



FINAL EXAMINATION
MARCH 2024

COURSE TITLE	REVENUE LAW
COURSE CODE	ATAX3513
DATE/DAY	26 JUNE 2024 / WEDNESDAY
TIME/DURATION	09:00 AM - 12:00 PM / 03 Hour(s) 00 Minute(s)

INSTRUCTIONS TO CANDIDATES:

1. Please read the instruction under each section carefully.
2. Candidates are reminded not to bring into examination hall/room any form of written materials or electronic gadget except for stationery that is permitted by the Invigilator.
3. Students who are caught breaching the Examination Rules and Regulation will be charged with an academic dishonesty and if found guilty of the offence, the maximum penalty is expulsion from the University.

(This Question Paper consists of 6 Printed Pages including front page)

*****DO NOT OPEN THE QUESTION PAPER UNTIL YOU ARE TOLD TO DO SO*****

This question paper consists of FOUR (4) questions. Answer ALL questions in the answer booklet provided. [80 MARKS]

QUESTION 1

(20 Marks)

Parkland Sdn Bhd ("Parkland") is a company that was incorporated in year 2018 and principally engaged in property investment.

In fact, it is stated in its Memorandum and Articles of Association that its principal activity is that of property investment. In the same year, it purchased a plot of land at Jalan Ampang. This was their first and only purchase of a property. It was recorded in Parkland's Directors' Resolution and minutes of board meeting that this plot of land was purchased for investment purposes and will be held for a long time.

In addition, the said land was treated as a "fixed asset" in Parkland's audited accounts. After the purchase, Parkland did not conduct any work of a substantial nature on the land.

In year 2020, a renowned international developer i.e. Sky Development Sdn Bhd ("Sky Development") enquired whether Parkland was interested in developing a mixed-development project on the said plot of land.

Following a short negotiation, Parkland signed a joint development agreement with Sky Development. Essentially, the agreement sets out very clearly that Parkland would supply the plot of land to be developed, and Sky Development would carry out the development works entirely. Parkland also executed a Power of Attorney to grant all rights to Sky Development to enable the latter to deal with all things necessary to develop the land.

Subsequently, Sky Development applied for development orders from the Land Office and local authorities ("the authorities"). Sky Development also proceeded to drain the land in preparation for the mixed development.

However, prior to obtaining approvals from the authorities, the relationship between Parkland and Sky Development broke down and the project was immediately halted and subsequently terminated.

Parkland later received a very good offer from another entity i.e. Rainbow Sdn Bhd to purchase the land. Parkland then disposed the same to Rainbow Sdn Bhd in year 2023 and made a gain of RM10 million.

Required:

Based on the above facts, advise whether the gain of RM10 million made by Parkland Sdn Bhd from the disposal of the land would be subjected to income tax or real property gains tax.

QUESTION 2

(20 Marks)

- A. Mr. Gan (“the taxpayer”) is an expatriate and the Asian Representative for Asian Heavy Equipment Ltd (“the company”) under a 2-year contract of employment signed in Hong Kong in 2022.

The company was an American company, incorporated and having its place of business in Hong Kong. It sells and distributes heavy construction equipment to countries in the Southeast Asia region. In connection with this it also provides technical and management support to its customers in those countries, including Malaysia. The company did not have an office in Malaysia, but the taxpayer resided in Malaysia on a work pass and had an official correspondence address in Malaysia. He operated from Kuala Lumpur for two years in 2022 and 2023 and travelled to other countries in the course of his work. The job performed by the taxpayer was a three-fold parallel comprising marketing, technical and management support. But these were qualitatively different and specific to the problems facing each of the product dealers in those territories and have no connection to the duties he performed in Malaysia.

He is required to compile and prepare monthly and annual reports on the status of the business in the various countries and submit them to Hong Kong. Sometimes, owing to time constraints this information is compiled in the relevant countries but are brought over and the reports are completed in Malaysia for submission to Hong Kong.

Under the contract of employment, he was provided two paid leave per annum, both of which he chooses to spend in the relevant years in the United States for personal reasons.

The taxpayer treated the work periods spent in countries other than Malaysia as work performed outside Malaysia. And accordingly, he did not include the income for those periods in his Malaysian tax return for the years of assessment 2022 and 2023. However, the Inland Revenue Board included the income of the taxpayer from the exercise of his employment both in Malaysia and outside Malaysia in raising the relevant assessments.

Required:

With reference to the Income Tax Act, 1967 and relevant case laws:

- i. Explain, with reasons, why the Malaysian Inland Revenue Board would choose to assess the income of the taxpayer for the years of assessment 2022 and 2023 from the exercise of his employment, both in Malaysia and outside Malaysia. (5 marks)
- ii. Explain, with reasons, whether the taxpayer completing the Malaysian income tax return by excluding the employment income for periods spent outside Malaysia has any basis for doing so. (5 marks)

- B. Cheezer Cuisine Sdn Bhd ("Cheez") was a popular food outlet in Bangsar specializing in Western food. It was in operation for several years and very popular with the locals and foreign tourists.

Sometime in 2023 a new food outlet offering similar food was planned in the neighborhood by a competitor. Fearing that its business may be drastically affected, Cheez entered into an arrangement with the competitor not to establish an eatery anywhere within 100 kilometers radius of Bangsar for the next five years.

In consideration of the arrangement signed on 15 June 2023, Cheez agreed to pay the competitor RM900,000 in instalments of RM300,000 over the next three years.

Cheez had claimed the sum of RM900,000 as a deduction in arriving at the adjusted profit for the year of assessment 2023.

Required:

Identify and discuss the issues in Cheezer Cuisine Sdn Bhd's claim for the deduction of the expenditure of RM900,000 in the context of the Income Tax Act, 1967, quoting relevant case laws. (10 marks)

QUESTION 3

(20 Marks)

- a) With reference to the ITA, discuss briefly the meaning of 'plant' and the claim for capital allowance. (2 marks)

Note: You are NOT required to quote any case law for this part of the question.

- b) Mr. Desmond is a lawyer practicing in the field of revenue law. In the year 2023, Mr. Desmond incurred the expenditure in (i) to (iii) below.

Required:

Discuss whether the expenditure incurred by Mr. Desmond below would be treated as qualifying expenditure on 'plant and machinery'.

- i. RM 5,000.00 for the purchase of the latest copies of tax statutes and textbooks. (4 marks)
- ii. RM 1,100.00 on magazines and other leisure reading materials for the lounge in his law office. (1 mark)
- iii. RM 8,500.00 on a new plaster ceiling and lighting fixtures for his office. (5 marks)

Note:

You are required to support the answer with reference to the relevant provisions of the Income Tax Act, 1967, and related case laws.

- c) With reference to expenditure incurred by Mr. Desmond in (b) (i) - (iii) above indicate the amount of initial allowance that he would be entitled to claim for the year of assessment 2023.

Note:

Computation of the allowance is not required.

- d) Orange Cotton Sdn Bhd ("the Company") is a company in the business of manufacturing cotton fabric from raw cotton. In 2022, the Company incurred capital expenditure on the construction of a building complex and other construction expenditures in (i) to (iv) below.

Required:

Discuss briefly whether the expenditures incurred by Orange Cotton Sdn Bhd below would qualify for industrial building allowance.

- i. RM 900,000.00 on Building A where raw cotton in the form of staple fiber is delivered. Here, the raw cotton is unraveled and cleaned by removing substances such as leaves, seeds, or sand before being processed into sheets. (3 marks)
- ii. RM 50,000.00 on an internal road system linking up the various buildings in the complex. (1 mark)
- iii. RM 300,000.00 on a workshop where repair and maintenance services are carried out on machines used in the cotton manufacturing process. (3 marks)
- iv. RM 150,000.00 on a staff recreation room, bathrooms and washrooms in the complex. (1 mark)

Note:

You are required to support the answer with reference to the relevant provisions of the ITA and related case laws.

QUESTION 4

(20 Marks)

- a) The question of what is 'Plant' was first deliberated in the case of Yarmouth v France (1887).

Required:

Discuss the decision in the Yarmouth v France case and the principle established regarding the determination of what is 'plant'. (3 marks)

- b) In the Malaysian case of Ketua Pengarah Hasil Dalam Negeri v Tropiland Sdn Bhd (2013) MSTC 30-054, a purpose-built car park was 'plant' within the meaning of Schedule 3 of the ITA.

Required:

Discuss facts of the case and the basis for the decision in that case to treat the car park as 'plant' for the purposes of Schedule 3 of the Income Tax Act, 1967. (10 marks)

- c) In the context of the ITA and Schedule 3, explain the concept of 'qualifying plant expenditure'. (3 marks)

- d) In the case of Success Electronics and Transformer Manufacturer Sdn Bhd (2012) MSTC 30-039 the taxpayer company claimed reinvestment allowance under Schedule 7A in respect of several items of expenditure but that was disputed by the Inland Revenue Board.

Required:

What is the expenditure that the court considered as forming part of the qualifying capital expenditure for the purposes of the reinvestment allowance and the basis for its decision? (4 marks)

*** END OF QUESTION PAPER ***