

## DELOITTE TAX CHALLENGE

### Individual Category – Grand Finals

#### **Question 1 (Written Assessment) (40 marks)**

You have recently attended the Transformasi Nasional 2050 (TN50) town hall session in Putrajaya. The Minister of Finance (MOF) was very impressed with your views given during the town hall on how to drive the country's economic development to achieve the vision of TN50.

A week after the town hall, you received a letter from the Minister, seeking your views on the following:

#### **Part A**

The country has been running a budget deficit for 19 years in a row. What are your suggestions for the government to increase its revenue collection?

[20 marks]

#### **Part B**

The Malaysian Inland Revenue Board ("MIRB") has intensified its audit activities in recent years. What are the objectives of a tax audit and what should the MIRB do to ensure its objectives are met?

[20 marks]

***Note: Your comment should not be longer than 250 words.***

**Question 2 (Oral Presentation) (60 marks)**

a) Chelsia Sim is the owner of Holding Sdn Bhd group of companies. She has met you recently to find out on the ways to improve the group tax efficiency and she shared the following:

- Holding Sdn Bhd (“HSB”) is an investment holding company. During the year, its subsidiary company, B Sdn Bhd (“BSB”) requires financing from HSB to purchase machinery. For this purpose, HSB will obtain an external bank loan and it has the option to either extend an interest bearing loan to BSB or subscribe additional ordinary shares in BSB.
- BSB is in the business of extraction of crude palm oil and it is currently claiming reinvestment allowance for an expansion project in respect of its crude palm oil extraction activity. The production manager has recently proposed to embark into the business of manufacturing pulp and paper using empty fruit bunches. The projected machinery cost and estimated profit from this manufacturing business throughout next 5 years is RM7.5 million and RM2 million respectively.

**Required**

- i) Explain whether HSB should extend an interest bearing loan to BSB or subscribe additional ordinary shares in BSB to finance the purchase of machinery from tax perspective.
- ii) Explore the types of tax incentive which can be accorded to the activity of manufacturing pulp and paper using empty fruit bunches. State whether BSB or a new company should be set up to undertake the new business and thereafter, quantify the tax benefit arising from your recommendation.

[15 marks]

b) Mable Pte Ltd, a company resident in Singapore sells oil palm machinery to BSB. BSB deals with Mable’s agent in Malaysia which collates orders on Mable’s behalf. You understand that the agent does not hold any stock of goods in Malaysia and has no authority to conclude contract on Mable’s behalf. All sales contracts between Mable and its customers are concluded outside Malaysia.

**Required**

Explain whether Mable has a permanent establishment in Malaysia and whether income derived by Mable from the sale of the machinery to BSB is subject to Malaysian income tax.

[5 marks]

c) HSB has plan to undertake international oleo chemical trading business. These commodities would be procured from overseas vendor and delivered to overseas customers. The purchase and sale of goods will be transacted in US\$ currency. It is estimated that the annual turnover and the annual expenses would be US\$110 million and US\$3 million respectively. There is also plan to employ four professional traders to manage the trading activity.

Chelsia Sim was informed by a consultant that where such activity is to be undertaken by a Labuan International Commodity Trading Company (LITC) set up under the Global Incentives for Trading (GIFT) Program, there will be tax benefits.

**Required**

State the preferential tax treatment granted to a LITC undertaking international oleo chemical trading activity. Explain whether the proposed business can fulfill the conditions to qualify for the GIFT program.

[10 marks]

- d) Kuantan Development Sdn Bhd (“KD”) has entered into a joint venture arrangement with a local conglomerate to embark into a property development activity on 10 acres of prime land and it is the first integrated green luxury development anchored by prime commercial offices, high-end retail outlets, world-class serviced residences and luxury residential towers which uses industrial building system technology.

For the purpose of this new landmark development, KD will be making various payments to the non-residents as follows:-

- AnYeong Ltd (“AY”), a tax resident company in South Korea

AY will carry out the design and procurement works in Korea and undertake construction activity in Malaysia for 9 months and the total cost is RM32 million, of which RM2 million is in relation to design and procurement works whilst RM30 million related to construction work.

- JianZu Co., Ltd (“JZ”), a tax resident company in China

JZ has been contracted for supplying a customized Industrial Building System (“IBS”) machine and the contract price of RM1.2 million comprises of the following:

	RM
Design customized IBS machine (wholly performed in China)	200,000
Supply and delivery of IBS machine parts	800,000
Install of IBS machine (wholly performed in Malaysia for 3 months)	200,000

The senior engineers of JZ reimbursed RM30,000 and RM20,000 from KD for their travelling expenses and hotel accommodation respectively during the work performed in Malaysia.

- P.T. ComAgensi (“CA”), a tax resident company in Indonesia

CA has introduced AH and JZ to KD and has charged a commission fee of IDR1,000,000. CA carries on the business of a commission agency in Indonesia.

- Treasury Management Pte Ltd (“TM”), a tax resident company in Singapore

TM, a cash cow subsidiary of KD has advanced 6% loan to KD to finance the development project. The annual interest payment for the advance of RM2 million.

**Required**

- i) The finance director of KD is unsure if the services to be performed by AY will create a permanent establishment in Malaysia and withholding tax under Section 107A would apply to the construction service fee to be paid by KD to AY. If so, due to some unforeseen circumstance, AY foresees it is likely make loss in this project and the advance withholding tax collection would give rise to cash flow constraint to AY.

The finance director has requested you to advise on whether AY has a PE in Malaysia and if so, suggest a tax planning idea to manage the cash flow for AY in Malaysia.

- ii) State with reasons whether JZ has a permanent establishment (“PE”) in Malaysia under the double taxation agreement between Malaysia and China.
- iii) State with reasons whether withholding tax is applicable on each of the above payments made to the non-resident payees and if withholding tax is applicable, state the domestic WHT rate and tax treaty rate (if applicable).

[30 marks]



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