
Answers

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Selangor Darul Ehsan

Messrs Balasingam and Chandran
Trustees under the will of Subramaniam deceased
Unit 9-10, Industrial Estate
Sungei Panjang
Selangor Darul Ehsan

1 June 2009

Dear Sirs,

Income tax implications of and relating to the will trust of Subramaniam deceased.

Taking into account your instructions we have considered the matters mentioned by you and present our advice on the specific issues listed in our letter of appointment.

(a) Tax residence of the trust body

For the year of assessment 2007, the trust body is resident in Malaysia because at least one trustee (Chandran) was resident in Malaysia for that basis year. The exception is inapplicable because the requirements of the proviso are not satisfied. The trust body is not resident for the year of assessment 2008 because no trustee is resident in Malaysia.

(b) Liability of the trustees to Malaysian income tax

The residence or non-residence of the trust body makes no difference. All income accruing in or derived from Malaysia is liable to tax. Income received in Malaysia from outside Malaysia would also be liable to tax were it not for the exemption given by paragraph 28, Schedule 6, Income Tax Act 1967.

(c) Income tax payable

After taking into account credits for tax deducted from Malaysian dividends, there is no tax to pay for the year of assessment 2007 and the trustees are entitled to a repayment of RM2,700. For the year of assessment 2008, the dividend income is exempt from tax and the total income consists of the interest income of RM40,000, in respect of which the tax liability is fully satisfied by the deduction of tax at source at the rate of 15%. The detailed calculations are shown in the appendix to this letter.

(d) Vatsala's liability to income tax

Vatsala is liable to income tax for each of the years stated. Although the annuity is not fully deductible in calculating the total income of the trustees for the year of assessment 2007, the amount is fully chargeable to tax for Vatsala because the trustees are resident for that year. She is also chargeable on the full amount of the annuity for the year of assessment 2008 despite the non-residence of the trustees, because the whole of the gross income of the trust body is derived from Malaysia.

(e) Chandran and Shanti's liability to income tax

As Chandran was entitled to a half share of the trust income for each year of assessment, he will be liable to tax in respect of his ordinary source income for each year. This is half of the total income of the trust, that is nil for the year of assessment 2007 and RM20,000 for the year of assessment 2008. As a non-resident individual, Chandran is liable to tax at 28% for the year of assessment 2008 but he can expect this to be offset by a tax credit for half of the tax borne by the trustees (RM3,000).

Shanti only became entitled to her share of income from 1 October 2008 and she is only liable in respect of her half share as from that date. This will be RM5,000 (3/12ths of half of RM40,000). This will be taxed according to her personal circumstances as a Malaysian resident and she will be entitled to a tax credit for 3/12ths of half of the tax payable by the trustees (RM750).

Conclusion

We have only dealt with the specific questions raised by you and we hope that this is to your satisfaction. Needless to say, we would be happy to look into any further tax implications or to handle any tax compliance requirements of the trustees.

Yours faithfully

I.M.Best
Director

Appendix to the letter to Messrs Balasingam and Chandran, Trustees under the will of Subramaniam deceased

Computation of tax payable

Year of assessment 2007

	RM
Business adjusted income	–
Balancing charge	75,000
	<u>75,000</u>
Capital allowances	(50,000)
Statutory business income	25,000
Dividends:	
Malaysian companies – gross RM7,300 x 100/73	10,000
Chandranti Sdn Bhd – single tier – exempt	–
Indian companies – remitted to Malaysia – exempt	–
Interest	–
Aggregate income	<u>35,000</u>
Current year loss	(20,000)
Annuity RM24,000 per annum (2007 limited to aggregate income)	(15,000)
Approved donation in cash – not limited as within 7% of aggregate income	–
Approved donation of sports equipment – limited to 7% of aggregate income (RM2,800) less approved donation deduction (RM1,000)	–
	<u>–</u>
Total income/chargeable income	<u>–</u>
Tax payable at 26%	–
Dividend tax credit RM10,000 at 27%	(2,700)
Tax due repayable	<u>(2,700)</u>

* mark for description and content.

Year of assessment 2008

	RM
Interest derived from Malaysia – gross	<u>40,000</u>
Tax at 15% (Schedule 1, Part II)	6,000
Credit for tax deducted under s.109 RM40,000 at 15%	<u>(6,000)</u>
Tax payable	<u>Nil</u>

Tutorial note re 1(a)

In order for a trust body having any trustee resident in Malaysia to be regarded as non-resident, all four of the following requirements must apply:

- (a) *The trust was created outside Malaysia by a person or persons who were not citizens;*
 - (b) *The income of that trust body for that basis year is wholly derived from outside Malaysia;*
 - (c) *The trust is administered for the whole of that basis year outside Malaysia; and*
 - (d) *At least one-half of the number of the member trustees are not resident in Malaysia for that basis year.*
- [Section 61(3) proviso]

**2 (a) To: The Group Financial Controller
The Alpha Berhad Group**

**From: The In-house Tax Adviser
The Alpha Berhad Group**

Date: 1 June 2009

Report on potential group relief for the adjusted loss sustained by Delta Sdn Bhd in the year to 30 June 2009

As instructed by you, I have pleasure in presenting my report on the above matter.

(i) Basic conditions of eligibility – related company

In order to be eligible as surrenderer and claimant, any two group members must have been 'related' throughout the basis period concerned and the preceding twelve months. Related means that one company owns directly or indirectly at least 70% of the paid up ordinary share capital of the other or that a third company owns directly or indirectly at least 70% of the paid up ordinary share capital of both. As Alpha Berhad owns directly 100% of the paid up ordinary share capital of Beta Sdn Bhd and 70% (50% directly and 20% through Beta Sdn Bhd) of the paid up ordinary share capital of Delta Sdn Bhd, all three companies are 'related'.

(ii) Other conditions of eligibility

Of the other situations that will prevent a company from taking part in a loss surrender, two apply for the year (basis period) to 30 June 2009:

- In respect of the acquisition of registered patents, Beta Sdn Bhd will be eligible to claim a deduction for the cost of acquisition of proprietary rights in its basis period to 30 June 2009 and, if it does so, will be ineligible as a claimant for Delta Sdn Bhd's adjusted loss.
- In respect of the qualifying capital expenditure on automation equipment, Delta Sdn Bhd will be eligible to make a claim for reinvestment allowance in its basis period to 30 June 2009 and thus ineligible as a surrenderer.

(iii) Availability of group relief

Even if Delta Sdn Bhd had been eligible to surrender its adjusted loss, the surrender would have been limited to 50% thereof (RM2 million). Also, there would have been no viable claimant as Alpha Berhad's income from single tier dividends is exempt from tax and Beta Sdn Bhd has no defined aggregate income (adjusted income minus capital allowances is nil).

(iv) Conclusion

It is obvious that, given the facts as stated in your instruction, there is no possibility of a valid claim for group relief for the year (basis period) to 30 June 2009.

(b) Date: 1 June 2009

Briefing note on group relief for the year to 30 June 2009

This note takes into account my report to the group financial controller dated 1 June 2009 and also the three further pieces of information now provided by the group financial controller (as in (i), (ii) and (iii) below).

(i) Non-claim of capital allowances

It is proposed that Beta Sdn Bhd refrain from claiming capital allowances for the year of assessment 2009. This is permissible because capital allowances are only given if they are claimed. It is normally done at the time of submitting the Form C. In the absence of any capital allowances (estimated at RM2 million) Beta Sdn Bhd would have defined aggregate income equal to its adjusted income RM2 million. This would be sufficient to offset 50% of the adjusted loss of Delta Sdn Bhd, assuming that both companies were eligible to take advantage of the surrender. Without considering the further proposals, neither company is so eligible.

(ii) Deferral of acquisition of proprietary rights

The first deduction from income, being 20% of the cost of acquisition, is due when the cost of acquisition becomes payable. If the acquisition of the registered patents, and presumably the payment, is deferred until after 30 June 2009 there will be nothing to claim and Beta Sdn Bhd's defined aggregate income will be RM1 million greater.

The deferral will also remove the impediment preventing Beta Sdn Bhd from being a claimant but Delta Sdn Bhd would still be ineligible to surrender its adjusted loss.

(iii) Deferral of capital expenditure by Delta Sdn Bhd

Without implementing this proposal, Delta Sdn Bhd would be eligible to claim reinvestment allowance in its basis period to 30 June 2009 and therefore precluded from surrendering its adjusted loss. However, by deferring the proposed capital expenditure until after 30 June 2009, Delta Sdn Bhd will be able to avoid the prohibition on surrendering its adjusted loss for that period. The company should still be able to claim reinvestment allowance in the year to 30 June 2010 resulting in a one-year deferral only.

(iv) Summary of tax consequences

It can be seen from the first column of the table below that, if all three proposals are implemented as proposed and group relief is claimed, the chargeable income of Beta Sdn Bhd will be RM1 million. The second column shows the result if the proposal is implemented with only RM1 million of capital allowances being claimed, in which case there will be no chargeable income.

	RM	RM
Adjusted income	2,000,000	2,000,000
Add: claim for cost of acquisition of proprietary rights not made	1,000,000	1,000,000
Revised adjusted income	3,000,000	3,000,000
Capital allowances	–	(1,000,000)
Statutory income/defined aggregate income	3,000,000	2,000,000
Loss surrender (50% of Delta's adjusted loss)	(2,000,000)	(2,000,000)
Total income/chargeable income	1,000,000	–
Potential deductions deferred	1,000,000	1,000,000

Note: The in-house tax adviser might have pointed out that not claiming capital allowances may not be tax efficient. Any unclaimed annual allowance is deemed to be a notional allowance. In that case, Beta Sdn Bhd may or may not get the

benefit of it when an event giving rise to a balancing adjustment occurs, depending upon the circumstances applying at that time.

(v) The relevance of the anti-avoidance provisions, if any

It is always possible that the Director General of Inland Revenue may try to invoke s.140 to counter any transaction which he deems to have tax avoiding intentions. However, the non-conclusion of the acquisition of proprietary rights and the deferment of the capital expenditure are not in themselves transactions. No transaction is involved unless existing contractual arrangements need to be renegotiated in order to implement either deferment.

(vi) Conclusion

Having considered the matter, I conclude that the loss surrender can go ahead and should achieve the tax savings envisaged if the proposed steps (ii) and (iii) are implemented and step (i) is modified as suggested above.

Tutorial note:

Situations that will prevent a company from taking part in a loss surrender are:

- (i) The company is not resident in Malaysia for the year of assessment concerned and also not incorporated in Malaysia.*
- (ii) The company has not been a related company of the other company throughout the basis period for the year of assessment concerned and for the 12 months immediately preceding that basis period.*
- (iii) The company did not have a paid-up ordinary share capital of more than RM2.5 million at the commencement of the basis period for the year of assessment concerned.*
- (iv) The company and the other company concerned do not have a basis period of 12 months ending on the same date.*
- (v) The company is not subject to the highest rate of tax.*
- (vi) The company is a pioneer company or has been granted approval for investment tax allowance in the basis period for the year of assessment concerned.*
- (vii) The company enjoys a tax exemption in respect of a shipping operation or a ministerial exemption in the basis period for the year of assessment concerned.*
- (viii) The company has made a claim for reinvestment allowance in the basis period for the year of assessment concerned.*
- (ix) The company has claimed a deduction for an approved food production project in the basis period for the year of assessment concerned.*
- (x) The company has claimed a deduction for the cost of acquisition of proprietary rights in the basis period for the year of assessment concerned.*
- (xi) The company has been granted a deduction for the cost of acquisition of a foreign-owned company in the basis period for the year of assessment concerned.*
- (xii) The company has claimed a deduction under any rules made under s.154 (a PU Order) which prohibit the application of group loss relief.*

- 3 (a) (i)**
- (1) The formula used to determine the annual deduction for qualifying mining expenditure is the amount of the residual expenditure at the end of the basis period divided by the residual life at the beginning of the basis period.
 - (2) The residual life in relation to a particular mine at any particular date means the number of years of the estimated life of the mine remaining at that date
 - (3) Qualifying prospecting expenditure means (subject to exceptions) expenditure wholly and exclusively incurred on searching for, discovering or winning access to deposits of minerals in an eligible area or testing any such deposits.
 - (4) Eligible area means any particular area of Malaysia over which there is not and has never been issued to the person concerned any licence to mine, except a prospecting licence.

NB: ONLY TWO items required.

- (ii)** When a prospector in an eligible area is successful and he is granted a licence to mine in that area he becomes entitled to mining allowances on his qualifying prospecting expenditure. Any deductions previously given to him in respect of that prospecting expenditure are withdrawn by being added to form part of the aggregate income of the person in the year in which the licence is granted.

(b) Carimas (M) Sdn Bhd – Total income

Year of assessment	2004 RM	2005 RM	2006 RM	2007 RM	2008 RM
Gold mining business					
Adjusted income as stated				200,000	300,000
Schedule 2 mining allowance				(120,000)	(120,000)
Adjusted income				80,000	180,000
Capital allowances				(60,000)	(75,000)
Statutory income				20,000	105,000
Precious metals trading business					
Statutory income	500,000	350,000	450,000	600,000	475,000
Qualifying prospecting expenditure claw back				840,000	
Aggregate income	500,000	350,000	450,000	1,460,000	580,000
Qualifying prospecting expenditure – schedule 4 deduction	(480,000)	(260,000)	(100,000)		
Total income	20,000	90,000	350,000	1,460,000	580,000

Note: The schedule 2 mining allowance is based on the total prospecting expenditure incurred spread over the estimated seven year life of the mine.

- 4 (a) (i)** In relation to an approved operational headquarters company (OHC), ‘related company’ means:
- (1) a company the operations of which can be controlled directly or indirectly by the OHC; or
 - (2) which is able so to control the operations of the OHC; or
 - (3) one the operations of which can be so controlled by a person or company who so controls the operation of the OHC; or
 - (4) a company which owns directly or indirectly 20% of the issued share capital of the OHC or which is 20% so owned by the OHC.
- (ii)** In relation to an approved OHC, ‘qualifying services’ means services provided by an OHC to at least three of its offices outside Malaysia or its related companies outside Malaysia in respect of services as specified by the Minister of Finance.

(b) Earth Group Services Sdn Bhd

Statutory income for the year of assessment 2008

Business	Qualifying services RM	Services in Malaysia RM	Other activities RM
Gross income			
Mercury Sdn Bhd		200,000	
Venus Sdn Bhd		400,000	
Mars Limited	300,000		
Jupiter Limited	300,000		
Saturn Limited	600,000		
Uranus Limited			200,000
	(i) 1,200,000	(ii) 600,000	200,000
Overheads pro rata to gross income	(600,000)	(300,000)	(100,000)
Statutory income subject to exemption	600,000	(iii) 300,000	100,000

Calculation of exemption:

Qualifying services – 100%	600,000	
Non-qualifying services		
A (20/80 x (i) RM1,200,000)		
x C ((iii) RM300,000)		
÷ B ((ii) RM600,000) =		150,000
Total exemption RM750,000		

*Using the formula $\frac{A}{B} \times C$

Where A = 20/80ths of gross income from qualifying services

B = Gross income from services in Malaysia

C = Statutory income from services in Malaysia

- 5 (a) The submission of a return which is held not to be in compliance with a public ruling is likely to lead to an additional assessment to recover the tax underpaid, a penalty for submission of an incorrect return and probably a tax audit.

In order to comply with the law, the taxpayer could have submitted a return based on compliance with the public ruling and paid the higher amount of tax. As the submission of the return is deemed to be an assessment, the taxpayer could then have protected his own position by appealing against the assessment within 30 days of submitting the return, citing his disagreement on compliance with the public ruling as grounds. The disagreement would then have to be resolved by recourse to the special commissioners and the courts.

Alternative answer. Where the taxpayer believes that he can show that there are sufficient grounds for him to justify his position or stand, he can follow the advice given by the Inland Revenue Board Public Ruling No.8/2000 and make a written disclosure of that position or stand as well as the grounds for it and how it affects his taxability.

Following the advice given in the public ruling does not necessarily resolve the matter because the Inland Revenue may still disagree and raise an assessment or additional assessment to recover the tax that they believe to be underpaid leaving the taxpayer with no choice but to lodge a formal appeal.

- (b) (i) The Director General of Customs is authorised to make such a direction where he believes the separation of businesses to be artificial having regard to the extent to which the different persons carrying on the business activities are closely bound to one another by financial, economic and organisational links.
- (ii) The consequences of making such direction are:
- In relation to their businesses, the two brothers will be treated as a single taxable person and the businesses as being carried on by a partnership.
 - The two brothers may continue to carry on their separate businesses until they become jointly licenced but not beyond 21 days from the issue of the direction.
 - They must jointly apply for licencing within 14 days of the issue of the direction.
 - Each brother will be jointly and severally liable for any service tax payable.
- (iii) Either Hafiz or Mazlan if dissatisfied by the direction may appeal to the Director General. If dissatisfied with the decision of the Director General, the appellant can then appeal within 30 days to the Customs Appeal Tribunal.
- (c) Important reasons why the source and derivation of income must be properly identified are:
- to identify the class under which the income will be charged under s.4 (or 4A);
 - to know the owner of the source so that the taxpayer can be identified and income tax charged according to his circumstances;
 - to identify the location of the source so that it will be known whether the income accrues in and is derived from Malaysia or whether it is foreign income; and
 - to identify the time when the income arises so that it can be taxed in the correct year of assessment.

NB: ONLY THREE items required.

	Marks
1 (a) Tax residence of the trust body	
Resident in Malaysia for 2007 because one trustee is resident	1.0
Exception inapplicable because the proviso is not satisfied.	1.0
Not resident for 2008 because no trustee is resident.	1.0
	<hr/> 3.0
(b) Liability of the trustees to Malaysian income tax	
Residence or non-residence of the trust body makes no difference.	1.0
Income accruing in or derived from Malaysia is liable to tax.	1.0
Income received in Malaysia from outside would be liable to tax if not for the para.28 exemption	1.0
	<hr/> 3.0
(c) Income tax payable	
Computations in appendix/summary data in report	1.0
Business adjusted income	0.5
Balancing charge	0.5
Capital allowances	0.5
Statutory business income – description & content	0.5
Dividends – Malaysian companies	1.0
Chandranti Sdn Bhd – single tier – exempt	0.5
Indian companies – remitted to Malaysia – exempt	0.5
Interest derived from Malaysia	0.5
Aggregate income – description & content	1.0
Current year loss	1.0
Annuity (2007 limited to aggregate income)	0.5
Credit for tax deducted under s.109 RM40,000 at 15%	0.5
Approved donation of sports equipment – limited	1.0
Total income/chargeable income – description & content	1.0
Tax at 15%	1.0
Dividend tax credit	1.0
	<hr/> 12.0
(d) Vatsala’s liability to income tax	
Vatsala is liable to income tax for each of the years stated	1.0
Vatsala fully chargeable to tax for 2007 because the trustees are resident for that year	1.0
Vatsala is also liable to tax for the year of assessment 2008 because the whole of the gross income of the trust body is derived from Malaysia.	1.0
	<hr/> 3.0
(e) Chandran and Shanti’s liability to income tax	
Chandran liable to tax on ordinary source income for each year	1.0
Half of the total income is nil for 2007 and RM20,000 for 2008	1.0
Chandran liable to tax at 28% for 2008 but with tax credit (RM3,000)	1.0
Shanti only liable on half share from 1 October 2008	1.0
This is 3/12ths of half of RM40,000 = RM5,000.	1.0
Taxed according to her personal circumstances as a resident but with a tax credit (RM750)	1.0
	<hr/> 6.0
Conclusion	1.0
Appropriateness of the format of the letter	1.0
Effectiveness with which the information is communicated, including the proper use of the appendix	1.0
	<hr/> 3.0
	<hr/> 30.0

		Marks
2	(a) (i) Basic conditions of eligibility – related company	
	Group members must have been ‘related’ in the basis period plus previous 12 months	1·0
	Meaning of ‘related’	2·0
	Conclude that all three companies are related	1·0
		4·0
	(ii) Other conditions of eligibility	
	Reason why Beta Sdn Bhd ineligible as a claimant for Delta Sdn Bhd’s adjusted loss	2·0
	Reason why Delta ineligible as a surrenderer	2·0
		4·0
	(iii) Availability of group relief	
	Even if eligible to surrender limited to 50%	1·0
	No viable claimant as single tier dividends exempt	1·0
	and Beta Sdn Bhd has no defined aggregate income	1·0
		3·0
	Appropriateness of the format of the report	1·0
	Effectiveness with which the information and the conclusion is communicated	1·0
		2·0
	(b) (i) Non-claim of capital allowances	
	Permissible to refrain from claiming capital allowances	1·0
	In the absence of capital allowances Beta Sdn Bhd would have defined aggregate income of RM2 million.	1·0
	It is sufficient to offset 50% of the adjusted loss of Gamma Sdn Bhd	1·0
	Without considering the further proposals, neither company is so eligible.	1·0
		4·0
	(ii) Deferral of acquisition of proprietary rights	
	First 20% deduction due when the cost of acquisition becomes payable.	1·0
	If the acquisition is deferred there will be nothing to claim	1·0
	Beta Sdn Bhd’s defined aggregate income will be RM1 million greater	1·0
	The deferral will also allow Beta Sdn Bhd to be a claimant	1·0
	But Delta Sdn Bhd would still be ineligible to surrender its adjusted loss	1·0
		5·0
	(iii) Deferral of capital expenditure by Delta Sdn Bhd	
	If Delta Sdn Bhd is eligible for reinvestment allowance for the year to 30 June 2009 it is not able to surrender any loss	1·0
	Deferral to after 30 June 2009 will avoid the bar to loss surrender	1·0
	There will still be a right to reinvestment allowance in the following year	1·0
	It is only a one year deferral	1·0
		4·0
	(iv) Summary of tax consequences	
	Drawing conclusions	2·0
	Claim for cost of acquisition of proprietary rights not made	1·0
	Capital allowances	0·5
	Loss surrender (50% of Delta’s adjusted loss)	1·0
	Total income – description & content	0·5
	Explanatory note re capital allowances deferred	1·0
	Potential deductions deferred	1·0
		7·0

	Marks
(v) The relevance of the anti-avoidance provisions, if any	
The Director General of Inland Revenue may try to invoke s.140 to counter any transaction which he deems to have tax avoiding intentions.	1·0
However, the non-conclusion of the acquisition of proprietary rights is not of itself a transaction.	1·0
Neither is the deferment of capital expenditure	1·0
Unless existing contractual arrangements have to be renegotiated there is no transaction.	1·0
	<hr/> 4·0
Appropriateness of the form and content of the briefing note.	1·0
	<hr/> 38·0
3 (a) (i) ANY TWO of the following:	
(1) Residual expenditure at the end of the basis period divided by the residual life at the beginning of the basis period.	
(2) The number of years of the estimated life of the mine remaining at that date	
(3) Expenditure incurred on searching for, discovering or winning access to deposits of minerals in an eligible area or testing any such deposits	
(4) Any area over which there is not and has never been issued to the person concerned any licence to mine, except a prospecting licence.	
	Maximum 2 x 2 marks
	<hr/> 4·0
(ii) When granted a licence to mine a prospector becomes entitled to mining allowances on his qualifying prospecting expenditure.	1·0
Any deductions given to him in respect of that expenditure are withdrawn.	1·0
And added to aggregate income in the year the licence is granted	1·0
	<hr/> 3·0
(b) Adjusted income as stated	1·0
Schedule 2 mining allowance	2·0
Adjusted income – description & content	0·5
Capital allowances	1·0
Precious metals trading business – statutory income	1·0
Qualifying prospecting expenditure claw back	1·5
Qualifying prospecting expenditure – schedule 4 deduction	1·5
Total income – description & content	0·5
	<hr/> 9·0
	<hr/> 16·0

		Marks
4 (a) (i)	Related company means a company the operations of which can be controlled directly or indirectly by the OHC	1·0
	or which is able so to control the operations of the OHC	1·0
	or one the operations of which can be so controlled by a person or company who so controls the operation of the OHC	1·0
	or a company which owns directly or indirectly 20% of the issued share capital of the OHC	1·0
	or which is 20% owned by the OHC.	1·0
		<hr/> 5·0
	(ii) Qualifying services means services provided by an OHC to at least three of its offices outside Malaysia	1·0
	or its related companies outside Malaysia	1·0
	in respect of services as specified by the Minister of Finance	1·0
		<hr/> 3·0
(b)	Mercury Sdn Bhd	0·5
	Venus Sdn Bhd	0·5
	Mars Limited	0·5
	Jupiter Limited	0·5
	Saturn Limited	0·5
	Uranus Limited	1·0
	Overheads pro rata to gross income	1·5
	Qualifying services – 100%	1·0
	Non-qualifying services	
	20/80 x RM1,200,000	1·0
	x RM300,000	0·5
	÷ RM600,000	0·5
		<hr/> 8·0
		<hr/> 16·0

		Marks
5	(a) Additional assessment to recover the tax underpaid	0·5
	Penalty for submission of an incorrect return	0·5
	Probably a tax audit.	0·5
	Submit a return based on compliance with the public ruling and pay the higher amount of tax	1·0
	Submission of the return is deemed to be an assessment	0·5
	Taxpayer could protect his own position by appealing against the assessment within 30 days of submitting the return	1·0
	Citing his disagreement on compliance with the public ruling	0·5
	The disagreement would then have been resolved by recourse to the special commissioners and the courts	0·5
		<hr/> 5·0
	(b) (i) The Director General of Customs is authorised to make such a direction where he believes the separation of businesses to be artificial	1·0
	having regard to the extent to which the persons closely bound to one another by financial, economic and organisational links	1·0
		<hr/> 2·0
	(ii) Treated as a single taxable person and the businesses carried on by a partnership	1·0
	Separate businesses may continue up to 21 days	1·0
	Must jointly apply for licencing within 14 days of the issue of the direction.	1·0
	Each jointly and severally liable for any service tax payable	1·0
		<hr/> 4·0
	(iii) Either may appeal to the Director General	1·0
	If dissatisfied can then appeal to the Customs Appeal Tribunal	1·0
		<hr/> 2·0
	(c) ANY THREE of the following:	
	To identify the class under which the income will be charged under s.4 (or 4a)	
	To know the owner of the source so that the taxpayer can be identified and income tax charged according to his circumstances	
	To identify the location of the source so that it will be known whether the income accrues in and is derived from Malaysia or whether it is foreign income	
	To identify the time when the income arises so that it can be taxed in the correct year of assessment	
	maximum 3 x 1	3·0
		<hr/> 17·0
	maximum	16·0