



Deloitte Tax Challenge 2015

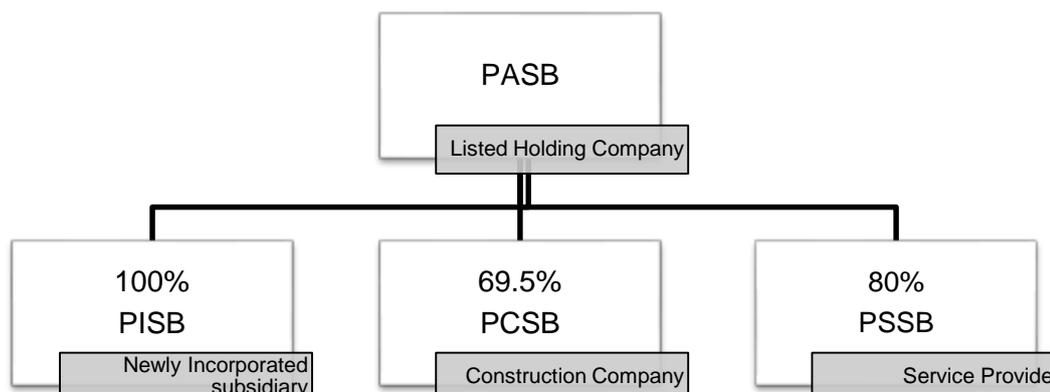
Team Category – Preliminary Stage

During your lunch break, you received a call from your director to join him in a meeting. Upon arrival at the meeting room, you were greeted by both your director and a potential client who introduced himself as Dr Henry Pym, a biologist by profession. Dr Pym explained that he would like to seek your advice on the following transaction(s) that he will be undertaking.

Based on the said meeting, you have made the following points below:-

- Pym Atoms Bhd (“PASB”), a listed company in Bursa Malaysia, is principally engaged in the business of investment holding and provision of management services to all its subsidiaries. PASB does not receive any income other than dividend income of RM1 million from its very profitable subsidiary, Pym Construct Sdn Bhd (“PCSB”) which undertakes the business of plant construction activity.
- PASB has huge losses mainly due to no management fee is charged to subsidiaries to recoup the directors’ remunerations and high level management staff cost amounting to RM5 million for the provision of management and administrative services to its subsidiaries.
- PASB also has a loss making subsidiary company, Pym Services Sdn Bhd (“PSSB”), providing construction consultancy and maintenance services, which incurred a tax loss of RM1 million in the current year and is likely to make further losses in the next 5 years. PSSB has a paid up share capital of RM2.4 million and closes its financial statements on 31 December.
- At present, PASB is the main borrower for the group and has a few loans that are utilised for both its operations and subsidiaries. Dr Pym has informed you that he would like to obtain a loan from DJNC Bank, a Malaysian bank, with a principal of RM60 million with interest payable of RM3.6 million per annum to finance the construction of a special refinery to handle the delicate process of extraction by one of its subsidiaries, Pym Industries Sdn Bhd (“PISB”). He is unsure of whether the loan should be undertaken by PASB / PISB or other entities.
- Dr Pym has also provided you with a copy of PASB’s current group structure (attached below).

Group Structure and Principal Activities of PASB and its Subsidiaries



All the companies have –

- a paid up share capital of RM2.5 million except for PSSB with RM2.4 million
- financial year ended 31 December except for PCSB with financial year ending 30 June

Question

- i) What can PASB do to improve the effective tax rate of the group tax efficiency and which entity to secure the loan and why? (15 marks)
- ii) What are the actions to be taken to enable both PSSB and PCSB to qualify for group relief? (10 marks)

Following a fruitful research, Dr Pym has plan to undertake commercialisation of extract a special tissue culture from the plant sap of a local plant found in Malaysia which is capable of increasing the yields in rice farms and grain based plants. Pym Industries Sdn Bhd (“PISB”) has been incorporated to carry out all activities related to the extraction and production of the special tissue.

While the process of extracting the tissue has been perfected, it is foreseen that there will need to be further research and development done on the plant sap as well. Dr Pym hopes that there is some form of grants or assistance that the Malaysian government is able to provide as he has invested substantial time and money on researching.

Question

Dr Pym asked you as the tax advisor whether the above activity is eligible for bionexus status and if so, what is the tax incentive available?

(15 marks)

Dr Pym estimated PCSB would incur the following cost for the construction of a special refinery to handle the delicate process of extraction:-

- (a) Local labour and materials cost – RM100 million;
- (b) Leasing of heavy plant and machinery from Saporo (Japan) Limited – RM2 million;
- (c) PCSB would also seek technical consultancy support services from Neumann International Pte Ltd (“NI”), an Australian tax resident company. NI will send its employees to Malaysia to perform part of the consultancy services for a period of 5 months. The following payments will be made to NI:

	RM’000
▪ Reimbursement of business class airfare to Malaysia	20
▪ Consultancy services in Malaysia	500
▪ Training in Malaysia	50
▪ Supply of parts	100

- (d) Technical and supervisory cost to be paid to a Singapore company, Atom Technologies Pte Ltd – RM5 million as follows:

	RM’m
Royalties	2
Offshore services	3

- (e) Annual maintenance of the refinery at RM250,000 per annum payable to PSSB.

Question

- i) Please explain, citing the relevant article of the double taxation agreement between Malaysia and Australia, whether NI has a permanent establishment in Malaysia. (8 marks)
- ii) Please explain whether the above payment is subject to withholding tax. If so, what is the corresponding withholding tax rate based on domestic tax law and double taxation agreement? (12 marks)

Malaysia in middle income trap. Under the Economy transformation program driven by PEMANDU, there are 12 national key economic areas we want to focus on. Choose 3 of the NKEAs and discuss the type of business activities to be promoted and what kind of incentives the government offers. What are your suggestions to enhance the existing incentives?

(40 marks)

Teams may use diagrams and charts to illustrate their points.

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