

TAXATION

Answer 1

(a) Computation of Tax Liability for Safe Way Sdn. Bhd. YA 2005

	RM +	RM -
Sec 4(a) : Business		
Net profit before tax	1,394,000	
Cost of sales:		
Stock obsolescence	39,500	
Written off	NIL	
Other income:		
Interest – trading		NIL
Interest – Hong Kong		23,000
Dividend		72,000
Compensation - machine		NIL
Salaries and Wages:		
Disabled employee (d/d)		20,000
Entertainment (50%)	6,000	
Traveling allowance	NIL	
Executive - prematurely	NIL	
Rental of premises:		
Computer - disabled	NIL	
Wheelchair - disabled	NIL	
Insurance (d/d)		18,000
Staff Welfare:		
Scholarships	NIL	
Leave passage	23,000	
Lease rental:		
Van	NIL	
Car (72,000 – 50,000)	22,000	
Bad debts:		
Specific	23,000	
Gen. provision	32,000	
Recovered – customer	42,000	
– ex-director		19,000
Repairs and maintenance:		
Construction	27,000	
Depreciation	297,000	
Child care – maintenance	NIL	
Extention of child care center	43,000	
Miscellaneous:		
Meals - employees	NIL	
Lunches (50%)	14,500	
Donation (12,000 + 2,000)	14,000	
Marketing:		
Approved research (d/d)		80,000
Goodwill	NIL	
Legal and professionals:		
Trade debt	NIL	

Lease renewal		NIL	
Defending a suit		NIL	
Architect's fees		6,000	
Training and consultancy:			
NPC (d/d)			29,000
Consultancy		NIL	
Packaging and delivery		<u>NIL</u>	<u> </u>
		1,983,000	<u>261,000</u>
		<u>(261,000)</u>	
Adjusted Income		1,722,000	
(-) Capital Allowance			
C. Year	219,000		
B. Forward	<u>47,500</u>	<u>(266,500)</u>	
Statutory Income		1,455,500	
(-) B. Forward loss		<u>(120,000)</u>	
		1,335,500	
(+) Sec 4C: Dividend (gross)		100,000	
Interest – HK		<u>Exempt</u>	
Aggregate Income		1,435,500	
(-) Approved donation:			
Cash (subject to 5% restriction)		(12,000)	
In kind (not qualified)		<u>NIL</u>	
Chargeable Income		<u>1,423,500</u>	
Tax on the 1 st	RM 500,000 @20%	=RM100,000	
Tax on the balance	RM <u>923,500</u> @28%	= <u>RM258,580</u>	
	<u>RM1,423,500</u>	RM358,580	
Less : Sec 110 Tax credit (28% x 100,000)		<u>(28,000)</u>	
Tax Payable		<u>RM330,580</u>	

(22 marks)

**(b) Textile Sdn. Bhd.
Packaging Machine**

YA 2000	:	Qualifying Plant Expenditure	RM650,000
		IA 20%	(130,000) CA
		AA 14%	<u>(91,000)</u> = RM <u>221,000</u>
		Residual Expenditure (RE)	429,000
			CA
YA 2001	:	AA 14%	<u>(91,000)</u> } = RM <u>91,000</u>
		RE	338,000
			CA
YA 2002	:	AA 14%	<u>(91,000)</u> } = RM <u>91,000</u>
		RE	247,000
YA 2003	:	22/7/03 – Sale Proceed (Controlled transfer)	<u>(247,000)</u>
		Balancing adjustment	<u>NIL</u>

Fashion Sdn. Bhd.

YA 2003	:	R.E (deemed)	RM247,000	
		IA 20%	NIL	CA
		AA 14% x 650,000	<u>(91,000)</u>	=RM91,000
		RE	156,000	CA
YA 2004	:	AA 14%	<u>(91,000)</u>	=RM91,000
		RE	65,000	
YA 2005	:	8/7/05 Sale Proceed	<u>(730,000)</u>	
		Balancing Charge	<u>665,000</u>	

Taxable balancing charge is restricted to total capital allowance claimed by both companies ie RM585,000.

ICON Sdn. Bhd.

YA 05	:	Qualifying plant expenditure	RM730,000	
		IA 20% x 730,000	(146,000)	CA
		AA 14% x 730,000	<u>(102,200)</u>	RM248,200
		RE	<u>481,800</u>	

(8 marks)

(Total: 30 marks)

Answer 2**(a) Tax Computation for Suhaimi YA 2004**

Sec 4(a)	:	Business	RM	RM
Trading	(-)	Adjusted income	38,000	
	(-)	Capital allowance	<u>(6,500)</u>	31,500
Manufacturing	-	Adjusted income	NIL	
	(+)	Balancing charge	<u>23,600</u>	
			23,600	
	(-)	Capital allowance	<u>(8,700)</u>	<u>14,900</u>
		Statutory business income		46,400
	(-)	BF Business Loss – sec 43(2)		<u>(10,000)</u>
				36,400
Sec 4(c)	:	Dividend (14,400 x 100/72)		20,000
Sec 4(d)	:	Rental		<u>19,000</u>
		Aggregate income		75,400
	(-)	CY Business Loss – sec 44(2)		<u>(25,000)</u>
		Total income		50,400
	(-)	Personal Relief:		
		Self	8,000	
		Child < 18 (4 x 1,000)	4,000	
		disabled	5,000	
		EPF + Life insurance	5,000 (mx)	
		Education insurance	<u>3,000 (mx)</u>	<u>(25,000)</u>

Chargeable income		<u>25,400</u>
Tax on the 1 st RM20,000	=	RM475
Tax on the balance 5,400 @7%	=	<u>378</u>
		853
(-) Rebate		(350)
(-) Computer rebate (mx)		<u>(400)</u>
		103
(-) Sec 110 Tax Credit (28% x 20,000)		<u>(5,600)</u>
Tax Repayable		<u>RM5,497</u>

Tax Computation for Puspa YA 2004

	RM	RM
Sec 4(b) : Employment		24,400
Sec 4(d) : Royalty	24,000	
(-) Exemption	<u>(20,000)</u>	4,000
Rental	60,000	
(-) Interest	24,400	
Quit rent	600	
Assessment + Rates	350	
Renovation	-	
	<u>(25,350)</u>	<u>34,650</u>
*Rental loss RM3,700 cannot be claimed		
Aggregate income		63,050
(-) Cash donation		<u>(2,100)</u>
Total income		60,950
(-) Personal Relief:		
Self	8,000	
Medical for parent	5,000 (mx)	
Books	500 (mx)	
Medical equipment	5000 (mx)	
Medical insurance	<u>3,000(mx)</u>	<u>(21,500)</u>
Chargeable income		<u>39,450</u>
Tax on the 1 st RM20,000	=	RM 475
Tax on balance RM19,450 @7%	=	<u>1,361.50</u>
Tax Payable		<u>RM 1,836.50</u>

(16 marks)

- (b) (i) Local leave passage will be exempt from tax up to 3 times a year, provided it is given to employee and his or her spouse and immediate family (children).
- (ii) Medical and dental will be exempt from tax if they are provided to employee and his or her immediate family (children).
- (iii) Compensation is fully exempt from tax if the employee left the employment due to medical reason, otherwise, it will be given

partial exemption that is RM6,000 multiply by every completed years of service.

(4 marks)

(Total: 20 marks)

Answer 3

- (a) Generally, for traveling expenses to be deductible, the expenses must be wholly and exclusively incurred in the production of gross income. Therefore, Mr. Khoo should be able to claim the traveling expenses incurred in peddling the household wares to his customers. The expenses are incurred in the course of his employment. The expenses incurred from traveling to and from home may not be allowable as these expenses are not incurred in the production of gross income since the expenditure merely put him in a position to earn income.

(5 marks)

- (b) For an expense to be deductible, it must satisfy the general deductibility rule of Section 33(1) of the Income Tax Act, 1967. It does not include contingent payments or provisions. In this case, the setting aside of RM1,200,000 amounted to a provision and does not fall within the meaning of the word "incurred". The legal liability to pay had not arisen yet. As such the said payment is not deductible.

Further, it can be argued that the payment constitutes capital payment because it created an advantage of enduring benefit to the company.

It is not clear from the facts of the case whether the fund set up is an approved fund. If it not an approved fund, Section 39(1)(d) prohibits a deduction for the payment made by the company to the fund. However, if this is an approved fund, Section 34(4) of the Income Tax Act 1967 permits the deduction of the payment by the company to the fund.

(6 marks)

- (c) Expenditure on repairs may be deemed to be capital expenditure where the repair is necessitated by the state of an asset at the time of repair. The cost of repairs may considered as being similar to improvements to an asset and is in reality a part of the cost of the acquisition. In this case the lorry could not be used unless repairs were done to the vehicle. As such the repairs are treated as capital expenditure (being the cost of initial repairs) and therefore not deductible.

(4 marks)

(Total: 15 marks)

ANSWER 4

(a)

RM5 million	- subject to withholding tax
	- the recipient (non-resident) received special classes of income (S.4A) i.e. technical advice fees.
	- the income is deemed derived from Malaysia because the responsibility for the payment lies with High Tech Berhad, a company resident in Malaysia. The services were performed in Malaysia [Finance (No. 2) Act 2002 (Act 624/2002)]. The income would be subject to withholding tax @ 10% (10% x RM5,000,000 = RM500,000)
RM10 million	- Not subject to withholding tax as this is for the purpose of goods.

(5 marks)

(b) (i) Ali & Co – taxable person as the threshold limit exceeds RM150,000.

CESB – taxable person as the threshold limit exceeds RM150,000.

(2 marks)

(ii)	Professional fees	RM15,000
	Service tax @ 5%	RM 750
		<u>RM15,750</u>
	+ Disbursements	RM21,000
	Out-of pocket expenses	RM 800
	Total invoice value	<u>RM37,550</u>
		=====

(3 marks)

(iii) Since the payment from Mr Vincent was settled on 5 May 2005, it falls into the third taxable period. The amount of service tax is due and payable within 28 days from the expiration of that taxable period: 28 July 2005.

(2 marks)

(c) **Option 1**

By setting up an office in Shah Alam, Titan Ltd will be considered as carrying on a business through a **Permanent Establishment**, that is to say that the company is **trading in** Malaysia. Therefore, any profit earned will be taxed in Malaysia.

Option 2

A showroom is not a Permanent Establishment. Therefore there will be no tax implication Titan Ltd will be trading with Malaysia. The manager has no authority to conclude any sales contracts. The showroom is used for the purpose of display of goods only.

(8 marks)
(Total : 20 marks)

Answer 5

(a) A partnership is deemed to exist because

1. both companies share the profits and loss
2. they have specific functions to perform according to the contract, thus there is a sharing of responsibilities
3. the contract income and expenditure is reflected in the accounts

A partnership agreement does not determine the existence of a partnership. Therefore, in its absence, a partnership can still exist.

(5 marks)

(b) (i)

	14/7/2002	13/9/2002	1/11/2003
DV/TTA	1,000/1,450	2,000/2,555	970/1,440
	= 69%	= 78%	= 67%
	Not RPC	RPC	Not RPC

(3 marks)

(ii) **En. Alias: Disposal of 30,000 shares on 13/ 9/2002**

Acquisition price:	
30,000/400,000 x 2,000,000 =	RM 150,000
Disposal price:	190,000
Chargeable gain	<u>40,000</u>
Less: Sch 4 exemption (RM5,000 Or 10% of CG, WIH	(5,000)
Net Chargeable Gain	<u>35,000</u> =====

Date of acquisition 13/9/2002 (deemed acquired on this date because the company turned into RPC)

Date of disposal 13/9/2002
Rate of RPGT 30% (disposal within the first two years)
RPGT payable RM10,500

Puan Amy: Disposal of 30,000 shares on 5 November 2003

Acquisition price: (actual price paid)	RM190,000
Disposal price	RM250,000
Chargeable gain	<u>RM 60,000</u>
Less: Sch 4 exemption	(RM 6,000)
Net Chargeable Gain	<u>RM54,000</u> =====

Date of acquisition : 13.9.2002
Date of disposal : 5.11.2003

Disposal within the first two years = 30%
RPGT payable = RM16,200

Seri Jaya Sdn Bhd : Disposal of 22,500 shares (75% x 30,000) on 3/3/2005

No RPGT payable because there is **no disposal of chargeable assets**.
The shares acquired by Seri Jaya Sdn Bhd were non-chargeable assets as these shares were **non- RPC shares**.

(7 marks)