

**EXAMINERS' REPORT**  
**MIA QUALIFYING EXAMINATION MARCH 2020**  
**PAPER: TAXATION**

Question no.	Question's Requirement	Expected Answer	Weaknesses in the Answer Provided	How answer should be written to get more marks
1(a)	Candidates were required to compute the chargeable income of a limited company, based on a fairly structured information given by way of a profit and loss account together with some notes on income, expenditure and related matters.	The chargeable income should be determined by applying the provisions of the Income Tax Act 1967 (as amended) and relevant rules and regulations.	<p>Some weaknesses were noted as follows:</p> <ol style="list-style-type: none"> <li>(1) Computation of the chargeable income was not done in accordance with the provisions of section 5 of the Income Tax Act 1967.</li> <li>(2) The foreign interest income was brought to charge.</li> <li>(3) The depreciation and capital allowance adjustment on the computer aided design equipment was not done correctly.</li> <li>(4) Expenditure on the extension of the administration building is not a deductible expense.</li> <li>(5) Bad debts and its provision were adjusted incorrectly</li> <li>(6) Replacement of the damaged lorry engine was disallowed by many.</li> <li>(7) Lease rental was disallowed by some.</li> </ol>	<ol style="list-style-type: none"> <li>(1) The chargeable income is arrived at in accordance with section 5 i.e. gross income, adjusted income, statutory income, aggregate income, total income and chargeable income. The labelling of the stages of income earns some marks.</li> <li>(2) The foreign interest income remitted to Malaysia is not taxable.</li> <li>(3) The depreciation on the equipment should be disallowed. For capital allowance, only the initial allowance needs to be computed. There is no annual allowance as the equipment was written off during the year and was not in use at the end of the basis year for the year of assessment.</li> <li>(4) Only specific provision for trade debts are deducted under the Income Tax Act 1967. Any other provision should be disallowed.</li> <li>(5) Replacement of the damaged engine would be an allowable expenditure.</li> </ol>

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			<p>(8) Professional fee for negotiating a new lease agreement was allowed a deduction.</p> <p>(9) Payment to a Labuan company not adjusted correctly.</p>	<p>(6) Lease expenditure is an allowable business expense.</p> <p>(7) Professional fee for negotiation a new lease of a building is a capital expenditure to be disallowed. A new lease is a valuable right to the company.</p> <p>(8) Payment to a Labuan company should be disallowed 97% ('other payment' category).</p>
1(b)	A machine was disposed after it was classified as 'held for sale'.	Students were expected to compute the allowance on the particular machine.	Many did not compute the allowance correctly.	This is a test on the application of section Para 61A of Schedule 3 of the Income Tax Act 1967 in respect of an 'asset 'held for sale', and subsequently disposed of.
1(c)	This was a question on agriculture.	Students were expected to determine the treatment of the expenditure incurred on the farm for tax purposes.	Many students did not have any clue of how the expenditure should be treated for tax purposes.	The replanting expenditure would qualify for deduction under section 34(6)(d) of the Income Tax Act 1967; while the expenditure on the new road would qualify for agriculture allowance under para 22 of schedule 3.
2(a)	The question was on the treatment of a real estate investment trust.	Students were expected to compute the chargeable income.	Students were not sure of the tax treatment to be accorded to a REIT.	Income that are exempted, or not liable to income tax, should be excluded in the computation.

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				Expenses relating to the income or receipts not brought to charge should be excluded also (e.g. interest on loan for acquisition of shares should be excluded as the single tier dividend received is not taxed).
2(b)	This was a test on the 'mutuality principle'.	Students were expected to explain the concept of 'mutuality' and its income tax implications.	Many students did not attempt this question.	Section 53A disregards any income of a body of persons from transaction with members; and similarly, any outgoings and expenses relating to those transactions are also ignored. And this treatment is based on the concept of 'mutuality'. While the law does not define it, case laws have established the rules to be followed for tax purposes.
2(c)	The question was real property gains tax.	Students were expected to compute the chargeable gain in respect of the acquisition and disposal of a real property by an individual.	Many students were not sure of the law and its application to the real property transaction.	The computation of the chargeable gain is under a separate law i.e. the RPGT Act 1976. Thus, use of the correct terms are important e.g. acquisition price (not acquisition cost) and chargeable gain (not chargeable income). Also, there is a distinction between 'permitted expenses' and 'incidental expenses' - these are allowed under

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				different provisions of the RPGT Act. Some used accounting approach to compute the gain (Sale less cost etc.).
3(a)	This was a question on the taxability of the gains from a speculative transaction.	Students were expected to briefly argue whether the gain made was liable, or not liable to income tax. Case law was required to be cited in support of their argument.	Most students did not answer this question. Those who attempted it, some were not able to articulate their points well. Some gave one-word or one-line answer, while others tried luck with case laws like <i>CIT v DGIR</i> (a non-existent case).	The issue was an actor speculating on silver, acquiring it using borrowed money and making a gain upon disposal after short period. Students should identify the legal issues and cite an appropriated case in support for the taxability or non-taxability of the gain.
3(b)	This was on expenditure incurred on intellectual resources by a professional firm and the deduction or allowance that may be due on those expenditure	Students were expected to briefly argue whether the expenditure would be allowed a deduction; or capital allowance could be claimed on the expenditure incurred. Case law was required to be cited in support of their argument.	Again, most students did not answer this question. Of those who attempted it, they were not able to articulate their points well. And proceeded with one-word or one-line answer. Most students did not cite case law or laws to support their argument.	There were two expenditure – one on acquiring a set of law books; another a subscription for legal and technical updates. Here too, students should identify the legal issues and cite an appropriated case in support of their argument.
4	Candidates were asked to calculate the income tax payable by Azmir and	Candidates were expected to compute the income tax payable by Azmir and	The question was generally attempted well. But some candidates may forgot about the claim of the reliefs. They may	The computation of income tax payable should follow the format and candidates must ensure the right calculation for

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	Puan Nasibah for the year of assessment 2019.	Nasibah for YA 2019. They must consider the format for tax computation and the additional information provided in the question.	overlook on the statement included in the additional information that Puan Nasibah elect to claim child relief. Therefore, many of the candidates included child reliefs under Azmir.	donation either 7% or 10% and the maximum amount to claim for the expenses given in the question.
5(a)	In this question, the candidates were required to compute the income tax payable by the trust body and the amount of trust total income received by the beneficiaries for the year of assessment 2019, assuming Section 61(2) is to be applied.	Candidates were expected to show the computation of the income tax payable of the trust body and the amount of trust total income received by the beneficiaries in the condition when Section 61(2) is applied.	The question was moderately attempted by the candidates. Even though candidates know the computation of income tax payable of the trust body but they were still lack of knowledge on effect to the trust total income when Section 61(2) applied. Moreover, candidates also still confused to calculate beneficiaries shared of trust total income.	Candidates must be able to compute trust total income in the condition when Section 61(2) applied. Meaning, the income of resident beneficiaries were deducted in arriving the trust total income. Candidates must also know how to calculate beneficiaries share of the trust total income.
5(b)	Candidates are required to discuss whether each of the payment in the situations given was subjected to withholding tax and also determine the amount of withholding tax.	Candidates should be able to identify whether the given payment is subject to withholding tax or not and justify their answer. They also need to determine the amount of withholding tax .	Most candidates provided good answers. They were able determine the amount of withholding tax and provide the justification on each situation.	Candidates were able to identify the payment whether subject to withholding tax or not and provided justification.

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6(a)	Compute the chargeable income and the amount credited to the exempt income account for the year of assessment 2020, 2021 and 2022.	Candidates should be able to compute the amount of chargeable income and the amount to be credited to the exempt income account for the given three years of assessment, 2020, 2021 and 2022.	Candidates moderately attempted the question. Most of the candidates were having difficulties in determining the amount of previous year pioneer loss.	Candidates must know the correct format of the computation for the chargeable income and the amount credited to tax exempt income account for the companies granted with Pioneer Status. They must show the abatement of 70% of Statutory Income and this amount should also appear in the exempt income account. They must also know the treatment of pioneer loss and to set off the brought forward pioneer loss.
6(b)	Candidates must be able to explain when service tax on imported services is due to be paid to the Royal Malaysian Customs.	Candidates must be able to theoretically explain the concept of imported services also the taxable person.	Poorly attempted by the candidates. They unable to provide accurate answer in explaining the imported services and its due date .	Candidates must first explain about the imported services and when is its due date.

## General Recommendation

<b>To Facilitators</b>	Candidates should be familiar with the current legislation as regards the taxability of receipts and the deductibility of expenses and the tax computation of specialised industries.
<b>To Candidates</b>	Candidates must strive to obtain the relevant technical competency in working out the tax liability of various entities; and in theory questions, they must acquire the ability to write and state the concepts in the taxing law, and arguments for the taxability (or non-taxability) of receipts or deductibility (or non-deductibility) of expenses, supported with relevant case laws. Knowledge of the relevant case laws is therefore important.