

SINGAPORE CA QUALIFICATION EXAMINER'S REPORT

MODULE: Taxation (TX)

EXAMINATION DATE: 6 June 2019

Section 1

General comments

The Taxation module is an open-book examination with an appendix containing relevant tax rates and allowances given in the question paper.

There has been a recurring observation at each examination, where some Candidates have the tendency to reproduce in verbatim the provisions of the statute and/or other reference materials in their answers for some of the questions without extending any analysis based on the facts of the case presented to them in the question. Candidates need to realise that in an open-book examination, credit will not be given for merely reproducing or regurgitating content from reference sources. To earn the marks, Candidates need to apply the tax laws and principles specifically to the facts of the case and to arrive at a reasoned conclusion or recommendation.

Section 2

Analysis of individual questions

Question 1

Question 1 presented a scenario of importing a machine from overseas, and the corporate tax and GST implications of various related costs of purchasing this machine.

For **Part (a)**, Candidates are generally aware of the concepts for tax deductions and capital allowances. However, some Candidates are unable to apply the correct concepts and answered the questions wrongly.

Most Candidates did not attempt to calculate the withholding tax and penalties under the scenario where PB Pte Ltd (PB) bears the withholding tax. Furthermore, Candidates also did not identify that the annual depreciation is not tax deductible.

Most Candidates correctly stated that the withholding tax is due on 15th of the second month from the date of payment and penalties are applicable at 5% of the withholding tax amount plus 1% per completed month. However, some Candidates incorrectly computed the withholding tax and penalties.

Most Candidates were able to identify that the Singapore-UK tax treaty is able to provide tax relief but Candidates are unable to describe how the tax relief works.

Part (b) was generally not well answered because many Candidates listed the conditions for both the Major Exporter Scheme and the Zero GST Warehouse without making reference to the case and therefore Candidates were not awarded marks. Furthermore, most Candidates did not state that the import GST incurred on purchase of the machine can be claimed as input GST.

Question 2

Question 2 covered the issue on permanent establishment of employees of an Australian company coming to Singapore to supervise a project in Singapore, and the Singapore individual income tax implications for these Australian employees.

Part (a) was generally well answered by most Candidates. Candidates have correctly identified that a permanent establishment was created in Singapore based on the total number of days clocked by the Australian employees and the supervisory nature of their work. Many Candidates did not comment that Employee D was on training and therefore his number of days in Singapore do not contribute towards the number of days in determining permanent establishment.

Part (b) tested Candidates on how the Australian company could have structured to mitigate its Singapore income tax risks. Many Candidates were awarded marks for commenting that the employees could have collectively supervised the project for less than 6 months. While there were Candidates who correctly identified that the Australian employees could have been seconded to the Singapore subsidiary, these Candidates were the minority.

Part (c) covered on the Singapore individual income tax implications. While the question specifically pointed to tax treaty provisions which might allow for exemptions or relief, many Candidates did not cover the tax treaty relief for the various employees. Most Candidates were able to identify the Singapore individual income tax treatment for the various employees and were able to identify that Employee B's director fees are subject to withholding tax at 22%.

Question 3

Part (a) tested Candidates on the Singapore transfer pricing implications on various related party transactions. Although it was stated clearly in the question that both Mr and Mrs Tan are executive directors of both MayCo and SingCo, many Candidates failed to pick this up as the key point on common control over both entities.

While Candidates were generally able to comment on the transfer pricing implications of the sale of product line X, the intercompany loan and the corporate functions. However, many Candidates omitted the point on the outstanding accounts receivable on unpaid invoices to MayCo.

The question stated that SingCo's gross revenue derived from their trade or business is less than \$10 million for every financial year since incorporation. Therefore, SingCo does not need to prepare transfer pricing documentation under Section 34F of the Income Tax Act. However, some Candidates indicated in their answers that SingCo needed to prepare transfer pricing documentation if their gross revenue exceeded \$10 million.

Most Candidates were able to identify the 5% surcharge but only a few Candidates commented that the surcharge was not tax deductible.

As the related party loan does not exceed \$15 million, SingCo can use the indicative margin of + 175 bps (1.75%) for FY2018 on top of a base reference rate to determine the arm's length interest to be charged on the loan. Even though the question specifically stated the consideration of safe harbour rules, there were Candidates who failed to mention this.

For **Part (b)**, Candidates were required to identify the individual and corporate income tax implications of extracting income from SingCo. It was observed that Candidates were able to identify the individual tax aspects, but several Candidates have omitted the corporate tax aspects. There were Candidates who did not identify dividends as the means to extract income as a shareholder.

Part (c) covered the Goods and Services Tax (GST) on 2 transactions. Many Candidates incorrectly stated the transactions involving the purchase of computers as a disbursement (where it should have been a reimbursement) and the transaction involving the ACRA fee wrongly stated as a reimbursement (where it should have been a disbursement). In addition, some Candidates did not identify the input GST implications for SingCo.

Question 4

This question is on the restructuring of three subsidiaries in Singapore wholly owned by a UK Multinational Company.

Part (a)(i) required Candidates to comment on various Singapore income tax implications. Many Candidates failed to identify that Section 19B on the writing down allowances can be claimed on the payment to UKCo for the patent. And for those who correctly stated the claim under Section 19B, majority of these Candidates did not mention that only the economic title to the patent was transferred and not the legal title. As such, the approval from Economic Development Board was required before Section 19B can be claimed.

Most Candidates correctly stated that the election of Section 24 needs to be evaluated for the transfer of fixed assets. But Candidates were unable to secure more marks as they did not elaborate further in their answers to assess that it was

more beneficial not to elect for Section 24 and have the balancing charge set off against the tax losses.

A few Candidates incorrectly stated that Group relief was applicable, which was not the case as the holding company is not a Singapore entity.

Part (a)(ii) was generally well attempted but some Candidates did not provide the tax computation for SingSub B even though the question specifically requested for this. This could be due to time pressure as this was the last question in the examination.

Candidates performed relatively well for **Part (b)** as Candidates were able to identify the conditions for tax exemption for the foreign dividends. However, most Candidates did not state the condition that the tax exemption would be beneficial to the person who is a resident of Singapore.