
Answers

Notes:

- (1) All references to legislation or public rulings shown in square brackets are for information only and do not form part of the answer expected from candidates.
 (2) Marks indicated with a '*' are awarded for the allocation of the appropriate description to the figure calculated, not for the figure itself.

	<i>Marks</i>
1 (a) Tax residence	
Mr West's stay in Malaysia is as follows:	
10 January to 25 March 2008 = 22 + 29 + 25 = 76 days	
1 November to 31 December 2008 = 30 + 31 = 61 days	
Total days in 2008 = 76 + 61 = 137 days	1
Therefore, he fails to fulfil the residence requirement under	
Section 7(1)(a): because he was not present in Malaysia for at least 182 days during the year 2008	1
Section 7(1)(b): because his stay from 1 November to 31 December 2008 is less than 182 days and it is not linked to a consecutive period of at least 182 days in the preceding or following year (1 January to 15 March 2009 = 74 days)	1 + 1
Section 7(1)(c): because although his stay in Malaysia in 2008 was more than 90 days, he was not, in any three out of the four immediately preceding years, either present in Malaysia for at least 90 days or was a resident in Malaysia.	1 + 1
Section 7(1)(d): because he cannot be resident for the three years before 2008 AND one year after 2008	1
	7

(b) (i) Mr Resident
Tax computation for the year of assessment 2008

	RM	RM	
Employment income			
Salary		120,000	1/2
Travelling allowance		12,000	1
Entertainment allowance		9,600	1
		141,600	
<i>Less deductions</i>			
Travelling expenses	10,020		1
Entertainment expenses (restricted to allowance received)	9,600		1/2 + 1
Subscription to professional body	2,980		1
		(22,600)	
Statutory income from employment		119,000	
Interest			
Interest from Malaysian bank (exempted or tax already withheld at source)		nil	1
Aggregate income		119,000	1/2*
Less Approved donation		(2,000)	1
Total income of Mr Resident		117,000	1/2*
Wife			
Royalty income		22,500	1/2
Less exempted (for literary work)		(20,000)	1
Total income of Mrs Resident		2,500	1/2*
Combined total income		119,500	1/2*
Personal reliefs			
Personal relief	8,000		1/2
Wife relief	3,000		1
Employee's Provident Fund contributions (restricted to maximum)	6,000		1
Health insurance premium (restricted to maximum)	3,000		1
		(20,000)	
Chargeable income		99,500	1/2*

	RM	RM	<i>Marks</i>
Tax on first RM70,000		7,275	
Tax on next RM29,500 at 24%		7,080	
Tax charged/payable		<u>14,355</u>	$\frac{1}{2}$
			<u>16</u>
(ii)	Mr West		
	Tax computation for the year of assessment 2008		
	RM	RM	
Interest income			
Interest from Malaysian bank (non-residents are exempted)		nil	1
Rental income			
Gross rental income	90,000		$\frac{1}{2}$
Less deductions			
Repairs and maintenance	(1,500)		1
Quit rent and assessment rates	(2,800)		1
Window grilles (capital in nature)	<u>nil</u>		1
Statutory income from rental of property		<u>85,700</u>	
Aggregate income		85,700	$\frac{1}{2}^*$
Approved donation in cash		(3,000)	1
Total income		<u>82,700</u>	$\frac{1}{2}^*$
Personal reliefs		nil	1
Chargeable income		<u>82,700</u>	$\frac{1}{2}^*$
Tax charged/payable at 28%		<u>23,156</u>	$\frac{1}{2} + \frac{1}{2}$
			<u>9</u>
Total			<u>32</u>

2 (a) Tax deductibility of each item of expenditure

Medicines and supplies	Deductible	Revenue expense incurred in the normal course of the business.	$\frac{1}{2} + 1$
Loss on sale of X-ray equipment	Not deductible	Capital in nature as it relates to a fixed asset.	$\frac{1}{2} + 1$
Staff payroll	Deductible	Revenue expense incurred in the normal course of the business.	$\frac{1}{2} + 1$
Dr Manis's attendance at a medical conference	Deductible	Incurred to keep up with the latest developments, therefore incurred in the production of gross income from the medical practice.	$\frac{1}{2} + 1$
Salary to Mr Cekap	Deductible	Even though Mr Cekap is the husband, he is neither the proprietor nor a partner, and he did perform duties in managing the clinic.	$\frac{1}{2} + 1$
Clinic upkeep and utilities	Deductible	Revenue expenses incurred in the normal course of the business.	$\frac{1}{2} + 1$
Donation to charity	Not deductible	Not wholly and exclusively incurred in the production of business income.	$\frac{1}{2} + 1$
Depreciation	Not deductible	A provision, it is not incurred.	$\frac{1}{2} + 1$
			<u>12</u>

(b)

Dr Manis
Computation of total income for the year of assessment 2008

	RM	
Adjusted income from Klinik Harapan	450,000	$\frac{1}{2}$
Less capital allowances (9,380 + 18,900)	<u>(28,280)</u>	1 + $\frac{1}{2}$
Statutory income from Klinik Harapan	421,720	$\frac{1}{2}$ *
Dividend income (4,440/74 x 100)	<u>6,000</u>	1
Aggregate income	427,720	$\frac{1}{2}$ *
Less		
Current year business loss	(21,800)	1
Approved donation in cash	<u>(1,000)</u>	1
Total income	<u>404,920</u>	$\frac{1}{2}$ *
		<u>7</u>

(c) General basis of taxation of service tax and whether subject to the service tax provisions

Service tax is a consumption tax levied on and charged on any taxable service provided by any taxable person whose sales turnover exceeds any limit specified for any twelve-month period.	1
'Licensed private hospitals' is listed as a taxable person.	1 + $\frac{1}{2}$
But, Klinik Harapan is not a hospital.	$\frac{1}{2}$
Therefore, Klinik Harapan is not a taxable person and thus, is not subject to the service tax provisions.	$\frac{1}{2}$
	<u>5</u>
Total	<u>24</u>

3 Able Sdn Bhd**(a) Qualifying building expenditure for new factory**

Year of assessment 2008		
Cost of factory land	Non-qualifying	Relates to land, and not to buildings.
Legal fees and stamp duty on acquiring factory land	Non-qualifying	Relates to land, and not to buildings.
Legal fees on construction contract	Qualifying	Relates to factory building.
Cost of construction and fittings	Qualifying	Cost of construction of factory building.
Professional fees on design and supervision	Qualifying	Relates to construction of factory building.
		$\frac{1}{2} + \frac{1}{2}$
		$\frac{1}{2} + \frac{1}{2}$
		$\frac{1}{2} + \frac{1}{2}$
		$\frac{1}{2} + \frac{1}{2}$
Qualifying building expenditure is therefore RM606,000 (1,000 + 545,000 + 60,000)		<u>1</u>
		<u>6</u>

(b) Industrial building allowance for the new factory

	RM	RM	
Qualifying building expenditure		606,000	
Initial allowance 10%	60,600		1
Annual allowance 3%	<u>18,180</u>		1
		<u>(78,780)</u>	
Residual expenditure carried forward		<u>527,220</u>	<u>1</u>
			<u>3</u>

(c) Balancing charge/allowance**Disposal of the old factory**

	RM	RM	
Qualifying building expenditure		800,000	$\frac{1}{2}$
Year of assessment 2004			
Initial allowance 10%	80,000		$\frac{1}{2}$
Annual allowance 3%	24,000		$\frac{1}{2}$
Years of assessment 2005 to 2007			
Annual allowance 3% x 3	<u>72,000</u>		$\frac{1}{2} + \frac{1}{2} + \frac{1}{2}$
		<u>176,000</u>	
Residual expenditure		624,000	
Disposal price		<u>1,000,000</u>	1
Balancing charge		<u>376,000</u>	1
Restricted to actual allowance given		<u>176,000</u>	1
			<u>6</u>

(d) Whether withholding tax is applicable

The architect is a non-resident.	1
He received payment for technical services.	1
The payment was made by Able Sdn Bhd, a resident of Malaysia.	1
The services were rendered in Malaysia.	1
Therefore, the technical fees were derived from Malaysia.	1
Withholding tax is therefore applicable on the payment.	1
	<u>6</u>
Total	<u>21</u>

4 (a) Zamri**(i) Whether income is derived and whether taxable in Malaysia**

1 January 2008 to 29 February 2008 – RM20,000	
Zamri exercised his employment in Korea, not in Malaysia.	1
Therefore, the income of RM20,000 was not derived from Malaysia.	1
As the emolument was paid into his Malaysian bank account, the income was remitted to Malaysia.	1
Remittance of foreign-sourced income is specifically exempted [under paragraph 28 of Schedule 6].	1
Therefore, the RM20,000 is not subject to tax in Malaysia.	$\frac{1}{2}$
1 March 2008 to 30 November 2008 - RM135,000	
During this period, even though he remained an employee of the same Korean company, Zamri exercised his employment in Malaysia as he was physically transferred to Malaysia.	1 + 1
Therefore, the income of RM135,000 was derived in Malaysia.	1
As such, the RM135,000 is subject to tax in Malaysia.	1
1 December 2008 to 31 December 2008 – RM50,000	
During this period, although he was employed by a Malaysian company, he was physically in Dubai.	1
His duties in Dubai were not incidental to his employment in Malaysia.	1
As he did not exercise his employment in Malaysia, the RM50,000 was not derived in Malaysia.	1
As a remittance of foreign-sourced income, it is exempted specifically [under paragraph 28, Schedule 6].	1
Therefore, the RM50,000 is not subject to tax in Malaysia.	$\frac{1}{2}$
	<u>13</u>

(ii) Duty to notify chargeability

An individual who arrives in Malaysia in a particular year of assessment and is chargeable to tax for that particular year, has a duty to give notice to the Director General that he will be so chargeable.	1
As Zamri is assessable to tax in Malaysia for the year of assessment 2008, he must notify accordingly.	1
Zamri must notify the Director General within two months of his arrival in Malaysia, i.e. by 30 April 2008.	1 + 1
	<u>5</u>

(b) Duty to keep records and give receipts

Every person carrying on a business shall keep and retain sufficient records at the registered office or the business premises of the business in Malaysia for seven years from the end of the year to which the business income is related. If the gross takings from the business exceed RM150,000 for a year of assessment, serially-numbered printed receipts shall be issued and duplicates retained.

Marks

$\frac{1}{2} + \frac{1}{2}$
 $\frac{1}{2} + \frac{1}{2}$
1
1

$\frac{1}{2} + \frac{1}{2}$

5

Total

23