

## Deloitte Tax Challenge 2017

### Team Category – Preliminary Stage

#### Question 1

In today's digital world, e-commerce business flourish across the globe. We have seen foreign companies providing goods and services to the customers in Malaysia without forming a company in Malaysia. Many businesses may undertake cross border transactions without establishing presence overseas.

#### **Required**

Suggest to our Finance Minister on how e-commerce business should be taxed in Malaysia to ensure foreign businesses paid their fair share of taxes in Malaysia.

**(40m)**

#### Question 2

M Coatings Sdn Bhd ("MC") is in the business of manufacturing paint coatings. The company was performing well but in the recent years, business has been stagnant due to its operational inefficiency.

The board of directors ("BOD") has decided to embark on a plan to restructure its business operation. In February 2017, they engaged several foreign service providers to provide related consultancy services. As the tax manager of Distinguished Tax Sdn Bhd, you are required to advise the withholding tax implications of the following projects:-

#### **IT Consultation**

MC received complaints from customers frequently on the delay of their existing sales order system in processing orders.

The BOD would like to seek consultation from the IT specialists to resolve the matters. Two foreign entities have tendered for this project:

- i) AUS Tech Pty Ltd, a resident company in Australia; and
- ii) SPA Tech S.R.L., a resident company in Spain.

Both the foreign entities agreed that the contract price is RM100,000, which comprises of the following:-

	<b>RM</b>
- System assembly services (Wholly performed in Malaysia for 4 weeks)	70,000
- Online IT helpdesk (Wholly performed in overseas)	30,000

### **Specialized Technical Solutions for Coatings Production**

The BOD realized that the significant variance in the production report was due to high wastage. MC has engaged Agile Solution (HK) Co. Ltd, a resident company in Hong Kong to provide specialized technical solutions for coatings production.

The contract price comprises of the following:-

	<b>RM</b>
- Supply of technical equipment	50,000
- Technical labour cost	60,000

The project will be carried out in Malaysia. It is estimated that the duration to complete the project is approximately 5 months. However, the completion of project might prolong to 8 months depending on availability of resources from Agile Solutions (HK) Co. Ltd.

### **Leasing of Coatings Production Equipment**

To increase its production capacity, MC will enter into a leasing agreement with a company resident in the United Kingdom to lease coating production equipment for an annual fee of RM600,000.

#### **Required**

Prepare a Board of Directors ("BOD") discussion paper to state the withholding tax implications arising from the above transactions and compute the applicable withholding tax amount by making reference to the following (whichever is applicable):

- a) Malaysian Income Tax Act 1967 (You may refer to Section 4A, Section 12, Section 15A, Section 107A, Section 109B and Schedule 1);
- b) Public Ruling No. 1/2014 on Withholding Tax on Special Classes of Income and Practice Note 2/2017 issued by the Malaysia Inland Revenue Board;
- c) the double taxation agreement between Malaysia and
  - Australia (You may refer to Article 5);
  - Spain (You may refer to Article 5 and Article 12); and
  - Hong Kong (You may refer to Article 5, Article 7 and Article 13).

In relation to leasing of coatings production equipment, the BOD is keen to know if you have any tax planning structure / ideas that could mitigate the withholding tax exposure.

**(30m)**

### **Question 3**

- a) Galaxy Construction Sdn Bhd ("GC") is an established construction company. It makes various purchases for goods and services daily. As you know, different type of supply may attract different GST treatment. For each of the 3 categories ie. standard rated, zero-rated and exempt supply, please list down 5 type of goods or services. (15m)
- b) State, with reason, the time of supply for each of the following scenarios and compute the GST output tax amount (all quoted price is exclusive of 6% GST unless otherwise mentioned). All of the companies below are Goods and Services ("GST") registrant companies.

#### **Scenario A**

GC has been engaged to construct a luxury seafood restaurant in Klang for Michelin Star Restaurant Sdn Bhd ("MS"). The total construction cost is RM2,000,000 and it is billable on progressive basis. MS is allowed to withhold 5% from the payment of each progress billings pending satisfactory completion of the entire contract as a retention sum. The work is scheduled for 5 successive intervals and the certified value of the contract work is as follows:

<b>Date of Certificate of Work Done</b>	<b>Date of Tax Invoice</b>	<b>Certified Value (RM)</b>	<b>Accumulated Certified Value (RM)</b>	<b>Date of Payment Received</b>
15/03/2017	30/03/2017	100,000	100,000	15/04/2017
15/06/2017	16/07/2017	200,000	300,000	15/08/2017
30/09/2017	02/10/2017	400,000	700,000	15/08/2017
14/12/2017	14/12/2017	500,000	1,200,000	10/01/2018
18/03/2018	18/03/2018	800,000	2,000,000	19/02/2018

You may refer to the Guide on Construction Industry issued by Royal Malaysian Customs.

#### **Scenario B**

GC will host a Christmas party for its staff on 25 December 2017 at one of the existing restaurants of MS. GC made a phone call reservation with MS on 10 October 2017 and made a deposit payment of RM2,120 (inclusive of GST) on 30 November 2017.

MS raised the tax invoice for the whole amount, RM10,600 (inclusive of GST) on 27 December 2017 and received the balance of payment on 29 December 2017.

(15m)

**(30m)**

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