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# Answers

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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 Huckleberry Holding Pte Ltd (HHPL)

Tax Adviser  
Firm's address

The board of directors  
Huckleberry Holding Pte Ltd  
Company address

1 December 2019

Dear Sirs

Singapore tax position for HHPL and its subsidiaries

We refer to your request for advice and are pleased to set out our advice on the respective issues as follows:

**(a) Exemption from preparing transfer pricing documentation (TPD) for the year of assessment (YA) 2020**

HHPL would be exempt from preparing TPD for its related party transactions under five possible scenarios as discussed below:

1. If its gross revenue for YA 2020 is not more than \$10 million; and if it was not required to prepare TPD for YA 2019. This condition is not met as the total trading income comprising sales and the management fee derived by HHPL exceeds \$10 million.
2. If it transacts with related parties in Singapore and these local transactions (excluding related party loans) are subject to the same Singapore tax rates for both parties or are exempt from Singapore tax for both parties. This condition is not met as HHPL's applicable tax rate is 10% (under the development and expansion incentive) and this is different from the tax rate of 17% applicable to Subco One Pte Ltd (SOPL) and Subco Two Pte Ltd (STPL). Moreover, Overseas Venture Limited (OVL) is an overseas entity and hence the exemption is also not applicable.
3. If HHPL applies a minimum 5% cost mark-up for routine support services in accordance with the administrative practice of the Inland Revenue Authority of Singapore (IRAS). Although HHPL applies a 5% mark-up, this condition is still not met as some of the services HHPL provides extend beyond routine support services, e.g. purchasing and technical services.
4. If the related party transactions of HHPL are covered by an agreement under an advance pricing agreement. This is not applicable as HHPL has not entered into any arrangements with IRAS.
5. If the aggregate service fee income derived by HHPL from all related parties does not exceed \$1 million and the sales income does not exceed \$15 million. This condition is not met as HHPL's aggregate management fee of \$10.5 million clearly exceeds \$1 million; and its sales income of \$16 million clearly exceeds \$15 million.

In conclusion, HHPL would not be exempt from preparing TPD for YA 2020.

**(b) Compliance with TPD requirements and penalties for non-compliance**

In order to comply with the TPD requirements, HHPL must:

- Prepare a list of information at both the group level and entity level.
- Prepare the TPD not later than the filing due date for the tax return.
- The TPD should be kept by the taxpayer and submitted to IRAS within 30 days when requested to do so.
- The TPD has to be kept for a minimum of five years from the end of the basis period in which the transaction took place.
- The TPD must be updated every three years.

If HHPL does not comply with the TPD requirements, the penalty is a fine not exceeding \$10,000.

**(c) Arm's length principle and HHPL's transfer pricing policy**

The arm's length principle requires that transfer prices between related parties are equivalent to prices which unrelated parties would have charged in the same or similar circumstances. It involves identifying situations or transactions undertaken by unrelated parties which are comparable to the situations or transactions between related parties.

Instead of performing a proper transfer pricing analysis to determine the arm's length management fee charged, as an administrative concession, HHPL can apply a safe harbour 5% cost mark-up for certain routine support services as a reasonable arm's length charge if all the following conditions are satisfied:

- The routine support services provided by HHPL are in the list prescribed by IRAS;
- HHPL does not offer the same routine services to an unrelated party; and
- All costs relating to the routine support services performed by HHPL are taken into account in computing the 5% mark-up.

Unfortunately, of the services provided by HHPL to its subsidiaries, purchasing activities and technical services are not regarded as routine support services. Hence, the 5% mark-up cannot be adopted in respect of these additional services although HHPL may be able to satisfy the other two remaining conditions, meaning that the 5% mark-up will be considered arm's length for the services provided which are regarded routine support services (i.e. accounting, budgeting, computer support and employee benefits administration).

For the services to which the administrative concession cannot apply, HHPL should have adopted the following three-step approach to determine the arm's length management fee to charge its subsidiaries:

- Conduct a comparability analysis to analyse the price from the perspective of both HHPL and its subsidiaries;
- Identify the most appropriate transfer pricing method and tested party; and
- Determine the arm's length results.

It should also be noted that some payments made on behalf of the subsidiaries would not require a mark-up provided the following conditions are met:

- The acquired services are for the benefit of the subsidiaries;
- The acquired services have been charged at arm's length;
- HHPL is merely the paying agent and does not enhance the value of the acquired services; and
- The costs of the acquired services are the legal or contractual liabilities of the subsidiaries.

Failure to comply with the arm's length requirement can result in the Comptroller stepping in to make transfer pricing adjustments. The Comptroller may increase the taxable income, reduce the deductions or allowances, or reduce any losses.

In addition, the Comptroller can levy a surcharge of 5% of the transfer pricing adjustment. The surcharge applies whether or not any additional tax is payable arising from the adjustment. It is payable within one month starting from the date of notice of the surcharge. The surcharge is not deductible for tax purposes.

**(d) Loss relief options for SOPL**

SOPL could transfer any amount of the current year unutilised trade loss and unabsorbed donations to set off against the assessable income of STPL or HHPL under the group relief system. If SOPL chooses to transfer its loss items to HHPL, a tax adjustment factor would have to be applied as the tax rates for the two companies are different. SOPL cannot transfer either of its loss items to OVL as this entity is not incorporated in Singapore.

SOPL could carry back its current year unutilised trade loss, subject to a cap of \$100,000, to set off against its assessable income for the immediate preceding year, subject to passing the shareholding test. Unutilised donations cannot be carried back.

SOPL could then carry forward any remaining unutilised trade losses and donations to set off against its future assessable income, after applying group relief and carry-back, if applicable, in this order. Again, this would be subject to passing the shareholding test.

**(e) STPL – Investment allowance account and chargeable income for the years of assessment (YAs) 2019 and 2020**

**Investment allowance (IA) account:**

	\$	<i>Marks</i>
<b>YA 2019</b>		
Opening balance	0	
Add: IA (600,000 x 50%)	300,000	0-5
Less: IA utilised	(300,000)	0-5
	<u>0</u>	
<b>YA 2020</b>		
Add: IA (200,000 x 50%)	100,000	0-5
Less: IA utilised	(100,000)	0-5
Ending balance	<u>0</u>	

**Computation of chargeable income (CI)**

	\$	
<b>YA 2019</b>		
Adjusted trade profit before IA	350,000	
Less: IA utilised	(300,000)	
CI	<u>50,000</u>	0-5
<b>YA 2020</b>		
Adjusted trade profit before IA	550,000	
Less: IA utilised	(100,000)	
CI	<u>450,000</u>	0-5
		<u>3-0</u>

**(f) Waiver of management fees payable by OVL**

If there is no actual management fee charged to OVL, the withholding tax in Country A may be avoided.

However, the absence of a management fee charged by HHPL to OVL will not pass the arm's length requirement given that HHPL provides such services to all its three subsidiaries. Hence, IRAS may deem that there is a management fee and accordingly tax HHPL on the deemed management fee.

Since charging or not charging OVL the management fee will still expose HHPL to tax on the deemed margin, it is better to charge the management fee. This is because the tax savings as a result of OVL claiming a tax deduction at the corporate tax rate of 25% will far outweigh the withholding tax burden of 20% suffered on the payment.

The 20% withholding tax suffered in Country A is not creditable against the Singapore tax liability of HHPL. This is because IRAS is unlikely to regard the management fee to be foreign-sourced income due to the absence of a permanent establishment created in Country A by HHPL.

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

Yours faithfully

Tax adviser

**2 Juliana**

**(a) Potential Singapore tax liability for Templeton Oriental Trading Limited (TOTL)**

Templeton Oriental Trading Singapore Pte Ltd (TOTSP) is the wholly-owned subsidiary of TOTL. This control by itself does not result in TOTSP being regarded as a permanent establishment (PE) of TOTL in Singapore. Per Article 5 of the OECD model double tax treaty, 'The fact that a company which is a resident of a Contracting State controls or is controlled by a company which is a resident of the other Contracting State, or which carries on business in that other State (whether through a permanent establishment or otherwise), shall not of itself constitute either company a permanent establishment of the other.'

This is unless TOTL separately creates a PE through a physical, construction, service, substantial equipment or agency PE.

Based on the facts provided, the only relevant PE exposure is the service PE as TOTL sends its employee, Juliana, to Singapore. However, Juliana was posted to exercise Singapore employment at TOTSP and she does not perform any duties for TOTL. Accordingly, no PE exposure is created.

**(b) Qualification for tax incentive schemes in Singapore**

Juliana qualifies for the not ordinarily resident (NOR) scheme in YA 2020 as she meets the following conditions:

- She is a resident of Singapore for income tax purposes for the YA in which she is applying to be taxed under the scheme (i.e. YA 2020) since she is physically employed for the entire calendar year 2019; and
- She was not a resident of Singapore for income tax purposes for the three consecutive YAs immediately preceding that YA, having been posted to Singapore only on 1 January 2019.

The main benefit accorded by the NOR scheme is the time apportionment basis of taxation which Juliana will enjoy in YA 2020 as she also met the following conditions:

- She spent 100 days (i.e. at least 90 days) in the calendar year 2019 outside Singapore for business reasons with respect to her Singapore employment.
- Her total annual Singapore employment income in the calendar year 2019 is \$600,000 (i.e. at least \$160,000).
- Once the time apportionment benefit is granted, the tax payable on Juliana's time apportioned income must be at least 10% of her total employment income before apportionment. This condition is met too (see part (c)).

**(c) Individual tax computation for YA 2020**

	\$	Marks
Employment income:		
Salary (50,000 x 12)	600,000	0-5
Contractual bonus (50,000 x 3)	150,000	0-5
<i>Per diem</i> allowances (not taxable – within prescribed limits)	0	0-5
Housing benefit (9,000 x 12)	108,000	0-5
Company car (3/7 x ((180,000 – 30,000)/10 + 20,000))	15,000	2-0
	<u>873,000</u>	
Less: Amount applicable to 100 days' employment exercised outside Singapore (873,000 x 100/365)	(239,178)	1-0
Assessable income	633,822	
Less: Earned income relief	(1,000)	0-5
Chargeable income	<u>632,822</u>	
Tax on first \$320,000	44,550	
Tax on the next \$312,822 at 22%	68,821	0-5
Tax payable (more than 10% of \$873,000)	<u>113,371</u>	<u>6-0</u>

**(d) (i) TOT SPL bears Juliana's full Singapore tax liability**

	\$	
Notional tax payable (previously calculated)	113,371	1-0
Tax on \$113,371 x 22/78	31,976	1-0
Total tax allowance	<u>145,347</u>	
<b>Actual computation</b>		
Notional chargeable income (previously assessed)	632,822	
Add: Tax allowance	145,347	0-5
Revised chargeable income	<u>778,169</u>	
Tax on first \$320,000	44,550	
Tax on the next \$458,169 at 22%	100,797	0-5
Tax payable	<u>145,347</u>	<u>3-0</u>

**(ii) TOT SPL agrees to put in place a tax equalisation policy for Juliana**

	\$	
Notional tax payable (previously calculated)	113,371	
Tax on \$13,371 x 22/78	3,771	1-0
Total tax allowance	<u>117,142</u>	
Tax borne by employee	100,000	0-5
Tax borne by employer	17,142	0-5
<b>Actual computation</b>		
Notional chargeable income (previously assessed)	632,822	
Add: Tax allowance	17,142	0-5
Revised chargeable income	<u>649,964</u>	
Tax on first \$320,000	44,550	
Tax on the next \$329,964 at 22%	72,592	
Tax payable	<u>117,142</u>	<u>0-5</u>
		<u>3-0</u>

**(iii) TOT SPL agrees to put in place a tax protection policy for Juliana**

If TOT SPL agrees to put in place a tax protection policy instead of a tax equalisation policy, then TOT SPL will reimburse Juliana 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 Hong Kong and not taken up employment in Singapore. Juliana will therefore be protected from being worse off while she is posted to work in Singapore. If the final tax in Singapore is lower than that in Hong Kong, Juliana will benefit.

Under the tax protection method, the excess, if any, of the actual tax over the hypothetical tax will be determined on the basis of a claim filed by Juliana at the time of her tax payments or some other time after the end of the year to which the taxes relate. Since Juliana's tax in Singapore of \$113,371 is higher than her hypothetical tax of \$100,000, she will seek reimbursement of the difference of \$13,371 in the year 2020. On receipt of this reimbursement amount in 2020, this will be added to her taxable income for the year of assessment (YA) 2021 while her tax for YA 2020 will not be affected, assuming the reimbursement is not received in the year 2019. This will continue and only in the final year will tax-on-tax be computed in the same year, similar to the tax equalisation method.

### 3 Chaperon Pte Ltd (CPL)

#### (a) Tax exemption, foreign tax credit (FTC) and FTC pooling

Only dividend income from Country X qualifies for tax exemption under the foreign source income exemption (FSIE) regime as it is one of the three qualifying types of foreign-source income and all the following conditions are met:

- CPL is tax resident in Singapore.
- The dividend is foreign-sourced, being paid by an entity in Country X.
- The dividend is paid out of profits which suffered corporate tax in Country X.
- The headline tax rate of Country X is 25%, i.e. at least 15%.
- The tax exemption is beneficial to CPL.

On the other hand, both royalty income from Country Y and interest income from Country Z do not qualify for tax exemption under the FSIE regime as both do not fall under any of the three qualifying types of foreign-source income.

All three foreign incomes qualify for FTC. In the case of dividend income from Country X, it takes the form of double taxation relief, provided tax exemption is not claimed at the same time. In the case of royalty income, it takes the form of unilateral taxation relief, in the absence of a tax treaty with Country Y. In the case of interest income, it takes the form of a tax sparing relief, even though there is no tax paid in Country Z, as there is a tax sparing article in the tax treaty with Country Z.

Both dividend income from Country X and royalty income from Country Y qualify for FTC pooling as foreign income taxes are paid in the respective foreign country and the headline tax rates in both countries are at least 15%. In the case of interest income, FTC pooling is not applicable as no foreign tax is paid in Country Z.

#### (b) Tax computation of CPL without FTC pooling

	\$	\$	<i>Marks</i>
Adjusted Singapore sourced trading profit		200,000	
Dividend income from Country X – tax exempt (conditions satisfied)	0		0-5
Royalty income from Country Y (42,500 x 100/85)	50,000		1-0
Interest income from Country Z	<u>20,000</u>		0-5
		<u>70,000</u>	
Chargeable income before partial exemption		270,000	
Less: Partial tax exemption		<u>(102,500)</u>	0-5
Chargeable income after partial exemption		<u>167,500</u>	
Tax thereon at 17%		28,475	0-5
Less: Foreign tax credits			
Unilateral taxation relief – royalty income from Country Y (Lower of 50,000 x 15% = 7,500 or 50,000/270,000 x 28,475 = 5,273)		(5,273)	2-0
Tax sparing relief – interest income from Country Z (Lower of 20,000 x 10% = 2,000 or 20,000/270,000 x 28,475 = 2,109)		<u>(2,000)</u>	2-0
Net tax payable		<u>21,202</u>	<u>7-0</u>

(c) Tax computation of CPL with FTC pooling

	\$	\$	Marks
Adjusted Singapore sourced trading profit		200,000	
Dividend income from Country X (67,500 x 100/90 x 100/75)	100,000		0.5
Royalty income from Country Y (42,500 x 100/85)	50,000		
Interest income from Country Z	<u>20,000</u>		
		<u>170,000</u>	
Chargeable income before partial exemption		370,000	0.5
Less: Partial tax exemption		(102,500)	0.5
Chargeable income after partial exemption		<u>267,500</u>	
Tax thereon at 17%		45,475	0.5
Less: Foreign tax credits			
Tax sparing relief – interest income from Country Z (cannot pool, source by source)			
(Lower of 20,000 x 10% = 2,000 or 20,000/370,000 x 45,475 = 2,458)		(2,000)	1.0
Dividend from Country X and royalty income from Country Z			
Lower of pooled foreign taxes paid or Singapore tax payable on total foreign income from Countries X and Z			
Lower of: (32,500 + 7,500 = 40,000)			1.0
or ((100,000 + 50,000)/370,000 x 45,475 = 18,436)		<u>(18,436)</u>	1.5
Net tax payable		<u>25,039</u>	
Based on the calculations, it is not beneficial to apply for the FTC pooling method.			<u>0.5</u>
			<u>6.0</u>

4 Stampede International Pte Ltd (SIPL)

(a) Goods and services tax (GST) registration

SIPL was not late registering for GST. Prior to 1 January 2019, SIPL's taxable turnover (which includes zero-rated supplies and standard-rated supplies) for the past four quarters ended June 2018 did not exceed \$1 million. The same applies for the past four quarters ended September 2018 as well as the past four quarters ended December 2018. From 1 January 2019, the new retrospective test looks at the company's taxable turnover at the end of each calendar year, starting from the calendar year ended 31 December 2019. SIPL's taxable turnover for the calendar year ended 31 December 2019 is \$1,770,000 (800,000 + 500,000 + 150,000 + 320,000), so the company is only liable to apply for GST registration within 30 days from the date of liability to register, i.e. by 30 January 2020. Jack is wrong to apply the old retrospective test to conclude that SIPL must register for GST by looking at the past four quarters ended 31 March 2019.

Besides the retrospective test, GST registration is also compulsory for any business whose taxable turnover is expected to exceed \$1 million for the next 12 months at any point in time under the prospective test.

It is not clear why the registration for GST was approved from 1 July 2019. This may be due to the prospective test or SIPL could have opted for voluntary registration.

But certainly, SIPL will not be penalised for late registration.

Jack's comment about the penalty for late registration is also not entirely correct. In the event that a business is late in the notification of liability for GST registration, besides a fine of up to \$10,000, the additional consequences are:

- The date of registration will be backdated to the date when the business is liable to be registered;
- The business will have to account for and pay GST on past sales starting from the effective date of registration; and
- The business may have to pay a penalty equal to 10% of the GST due and prosecution action may also apply.

(b) Purchase of company van

Jack is correct in stating that SIPL can claim input tax incurred on both the purchase of the company van as well as the running expenses such as petrol and road maintenance costs. This is possible for a commercial vehicle used for business purposes, unlike similar expenditure incurred on private cars where the input tax incurred is disallowed under GST regulations in Singapore.

However, as the company van is used by the driver for private purposes for part of the year, SIPL has to account for deemed output tax on the private usage.

Private use/total use  
= 3 months/12 months  
= 25%

Deemed output tax to be accounted for:

$$\begin{aligned} &= \{25\% \times [\text{yearly depreciation of } \$20,000 \text{ (} 100,000/5)] + [\text{additional costs of } \$500]\} \times 7\% \\ &= \$385 \end{aligned}$$

**(c) Provision of training, temporary accommodation and recreational visits to visiting employees of the German parent company**

Jack is incorrect in treating the training cost as a standard-rated supply just because the training was conducted in Singapore. Instead, the training costs can be zero rated under s.21(3)(k) of the GST Act as the following conditions are met:

- The service is supplied under a contract with an overseas person who belongs outside Singapore;
- The service directly benefits the overseas person; and
- Training (except for formal education courses) is within the list of prescribed services.

The visiting employees of the German parent company are not employees of the Singapore company, i.e. SIPL. Hence, the expenses incurred for the visiting employees are not fringe benefits.

As the serviced apartment expenses are borne by SIPL and not recharged to the foreign parent company, any input tax incurred is claimable as these expenses are incurred for business purposes of the Singapore company.

On the other hand, the GST incurred on the recreational visits for the visiting employees is not claimable as such expenses are not incurred for business purposes.



	<i>Available</i>	<i>Maximum</i>
<b>1 Huckleberry Holding Pte Ltd (HHPL)</b>		
<b>(a) Exemption from preparing transfer pricing documentation (TPD)</b>		
1 mark for scenarios 1 to 4, 2 marks for scenario 5 discussed	6·0	
Conclusion	1·0	
	<u>7·0</u>	5·0
<b>(b) Compliance with TPD and penalties</b>		
0·5 mark for each TPD requirement discussed	2·5	
Penalty	1·0	
	<u>3·5</u>	3·0
<b>(c) Arm's length principle and HHPL's transfer pricing policy</b>		
Explanation of the arm's length principle	1·0	
Possibility of adopting the 5% cost mark-up and conditions	3·0	
Three-step approach to apply the arm's length principle	2·0	
Application and conclusion	1·0	
No mark-up for pass through costs and conditions	2·0	
Consequences of not applying the arm's length principle	3·0	
	<u>12·0</u>	10·0
<b>(d) Loss relief options for Subco One Pte Ltd</b>		
Group relief and application	3·0	
Loss carry-back and application	2·0	
Loss carry forward and application	2·0	
	<u>7·0</u>	6·0
<b>(e) Investment allowance account and chargeable income of Subco Two Pte Ltd</b>		
See answer for detailed allocation of marks		3·0
<b>(f) Waiver of management fee for Overseas Venture Limited</b>		
Can avoid withholding tax in Country A if there is no actual payment	1·0	
Arm's length test not met and possibility of deemed income	2·0	
Net tax savings from actual payment of management fee	2·0	
Withholding tax, if applicable, is not creditable against Singapore tax	1·0	
	<u>6·0</u>	4·0
<b>Professional marks</b>		
Appropriate format and presentation of the letter	1·0	
Structure including relevant headings	1·0	
Effectiveness of communication	1·0	
Logical flow	1·0	
	<u>4·0</u>	4·0
		<u><b>35·0</b></u>

	<i>Available</i>	<i>Maximum</i>
<b>2 Juliana</b>		
<b>(a) Potential Singapore tax liability for Templeton Oriental Trading Limited (TOTL)</b>		
Control by itself will not expose TOTL to tax and reason	2·0	
This is unless TOTL creates a permanent establishment (PE)	1·0	
TOTL should not create PE for sending employee to Singapore	2·0	
	<u>5·0</u>	4·0
<b>(b) Singapore tax incentives</b>		
May qualify for the not ordinarily resident scheme	1·0	
Juliana satisfies both conditions	2·0	
Satisfies the three conditions for time-apportionment benefit	3·0	
	<u>6·0</u>	5·0
<b>(c) YA2020 income tax computation</b>		
Tax computation (see answer for detailed allocation of marks)		6·0
<b>(d) (i) Tax computation if TOTSPL bears Juliana's tax fully</b>		
Tax computation (see answer for detailed allocation of marks)		3·0
<b>(ii) Tax computation if TOTSPL applies tax equalisation to Juliana</b>		
Tax computation (see answer for detailed allocation of marks)		3·0
<b>(iii) If TOTSPL applies tax protection policy to Juliana</b>		
Differences between tax protection and tax equalisation		4·0
		<u>25·0</u>
<b>3 Chaperon Pte Ltd (CPL)</b>		
<b>(a) Qualification for different claims</b>		
Foreign tax exemption only for dividend from Country X	3·0	
Foreign tax credit (FTC) available for all three foreign incomes	2·0	
FTC pooling not applicable to interest from Country Z	2·0	
	<u>7·0</u>	7·0
<b>(b) Tax computation without FTC pooling</b>		
Tax computation (see answer for detailed allocation of marks)		7·0
<b>(c) Tax computation with FTC pooling</b>		
Tax computation (see answer for detailed allocation of marks)		6·0
		<u>20·0</u>

	<i>Available</i>	<i>Maximum</i>
<b>4 Stampede International Pte Ltd (SIPL)</b>		
<b>(a) Goods and services tax (GST) registration</b>		
Application of retrospective test prior to 1 January 2019	1·0	
Application of the new retrospective test from 1 January 2019	3·0	
Prospective test which is unchanged is still applicable	1·0	
Reasons for successful application for registration	1·0	
Other consequences for late notification of GST registration	3·0	
	<u>9·0</u>	8·0
<b>(b) Purchase of company van</b>		
Can claim input tax for related van expenditure	2·0	
Need to deem output tax and the amount involved	3·0	5·0
	<u>          </u>	
<b>(c) Provision of training, accommodation and recreational visits to visiting German employees</b>		
Training cost can be zero rated under s.21(3)(k)	3·0	
Visiting employees are not employees of Singapore company	1·0	
Can claim input tax for accommodation but not recreational visits	3·0	7·0
	<u>          </u>	<u>20·0</u>