

**EXAMINER'S REPORT
MIA QE SEPTEMBER 2019
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 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 orders, rules and regulations.	<p>Candidates exhibited several weaknesses, as indicated below:</p> <ol style="list-style-type: none"> 1. Most candidates were not able to compute the chargeable income in accordance with section 5 of the Income Tax Act 1967 (as amended). 2. Dividend: Most candidates correctly adjusted for the single tier Malaysian dividend received. 3. Stock adjustment: Many did not adjust this correctly. 4. EPF: Some candidates were still not able to adjust for restriction in respect of EPF contribution by the employer. 5. Promotion expenses: This was not adjusted correctly by many candidates 6. Repairs and maintenance: The expenditure was not adjusted correctly for tax purposes. 7. Loan and debts: There were failure to understand the different types of debts and their tax treatment. 	<ol style="list-style-type: none"> 1. Candidates should start with the Profit or Loss figure and work towards the adjusted income, statutory income, aggregate income and finally the total income and chargeable income. 2. The dividend should be deducted from the business income. As a single tier Malaysian dividend, it is not liable to income tax. 3. The current provision for slow moving stock is disallowable. The provision written back and stocks provision written off in respect of earlier provisions are now allowable in arriving at the adjusted income. 4. The employer's contribution to the director's EPF is restricted to 19% of his remuneration [sec 34(4)(a)]. And the salary for the disabled staff would rank for a double deduction. 5. Free door gifts and lucky draw expenses are part of the business expenditure and

Question no.	Question's Requirement	Expected Answer	Weaknesses in the Answer Provided	How answer should be written to get more marks
			<ul style="list-style-type: none"> 8. CSR expenditure: The adjustment was not attempted well. 9. Professional fees: Most candidates adjusted it correctly. 10. Insurance: Candidates did not make the adjustments correctly 11. Contribution: Most candidates were not clear as to the tax treatment of a contribution to a school library. 12. Website: Many candidates treated this a disallowable capital expenditure. 	<ul style="list-style-type: none"> allowable. But the free trip given to the director as a recognition of his contribution to the business will not rank for a deduction owing to the provision of section 39(1)(m). 6. Repair and maintenance qualify for a deduction including the expenditure on equipment to facilitate access to the office for a disabled employee [sec 34(6)(e)]. Note that since the expenditure on the equipment qualifies for a full deduction under the said section there is no necessity to further compute capital allowance on that expenditure. 7. Bad debts should be distinguished as between trade and non-trade debts. Making specific provision or writing off any loan debts i.e. non-trade debts do not qualify for a deduction and appropriate adjustment must be made in the tax computation. 8. CSR expenses including that of establishing a musical group, child care facilities for employees, translation of books and provision of practical training are fully allowed under the provisions of the various sub-sections of section 34. 9. Professional fees for secretarial and tax filing were correctly adjusted by most

Question no.	Question's Requirement	Expected Answer	Weaknesses in the Answer Provided	How answer should be written to get more marks
				<p>candidates. Cost of tax appeal do not qualify for a deduction (expenditure incurred <i>after</i> profits are earned). And the fees for the product licensing in Germany qualifies for a double deduction under the Income Tax (Deduction for Promotion of Export) Rules 2007 PU (A) 58.</p> <p>10. The insurance qualifies for a deduction as incurred wholly and exclusively in the production of gross income. Contribution to school libraries are allowed a maximum deduction of RM100,000 under section 34(6)(g). Candidates should distinguish between 'facilities', 'contributions' and 'gift of money' made in respect of libraries in order to accord the proper tax treatment to the amount expended.</p> <p>11. Cost of development of websites is a capital expenditure - but is given a deduction of 20% of the cost incurred under the Income Tax (Deduction for Cost of Developing Website) Rules 2003 PU (A) 101.</p>
Q1(b)	The question required the computation of agriculture allowance due to a plantation company.	Candidates are expected to compute the agriculture allowance on the qualifying agriculture expenditure.	Most candidates were unable to determine the qualifying and non-qualifying expenditure. And many	The expenditure on the mill qualifies for agriculture allowance at 10% while the bungalow for the manager is a non-

Question no.	Question's Requirement	Expected Answer	Weaknesses in the Answer Provided	How answer should be written to get more marks
			computed initial <i>and</i> annual allowance on the expenditure. Many candidates used the wrong rates.	qualifying expenditure and no agriculture allowance is due on it. 'Demolition' is not a disposal within the meaning of para 52(1) of schedule 3 [based on the PKR case No. 264] and therefore no balancing allowance or charges arise upon the demolition of a qualifying asset.
Q2(a)	This question was in respect of the estate of a deceased and the income of a beneficiary.	Candidates were expected to compute the chargeable income of the estate of the deceased individual and that of a beneficiary.	Many candidates computed the income of the deceased – which was not required by the question. And many candidates were not clear on the treatment of annuity for the executor and for the beneficiary.	Candidates need to compute only the income of the estate of the deceased; and that of the beneficiary who received a capital sum and an annuity from the estate. Only the annuity is chargeable on the beneficiary and she is entitled to a personal relief but not a child relief.
Q2(b)	This was a question on the taxation of a club.	Candidates were required to explain the tax treatment of a club in the context of the ITA and the public ruling.	Many candidates were unable to answer the question satisfactorily.	Candidates need to understand the concept of mutuality based on case law decisions and the skill to apply in a real-life scenario.
Q2(c)	The question was on the taxation of a co-operative.	Candidates were asked to explain the co-operative's liability to income tax	Most candidates did not understand the requirement of the question and gave irrelevant details of the law as regards deduction and tax liability.	Candidates need to understand the law relating to a co-operative – its exemption under paragraph 12 schedule 6 and specific deductions available under section 65A.
Q2(d)	This question was on real property gains tax.	Candidates were required to compute the chargeable gain on the disposal of a residential property.	Some candidates were not clear on the legal provisions for the determination of the acquisition price and disposal price.	Candidates need to understand the determination of the acquisition price under Para 4 and the disposal price under Para 5 in schedule 2, and the special exemption under

Question no.	Question's Requirement	Expected Answer	Weaknesses in the Answer Provided	How answer should be written to get more marks
			Some adopted the accounting approach to determine the chargeable gain.	Schedule 4 of the RPGT Act 1987. The correct legal terms should be used e.g. disposal price instead of 'selling price'.
Q3(a) and 3(b)	The question was on the general principles of taxation based on landmark case laws.	The question was a test on the understanding of case laws and its application to a given scenario covering a deduction issue and a taxability issue	Most candidates did not attempt this question. And of those who attempted, they did so very poorly.	Candidates need to identify the pertinent facts and the issues arising thereon for tax purposes. And present a simple argument with case law support for the appropriate treatment.
4(a)	Candidates are required to calculate the statutory employment income of Mr. Khalis for the year of Assessment 2019.	Candidates must recognized the items to be included in S13(1)(a), S13(1)(b), S 13(1)(c), S13(1)(d) and S13(1)(e).	Poorly attempted by the candidates. Many of them still unable to differentiate items to be recorded in S13(1)(a) and S13(1)(b). Most of them had no clear grasp on the determination of living accommodation under S13(1)(c). None of them able to give correct answer for the computation of loan subsidised by the employer.	Candidates must follow the required format. The question on personal taxation is frequently asked in every session of examination for MIAQE. Thus, candidates should be familiar with the format to calculate the statutory employment income of the individual taxpayer. Most of the items in S13(1)(a) until S13(1)(e) are quite common as always being asked in every semester of the examination.
(b)	Candidates are required to explain on the resident status of Encik Halim for the years of assessment 2017, 2018 and 2019.	The answer should explain on the determination of the resident status under the provision of S7(1B) of Income Tax Act 1967 for the basis year of YA 2017, 2018 and 2019. The objective of this subsection is to allow public servants to continue be treated as resident	Poorly attempted by the candidates. They were unable to explain the determination of the resident status under the provision of S7(1B) of the Income Tax Act 1967.	Candidates must determine the resident status based on the provision of S7(1B) of the Income Tax Act 1967 due to individual who was employed in public services studied outside Malaysia and fully sponsored by the Ministry of Education.

Question no.	Question's Requirement	Expected Answer	Weaknesses in the Answer Provided	How answer should be written to get more marks
		and assessed at scaled rate rather than the flat rate of 28%, due to abolishment of non-resident relief under Section 130 of the Act effective YA2009.		
5(a)	Candidates are required to determine the status as a taxable person under Sales Tax Act 2018, calculate the sales tax implications on the sale of goods in November 2019 and determine the submission date to the Royal Malaysian Custom Department	The answer should determine the requirement to become a taxable person under the Sales Tax Act 2018. The candidates need to explain the sales tax implications for each of the transaction given. Candidates must know whether sales tax applicable for the exported goods and sales to the exempt area such as Langkawi.	Generally attempted well. Candidates were able to determine the requirement as taxable person under the Sales Tax Act 2018. They also able to explain the sales tax implications for each of the given transaction and provides explanation when the submission date to the Royal Malaysian Custom Department.	Candidates should explain on the threshold limit whether reach the RM500,000 in order to become a taxable person under the Sales Act 2018. For the sales tax implications, the candidates must know that Sales Tax was not applicable for exported goods or goods sold to designated area such as Langkawi. They also must know the taxable period in order to determine the submission date to the Royal Malaysian Custom Department.
5(b)	Candidates are required to determine the amount stated in the invoice issued by the company and compute the debt due to the government.	Candidates should calculate the service tax of 6% on the Accounting services fees then only add the Disbursement which consist of Legal fees and printing and documentation. Candidates must also determine the submission date to RMCD and any debt due to the government for late payment.	Poorly attempted by the candidates. Most of the candidates add the cost of printing and documentation together with the cost of Accounting services fees and charged with 6% services tax. Candidates also unable to determine the taxable period of two calendar month in order to determine the last day of the payment to the RMCD.	Legal fees and the expenses incurred such as printing and documentation were treated as disbursement Service tax of 6% will only charge on the accounting service fees. Accounting service fees plus with 6% service tax will be added with the disbursement in order to determine the amount to be stated in the invoice to the client. Candidates must also able to determine the taxable period of two calendar month in order to determine the last day of submission and payment to RMCD.

Question no.	Question's Requirement	Expected Answer	Weaknesses in the Answer Provided	How answer should be written to get more marks
5(c)	Candidates are required to calculate the chargeable income of the Limited Liability Partnership for the year of assessment 2019.	Candidates must be able to understand the format in calculating the Chargeable Income for the LLP.	Generally the question is attempted well. Most of the candidates are able to compute the Chargeable Income of the LLP. However, some candidates still having problem with the format.	The computation of the Chargeable Income of LLP required the candidates to understand the format, from the profit before tax, the treatment of interest from loan to third party, the treatment for non- allowable expenses as well the computation of the capital allowance.
6(a)	Candidates are required to discuss on the withholding tax implications for each of the information given. Candidates must support their arguments with reasons, relevant section of Income Tax Act 1967, determine the amount of withholding tax to be paid and the due date to remit the tax to the Inland Revenue Board (IRB).	Candidates must be able to determine whether for each of the amount incurred subject to withholding tax or not. Justify their answer with relevant reason supported by the relevant section of ITA 1967. They also need to determine the amount of withholding tax and due date to remit the tax to IRBM.	Most candidates provide good answers. They are able determine the amount of withholding tax, justification on each situation and determine the due date to remit to IRBM.	Candidates must be able to identify the payment whether subject to withholding tax or not, provides justification and determine the due date to remit to IRBM.
6(b)	Candidates are required to compute the chargeable income and the amount transferred to exempt income account for the year of assessment 2019.	In answering this question, the candidate must follow the format to compute the chargeable income of the company granted with the Pioneer Status tax incentives. They must also know the format	Poorly attempted by the candidates. Majority did not follow the format both for computation of the chargeable income and determining the amount transfer to tax exempt income account. Some of them did not apply with the restriction of the donation made by the company which is	Candidates must know the format of computing the chargeable income starting from the adjusted income, statutory income, and aggregate income until the chargeable income. They must also able to apply the relevant format in computing the amount transfer to the exempt income account.

Question no.	Question's Requirement	Expected Answer	Weaknesses in the Answer Provided	How answer should be written to get more marks
		of the tax exempt income account.	lower of actual amount or 10% of the Aggregate Income.	

General Recommendation

To Facilitators	<p>Candidates should be familiar with the current legislation as regards the taxability of receipts and the deductibility of expenses including single and double deductions under the Income Tax Act 1967 (as amended) ; and the exemption of certain receipts, deduction of payments or allowance for specific expenditure, either by way of a specific law or accepted legal principles, and where relevant, other exemptions or deductions validated by case laws.</p> <p>Candidates should be encouraged to comply with the format as required by Income Tax Act 1967 in computing the statutory employment income for personal taxation. In addition, candidates should be encouraged to comply with the correct format in calculating the chargeable income for the LLP as well as the company approved with tax incentives.</p>
To Candidates	<p>As regards computation, candidates must strive to obtain the relevant technical competency; 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.</p> <p>Candidates should update themselves with the budget changes for the Year of Assessment 2019. They must practise and revisit all the chapters, understand the tax treatment and required format in order to get good grade.</p>