

TAXATION

QUESTION 1 (a)(i)(ii)

Paper Products Sdn Bhd
Year of assessment 2008

Tax adjustments	RM'000 Add(+)	RM'000 Deduct(-)	Comments on adjustments
Net profit	4,145		NA
Sales			
Cost of goods sold	10,000		Donations not in cash -disallowed
Other income		74	To be assessed separately
Advertisement			
Condolence message	5		Private expenditure - disallowed - sec 39
Wedding announcement	10		Private expenditure - disallowed - sec 39
Bad debts			
Provision	100		Provision disallowed-not incurred
Bad debts written off		130	Allowable
Depreciation	150		Capital expense-disallowed Disallowed. To deduct against aggregate income
Donation	456		
Entertainment			
Staff refreshment		Nil	Business expense
Ent. - dealers and suppliers	5		50% disallowed-sec39(1)(l)
Promotion of sales		Nil	Business expense
Fines and penalties	26		Non-business expenses-sec 39
Foreign exchange			
Loan creditor	180		Capital payments
Loss on payment to trade creditor	240		Loss not realized
Insurance		Nil	Qualifies for double deduction
Lease charges			
Lorry		Nil	Commercial vehicle-lease not restricted Payment in excess of RM 50,000 disallowed
Motor car 1	10		
Motor car 2		Nil	Allowable up to a maximum of RM 50,000
Maintenance			
Broken alarm system		Nil	Revenue expenditure
Replacing main gate lock		Nil	Revenue expenditure
Repainting of factory		Nil	Revenue expenditure
Replacing office clock	2		Claim CA-small value assets-PR 1/2008
Professional fees			
Secretarial fees	6		Disallowed - IRB public ruling 6/2006
Registration of patent	5		Capital expenditure

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Tax audit appeal	5	Non-business expenditure
Consultant fee	8	Capital expenditure
Remuneration (EPF adjustments)	3.6	Max: restricted to 19% of remuneration
	18,553	204
	204	
	18,349	
Less: Double deduction		
Insurance	10	Double deduction for marine insurance
Adjusted income	8,349	
Add: Balancing charge	15	Sch 3/Sec 43
	8,364	
Less: Capital allowance	120	Sch 3
	8,244	
Reinvestment allowances b/f	3	Sch 7A
	8,241	
Less: Unabsorbed loss b/f	10	Sec 43
	8,231	
Add: Other income		
Rent	74	Separate source of income
Aggregate income	8,305	
Less: Donation	56	Sec 44(6)
Total income	8,249	
Tax payable @ 26% = RM2,144,740		

(15 marks)

QUESTION 1(b)

The company's intention to construct and sell the apartments is in sync with the profit making motive. The land was specifically acquired to be developed for sale. However it was not completed on account of the government acquisition. Nevertheless, the fact that the amount paid as compensation was calculated to reflect the profit the company would have made had the development been completed is sufficiently significant to add weight to the argument for taxability.

The amount received may be liable to tax as the company is already in the business of property development. Cases like Penang Reality may be quoted in support.

(5 marks)

(Total : 20 marks)

QUESTION 2

Easy Transport Sdn Bhd

Computation of capital allowance - Year of assessment 2008

	RM'000		RM'000		RM'000	
	Trailer		Lorry		Crane	Total allowances
Cash deposit paid	40		160		285	
Add: Installments 8 mths x 7500	60					
Total capital payments	100					
Less:						
Initial allowance 20%	20	32		57		
Annual allowance 20%	20	40	32	64	57	114
		60		96		171
						218

Date of purchase: 1 April 2008

	RM 000		RM 000
Cash price of trailer	400	Cash price of trailer	400
Less: Deposit paid	40	Less: Deposit paid	40
Balance payable (starting May 2008)	360	Balance payable (starting May 2008) in 48 months	360
HP interest charges	144		
Balance payable in 48 installments	504	Installments per month	360 / 48
			7.50

(Total : 10 marks)

QUESTION 3(a)**(i) Lease**

The Income Tax Lease Regulations 1986 (ITLR 1986) defines lease as any kind of agreement or arrangement under which payments are made for the use of an asset. Whether such leases would cover immovable properties is currently a subject of contention in view of section 36 of the Income Tax Act 1967 (as amended) empowering the DGIR to make rules *only* in respect of movable properties.

(2 marks)

(ii) Special purpose asset

A 'special purpose asset' is defined in the ITLR 1986 to mean a leased asset where no other user can use the same asset without making alterations or dismantling from the structure attached to building or land. Under section 36 of the Income Tax Act 1967 (as amended) such asset is considered a movable property.

For the layman application, a custom made asset and an asset that is an integral part of a building (e.g. escalators and lifts in a building) are treated as a 'special purpose asset'.

(3 marks)

QUESTION 3(b)

Section 24 of the Income Tax Act 1967 (as amended) provides that where in the relevant period a debt is owing to the relevant person arises then the amount of the debt shall be treated as the gross income of the relevant person from the business for the relevant period (the income is assessed on an accrual basis). Regulation 3 of the ITLR 1986 deems that the lease rental received is accrued evenly throughout the period of the lease - an anti-avoidance ruling designed to prevent the structuring of the lease payments to secure tax advantage, especially in non-arm's length transaction.

However where in a transaction between independent person dealing at arm's length it could be established that the arrangement is in line with commercial realities the DGIR would accept such an arrangement (e.g. in a case of a floating rate lease or a stepped up or stepped down lease)

If the company is not able to satisfy the DGIR that the arrangement is commercially justifiable, the lease payments would be spread out over the period of the lease by virtue of Regulation 3, as follows:

(10 marks)

Year	Computation	
2008	30,000 x 12 months	360,000
2009	40,000 x 12 months	480,000
2010	50,000 x 12 months	600,000
	Total payments	1,440,000
	Payment per month	1440000 /36 months
		40,000

(5 marks)

(Total:20 marks)

Second child = $198,412 \times \frac{1}{2} = 99,206$

Third child = $198,412 \times \frac{1}{2} = 99,206$

	1 st child (R)	2 nd child (R)	3 rd child (NR)	Shila (R)
	R			
Statutory income from trust body	60,000	99,206	99,206	30,000
Personal Relief	(8,000)	(8,000)	NE	(8,000)
Chargeable income	52,000	91,206	99,206	22,000
Tax charge at	Scale rate	Scale rate	28%	Scale rate
Tax charge	3,855	12,364	27,778	615
Tax rebate				(400)
Tax credit Sec 110(8)			(25,794)	
Income tax payable	3,855	12,364	1,984	215

(Total: 12 marks)

QUESTION 5

(a)(i)

Investment tax Allowance (ITA) – workings

	2009 RM'000	2010 RM'000	2011 RM'000	2012 RM'000	2013 RM'000
Balance b/f		60,000	3,000	-	-
60% x QCE	60,000	48,000	42,000	-	192,000
ITA available	60,000	108,000	45,000	-	192,000
70% x Statutory income	-	105,000	140,000	-	189,000
ITA utilized	-	105,000	45,000	-	189,000
ITA unutilized c/f	60,000	3,000	-	-	3,000

Computation of exempt income and chargeable income

	2009 RM'000	2010 RM'000	2011 RM'000	2012 RM'000	2013 RM'000
Promoted Product:					
Statutory income	-	150,000	200,000	240,000	270,000
Exemption	-	(105,000)	(42,000)	-	(189,000)
Statutory income (AE)		45,000	158,000	240,000	81,000
Non-Promoted Product					
Statutory income	12,000	24,000	-	26,000	33,000
Income from business	12,000	69,000	158,000	266,000	114,000
Adjusted loss b/f	-	(69,000)	(99,000)	-	
		c/f 99,000			
Aggregate income	12,000	-	59,000	266,000	114,000
Adjusted loss CY	(12,000)	-	(35,000)	-	-

	c/f168,000			
Total income /	-	-	24,000	266,000
Chargeable income				114,000

(9 marks)

(a)(ii)

i) Criteria for reinvestment allowance:

- must be a resident company
- incurs qualifying expenditure for a qualifying project i.e. automation, modernization or diversification or expansion its current operations or existing products.
- must be in operation for at least 12 months.

ii) The exemption rate is 60% of the qualifying capital expenditure incurred during the year.

iii) The exempt income can be fully set-off against the statutory income.

(3 marks)

(b) (1)

Sales tax = 10% x 420,000 (market value) = RM4,200

The taxable period = 2 calendar months i.e. May – June 2008

The amount of sales tax must be paid to the tax authorities within 28 days after the end of the taxable period i.e. 28 July 2008

(2 marks)

(b) (2)

- i. Service tax is only accounted to The Royal Customs Department when payment for goods and services is received by Sugi Sdn Bhd. Since the payment was received from Danon Sdn Bhd on 28 August 2008, the taxable period is July – August 2008.
- ii. Penalty will be imposed because there was a late payment for the service tax to the Royal Customs Department. Where any amount of service tax is not paid after 28 days from the expiration of a taxable period, a mandatory penalty of 10% will be imposed on such unpaid amount. If the sum remains unpaid, the penalty will be increased by a further 10% for every succeeding period of 30 days or part thereof, subject to a maximum of 50%.

Due date		RM
28.9.2008	Service tax due	8,700
29.9.2008 – 28.10.2008	10% x 8,700	870
29.10.2008 – 27.10.2008	10% x 8,700	870
	Total	10,440

- iii. Sugi Sdn Bhd is responsible to pay the penalty.

(4 marks)

(c)

i) RM40 million payments made to Niger Ltd is subject to withholding tax under contract payment Section 107A. The rate is 13% i.e. 10% on non-resident contractor and 3% on employees of the non-resident contractor. The costs of materials and equipments i.e. RM60 million is not subject to withholding tax.

ii) Final tax liability:

	RM (million)
Chargeable income	25
Income tax at 26%	6.5
Less: 10% withholding tax on service portion	(4)
Final tax payable	2.5

(4 marks
(Total: 22 marks)

QUESTION 6

Encik Daniel

Computation of Statutory Income from Employment for the year of assessment 2008

From 1 January 2008 to 30 June 2008:	RM	RM
Section 13(1)(a):		
Salary $[8,600 + 300 \times 100/89] \times 6$ months	60,000	
Long service awards $[5,000 - 1,000]$	4,000	
Gratuity RM100,000	Exempt	64,000
Section 13(1)(b):		
Furniture $[RM140 \times 4$ months]	560	
Medical expenses	exempt	
Leave passage : Air fares and insurance 13,000		
Less exemption (3,000)	10,000	
Hotel accommodation	8,000	18,560
Section 13(1)(c):		
House: Defined value RM1,200 $\times 4$ months = 4,800		
30% \times RM64,000 $\times 4/6 = 12,800$		
Take the lower		4,800
Section 13(1)(d):		
Contribution by Daniel RM30,000	exempt	
Contribution by employer	40,000	
Interest	10,000	50,000
		137,360
		=====

From 1 August 2008 to 31 December 2008:

Section 13(1)(a):

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Directors fees [RM10,000 x 5 months]	50,000	
Entertainment allowance [RM1,000 x 5 months]	5,000	55,000
Section 13(1)(b):		
Mobile phone: Hardware [RM300 x 5/12months]	125	
Phone bills [RM300 x 5/12months]	125	
Car [RM5,000 x 5/12 months]	2,083	
Fuel [RM1,500 x 5/12 months]	625	
Driver [RM600 x 5 months]	3,000	
Servant [RM400 x 4 months]	1,600	
Gardener [RM300 x 4 months]	1,200	8,758
Section 13(1)(c):		
Hotel [RM250 x 31 days]	7,750	
House [RM2,000 x 4 months]	8,000	15,750
		79,508
		=====
Statutory income from employment		216,868

Puan Sara - Computation of Rental income:

	RM
Gross income [RM900 x 12 months]	10,800
Less:	
Kitchen cabinet	Not allowable
Repairs and maintenance	(1,200)
Interest on loan	(5,000)
Fire insurance	(900)
Quit rent	(700)
Adjusted income from rent	3,000

Computation of income tax liability for the year of assessment 2008:

	Daniel	Sara
Employment	216,868	
Rent		3,000
Aggregate income	216,868	3,000
Donations	(2,000)	(210) max 7% x 3,000
Total income	214,868	2,790
Less reliefs:		
Personal	(8,000)	(8,000)
Medical expenses for himself	(500)	
Medical expenses for his parents	(4,500)	
Basic supporting equipment	(1,100)	
Purchased of books	(900)	
Computers		(3,000)
Child relief – 2 nd child	(4,000)	
3 rd child (RM5,000 + RM4,000)	(9,000)	
4 th child	(1,000)	

EPF and life insurance premium (LIP):

EPF RM6,000

LIP – Daniel RM3,600

LIP – 3rd child – Not allowable

(6,000)

Chargeable income

179,868

0

Tax charge:

1st 100,000 = 14,475

Bal 79,868 x 27% = 21,564

36,039

Income tax liability

36,039

0

(Total : 16 marks)