
Answers

1 Report to Ekspan Corporation

From Tax Firm
To Mr Amigo, managing director, Ekspan Corporation
Date 8 June 2021

This report addresses the key tax issues relating to Ekspan Corporation's (EC) proposed investment into Malaysia through the establishment of the Ekspan Malaysia (EM) group of companies.

(a) Basis periods for the first three years of assessment (YAs)

First of all, we need to determine the basis periods for the first three years of assessment (YA) for the EM group of companies. The accounts will be made up for the following periods:

1 October 2021 to 30 June 2022
1 July 2022 to 30 June 2023
Thereafter to 30 June every year.

The basis periods for the first three YAs for the EM group of companies will be:

- | | | | |
|----|--------------------------------|---------|-------------|
| 1. | 1 October 2021 to 30 June 2022 | YA 2022 | (9 months) |
| 2. | 1 July 2022 to 30 June 2023 | YA 2023 | (12 months) |
| 3. | 1 July 2023 to 30 June 2024 | YA 2024 | (12 months) |

The accurate determination of the basis periods is significant because the periods form the basis for:

- The recognition of income
- The deductibility of expenses
- Eligibility for capital allowances
- The deadlines for compliance requirements (such as provision of tax estimate, payment of tax and the submission of tax returns)

(b) Ekspan Malaysia Holdings Sdn Bhd (EMH)

(i) Investment holding company (IHC)

EMH is an IHC as defined in the law [s.60F of the Income Tax Act (ITA) 1967] because it fulfils the requisite conditions as follows:

- Its activities consist mainly in the holding of shares in and loans to its two subsidiaries; and
- At least 80% of its gross income is derived from the holding of investments in the form of dividends and interest, while management fees constitute approximately 10% of total revenue.

Being categorised as an IHC means the tax treatment of EMH is specifically stipulated under the law [the aforementioned s.60F ITA 1967] as follows:

- Normal tax provisions apply to arrive at adjusted income from interest and management fees.
- The dividends from EM Manufacturing Sdn Bhd (EMM) and EM Trading Sdn Bhd (EMT) will be single-tier dividends, which are specifically tax exempt [Schedule 6, paragraph 12B, ITA 1967].
- It is specifically stipulated that an IHC is precluded from treating income from the holding of investments as business income. Any income other than from the holding of investments must be classified as 'other income' [s.4(f) ITA 1967].

Hence EMH is not eligible for capital allowances (CA) against any income, and its management fees received from EMM and EMT will be classified as 'other income' rather than 'business income'.

- There is an allowable deduction against aggregate income calculated by applying the formula of $A \times B/4C$ where:
 - A is the total permitted expenses, as listed in the legislation [s.60F ITA 1967],
 - B is the total gross income from investments chargeable to tax, and
 - C is the total gross income including all dividends and interest (whether exempt or otherwise), rent and capital gains from realisation of investments.

The deduction amount is subject to a maximum of 5% of gross income from dividends, interest and rent.

(ii) Sample tax computation

To illustrate the above, we have attached a sample tax computation for EMH for YA 2023 based on some assumed figures. Please refer to the appendix.

(c) Group relief

(i) How the conditions are fulfilled

EM group qualifies for group relief because EMH, EMM and EMT fulfil the following conditions:

- They are all resident and incorporated in Malaysia;
- They are all related companies as defined, i.e. EMH holds 100%, i.e. more than the requisite 70%, of EMM and EMT;
- All three companies have ordinary paid-up capital of more than RM2.5 million and therefore are subject to tax at the standard rate of tax at 24%;
- The companies are related throughout the current YA and the immediately preceding 12-month period;
- The companies all have a 12-month basis period ending on the same day, i.e. 30 June;
- The companies will not benefit from any tax incentives or tax exemptions during the relevant YAs.

(ii) First YA eligible for group relief

As the first YA, i.e. YA 2022, has a basis period of nine months, the first YA which the EM group will qualify for group relief will be the third YA, i.e. YA 2024.

This will duly fulfil the conditions that the surrendering and claimant companies must be related companies throughout the basis period for YA 2024 as well as the 12-month period immediately preceding that basis period, i.e. YA 2023.

(iii) Identify the surrendering company and claimant companies

EMM, being the company registering a current year business loss, is the surrendering company.

EMH and EMT qualify as the claimant companies as they are related companies and they both have defined aggregate income.

(iv) Computation and deduction of group relief for YAs 2024 and 2025

EMM may surrender not more than 70% of its current year business adjusted loss to its related companies, i.e. EMH and EMT. The order of priority of claim may be ascertained by the companies. For illustration, assume the order of priority is the first claimant is EMT and the second claimant is EMH.

| | Adjusted loss (RM) | 70% (RM) | Claimants | Amount (RM) |
|---------|-----------------------|-------------|-----------|------------------|
| YA 2024 | 4,650,000 | 3,255,000 | EMT | 1,500,000 |
| | | | EMH | 1,755,000 |
| | | | | <u>3,255,000</u> |
| YA 2025 | 1,830,000 | 1,281,000 | EMT | 1,281,000 |
| | | | EMH | 0 |
| | | | | <u>1,281,000</u> |

Alternative answer

For illustration, assume the order of priority is the first claimant is EMH and the second claimant is EMT.

| | Adjusted loss (RM) | 70% (RM) | Claimants | Amount (RM) |
|---------|-----------------------|-------------|-----------|------------------|
| YA 2024 | 4,650,000 | 3,255,000 | EMH | 2,800,000 |
| | | | EMT | 455,000 |
| | | | | <u>3,255,000</u> |
| YA 2025 | 1,830,000 | 1,281,000 | EMH | 1,281,000 |
| | | | EMT | 0 |
| | | | | <u>1,281,000</u> |

EMM will carry forward the balance of 30% of the current year loss for YA 2024 and YA 2025 as unabsorbed loss to be deducted against statutory income (SI) of the business in future. Any unutilised loss will be disregarded if it is not absorbed within seven YAs after its incurrence.

(d) Interest on EMH's loans to EMM and EMT

For both EMM and EMT, the interest expense is incurred on borrowings where the money is used in the production of gross income or is used to purchase assets used in the business. Accordingly, the interest is tax deductible in arriving at the adjusted income from business.

However, the proposed interest rate policy of charging interest according to the profitability of the business runs contrary to the concept of market value based on unrelated parties dealing at arms' length.

We would recommend that EMH adopts the best practice of charging loan interest at prevailing market rates regardless of the profitability of EMM and EMT. This will pre-empt any transfer pricing adjustments on these related-party loans should the companies be subject to a tax audit in the future.

(e) Further investment in YA 2026

(i) Eligibility for reinvestment allowance (RA)

We understand that in YA 2026, EMM expects to invest a further RM18 million to increase its output for export to the rest of Asia. This will render EMM eligible for reinvestment allowance (RA) because it fulfils the following conditions:

- EMM is a manufacturing company resident in Malaysia;
- In YA 2026, EMM would have been in operation for more than 36 months as it commenced operations in October 2021;
- In YA 2026, EMM intends to increase its manufacturing capacity. This is an expansion project which constitutes a qualifying project eligible for RA;
- In connection with the expansion project, EMM expects to incur capital investment of RM18 million on factory premises and machinery and equipment. This constitutes qualifying capital expenditure (QCE) for the purposes of RA;
- EMM does not expect to benefit from any tax incentive or tax exemption in YA 2026.

(ii) RA – mechanism and tax savings

The reinvestment will allow EMM an additional deduction of 60% of the amount of the QCE incurred, i.e. RM10.8 million (60% of RM18 million). This is deducted from a maximum of 70% of the statutory income (SI) in YA 2026. Any unabsorbed amount may be carried forward to be similarly deducted from 70% of SI in the ensuing YAs until its full absorption.

The tax saving thus potentially available to EMM is RM10.8 million at 24%, i.e. RM2,592,000.

– End of report –

Appendix

Sample tax computation

| | EMH YA 2023 | |
|--|----------------|-----------|
| | RM | RM |
| Interest | | 2,500,000 |
| Dividend (exempt) | 1,260,000 | 0 |
| Management fees | | 350,000 |
| Aggregate income | | 2,850,000 |
| Less the lower of: | | |
| A x B/4C | | |
| Permitted expenses x gross investment income/4 x | | |
| (all investment income and investment capital gains) | | |
| = 385,000 x 2,500,000/4 x 3,760,000 | | |
| = 63,996 | | |
| or 5% of 2,500,000 = 125,000 | | (63,996) |
| Total income | | 2,786,004 |

2 Miss Pandai (Pandai) and Pi-Arh Agency (PAA)

(a) (i) Computation of tax payable

| | Option A | | Option B | |
|---|-------------------|----------|-------------------|----------|
| | Cash remuneration | Taxable | Cash remuneration | Taxable |
| | RM | RM | RM | RM |
| Cash salary | 180,000 | 180,000 | 120,000 | 120,000 |
| Bonus: 2 months | 30,000 | 30,000 | 20,000 | 20,000 |
| EPF at 13%/19% (not taxable) | 27,300 | 0 | 26,600 | 0 |
| | 237,300* | | 166,600* | |
| Perquisite – school fees | | 0 | | 27,000 |
| S.13(1)(a) income | | 210,000 | | 167,000 |
| Benefit in kind: car | | 0 | | 7,000 |
| Statutory/aggregate/total income | | 210,000 | | 174,000 |
| Less: Personal reliefs | | | | |
| Self | 9,000 | | | |
| EPF | 4,000 | | | |
| Child | 2,000 | | | |
| | | (15,000) | | (15,000) |
| Chargeable income | | 195,000 | | 159,000 |
| Tax charged | | | | |
| On first RM100,000 | 10,900 | | 10,900 | |
| On the remaining RM95,000/RM59,000 at 24% | 22,800 | | 14,160 | |
| Tax charged | 33,700 | | 25,060 | |

(ii) Computation of residual amount available to Pandai

| | Option A | Option B |
|--|----------|----------|
| | RM | RM |
| *Cash remuneration | 237,300 | 166,600 |
| Less: Annual cost of car $(175,000 \times 80\%)/8 =$ | (17,500) | 0 |
| School fees | (27,000) | 0 |
| Tax payable | (33,700) | (25,060) |
| Residual amount available | 159,100 | 141,540 |

Recommendation

Even though the tax liability under Option A is higher than that under Option B, the residual amount available to Pandai under Option A is higher than Option B by RM17,560 (159,100 – 141,540). We would therefore recommend that Pandai adopts Option A.

(b) Deductions for the employer

| | Option A | Option B |
|--|----------|----------|
| | RM | RM |
| Cash remuneration | 237,300 | 166,600 |
| School fees | 0 | 27,000 |
| Car: capital allowance (CA) in first YA (W1) | 0 | 20,000 |
| Total deductions and CA | 237,300 | 213,600 |

W1

The cost of the car is RM175,000. Qualifying plant expenditure is restricted to RM50,000.

In the first YA, the car is eligible for an initial allowance of 20% and an annual allowance of 20% = RM20,000.

(c) Lump sum inducement payments

(i) RM50,000

This represents an inducement payment to Pandai to join PAA, and facilitates the availability of Pandai's employment service to the agency. It is not for the rendering of services by Pandai. Therefore the payment is capital in nature for Pandai and not taxable in her hands.

PAA pays the RM50,000 in order to secure the employment services of Pandai. PAA has secured a right. Hence the RM50,000 is capital in nature for PAA and not tax deductible.

(ii) **RM80,000**

This represents a gratuity for completing 12 months of service with PAA. It is therefore revenue in nature, and constitutes employment income duly taxable in Pandai's hands.

For PAA, this is additional remuneration to reward Pandai for remaining in the employ of PAA for 12 months, and is therefore tax deductible.

(d) **Tax avoidance**

Adopting one option over another based on tax considerations would appear to be tax avoidance. However, the remuneration package has commercial substance, is not a sham, and once adopted, has legal import. It is also a manifestation of the choice principle: that one is entitled to choose an alternative way of achieving a business outcome leading to different tax treatment.

3 (a) **Crab Sdn Bhd (Crab)**

- (i) Where there is a written agreement, the date of acquisition for real property gains tax (RPGT) purposes is the date of the agreement, unless the agreement is conditional and requires approval by the Government or a State Government, in which case the date of acquisition shall be the date of such approval. Where the approval is conditional, the date of acquisition is the date when the last of all such conditions is satisfied.

In the present case, the agreement for the land acquisition was conditional, upon the approvals from the State Government and the bank. As the agreement is subject to approval from the State Government, the date of agreement cannot be taken as the date of acquisition.

For RPGT purposes, the date of acquisition would be the date of obtaining approval from the State Government, i.e. 13 January 2018, even though the agreement only became unconditional upon the bank approval on 20 February 2018. The timing on the transfer of land title is not relevant.

- (ii) Sotong Sdn Bhd (Sotong) sold its shares in Crab to Udang Sdn Bhd on 10 January 2018. In determining the RPGT implications, first, we need to establish whether Crab is a real property company (RPC).

Crab had never owned any real properties in the past until the acquisition of land in Penang, Malaysia. As the date of acquisition of the land for RPGT purposes is determined to be 13 January 2018, Crab became an RPC at that point (since it would have breached the 75% threshold with its other tangible assets being not more than RM500,000).

When Sotong sold the Crab shares on 10 January 2018, Crab had not acquired the land, thus it was not an RPC. Therefore, the disposal of the shares in Crab by Sotong does not have any RPGT implications.

(iii) **RPGT computation for disposal of restaurant property**

| | RM'000 | RM'000 |
|---|-----------------|---------|
| Sale consideration (RM4 million – RM150,000) (note 1) | | 3,850 |
| Less: Restaurant construction | | (800) |
| Disposal price | | 3,050 |
| Purchase consideration | 2,000 | |
| Add: Legal fee | 50 | |
| Add: Interest on loan | 0 | |
| Add: Stamp duty | 0 | |
| | | (2,050) |
| Chargeable gain | | 1,000 |
| Less: Loss (note 2) | | 0 |
| Gains subject to RPGT | | 1,000 |
| Acquisition date | 13 January 2018 | |
| Disposal date | 15 May 2021 | |
| RPGT payable (20%, i.e. fourth year of acquisition) | | 200 |

Notes:

- 1 In computing the disposal value for RPGT purposes, the furniture should be excluded as it generally does not fasten permanently to the building. Therefore, it cannot be regarded as part of the real property. While the sale consideration is below the market value as stated in the valuation report, as the disposal is between two independent parties, the actual consideration should be adopted and there is no provision in the law to empower the Inland Revenue Board (IRB) to substitute the actual consideration with the market value of the property.
- 2 The tax losses are related to income tax and cannot be cross utilised against the chargeable gain for RPGT purposes.

(b) **Art Manufacturing Sdn Bhd**

Importation of printed circuit boards (PCBs)

As Art Manufacturing Sdn Bhd is registered for sales tax for the production of memory chips and the PCBs are used directly in the manufacturing of the finished products, the importation of the PCBs is exempt from sales tax.

Importation and contribution of laptops to a school

The laptops are not used in manufacturing and are instead given as a contribution to a school. In this respect, the importation of such items is not exempt from sales tax.

The sales tax payable in relation to the laptops is RM2,500 calculated as follows:

| | Laptops |
|--|----------------|
| | RM'000 |
| Cost | 20 |
| Freight from Japan to Port Klang, Malaysia | 2 |
| Import duty | 3 |
| | <hr/> |
| Value for sales tax purposes | 25 |
| Sales tax at 5% | 1.25 |
| | <hr/> |

The sales tax is payable at the point of importation when the goods are cleared at Customs.

As sales tax is a single stage tax, the subsequent contribution of the laptops to the school should not have further sales tax implications.

(c) Wilin Sdn Bhd

Stamp duty is calculated at the rate of RM3 per RM1,000 or part thereof, on the transfer of shares.

- (1) If the market value of the shares is higher than the actual consideration, the stamp duty is based on the market value instead. Accordingly, if the market value was RM600,000, the stamp duty payable would be RM1,800 (RM600,000 x RM3/RM1,000).
- (2) If the market value was RM400,000 (i.e. less than the consideration), the stamp duty payable would be based on the actual purchase consideration of RM500,000, i.e. RM1,500 (RM500,000 x RM3/RM1,000).

4 (a) Tua Sdn Bhd (TSB)

- (i) As an employer, TSB is required to comply with the following obligations:

Notification for commencement of employment – Upon the programmers' arrival, TSB is required to notify the Inland Revenue Board (IRB) of the commencement of employment not later than one month from the date of commencement of employment [s.83(2) ITA 1967].

Monthly tax deductions (MTD) – On a monthly basis, TSB is required to deduct tax from the remuneration of each employee in accordance with certain standard circumstances pertaining to each employee as specified under the deduction schedule. The MTD will be deducted based on the full remuneration of RM20,000. The MTD should be remitted to the IRB no later than the 15th day of the following month.

Annual return by employer and annual statement of earnings from employment – TSB is required to prepare and submit, to the IRB, an annual employers' return in a prescribed form by 31 March of the following year. The return should contain particulars of its employees including the gross income and benefits from employment as well as the amount of tax deducted from the employees and remitted to the IRB.

In addition, TSB is required to furnish to its employees an annual statement of earnings from employment by the last day of February in the following year. The annual statement is used by the employees as a basis to file their personal tax returns. The annual statement prepared by TSB should include the full remuneration received by the programmers, whether in Malaysia or the UK.

Notification for cessation of employment – Before the programmers leave Malaysia at the end of their tenure in Malaysia, TSB is required to notify the IRB of their cessation of employment by the submission of a prescribed form not later than one month (or a shorter period as allowed) prior to the date of cessation.

An employer is required to retain whatever amount of money which is due to the employee until 90 days after the receipt by the IRB of the notification for cessation of employment [s.83(5) ITA 1967].

- (ii) **Consequences for non-compliance**

Notification for commencement of employment

Monthly tax deduction from remuneration to employees

Annual return by employers

Annual statement of remuneration of employees

Notification for cessation of employment

Any person who without reasonable excuse fails to comply with the above requirements shall be guilty of an offence and shall upon conviction be liable to a fine of not less than RM200 and not more than RM20,000 or to imprisonment for a term not exceeding six months, or both. In addition, an employer who fails to comply with the notification requirements (including retention of money) with respect to an employee of theirs, shall be liable to pay the full amount of tax due in respect of the employee.

(b) Magic Pte Ltd (MPL)

Royalty

As MPL's Malaysian branch is making royalty payments to its US parent company, it is required to deduct withholding tax at the prevailing rate of 10% [s.109 ITA 1967].

However, the amount subject to withholding tax is only the royalty deemed to be derived from Malaysia. A royalty is deemed to be derived from Malaysia if the responsibility for the royalty payment is with a resident or the amount is charged against any income derived from Malaysia [s.15 ITA 1967].

As MPL is not tax resident in Malaysia, the royalty is deemed to be derived from Malaysia if the amount payable is charged against any income accruing in or derived from Malaysia. Therefore, only the RM300,000 would attract withholding tax.

In respect of the royalty for the Indonesian sales, the amount cannot be deducted from or charged against the Malaysian trading income (as the amount is not wholly and exclusively incurred in the production of the Malaysian income). Therefore, the RM200,000 is not subject to withholding tax.

Construction of new warehouse building

The construction services paid to a non-resident could fall under special classes of income [s.4A/109B ITA 1967] or contract payments [s.107A ITA 1967].

If the payment to a non-resident is in respect of services in relation to a contract in Malaysia, which results in a place of business for the non-resident in Malaysia, then the withholding tax provision under contract payments [s.107A ITA 1967] is applicable.

Under the tax legislation, a construction, assembly and installation site constitutes a place of business. Therefore, the contract sum made to the UK contractor should be regarded as a contract payment. The applicable withholding tax rates [s.107A ITA 1967] are:

- 10% of the Malaysian service portion, on the account of the non-resident contractor; and
- 3% of the Malaysian service portion, on the account of the employees of the non-resident contractor.

Amount subject to withholding tax

| | |
|--|---------------|
| | RM'000 |
| Construction materials | 0 |
| Design services rendered outside Malaysia | 0 |
| Construction services, including piling works (note) | 10,000 |
| | <u>10,000</u> |
| 13% withholding tax | <u>1,300</u> |

Note: The contract sum for the piling works is due to the UK contractor. The UK contractor merely instructs MPL's Malaysian branch to make the payment to the local resident subcontractor. Therefore, as the amount is still due to the UK contractor, the amount should attract withholding tax.

(c) Nasib Baik Sdn Bhd (NBSB)

In respect of the Philippines contract, as the performance of the services was mainly carried out from its office in Kuala Lumpur, Malaysia, the income was derived from Malaysia, and should therefore be subject to Malaysian income tax.

However, it was also subject to withholding tax in the Philippines. As the Philippines have concluded double tax treaties with Malaysia, it is possible to claim bilateral tax relief in relation to the foreign tax suffered. For the purpose of bilateral relief, foreign income includes income derived from Malaysia charged to foreign tax.

The bilateral relief is calculated based on the lower of the Malaysian tax attributable to the foreign income or the foreign tax suffered.

Computation of bilateral relief

| | |
|------------------------|-----------------|
| Aggregate/total income | RM250,000 |
| Income tax at 24% | <u>RM60,000</u> |

Less: Bilateral relief

Attributable Malaysian tax on the Philippines contract

= Gross income from Philippines/total gross income x statutory income

= 200,000/3,000,000 x 250,000

= 16,667 x 24%

= RM4,000

Foreign tax suffered = RM20,000

Whichever is lower, i.e. RM4,000

| | | Marks |
|-------|---|-----------------------|
| 1 | Ekspan Malaysia group of companies | |
| (a) | Basis periods | |
| | Basis periods for three YAs | 0.5 + 0.5 + 0.5 |
| | Significance | 1.5 |
| | | <u>1.5</u> |
| | Available | 3 |
| | Maximum | <u>2</u> |
| (b) | Tax treatment of EMH | |
| (i) | Investment holding company | |
| | Conditions fulfilled | 1 + 1 |
| | Tax treatment: | |
| | Normal tax rule up to adjusted income, dividend exempt | 0.5 + 0.5 |
| | Cannot classify investment income as business income | 0.5 |
| | Other income | 0.5 |
| | A x B/4C restricted to 5% of gross income | 1 + 1 |
| | | <u>6</u> |
| | Available | 6 |
| | Maximum | <u>5</u> |
| (ii) | Sample tax computation | |
| | Income items | 0.5 x 3 |
| | A x B/4C, correct figures | 0.5 + 0.5 + 0.5 + 0.5 |
| | Comparison to 5% | 1.5 |
| | | 2 |
| | | <u>0.5</u> |
| | | 4 |
| (c) | Group relief | |
| (i) | Eligibility | |
| | Resident, incorporated in Malaysia | 0.5 + 0.5 |
| | Related companies, how | 0.5 + 0.5 |
| | Paid-up capital of more than RM2.5 million, tax rate of 24% | 0.5 + 0.5 |
| | Related for current YA and immediately preceeding 12 months | 0.5 |
| | 12-month basis period ending on same day | 0.5 |
| | Do not enjoy tax incentives | 0.5 |
| | | <u>4.5</u> |
| | Available | 4.5 |
| | Maximum | <u>3</u> |
| (ii) | First YA eligible for group relief | |
| | YA 2024, reason | 0.5 + 0.5 |
| | | <u>1</u> |
| (iii) | Identify surrenderer and claimants with reason | |
| | Surrenderer – EMM | 0.5 |
| | Claimants – EMH and EMT | 0.5 + 0.5 |
| | | <u>1.5</u> |
| | Available | 1.5 |
| | Maximum | <u>1</u> |
| (iv) | Explain how group relief is computed and deducted | |
| | 70% of loss, order of priority | 0.5 + 0.5 |
| | YA 2024: 70% amount, EMT, EMH (or EMH, EMT) | 1.5 |
| | YA 2025: 70% amount, EMT, EMH (or EMH, EMT) | 1.5 |
| | Carry forward 30% balance loss | 1 |
| | | <u>5</u> |
| | Available | 5 |
| | Maximum | <u>4</u> |

| | <i>Marks</i> |
|---|-----------------|
| (d) Loan interest | |
| General rule of deductibility of interest | 1 |
| Interest rate policy is not acceptable, reason | 1 |
| Recommendation | 1 |
| | <hr/> 3 |
| (e) Reinvestment allowance | |
| (i) Eligibility for reinvestment allowance | |
| Residence, manufacturing | 0.5 + 0.5 |
| More than 36 months | 1 |
| Expansion, qualifying project | 1 |
| Incur qualifying capital expenditure | 1 |
| Will not enjoy any other tax incentives | 1 |
| | <hr/> 5 |
| Available | <hr/> 5 |
| Maximum | <hr/> 4 |
| (ii) Mechanism and tax savings | |
| 60% of QCE, figure | 0.5 + 0.5 + 0.5 |
| Against 70% of SI | 0.5 + 0.5 |
| Carry forward unabsorbed amount | 1 |
| Tax savings at 24% | 1 |
| | <hr/> 4 |
| Available | <hr/> 4.5 |
| Maximum | <hr/> 4 |
| Professional marks | |
| Format and presentation of the letter | 1 |
| Clarity and effectiveness of communication including logical flow | 2 |
| Appropriate use of appendix | 1 |
| | <hr/> 4 |
| | <hr/> 35 |

| 2 Miss Pandai (Pandai) | | Marks |
|--|---------------------|-----------|
| (a) (i) Computation of tax payable | | |
| Option B: | | |
| Income items | 0.5 x 2 | 1 |
| EPF | | 0.5 |
| School fees | | 0.5 |
| Car benefit value | | 0.5 |
| Personal reliefs | 0.5 x 3 | 1.5 |
| Computation of tax charged | | 1 |
| Option A: | | |
| Income items | 0.5 x 2 | 1 |
| Tax charged | | 1 |
| | | <u>7</u> |
| (ii) Computation of residual amount available to Pandai | | |
| Option A | 0.5 + 1 + 0.5 + 0.5 | 2.5 |
| Option B | | 1 + 0.5 |
| Recommendation | | <u>2</u> |
| | | <u>6</u> |
| (b) Tax deductions for employer | | |
| (i) Option A | | |
| | | <u>1</u> |
| (ii) Option B | | |
| | | <u>2</u> |
| (c) Lump sum payments | | |
| (i) RM50,000 | | |
| Capital nature to Pandai and PAA, reasons | 2 + 1 | <u>3</u> |
| (ii) RM80,000 | | |
| Revenue nature to Pandai and PAA, reasons | 2 + 1 | <u>3</u> |
| (d) Tax avoidance | | |
| Arguments against tax avoidance | | <u>3</u> |
| | | <u>25</u> |

| | | Marks |
|---|--|---------|
| 3 | (a) Crab Sdn Bhd | |
| | (i) Conditional contract with State Government, upon State Government approval | 1 + 1 |
| | Bank approval condition not relevant | 1 |
| | Date of acquisition of 13 January 2018 | 0.5 |
| | Available | 3.5 |
| | Maximum | 3 |
| | (ii) Whether CSB is RPC | 1 |
| | Timing of when CSB became RPC | 1 |
| | When shares sold, not yet RPC | 1 |
| | | 3 |
| | (iii) Disposal price with reasons | 2 |
| | Acquisition price, legal fee, stamp duty and interest | 1.5 |
| | RPGT rate | 0.5 |
| | Treatment of tax losses | 1 |
| | | 5 |
| | (b) Art Manufacturing Sdn Bhd | |
| | Importation of PCBs | |
| | Registered for sales tax + used in manufacturing | 0.5 + 1 |
| | Exempted from sales tax | 1 |
| | Importation of laptops | |
| | Not eligible for sales tax exemption | 1 |
| | Calculation of sales tax | 1.5 |
| | When sales tax payable | 1 |
| | Contribution to school | 1 |
| | Available | 7 |
| | Maximum | 6 |
| | (c) Wilm Sdn Bhd | |
| | Rate of stamp duty | 1 |
| | Based on market value | 1 |
| | Based on actual consideration | 1 |
| | | 3 |
| | | 20 |

| | | Marks |
|---|---|-------|
| 4 | (a) Tua Sdn Bhd | |
| | (i) Commencement notification | 1.5 |
| | MTD | 1 |
| | Annual employers' reporting and employees statement | 2 |
| | Cessation notification | 1.5 |
| | | 6 |
| | (ii) Consequences of non-compliance | 2 |
| | (b) Magic Pte Ltd | |
| | Royalty | |
| | 10% rate | 0.5 |
| | Portion relating to Malaysian sales only | 1 |
| | Portion relating to Indonesian sales no WHT | 1 |
| | Warehouse construction | |
| | Contract project v special class of income | 1 |
| | 13% rate | 1 |
| | Materials not subject WHT | 1 |
| | Design services outside Malaysia no WHT | 1 |
| | Piling works subject to WHT | 1 |
| | Available | 7.5 |
| | Maximum | 7 |
| | (c) Nasib Baik Sdn Bhd | |
| | Income from Philippines contract derived from Malaysia | 1 |
| | Income subject to double tax | 1 |
| | Concluded DTA with Malaysia and hence eligible for bilateral relief | 1 |
| | Computation of bilateral relief | 2 |
| | | 5 |
| | | 20 |