (item (e))	3,000,000
Less: 400% capital allowance for development of software (item (a))	(2,000,000)
Unabsorbed capital allowance	(1,910,000)

ESPL could elect for group relief to apply and transfer its current year unabsorbed capital allowance (UCA) to set off against the assessable income of an eligible company within the group.

ESPL owns 90% of Shen Deow Pte Ltd (SDPL), satisfying the 75% control condition for group relief. The other conditions for group relief are also satisfied as both ESPL and SDPL are incorporated in Singapore and have the same year end. SDPL could therefore potentially claim ESPL's UCA.

On the other hand, ESPL effectively owns only 72% (90% x 80%) of Er Mei Pte Ltd (EMPL) which falls short of the minimum 75% control for group relief to be available between these two entities. Hence, despite the fact that EMPL would have benefitted immensely from claiming this UCA due to its very high assessable income of $2,000,000, group relief is not possible.

Under this option, ESPL does not have to pay tax. It can transfer a maximum of $100,000 of its current year UCA to SDPL so that the latter does not have to pay tax either. The remaining current year UCA of $1,810,000 ($1,910,000 – $100,000) can be carried forward to set off against ESPL's future assessable income.

Option 2

Assuming ESPL defers the claim for the 400% capital allowance on the $500,000 costs incurred on the development of the office system software, its chargeable income before exemption will be $90,000 as follows:

	$
Adjusted trade loss before capital allowances	(100,000)
Less: 400% R&D claim (item (b))	(2,800,000)
Less: claim for replacement of doors and windows (item (c))	(10,000)
No claim for item (d)	0
Add: gain on sale of industrial building (item (e))	3,000,000
Less: 400% capital allowance for development of software (item (a))	0
Chargeable income before exemption	90,000

ESPL is incorporated and tax resident in Singapore. It has only two shareholders and both are individuals. Hence, as YA 2018 is ESPL's third YA after incorporation, it is eligible for the start-up tax exemption scheme and can claim 100% exemption of up to $100,000. As a result, there is no tax liability. Under this option, group relief will not be applicable.

I hope the above is useful. Please do not hesitate to contact me if you need further clarifications.

Yours sincerely

Tax adviser

2 Jennifer Stone

(a) Area representative scheme benefits and eligibility

Under the area representative scheme, an eligible applicant will be taxed on the amount of remuneration attributable to the number of days spent in Singapore. However, benefits in kind provided in Singapore are fully taxable.

To qualify for the area representative status, Jennifer must satisfy all four criteria below:

- She must be employed by a non-resident employer;
- She is based in Singapore for geographical convenience;
- She is required to travel outside Singapore in the course of her duties; and
- Her remuneration is paid by her non-resident employer and not charged directly or indirectly to the accounts of a permanent establishment in Singapore.

(b) Individual income tax computation for the year of assessment 2018

	$	$	*Marks*
Employment income:			
Salary (12 x $25,000)		300,000	0·5
Contractual bonus (2 x $25,000)		50,000	1·0
Sign on bonus ($100,000) – not paid yet		0	1·0
Transport allowance ($1,000 x 12 less $2,000)		10,000	1·0
		360,000	
Less: Amount applicable to 74 days employment exercised outside Singapore (74/365 x $360,000)		(72,986)	1·0
		287,014	
Accommodation benefit (($6,000 – $1,000) x 12)		60,000	1·0
Assessable income		347,014	
Less personal reliefs:			
Earned income relief	1,000		0·5
Parent relief ($9,000 x 2)	18,000	(19,000)	1·0
Chargeable income		328,014	
Tax on first $320,000		44,550	
Tax on the next $8,014 at 22%		1,763	
Tax payable		46,313	1·0

Date of departure from Singapore	Date of arrival in Singapore	No of days	Countries visited	*Marks*
13 February 2017	26 February 2017	12	China	
17 April 2017	22 April 2017	4	Korea	
21 June 2017	29 June 2017	7	Japan	
11 August 2017	22 August 2017	10	India	
10 October 2017	19 October 2017	8	Malaysia	
14 November 2017	18 December 2017	33	Laos	
		74		2·0
				10

(c) Tax protection and tax equalisation plan

Under a tax protection plan, Heaven Dragon Limited (HDL) would reimburse Jennifer for the excess of her actual foreign and local taxes on her remuneration over the tax she would have paid on her base salary (hypothetical tax) if she had remained in Country X and not taken up employment in Singapore. Jennifer would therefore be protected from being worse off while she is on secondment. If the tax rate in Singapore is lower than Country X, Jennifer would reap the benefit.

Under the tax protection method, the excess, if any, of the actual tax over the hypothetical tax would be determined on the basis of a claim filed by Jennifer at the time of her tax payments or some other time after the end of the year to which the taxes relate.

Since Jennifer's tax in Singapore of $46,313 is higher than her hypothetical tax of $40,000, she would seek reimbursement of the difference of $6,313 in the year 2018. On receipt of this reimbursement amount in 2018, this would be added to her taxable income for the year of assessment (YA) 2019 resulting in pyramiding. On the other hand, Jennifer's tax for YA 2018 would not be affected, assuming the reimbursement is not received in the year 2017.

Under a tax equalisation plan, the objective is to ensure that the secondment is tax neutral to Jennifer, i.e. she will not need to pay tax over and above whatever taxes she would pay in Country X as if she never left.

In Jennifer's case, since she had previously paid $40,000 tax prior to the overseas posting, she would pay $40,000 tax when on secondment in Singapore even though her host country tax in Singapore would be a higher amount of $46,313. The additional $6,313 would be borne by HDL. This additional $6,313 would be subject to tax on tax as follows:

	$	*Marks*
Notional chargeable income (previously assessed)	328,014	
Tax on first $320,000	44,550	
Tax on the next $8,014 at 22%	1,763	
Notional tax payable	46,313	
Tax on $6,313 x 22/78	1,781	1·0
Total tax allowance	48,094	
Tax borne by employee	40,000	
Tax borne by employer	8,094	0·5
Actual computation		
Total remuneration previously assessed	347,014	
Add: tax allowance	8,094	1·0
	355,108	
Less personal reliefs (as before):	19,000	0·5
Chargeable income	336,108	
Tax on first $320,000	44,550	
Tax on the next $16,108 at 22%	3,544	
Tax payable	48,094	1·0
		4·0

Tutorial note: *Under a tax protection policy, once the employee approaches the employer to seek a reimbursement of the tax which was suffered in excess of the hypothetical tax, this amount becomes taxable often in the following year after it was assessed. This will continue (hence the term 'pyramiding') and only in the final year will tax-on-tax be computed in the same year.*

3 Terrestrial Land Pte Ltd (TLPL)

(a) Input goods and services tax (GST) claimable for the quarter ended 30 June 2018

Analysis of taxable supplies:

	$
Value of taxable standard rated supplies ($8,400,000 + $15,000,000)	23,400,000
Value of taxable zero rated supplies	400,000
Value of exempt supplies	1,200,000
Total supplies	25,000,000

Value of average exempt supplies per month: $1,200,000/3 = $400,000 per month

Percentage of exempt supplies over total supplies: $1,200,000/$25,000,000 x 100% = 4·8%

Although the value of exempt supplies does not exceed 5% of the total value of supplies, it does exceed an average of $40,000 per month. As a result, the conditions necessary for the *de minimis* rule to apply are not met.

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

	$
Input tax directly attributable to taxable supplies (73% of $300,000)	219,000
Residual input tax attributable to taxable supplies (95·2% of $36,000)	34,272
Total input tax claimable for the quarter	253,272

(b) Belonging status of overseas customers subscribing for online resource services

In the case of a supply of services, the place of supply is determined by reference to the belonging status of the supplier. As TLPL clearly has an establishment in Singapore through which it conducts its business and makes taxable supplies, it belongs in Singapore and the supply of its services via the internet are taxable supplies.

The issue is to determine whether the online services can be zero rated under the provisions of the Goods and Services Tax Act. For example, services performed under a contract with a person who does not belong in Singapore at the time the service is performed and where the services clearly benefit the overseas person can be zero rated, provided the services are not supplied directly in connection with land or goods situated in Singapore.

To determine whether the overseas customers belong in Singapore, TLPL needs to first establish whether they are businesses or individuals.

If the customer is a business (e.g. a company or a partnership), then it is treated as belonging in Singapore if:

- it has a business establishment or some fixed establishment in Singapore and nowhere else; or
- it has no business or fixed establishment in any country, but is legally constituted in Singapore (e.g. a company incorporated in Singapore); or
- it has such establishments both in Singapore and outside Singapore. The establishment at which the services are most directly used or to be used is the establishment in Singapore.

For e-commerce transactions, to determine if the business customer belongs in Singapore, TLPL should examine if the customer has a Singapore address in its membership database, a Singapore domain name or a Singapore IP address. These are indications that the business belongs in Singapore.

Conversely, the following may indicate that the business customer belongs in a country outside Singapore:

- address of the business entity as shown in the membership database is outside Singapore;
- domain name or IP address indicates that the business is a foreign establishment;
- the customer gives a declaration, at the time of the transaction, that the company is located outside Singapore; and
- any other information which indicates the customer belongs outside Singapore.

If the customer is an individual, the customer is considered to belong in Singapore if Singapore is their usual place of residence.

As a supplier, TLPL should take reasonable steps to determine where the customer belongs:

- If the customer has a Singapore address in the membership database, a Singapore domain name or a Singapore IP address, these are indications that the individual belongs in Singapore.
- If the customer does not have a Singapore domain name nor a Singapore IP address, TLPL should obtain a declaration of the customer's usual place of residence at the time of the transaction.

As an e-commerce service provider, TLPL should charge its customers 7% GST on its services if they belong in Singapore.

4 Shaolin Temper Pte Ltd (STPL) and Wutang Temper Pte Ltd (WTPL)

(a) (i) Tax implications and administrative requirements of a qualifying amalgamation

Under normal circumstances, amalgamating companies are treated as having ceased business and disposed of their assets and liabilities. The amalgamated company is treated as having acquired or commenced a new business.

This is unless a qualifying amalgamation (one where a notice of amalgamation under the relevant statutory provisions or a court order has been issued) has taken place and the amalgamated company makes an election in writing to the Comptroller to apply the income tax framework within 90 days from the date of the qualifying amalgamation. An election, once made by the amalgamated company, is irrevocable and has to be accompanied by the notice of amalgamation or certificate of approval under the relevant statutory provisions or the court order, as the case may be.

The tax framework is intended to give a tax effect to qualifying amalgamations as if there is no cessation of the existing businesses by the amalgamating companies (and hence no acquisition of new businesses by the amalgamated company) and all risks and benefits which existed prior to the merger are transferred and vested in the amalgamated company. In other words, qualifying amalgamations will be treated as a continuation of the existing business of the amalgamating companies by the single amalgamated company. On the date of amalgamation, i.e. the date shown in a notice of amalgamation or a court order, the amalgamated company would be treated as having 'stepped into the shoes' of the amalgamating companies, continuing the businesses seamlessly.

The tax framework ensures that most of the tax consequences of a continuing business will apply to the amalgamated company. Hence, the tax treatment of various items in the financial statements is ascertained on the basis that the businesses of the amalgamating companies which have been taken over entirely have not ceased but continue in the amalgamated company, as part of the business (or enlarged business) of the amalgamated company.

The eligibility of utilisation by STPL, the amalgamated company (where it is the surviving amalgamated company), of its unabsorbed capital allowances (UCA), unabsorbed trade losses (UTL) and unabsorbed donations (UD) (collectively known as 'unabsorbed tax loss items') will continue to be governed by the shareholding test as well as the business continuity test for capital allowances and the five-year carried forward limitation in the case of donations.

The shareholding test was introduced to ensure that the unabsorbed tax loss items are not monetised through the acquisition of loss making companies. Where a substantial change in shareholding occurs pursuant to the amalgamation, a waiver of the shareholding test is currently available under the Income Tax Act for an amalgamation which is not motivated by tax reasons and undertaken for genuine commercial reasons.

(ii) Utilisation of WTPL's unabsorbed loss items from prior years by STPL

Where the business of WTPL, an amalgamating company with unabsorbed tax loss items (which ceases to exist upon amalgamation) is transferred to STPL, the amalgamated company, such unabsorbed tax loss items should strictly be disregarded. This is because the unabsorbed tax loss items cannot be transferred between different legal entities. Nonetheless, to facilitate corporate amalgamations, the utilisation of such unabsorbed tax loss items across entities will be allowed if the corporate amalgamations are undertaken for genuine commercial reasons and are not tax-motivated. The following conditions will apply:

(i) The amalgamating company from which the unabsorbed tax loss items were transferred must be carrying on a trade or business up to the point of amalgamation;

(ii) The amalgamated company continues to carry on the same trade or business on the date of amalgamation as that of the amalgamating company from which the unabsorbed tax loss items were transferred;

(iii) The shareholdings test is met.

In the event that condition (iii) is not satisfied, the amalgamated company may apply to the Comptroller for a waiver of the shareholding test.

Furthermore, the unabsorbed tax loss items can only be set off against the income of the amalgamated company from the same trade or business as that of the amalgamating company immediately before the amalgamation.

Therefore, in the case of STPL and WTPL, where they carried on the same trade just before amalgamation, the UCA and UTL from WTPL can be set off against all future income of the surviving and amalgamated company, STPL, provided that the amalgamation was for genuine commercial reasons and the above stipulated conditions are met.

(b) Tax liability of STPL for YA 2018

	$	$	*Marks*
Adjusted trade profit		195,000	
Less: unabsorbed capital allowances b/f			
– YA 2016	(21,000)		1·0
– YA 2017	(9,000)		1·0
Capital allowance – YA 2018	(45,000)	(75,000)	1·0
		120,000	
Less: unabsorbed losses			
– year ended 31 December 2013	(78,000)		1·0
– period ended 30 June 2017	(27,000)	(105,000)	1·0
		15,000	
Less: unabsorbed donations – YA 2017		(30,000)	1·0
Unabsorbed donations c/f		(15,000)	
Rental income/chargeable income before exemption		60,000	
Less: 75% exemption on first $10,000	(7,500)		
50% exemption on next $50,000	(25,000)	(32,500)	1·0
Chargeable income after exemption		27,500	
Tax at 17%		4,675	
Less: 20% corporate income tax rebate		(935)	1·0
Net minimum tax payable		3,740	
			8·0

5 Look Tink Jee Limited (LTJL)

(a) Attractive characteristics of Singapore tax system

Singapore has a favourable tax system which makes it an attractive location in which to set up Country Y's subsidiary.

Some of the positive characteristics of the Singapore tax system include:

– The corporate tax rate is significantly lower in Singapore than Country Y.

– Repatriation of dividends from Singapore is not subject to any additional Singapore tax consequences. There is no dividend withholding tax and no tax on receipt of dividends for the shareholders under the one-tier corporate tax system.

– There is no capital gains tax regime in Singapore.

– Although foreign income is subject to tax when remitted to Singapore, certain foreign-sourced income may be exempted from tax even when remitted to Singapore, subject to satisfying certain qualifying conditions.

– Singapore has favourable tax treaties with a number of countries which provide a tax credit for the tax suffered on the underlying profits.

– Even if there are no treaties, Singapore grants a unilateral tax credit for the tax suffered for all foreign-sourced income in the foreign jurisdiction.

– Stable tax regime with advance rulings system.

Note: Any five points required, 1 mark for each point, maximum 5 marks

(b) Potential double tax exposure and actions to mitigate

By setting up a subsidiary and relocating half of its sales team from Country Y to Singapore, LTJL hopes to legally shift part of the sales income to be booked in Singapore so that such income can benefit from the lower rate of corporate tax in Singapore compared to Country Y.

Assuming that the tax authorities in Country Y do not dispute that the source of income derived by Look Tink Jee Singapore Pte Ltd (LTJSPL) is in Singapore and not Country Y, such income could still be subject to tax when remitted back to Country Y. So care should be exercised to ensure that such foreign income is not remitted or deemed remitted to Country Y under its domestic tax laws.

With half of its sales team still located in Country Y, LTJL should monitor the activities of the sales team who will be relocated to Singapore to ensure that they are no longer involved in the business activities taking place in Country Y. They should not be involved in any work which will be tantamount to trading in Country Y.

As the sales staff from LTJSPL will travel frequently to the seven countries in Asia, care should also be exercised to ensure that they do not create overseas permanent establishments (PEs) in any of these seven countries, particularly in view of the fact that LTJL also has subsidiaries in these countries.

Based on the comprehensive tax treaty signed between Singapore and Country Y, which follows the OECD Model Tax Convention, and assuming Singapore has also signed similar comprehensive tax treaties with the seven countries which follow the OECD Model Tax Convention, the following measures should be taken by LTJSPL to avoid its sales staff creating PEs in any of the seven Asian countries which they frequently travel to:

Physical PE

In determining whether LTJSPL has a physical PE in another country, it is necessary to consider whether its place of business has some permanence and is at the disposal of the company. This place of business does not need to be a venue which LTJSPL owns or rents. It could even be a space within the customer's premises which LTJSPL uses at its disposal. LTJL does rent office space and warehouses in some of these Asian countries. To avoid creating a PE, the office space should not be made available to the sales people of LTJSPL on a permanent basis. As for the warehouses, they should generally not create a PE risk if they are used merely for delivery and there is no frequent drawing down of inventories in these warehouses.

Service PE

Service refers to the furnishing of services, including consultancy services, by a business through its employees or other personnel engaged by the company for such purposes. The term 'personnel' refers to a natural person, be it the venturing company's employee or an individual engaged by the company.

The sales staff of LTJSPL will travel to the Asian countries to provide a whole range of services. Hence there is a real risk that a service PE may be created through these services if the activity (for the same or a connected project) continues within a specific overseas jurisdiction for a period or periods aggregating more than six months within a 12-month period. LTJSPL should be mindful to take reference from the specific double tax agreement (DTA) with regard to the relevant time frame as it may vary across different DTAs.

Agency PE

Where a Singapore company has a person acting on its behalf overseas and who habitually exercises an authority to conclude contracts in its name, the Singapore company shall be deemed to have a PE in that country in respect of the activity which that person undertakes for the enterprise.

A person for this purpose could be an individual, a firm or any body of persons, other than an agent with an independent status. Again, LTJSPL should refer to the specific DTA for the specific technicalities on the definition of 'agency'.

If the Singapore company engages an independent agent overseas to carry out its obligations and this agent provides this activity in their ordinary course of business of which they have other clients and are not financially dependent on the Singapore company, the agent will not constitute a PE for the Singapore company if it can be proved that they are acting independently.

Here again, there is real risk that an agency PE could be created through both the activities of the sales staff travelling to the Asian countries as well as the network of third party agents. The risk is especially high for the third party agents who are involved in discussions relating to the terms and conditions of the sales agreements, particularly when such negotiations are conducted in a manner which will bind the principal. To mitigate any potential tax exposure in Singapore, these third party agents should not be involved in the negotiation of the terms and conditions of the agreements. These agents may convey the feedback from the customers to LTJSPL and vice versa and act as a liaison person. Where such participation is necessary, it is important that the ultimate approval of the terms and conditions should rest with LTJSPL to reduce the inference of a taxable presence by the tax authorities.

	Available	Maximum
1 Eagle Shoot Pte Ltd (ESPL)		
(i) Deductibility of items (a) to (d)		
(a) Costs for development of software		
Qualify for capital allowance as well as enhanced allowance	1·0	
Qualify for higher cap of $600,000 as a qualifying SME	1·0	
Computation of eligible claim	1·0	
Alternative of PIC cash payout	1·0	
Possibility of deferring the claim for the entire 400%	1·0	
(b) R&D claim		
Possible to claim R&D, including PIC	1·0	
Need to be beneficiary to claim R&D and the test	2·0	
Other conditions for claiming R&D	4·0	
Computation of potential claim	1·0	
Cannot defer claim	1·0	
(c) Renovations		
Cap on claim for renovations and refurbishments reached	1·0	
However, can claim revenue expense for replacement of items	1·0	
Cannot defer claim	1·0	
(d) Training expenses		
Date of incurring of expense is based on the date of training	1·0	
PIC not applicable as amount is incurred for YA 2019	1·0	
No claim for YA 2018	1·0	
	20·0	16·0
(ii) Tax liabilities on sale of industrial building		
Seller's stamp duty based on 10%	1·0	
No LIA or IBA and consequently no balancing charge	2·0	
High risk of income tax on gain on sale	4·0	
	7·0	5·0
(iii) Income tax payable and group relief		
Option 1 with claim for 400% capital allowance for item (a)	2·5	
Under this option, group relief is possible but only for SDPL	1·0	
Conditions for claiming group relief not satisfied for EDPL	1·0	
Overall impact	1·0	
Option 2 with deferral of claim for 400% capital allowance	2·5	
Eligible for start-up tax exemption scheme and conditions for claim	2·0	
Group relief not applicable	0·5	
Overall impact	1·0	
	11·5	10·0
Professional marks		
Appropriate format and presentation of the letter	1·0	
Structure including relevant headings	1·0	
Effectiveness of communication	1·0	
Logical flow	1·0	4·0
		35·0

		Available	Maximum
2	**Jennifer Stone**		
(a)	**Area representative scheme**		
	Benefits of scheme	1·0	
	Conditions for eligibility	4·0	5·0
(b)	**Tax computation for YA 2018**		
	(see answer for detailed allocation of marks)		10·0
(c)	**Tax protection and tax equalisation**		
	Features of tax protection and impact on tax liability	4·0	
	Features of tax equalisation and impact on tax liability	4·0	
	Computation to take into account tax equalisation	4·0	
	(see answer for detailed allocation of marks)		
		12·0	10·0
			25·0
3	**Terrestrial Land Pte Ltd (TLPL)**		
(a)	**Input goods and services tax (GST) claimable**		
	Identification of taxable supplies	2·0	
	De minimis conditions not met	3·0	
	Input tax claimable	2·0	7·0
(b)	**Belonging status of overseas customers**		
	TLPL is making taxable supplies which may be zero rated	2·0	
	Zero rating applies if customer belongs outside Singapore	1·0	
	Guidelines to determine where business belongs	7·0	
	Guidelines to determine where individual belongs	3·0	
	Implications for TLPL	1·0	
		14·0	13·0
			20·0
4	**Shaolin Temper Pte Ltd (STPL) and Wutang Temper Pte Ltd (WTPL)**		
(a)	**(i) Tax implications and administrative requirements of qualifying amalgamation**		
	Normal rules without tax framework	2·0	
	Administrative requirements	3·0	
	General consequences of tax framework	3·0	
	Tax treatment of unabsorbed tax loss items	2·0	
		10·0	7·0
	(ii) Conditions for WTPL prior year losses to be utilised by STPL		
	Loss items not usually transferable between entities	1·0	
	Unless genuine commercial reason, not tax motivated	1·0	
	Conditions for claiming loss items across entities	3·0	
	Implications for STPL	2·0	
		7·0	5·0
(b)	**STPL's tax liability for YA 2018**		
	(see answers for detailed allocation of marks)		8·0
			20·0

		Available	Maximum
5	Look Tink Jee Limited (LTJL)		
(a)	**Attractive characteristics of Singapore tax system**		
	1 mark for each characteristic		5·0
(b)	**Potential double tax exposures and actions to mitigate**		
	Avoid remittance/deemed remittance of foreign income to Country Y	1·0	
	Singapore sales staff should not perform work in Country Y	1·0	
	Need to prevent the creation of PE to mitigate tax exposure in Asian countries	1·0	
	Physical PE and actions	4·0	
	Service PE and actions	4·0	
	Agency PE and actions	6·0	
		17·0	15·0
			20·0