

## DELOITTE TAX CHALLENGE

### Team Category – Grand Finals

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

The Government of Malaysia has set up a tax reform committee to study new measures to reduce tax leakages, enhance tax administration and find new sources of tax revenue. One of the areas that the tax reform committee may be looking into is capital gains taxation. Malaysia has a fairly limited scope of taxation on capital gains. The scope of the Real Property Gains Tax (“RPGT”) is limited to capital gains arising from the disposal of real properties situated in Malaysia and shares of Real Property Companies (“RPC”). Any capital gain arising from the sale or transfer of plant and machinery, receivables, intellectual properties, goodwill and shares of non-RPC would not fall under the purview of the Real Property Gains Tax Act, 1967.

#### **Required**

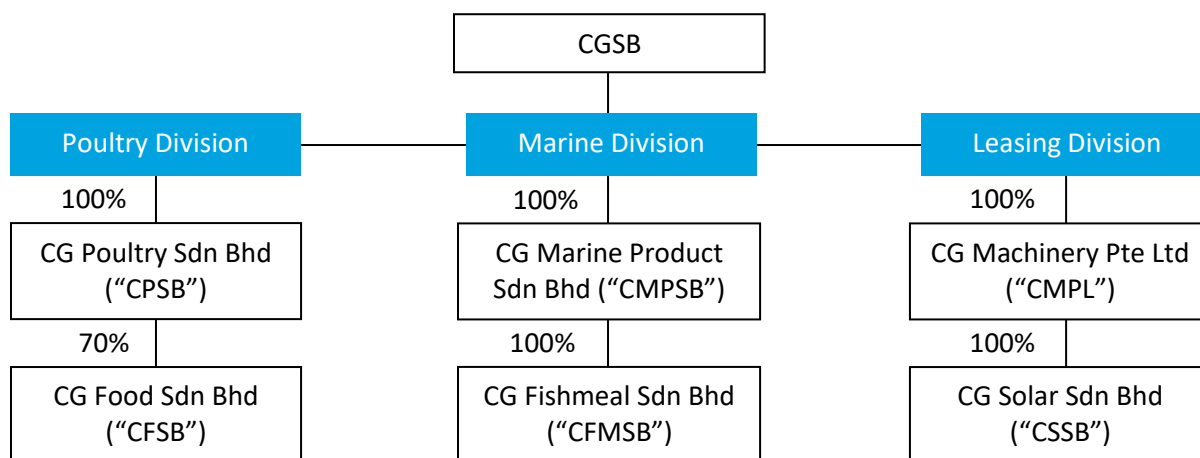
In your view, should the Government of Malaysia replace RPGT with a comprehensive capital gains tax regime that imposes tax on all forms of capital gains? Please explain your views from the perspective of the businesses, the Government and the Rakyat.

[40 marks]

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

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

The Finance Director of CG Sdn Bhd (“CGSB”) group has approached your team to seek tax advice on some group restructuring exercise and has provided your team with the following information:



**CGSB**

CGSB is principally engaged in the business of investment holding and provision of management services to subsidiaries. CGSB received passive rental income from its subsidiaries from the letting of office space. CGSB incurred operating expenses of RM1 million for provision of management and administrative services to its subsidiaries. CGSB also incurred interest expense of RM150,000 on a loan of RM5 million obtained from overseas holding company for purposes of capital injection into its subsidiaries companies either via ordinary share capital or interest free advances for working capital purposes. CGSB has no income other than rental income and single tier dividend income. CGSB plans to undertake deep sea fishing business which has an investment cost of RM2 million.

**CPSB**

CPSB is engaged in the business of integrated poultry farming activity and it is the most profitable company within the group. To save electricity bill in the long run, the management intends to install solar panels on the rooftop of the chicken house to regulate the temperature of the closed chicken house. It is estimated that the solar panels would cost RM1 million.

**CFSB**

CFSB is engaged in the business of manufacturing of processed food. It has been incurring losses for the past 5 years with unabsorbed losses brought forward of RM5 million and will continue to make losses in the next 5 years.

**CMPSB**

CMPSB was incorporated in 20X7 and engaged in the business of manufacturing fish paste. It has been incurring losses for the past 2 years with unabsorbed losses brought forward of RM5 million and will continue to make losses in the next 5 years. CMPSB has yet to enjoy any tax incentive since its commencement of business operations in 20X5.

**CFMSB**

CFMSB is engaged in the business of manufacturing fishmeal (a downstream activity of fish paste) and it is a profitable company. Its 15 years reinvestment allowance has expired in 20X8. It intends to further expand its manufacturing plant. The management is considering to transfer the business of CFMSB to CMPSB. The business of CPSB and CFMSB are operated by the same management team and both companies have many common suppliers and customers.

Details of the existing assets of the CFMSB manufacturing business are as follows:

Description of assets	Date of acquisition	Amount
Land and building	1 January 20X9	RM2,000,000
Plant and machinery	-	RM3,000,000
Trade debtors	-	RM500,000 (out of which RM200,000 is unlikely to be collectible)
Inventory	-	RM100,000 at cost or RM120,000 at market value

#### CMPL

CMPL is a company set up in Labuan and is approved by Labuan Financial Services Authority to carry out the business of special purpose machinery leasing activity with a Malaysian resident company.

#### CSSB

CSSB is engaged in the business of solar leasing activity. CSSB would purchase the solar panels and install them on the rooftop of their client's premises. CSSB would charge a monthly fixed fee for the use of the electricity and the solar panels.

All subsidiaries have a paid up share capital more than RM2.5 million with financial year ending 31 March except for CFSB which has a paid up share capital of RM2 million with financial year ending 31 October.

#### **Required**

Your team is required to prepare a presentation to address the following:

- a) State, with reasons, how CGSB group of companies can be reorganized to achieve greater group tax efficiency. [10 marks]
- b) The proposed activity to be undertaken by CGSB is eligible for tax incentives under the approved food production. How best the proposed deep sea fishing business can be structured to enjoy double incentives (i.e. income tax exemption from farming and deduction of investment cost) and which entity should be used? [4 marks]
- c) State, with reasons, whether CFSB would be able to surrender its current year tax loss to other companies within the group. If not, what could have been done to overcome this? [4 marks]
- d) State, with reasons, which tax incentive CPSB should opt in order to enjoy tax benefit for solar panel investment. [3 marks]
- e) State, with reasons, how would the merger of the businesses of CMPSB and CFMSB give rise to tax efficiency. [5 marks]

- f) Where reinvestment allowances have been claimed by CFMSB in year of assessment 20X5, what are the implications if the merger happened in 20X9? [3 marks]
- g) State the stamp duty rate applicable on the transfer of land and factory. State, with reasons, whether CMPSB qualifies for stamp duty relief under Section 15A. [8 marks]
- h) State, with reasons, whether CFMSB should transfer the land and building to CMPSB now. If not, state the action that could be taken to reduce the real property gains tax exposure. [7 marks]
- i) Where the trade debtors of RM500,000 are transferred to CMPSB, what is the tax implication on CMPSB if the debt of RM200,000 is eventually not recoverable? [2 marks]
- j) State, with reasons, whether the inventory should be transferred to CMPSB at cost or at market value for tax efficiency purposes. [5 marks]
- k) State the list of substantial activity requirement for CMPL and also the tax implication on CMPL if it fails to fulfill the requirement and also tax implication on the lease payment made by the Malaysian resident company to CMPL. [6 marks]
- l) State, with reasons, which tax incentive CSSB should opt in order to enjoy tax benefit for solar leasing company. [3 marks]



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