

EXAMINER'S REPORT
MIA QE MARCH 2018
PAPER: TAXATION

Question no.	Question's Requirement	Expected Answer	Weaknesses in the Answer Provided	How answer should be written to get more marks
Q1	Candidates were required to compute, based on the information given by way of a profit and loss account together with some notes on income and expenditure, the chargeable income of a limited company	The chargeable income should be determined by applying the provisions of the Income Tax Act 1967 (as amended) and relevant rules and regulations.	Candidates exhibited some of the following weaknesses: 1. Many were unable to compute the chargeable in accordance with section 5 of the Income Tax Act 1967 (as amended) 2. Interest received on late settlement of trade debts were not properly treated in accordance with section 4(a), 4(c) and section 4B and failure to take cognizance of section 24(1) 3. Many candidates disallowed the compensation (lump sum payment and pension payments) to the retiring director. 3. The deduction for art and cultural activities were not properly identified as between local and foreign and appropriately dealt with 4. The repair to the roof has a quality improvement element and this was missed by many	Candidates should be familiar with the stages of the income as per section 5 e.g. gross income, adjusted income, statutory income and the proper deductions allowable at the relevant stages e.g. capital allowance is deducted at the adjusted income stage and not at the aggregate income stage. Where adjustments are not required or not made, candidates should write 'NIL' or place a '0" in the computation so that marks could be awarded accordingly. Workings too must be shown to acquire the requisite marks Candidates need to distinguish between revenue and capital expenditure and between qualifying capital expenditure and non-qualifying capital expenditure for capital allowance purposes under schedule 3 – in this case the roof is not an entity and no allowance need be computed.

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			<p>candidates. Others noted the improvement element and disallowed it correctly but then went on to claim wrongly industrial building allowance on the additional expenditure.</p> <p>5. The loss on foreign exchange particularly the loss on import of machinery was not handled properly – there was a failure to distinguish between realised and unrealised loss and as between capital and revenue loss.</p>	
Q2A	<p>Question required the computation of the chargeable gains arising under the RPGT Act from the disposal of a property (chargeable asset).</p>	<p>Computing the disposal price and the acquisition price as well as determining any exemptions due to arrive at the chargeable gain</p>	<p>Most candidates did well. However some computed the chargeable gain using accounting principles (e.g. sales less cost less revenue expenses).</p> <p>Proper legal terminologies were not used e.g. using 'Purchase price' instead of 'Acquisition price'</p> <p>Where no adjustments are made or a deduction is not given, this is not indicated by some candidates e.g. bank</p>	<p>The law on determining the chargeable gain upon disposal of a chargeable asset is determined statutorily. As such candidates should be familiar with the application of the real property gains tax law in allowing or disallowing an item of expenditure.</p> <p>Also, where adjustments are not required or not made, candidates should write 'NIL' or place a '0' in the computation so that marks could be awarded accordingly.</p>

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			interest is not deductible and should be accordingly indicated in the computation as an item for which no deduction is allowed.	
Q2B	A question on the determination of the chargeable income of an investment holding company	Candidates should compute the chargeable income of an investment holding company in accordance with section 60F	<p>A key feature is the determination and deduction of expenses in accordance with section 60F(1) that included a knowledge of 'Permitted Expenses' as listed in section 60F(2).</p> <p>The permitted expenses are limited to 5% of the gross income consisting of dividend, interest and rent.</p> <p>Some candidates limited it to 10% and chose the higher of the figure (when it should be the lower of the two figures).</p> <p>Candidates had great difficulty in determining the figure that would comprise the numerator and denominator in the formula to be used to arrive at the amount to be allowed – and in allowing the said expense at the correct stage.</p>	<p>Candidates should be familiar with section 60F and its various subsections.</p> <p>They should acquire the knowledge to identify the permitted expenses, and work out the 'expenses' to be deducted in accordance with section 60F(1) using the formula and in comparison to the 5% of the gross income, choosing the lower of the two.</p> <p>The expense should be allowed at the aggregate stage in arriving at the total income</p>

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			<p>Some candidates totalled all the expenses and apportioned them to the various types of income, including gains from the realisation of investments.</p> <p>However a few candidates computed the chargeable income correctly.</p>	
Q3A	<p>Question required a discussion of the deductibility of payments made to downsize the firm.</p>	<p>Candidates were expected to have a good grip on the facts of the case to discuss the issue arising there from in relation to the deductibility or non-deductibility of the expenditure incurred in arriving at the business profit.</p>	<p>Most candidates did not attempt the question.</p> <p>Of those who attempted they indicated only a vague understanding of the issue that needed to be discussed.</p> <p>Some had no clue of the issue but nevertheless proceed to talk in very general and broad terms along the lines of section 33 and 39 and even took a moral stand on the matter.</p> <p>Candidates did not quote the appropriate case laws and explain how that case law has relevance to the issue of deductibility in this case.</p> <p>Some others quoted any case</p>	

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Q3B	This question required a discussion of the deductibility of some bad debts written off by a person in authority in the firm.	Candidates were expected to have a good grip on the facts of the case to discuss the issue arising therefrom in relation to the deductibility or non-deductibility of the trade debts written off in the accounts in arriving at the business profit.	<p>Most candidates did not attempt the question.</p> <p>Of those who attempted they indicated only a vague understanding of the issue that needed to be discussed.</p> <p>Some had no clue of the issue but nevertheless proceed to talk in very general and broad terms of section 33 and 39 and even took a moral stand on the matter.</p> <p>Candidates did not quote the appropriate case laws and explain how that case law has relevance to the issue of deductibility in this case.</p> <p>Some others quoted a string of cases or any case that came to their mind, regardless of their relevance to the matter at hand.</p>	

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4(a)	Candidates are required to determine the resident status of the Japanese citizen, who was employed as an engineer in Malaysia from the year of assessment 2012 to 2017. They also must justify their answer by giving reasons and quote the relevant provisions of the Income Tax Act 1967.	Candidates must compute the number of days stayed in Malaysia and determine the resident status relevant to which Section 7 and provide the justification.	The question was generally attempted well. However, there was indication that some candidates did not understand on the reason of the relevant provision quoted by them.	Candidates should first counting the number of days stayed in Malaysia. In relevant to Section 7 of the Income Tax Act 1967, determine the resident status and quote the relevant provisions together with the reason to support their answer.
4(b)(i)	Candidates are required to explain the tax implications of non-compliance with withholding tax provisions.	Candidates should state the consequences of non-compliance with the withholding tax provision such as the penalty equal to 10% of unpaid tax.	Generally attempted well. The candidates able to provide the answer on the implication of non-compliance related to withholding tax provisions.	Candidates should discuss on the implications of non-compliance with the withholding tax provision which include the late payment penalty of 10%, unpaid withholding tax and penalty becomes debt due to the government and also explain on the gross payment to the non-resident is not deductible until withholding tax and penalty are paid to the Inland Revenue Board.
4b(ii)	Candidates are required to determine whether withholding tax is applicable or not, for each the type of payments made. In addition, they also need compute the amount of the withholding tax due and support with the reasons.	Candidates must decide whether withholding tax applicable or not, compute the amount of withholding tax and determine the date due for remitting to IRB. Justification should be given to support the answer.	The question was generally attempted well. However, few candidates had no clear grasp on the computation of the withholding tax and determining the due date for submission to IRB.	Candidates should be able to identify the payment whether subject to withholding tax or not and compute the amount of the withholding tax and determine the due date of submission.

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4b(iii)	Candidates are required to discuss the tax treatment related to the rental income for the year of assessment 2017.	Candidates should state the consequences of non-compliance with the withholding tax provision such as the penalty equal to 10% of unpaid tax.	The question was moderately attempted by the candidates. There were indications that candidates did not understand on the application of anti-avoidance under Section 65 of Income Tax Act 1965.	Candidates should explain on the application of anti-avoidance under Section 65 of the Income Tax Act 1967. Section 65 stipulates 3 circumstances and candidates should know to justify which circumstances relate to the situation given in the question.
5(a)	Candidates are required to calculate the statutory income and income tax payable for Encik Eman and Puan Farah for the year of assessment 2017.	Candidates should calculate the income tax payable according to the format of personal taxation from Section 4a until the computation of Income Tax Payable/Refundable.	Most candidates provide good answers. However, few candidates still provide wrong format in computing the income tax payable for both Encik Eman and Puan Farah for the year of assessment 2017.	Candidates should know the format for the calculation of the Aggregate Income, Total Income, Taxable Income until the computation of Income Tax Payable or Refundable. Furthermore, most of the items for tax relief are also repeating for every examination. For example, child relief; lifestyle relief etc.
5(b)	Candidates are required to explain on the threshold for a business to apply for GST license and provide examples of zero-rated supply.	Candidates should explain on the threshold for a business to apply for GST license and provide examples of zero-rated supply.	Most candidates attempted very well.	Candidates must state the threshold of RM500,000 of the annual sales value in order to register for GST and able to provide example for the zero-rated supply.
6(a)	Candidates are required to compute the income tax payable for deceased and the executor for the year of assessment 2017.	Candidates should be able to compute the income tax payable for deceased and executor for the year of assessment 2017.	The question was moderately attempted by the candidates. However, few candidates failed to get marks which indicate that they were still not fully understand on the tax requirement for the computation of the income tax payable for the deceased	Candidates should know the format in determining the income tax payable for deceased and executor. Furthermore, the candidates should know which item was based on time basis and which on receipt basis.

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6(b)	Candidates are required to advise the company, Bersatu Sdn Bhd on the tax relief period and the amount of investment tax allowance that could be utilised in the year of assessment 2016, 2017 and 2018.	Candidates should be able to advise the company, Bersatu Sdn Bhd on the tax relief period and the amount of investment tax allowance that could be utilised in the year of assessment 2016, 2017 and 2018.	Most candidates attempted very well in determining the tax relief period for the company. However, many candidates did not attempt to compute the investment tax allowance that could be utilised in the year of assessment 2016 to 2018. This indicate that the candidates did not have full grasp on the tax computation for the amount of investment tax allowance to be utilized by the company.	Candidates should know to compute the Investment Tax Allowance, 60% of Qualifying Capital Expenditure and compare the amount of total ITA available with the 70% of Statutory Income (SI). The lower of 70% of SI compare with the Total ITA available is the amount of ITA utilized. Then, candidates must explain the ITA utilized in the year of assessment of 2016, 2017 and 2018.

General Recommendation

To Facilitators	<p>Candidates should be encouraged to comply with the format as required by Income Tax Act 1967 in computing the income tax payable for personal taxation and also for deceased and executor. In addition, they must be exposed to the changes in deductions and reliefs related to Budget 2017.</p> <p>Computation:</p> <p>Need to emphasise the application of the law as under the Income Tax Act 1967 (as amended) in arriving at the relevant chargeable income.</p> <p>Case law</p> <p>Develop student's potential for analysing and synthesising issues and applying the statute law and the case law to the facts of the case to arrive at a considered decision.</p>
To Candidates	<p>Candidates should update themselves with the budget changes for the Year of Assessment 2017. They must practise and revisit all the chapters, understand the tax treatment and required format in order to get grade.</p> <p>Need to practice answering questions to obtain the necessary computational competency.</p> <p>And acquire analytical and critical skills to argue a deduction of an expenses or taxability of an income using tax provisions and case law decisions.</p>