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## Answers

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1 Letter to Kool Chicks Sdn Bhd

Tax Firm  
Any Street  
50000 Kuala Lumpur  
Malaysia

Board of directors  
Kool Chicks Sdn Bhd  
Any Street  
Malaysia

7 December 2022

Dear Sir/Madam

Sale of business operations – Wangi Bakery Sdn Bhd (Wangi)

We refer to our meeting on 1 December 2022 regarding the proposed sale of the business operations of your wholly-owned subsidiary, Wangi, and your request for our advice on the attendant tax issues.

(a) Wangi

(i) Deductibility of expenditure

**New enhanced website**

The new enhanced website to enable and facilitate online sales: the expenditure relates to the capital structure of the business rather than the revenue-generating machinery of the business. The expenditure is therefore capital in nature and not tax deductible.

**Packaging designs**

The packaging designs are for the products of the business. The design fees are therefore directly related to the products of the business and are tax deductible.

On the other hand, the design fees may lead to the creation of an intangible asset, i.e. that of a design owned by Wangi. As such, it may be viewed as capital in nature, hence not deductible.

(ii) Tax treatment: proposed sale of business assets

**Unabsorbed capital allowances (CA)**

With the sale of the business assets on 31 March 2023, Wangi's bakery business will cease in year of assessment (YA) 2023.

As Wangi expects to have an adjusted loss of RM1 million for YA 2023, the unabsorbed CA of RM1.8 million brought forward will not be absorbed in YA 2023. Thereafter, there will not be the same business source to set off the CA against, which will be effectively lost.

**Exposure to real property gains tax (RPGT)**

The 100 business premises represent real properties. There will be disposals of 100 chargeable assets subject to RPGT yielding chargeable gains of RM3.5 million. As the premises have all been held for more than five completed years, the RPGT on the chargeable gains will amount to RM350,000 (RM3.5 million at 10%).

**Income tax treatment of the component items of the sale of business operations**

**Plant, machinery and equipment**

The RM6.9 million represents the disposal value of the business assets of Wangi for which CA has been given. Upon disposal, balancing adjustments will arise. By comparing the individual disposal value with the residual expenditure of each asset, a balancing charge or balancing allowance will arise. As an adjusted loss of RM 1 million is anticipated, the aggregate of balancing charges will be utilised to set off the aggregate of balancing allowances and brought forward capital allowances. Any amount unabsorbed will effectively be lost as the business source will cease in YA 2023.

**Customer database**

The customer database has been built up over the years of business operations. The related expenses, being manpower expenses, have been claimed as deductions in arriving at the adjusted income of the business source in the relevant YAs.

The customer database has now evolved into a distinguishable capital asset of the business, which is used in the income-generating process. The RM1.2 million of the sale consideration attributable to the customer database is therefore capital in nature and should not be treated as gross income of the business.

*(Alternative answer to above paragraph):*

The RM1.2 million of the sale consideration attributable to the customer database may therefore be treated as a recoupment or recovery of the expenses which had been deducted in arriving at the adjusted income in the past YAs. The RM1.2 million represents gross income [under s.22(2)(a)(i)] properly subject to income tax in YA 2023 when it becomes receivable.

#### Brand name

A brand name is an intangible asset built up over the years of business operations. The income tax treatment of a brand name is similar to that of goodwill. The amount of RM2.8 million being attributable to the brand name of Wangi is capital in nature, just as any amount receivable for goodwill is capital in nature.

RM2.8 million should therefore be treated as a capital receipt and not be treated as gross income.

#### (iii) Income tax treatment as an investment holding company (IHC)

Please refer to Appendix A for a sample computation of the total income of Wangi as an IHC in YA 2024.

#### (b) Mystery Buyer (MB): comparative tax treatment

We have done a comparative analysis of the tax treatment of MB through an asset deal versus a share deal.

Please refer to Appendix B.

We hope that you have found the above analysis useful. Should you require further clarifications, please do not hesitate to contact us for further discussions.

Yours faithfully,

.....  
Tax manager, Tax Firm  
Enclosures.

#### Appendix A

##### Wangi Bakery Sdn Bhd

##### Sample computation of total income for YA 2024

	RM	RM
<b>Income</b>		
Dividends from shares in Malaysian companies (exempt)		0
Interest income from bank deposits		150,000
Net rental (after allowable expenses of RM120,000)		360,000
		<u>510,000</u>
<b>Aggregate income</b>		
Permitted expenses:		
Corporate office expenses	60,000	
Directors' fees	140,000	
	<u>200,000 (A)</u>	
<b>B = Gross income from dividend, interest and rent chargeable to tax</b>		
= 0 + 150,000 + (360,000 + 120,000)		
= 630,000		
<b>C = Aggregate of gross income from dividend and interest, whether exempt or not, rent and gains from realisation of investment</b>		
= 200,000 + 150,000 + 480,000 = 830,000		
<b>A x B/4C = 200,000 x [630,000/(4 x 830,000)] = 37,952</b>		
Compared to 5% of 830,000 = 41,500, the lower		(37,952)
<b>Total income</b>		<u>472,048</u>

## Appendix B

### Comparative tax treatment

	<b>Tax issue</b>	<b>Asset deal</b>	<b>Share deal</b>
1.	<b>Stamp duty</b>	Stamp duty will be leviable on the transfer of the 100 business premises. As each of the business premises does not exceed RM100,000 in market value, the effective rate of stamp duty will be 1%, i.e. RM9-1 million at 1% = RM91,000.	Stamp duty will be leviable on the transfer of shares in Wangi for RM20 million at RM3 for every RM1,000 or part thereof, i.e. RM20 million at 0.3% = RM60,000.
2.	<b>Unabsorbed CA and plant, machinery and equipment</b>	A new business will be formed by MB to carry on the bakery business.  The unabsorbed CA of RM1.8 million relate to the business operated by Wangi, and not to MB's business.  The plant, machinery and equipment acquired for RM6.9 million will be used in the new business. It will constitute qualifying plant expenditure for the new business, duly eligible for initial and annual allowance from YA 2023 onwards.	The Wangi bakery business will continue to operate as one and the same business, albeit under a new ownership.  The unabsorbed CA of RM1.8 million may be brought forward and duly absorbed against adjusted income of the Wangi business for YA 2023 et seq.  The plant, machinery and equipment of Wangi will continue to qualify for CA going forward based on the remaining residual expenditure. There will be no change of ownership of the assets.
3.	<b>100 business premises</b>	The new business will acquire the business premises. It will need to assess whether it satisfies the threshold to be a real property company.	There is no transfer of chargeable assets as they continue to be owned by Wangi, which company is now owned by MB, instead of Kool Chicks Sdn Bhd.
4.	<b>Customer database</b>	The new business has acquired a new asset in the form of the customer database. However, the definition of 'plant' in the Income Tax Act [Paragraph 70A, Schedule 3] specifically excludes an intangible asset to constitute 'plant'. Therefore, the new business will not qualify for CA in respect of the RM1.2 million.	The customer database has been built up over the years of operations, for which deductions of manpower costs have been taken. The issue of the customer database being an asset or 'plant' does not arise.
5.	<b>Brand name</b>	For tax purposes, brand name is similar in nature to goodwill. It is capital in nature and is an intangible asset. It is not tax deductible. It similarly does not qualify as 'plant' and therefore does not qualify for CA.	The brand name has been built up over the years of operation by Wangi. As the business continues as one and the same, there is no transfer, therefore no tax issue arises.

## 2 Resourceful Berhad (RB)

### (a) The bonus issue

#### (i) Incidental expenditure

The expenditure was incurred in raising the authorised capital of RB and in the issue of bonus shares. Both of these relate to the capital structure of the company rather than the revenue generating machinery of the business.

Therefore, the RM235,000 is not tax deductible in arriving at the adjusted income of RB.

#### (ii) Income tax implications for RB

The bonus issue did not derive any revenue for RB. It is an exercise pertaining to the capital structure of the company. Therefore, it is wholly capital in nature and has no income tax implications.

### (b) Return derived by the shareholders of RB who receive the bonus shares

Assuming that the shareholders of RB are investors, not trading in shares, the tax treatment of any return derived by them in respect of the bonus shares received is as follows:

#### (i) Retain the bonus shares for dividends

The receipt of the bonus shares does not represent any income to the shareholder as their position vis-à-vis other shareholders in RB remains exactly the same before and after the bonus issue. By retaining the bonus shares, these

shareholders will stand to receive single-tier dividends which are specifically tax exempt under the law [paragraph 12B, Schedule 6 of Income Tax Act 1967].

**(ii) Immediately sell the bonus shares**

By immediately selling the bonus shares, these shareholders will realise RM3.50 per share as they did not pay anything for the bonus shares. As they are not involved in trading in shares, the gain of RM3.50 represents a capital gain, hence not assessable to income tax.

**(iii) Sell the bonus shares after 12 months**

By waiting 12 months before they sell the bonus shares, these shareholders benefit from an increase in the capital value of the shares. The gain of RM5 per share, as nothing was paid for these shares by investors, represents a capital gain not assessable to income tax.

**(c) Treasury shares and share options**

**(i) Share buy-back and subsequent disposal**

When RB engages in the share buy-back from the open market, it intends to set up a share option scheme. The share buy-back will not be a trade transaction.

The subsequent disposal of the balance of the treasury shares will also not be trading or revenue in nature. Hence any gain or loss on the disposal will be on the capital account, with no income tax impact.

**(ii) Employees who receive and exercise the share options**

Employees who have completed ten years of service are eligible for the share options. The share options accrue to them by virtue of them having or exercising employment with RB. The value of the share options therefore constitutes a gain from employment.

The value of the share options is computed as follows, assuming the market price of RM4.20 at the time the options are exercised:

	<b>RM</b>
Market price at the time of exercising options	4.20 per share
Cost paid by the employee	1.00 per share
	<u>3.20 per share</u>
Total value for 10,000 shares = 10,000 x 3.20	<u>32,000</u>

The value of RM32,000 is employment income assessable on the employee in YA 2023 when the options are exercised.

**(iii) Deductibility for RB**

The cost of the share options to RB is the cost of acquiring the treasury shares less the amount payable by the employee. This amount is tax deductible for RB as it represents a part of the cost of employing personnel to run the business to derive income.

The cost is calculated as follows:

	<b>RM</b>
Cost price of acquiring the treasury shares	3.50 per share
Cost paid by the employee	1.00 per share
	<u>2.50 per share</u>
Total cost for 10,000 shares = 10,000 x 2.50	<u>25,000</u>

The cost of RM25,000 is tax deductible for RB in YA 2023 when the options are exercised.

**(d) Gift of shares to strategic planning manager (SP manager)**

**(i) Charge to tax on SP manager**

The plan is to gift the prospective employee 5,000 shares upon accepting the job offer with no other conditions attached. This is therefore in the nature of inducement to join RB, rather than for performing employment service for RB.

It is therefore not part of a gain or profit arising from having or exercising employment with RB.

Accordingly, the value of the shares is not assessable on the SP manager.

**(ii) Deductibility for RB**

RB will incur RM17,500 (5,000 x RM3.50) on the shares to induce the prospective employee to join the company. This is part and parcel of recruiting personnel to help in running the business.

Therefore, the expense is incurred in the production of income, and is tax deductible for RB when it is incurred, i.e. when the shares are given to the strategic planning manager.

3 (a) Jasmin

(i) Acquisition date for real property gains tax (RPGT)

Where there is no written agreement, the date of acquisition of the property would be the date of completion of the acquisition of the property. For this purpose, the date of completion is taken to be the earlier of the date of the transfer of title or the date of full settlement of consideration.

In the present case, as the full consideration for the property was settled on 3 November 2017 before the transfer of the land title on 1 February 2018, the date of 3 November 2017 should be taken as the date of acquisition. The date in which vacant possession of the property was given is not relevant.

(ii) RPGT treatment on expenditure incurred in relation to the tenancy arrangement

**Construction of a store and bungalow renovation**

As the costs of construction of the store and room renovation were incurred by Raj, Jasmin will not be able to claim the expenditure as permitted expenses in arriving at the disposal price of the property.

**Renovation reimbursement**

By reimbursing RM100,000, Jasmin has effectively incurred the renovation cost, which constitutes an enhancement cost of the property. Alternatively stated, the RM100,000 was incurred on behalf of Jasmin to enhance the value of the property. Therefore, the amount should qualify as permitted expenses in arriving at the disposal price of the property.

**Roof repair**

This would be an excluded expenditure for RPGT purposes as the repair cost would qualify for tax deduction for income tax purposes.

(iii) RPGT payable by Jasmin on disposal of the bungalow on 18 October 2022

	RM'000	RM'000
Disposal price		
Consideration received	5,000	
Less: Bungalow construction	(2,000)	
Less: Enhancement cost	(100)	
Less: Legal fees	(150)	
Less: Valuation fees	(60)	
		2,690
Acquisition price		
Market value of property (RM900,000 x 100/90)	1,000	
Less: Forfeited deposit	(350)	
		(650)
Chargeable gain		2,040
Less: Schedule 4 tax exemption (higher of RM10,000 or 10% of chargeable gain)		(204)
		1,836
Less: Allowable loss		(300)
Gain subject to RPGT		1,536
RPGT payable – disposal on 18 October 2022 in the fifth year after the date of acquisition on 3 November 2017 (15%)		230.4

(iv) Stamp duty

Stamp duty is computed as follows:

	RM
First RM100,000 at 1%	1,000
Next RM400,000 at 2%	8,000
Next RM500,000 at 3%	15,000
Balance RM4,000,000 at 4%	160,000
Total	184,000

The stamp duty liability is to be paid by the buyer, unless specifically provided otherwise in the sale and purchase agreement.

**(b) Sun Sdn Bhd (SSB)**

**Investment tax allowance (ITA) claim**

Where a company has obtained approval for any exemption, relief, remission, allowance or deduction granted after the year of assessment (YA) in which the return has been furnished, the company can make an application for relief to the Inland Revenue Board (IRB) within five years after the end of the year the exemption, relief, remission, allowance or deduction is granted. [s.97A(6)(b), Income Tax Act (ITA)1967]

As SSB has submitted the application for relief by submitting a revised tax computation for YA 2018 on 15 February 2021, i.e. within the five years after the end of the year 30 April 2020 the allowance is granted, i.e. by 31 December 2025, the IRB should not deny the ITA claim by the company.

**Disallowance of travelling expenses**

The travelling expenses should be allowed as a tax deduction as the travelling is for business purpose to visit a customer. The IRB has requested additional documentation to support the claim of the expense. As SSB has only responded with the supporting documents after the deadline set by the IRB, the IRB has disallowed the expense.

Under the legislation [s.391A, ITA 1967], a person who is required to furnish any information within the time specified in a notice or such other time as may be allowed, no deduction from the gross income shall be allowed in respect of such claim if the person fails to provide such information within the time specified in the notice or such extended time as allowed.

As the company failed to provide the supporting documents within the set deadline and no extension of time to furnish the documentation had been obtained, the IRB has the right to disallow the travelling expenses.

**4 (a) Gading Sdn Bhd (GSB)**

**(i) Service tax treatment of the accommodation charges**

As a service tax registrant, Gading Sdn Bhd (GSB) would be required to charge and collect service tax in relation to the accommodation charges from its long-term guests.

When the affiliated hotel charges GSB for the accommodation, being a service tax registrant, it is also required to charge and collect service tax. In this particular scenario, there will be double imposition of service tax and as service tax is a single stage tax with no input tax mechanism, the double service tax would result in an additional tax cost to GSB's business. The business-to-business (B2B) tax exemption in relation to the provision of the same taxable services is not applicable as the provision of accommodation services is not within the scope of the B2B exemption.

**(ii) Service tax treatment for payments made to non-resident service providers**

**Design service fees payable to Nice Design Pte Ltd (NDPL)**

Any person, whether service tax registrant or not, who, in carrying on his business acquires any imported taxable service, should account for service tax in Malaysia at the prevailing rate of 6%. 'Imported taxable service' refers to any taxable service acquired by any person in Malaysia from any person who is outside Malaysia.

The provision of design services should fall within the ambit of taxable services under the consultancy services category. In this respect, as the fees are payable to a foreign service provider, GSB would need to account for service tax as an imported taxable service. The place where the services are rendered is not relevant in determining the service tax treatment.

Based on a fee of RM2 million, the service tax applicable is RM120,000 (6% x RM2 million).

The service tax is due at the time when the payment is made or invoice is received for the service, whichever is the earlier. As GSB is a service tax registrant, the service tax on imported taxable services can be accounted for in its service tax return.

**Refurbishment service fees payable to Strong Renovators**

Construction/refurbishment services are not within the scope of taxable services and therefore, there is no requirement to account for service tax.

**Management service fees payable to PT Gading Resorts**

Management services are regarded as a taxable service and therefore may be subject to service tax as an imported taxable service. However, where a company acquires taxable management services from any company within the same group of companies outside Malaysia, such a service shall not be regarded as an imported taxable service. In this case, as PT Gading Resorts and GSB are within the same group of companies, the provision of the management services should not attract service tax.

**(iii) Withholding tax implications for payments made to non-resident service providers**

**Design service fees payable to NDPL**

Service fees to the extent where the services are performed in Malaysia are subject to withholding tax of 10%. As two out of four weeks of the services (i.e. 50% of the RM2 million services) are being performed in Malaysia, the proportion of the fees relating to the Malaysian services (i.e. RM1 million) should be subject to withholding tax.

As the design fees also attract service tax, the question then is whether the amount subject to withholding tax should be inclusive of service tax. Withholding tax is effectively the tax of the non-resident and therefore, in calculating the withholding tax amount, it should be based on the income of the non-resident. As the applicable service tax does not form income of the non-resident, it should not be included in computing the withholding tax amount. The withholding tax exposure would therefore be RM100,000 (10% x 50% x RM2 million).

#### **Refurbishment service fees payable to Strong Renovators**

The refurbishment services for a period of nine months would result in Strong Renovators having a place of business in Malaysia. Therefore, the refurbishment service fees should be regarded as contract payment for withholding tax purposes. The applicable withholding tax rate would be 13%, calculated based on the Malaysian service portion of the contract. Therefore, the applicable contract sum subject to withholding tax would be RM12 million, after excluding the supply of materials (RM20 million – RM8 million). The applicable withholding tax amount is RM1,560,000.

#### **Management service fees payable to PT Gading Resorts**

As the management services are wholly performed outside Malaysia, withholding tax is not applicable.

### **(b) Amazing Inc (Amazing)**

#### **(i) What constitutes a 'place of business' in Malaysia**

Under the tax legislation, a person is deemed to derive income from a business in Malaysia if that income can be associated with the existence of a place of business in Malaysia.

A place of business is defined to include a place of management, branch, office, warehouse, etc. In addition, a person is deemed to have a place of business in Malaysia if the person carries on supervisory activities in connection with a building or work site, or a construction, an installation or an assembly project.

Additionally, a place of business can exist if the person has another person acting on their behalf who habitually concludes contracts, or plays the principal role leading to the conclusion of contracts which are routinely concluded without material modification; habitually maintains stock of goods in that place of business of the person from which such person delivers goods; or regularly fills orders on behalf of the person.

#### **(ii) Place of business analysis – Amazing**

In determining whether Amazing has a place of business in Malaysia, the fact pattern of the activities undertaken by Amazing in Malaysia would need to be analysed:

Contract manufacturing activities – the appointment of a contract manufacturer in Malaysia, i.e. Riba Sdn Bhd (RSB), in itself should not result in it having a place of business in Malaysia.

Use of warehouse to store finished laptops – Amazing will appoint an independent logistics provider to store the finished laptops in Malaysia. While a warehouse can be said to trigger a place of business, the use of a warehouse operated by an independent logistics provider where such a warehouse is not at the disposal of Amazing should not by itself constitute a place of business for Amazing.

Presence of a marketing and sales team in Malaysia – Amazing has five sales personnel based in Malaysia, housed under the payroll of RSB. The sales team is acting on behalf of Amazing to negotiate and conclude contracts with its distributors. This would result in Amazing having a place of business in Malaysia. This is notwithstanding that RSB is charging arm's length marketing fees for the provision of the sales personnel.

Maintenance of goods for delivery to distributors/sales team in Malaysia – based on the guidelines issued by the Inland Revenue Board (IRB), the foreign principal will be deemed to have a place of business if the agent also conducts sales related activities in addition to regularly delivering or regularly filling orders out of the stocks of goods belonging to the principal.

As Amazing maintains stocks in Malaysia with RSB providing the marketing and selling activities, this would likely trigger Amazing having a place of business in Malaysia.

While some of the activities undertaken by Amazing or through RSB or an independent logistics provider may not individually constitute a place of business, the sum total of all the activities of Amazing in Malaysia (i.e. the presence of sales personnel negotiating and concluding contracts on behalf of Amazing, the maintenance of stocks in Malaysia for delivery coupled with sales related activities) constitutes complementary functions which are part of a cohesive business operation. Consequently, on balance, Amazing is likely to be regarded as having a place of business in Malaysia.



			Marks
1	Kool Chicks Sdn Bhd		
(a)	Wangi Bakery Sdn Bhd		
(i)	Deductibility of expenditure		
	New enhanced website	1 + 1	2
	Packaging designs	1.5 + 1.5	3
		Available	5
		Maximum	4
(ii)	Tax treatment of asset sale		
	Unabsorbed capital allowances (CA)		2
	Plant, machinery and equipment		4
	100 business premises		3
	Customer database		2
	Brand name		2
		Available	13
		Maximum	10
(iii)	Sample tax computation of investment holding company (IHC)		
	Dividend, interest, net rent	0.5 x 3	1.5
	Aggregate income (correct term at correct stage)		0.5
	Permitted expenses items: corporate office, directors' fees	0.5 x 2	1
	A x B/4C	0.5 x 3	1.5
	Restriction to 5%		0.5
			5
(b)	Mystery Buyer: comparative tax treatment		
(i)	Asset deal		
	Stamp duty		2
	Unabsorbed CA and plant, machinery and equipment	1 + 1	2
	100 business premises		1
	Customer database		2.5
	Brand name		1.5
		Available	9
		Maximum	7
(ii)	Share deal		
	Stamp duty		2
	Unabsorbed CA and plant, machinery and equipment	1 + 0.5 + 0.5	2
	100 business premises		0.5
	Customer database		1
	Brand name		0.5
		Available	6
		Maximum	5
Professional marks			
	Format and presentation of the letter		1
	Clarity and effectiveness of communication including logical flow		2
	Appropriate use of appendix		1
			4
			35

2 Resourceful Bhd (RB)				Marks
<b>(a) The bonus issue</b>				
(i) Incidental expenditure: not deductible, reason	1 + 1			<u>2</u>
(ii) Tax implications on RB: no impact, reason	1 + 1			<u>2</u>
<b>(b) Return derived by shareholders</b>				
(i) Retain shares for dividend: why bonus share not income/not taxable, dividend exempt	1 + 1 + 1	Available		<u>3</u>
		Maximum		<u>2</u>
(ii) Immediately sell: why gain is not assessable	1 + 1			<u>2</u>
(iii) Sell later for higher price: why gain is not assessable	1 + 1			<u>2</u>
<b>(c) Treasury shares and share options</b>				
(i) Share buy-back: not trade transaction, gains or loss on capital account	1·5 + 1·5	Available		<u>3</u>
		Maximum		<u>2</u>
(ii) Employees who exercise share options:				
Why employment income				1
Calculations				2·5
When taxable				<u>1·5</u>
		Available		<u>5</u>
		Maximum		<u>4</u>
(iii) Deductibility for RB				
Expense relates to employee				1·5
Calculations				2·5
When deductible				<u>1·5</u>
		Available		<u>5·5</u>
		Maximum		<u>4</u>
<b>(d) Shares to strategic planning manager</b>				
(i) Employee				
Why inducement is not employment income	1 + 1 + 1			<u>3</u>
(ii) Employer				
Why inducement is normal employee cost, deductible	1 + 1 + 0·5	Available		<u>2·5</u>
		Maximum		<u>2</u>
				<u>25</u>

			Marks
3	(a)	Jasmin	
(i) Acquisition date for real property gains tax (RPGT)			
No written agreement – date of completion, the rule	1 + 1		2
Identify date of acquisition			1
Vacant possession not relevant			0.5
		Available	3.5
		Maximum	3
(ii) RPGT treatment of expenditure			
Store construction, room renovation by Raj	1 + 1 + 0.5		2.5
Reimbursement by Jasmin			2
Roof repair			1
		Available	5.5
		Maximum	4
(iii) Computation of RPGT			
Disposal price – each item	0.5 x 5		2.5
Acquisition price – market value, forfeited deposit	0.5 + 0.5		1
Sch 4 exemption: 10%, compare with RM10,000	0.5 + 0.5		1
Allowable loss			0.5
Identify date of disposal			0.5
RPGT rate			0.5
			6
(iv) Stamp duty			
Stamp duty rates and calculation			1.5
Person liable to pay			1
		Available	2.5
		Maximum	2
(b) Sun Sdn Bhd			
Investment tax allowance claim			
Rule relating to application for relief for incentive			1
Analysis	1 + 1		2
Disallowance of travelling expense			
Basis for tax deduction			0.5
Impact on timing for furnishing documents			2
Conclusion			1
		Available	6.5
		Maximum	5
			20

		Marks
4	(a) Gading Sdn Bhd (GSB)	
	(i) Service tax on accommodation services	
	Charge to long-term guests	0.5
	Charge from affiliated hotel	0.5
	Single stage tax, no input tax mechanism	1
	Double imposition of service tax – additional tax cost to GSB	0.5
	Business to business (B2B) exemption and why cannot avail	1 + 0.5
	Available	4
	Maximum	3
	(ii) Service tax on payment to non-resident service providers	
	Design services	
	Implications of an imported taxable service – service tax applies in Malaysia	0.5
	Definition of an imported taxable service	0.5
	Design services constitute imported taxable service, service tax applicable	0.5 + 0.5
	Service tax amount	0.5
	Timing of reporting	1.5
	Reporting in tax return	0.5
	Refurbishment services	
	Not taxable service, service tax not applicable	1
	Management services	
	Taxable service	0.5
	Group relief provision, service tax not applicable	0.5 + 0.5
	Available	7
	Maximum	6
	(iii) Withholding tax on payments to non-resident service providers	
	Design service	
	Service performed in Malaysia, subject to withholding tax (WHT)	1
	Explanation of proportion	0.5
	WHT rate and amount	0.5 + 0.5
	Excluding service tax, with basis	0.5 + 0.5
	Refurbishment service	
	Nine-month contract = place of business established in Malaysia	0.5
	Contract payment	0.5
	WHT rate and amount (excluding supply portion)	0.5 + 1
	Management services	
	WHT not applicable	1
	Available	7
	Maximum	6
	(b) Amazing Inc	
	(i) What constitutes a place of business in Malaysia	
	Place of management, branch, office, warehouse or supervisory activities	0.5
	Agent concluding contracts	0.5
		1
	(ii) Place of business analysis – Amazing	
	Analysis on:	
	Contract manufacturing	1
	Warehouse	1
	Sales personnel/team	1.5
	Maintenance of stocks for delivery	1
	Conclusion	1
	Available	5.5
	Maximum	4
		20