Answers

1 Ram Tech Pte Ltd

To: Mr Paul Chan
Chief executive officer
Ram Tech Pte Ltd

From: Tax Consultant

Date: 7 December 2009

Report on Singapore income tax implications of various issues raised.

(a) Benefits of the investment allowance incentive

The investment allowance incentive offers income tax exemption in the form of an additional allowance. The additional allowance granted is based on a percentage not exceeding 100% of the fixed capital expenditure incurred during the qualifying period of not more than five years unless the cost of the qualifying fixed capital expenditure is financed under a hire purchase arrangement, in which case, the qualifying period of five years is extended to eight years. Thus, in your case, if Ram Tech Pte Ltd (RTPL) had invested $20 million in new plant and machinery, it would have been able to abate its chargeable income by the sum of $20 million. Further, any unutilised investment allowance can be carried forward indefinitely. There are no conditions attached to the utilisation.

I note that RTPL actually invested $16·5 million in new plant and machinery in the financial years ended 30 June 2007 and 2008. It therefore has an investment allowance totalling $16·5 million available to offset against its chargeable income.

(b) Implications of the sale and leaseback

Under the investment allowance scheme, a company cannot dispose of the qualifying plant and machinery within the qualifying period or in the two years after the end of the qualifying period without the prior written approval of the Singapore Economic Development Board. If it does so without the said approval, the investment allowance previously granted will be clawed back. In RTPL's case, this will result in additional tax payable of $1,205,100. I have provided detailed supporting calculations of this amount in the appendix to this report (Schedules 1 and 2).

Further, the disposal will result in a balancing charge of $7,000,000 and a tax charge of $1,190,000 in the year of assessment 2010; as computed in the appendix to this report (Schedule 3).

(c) Monthly rental payable to the Industrial Bank of Korea Limited

The monthly rental payable to the Industrial Bank of Korea Limited will be regarded as income deemed to be derived from Singapore under s.12(7)(d) of the Income Tax Act. This is because the rental is borne by RTPL and is deductible against its income chargeable to Singapore income tax. Hence, the rental payable to the Industrial Bank of Korea will be subject to withholding tax of 15%.

The Industrial Bank of Korea Limited is tax resident in South Korea and therefore, the provisions in the double taxation agreement between Singapore and South Korea are of relevance. However, in this instance the said agreement does not reduce the withholding tax rate on rental of equipment to a rate lower than 15%.

The monthly rental is $720,000 net of withholding tax and is payable on the 20th of each month. On the 15th of the following month, RTPL will be required to pay withholding tax of $127,059 to the Singapore Inland Revenue, failing which the Singapore Inland Revenue will levy late payment penalties. Thus, the total monthly cost to RTPL under the sale and leaseback arrangement is $847,059.

(d) Impairment losses

I noted that RTPL adopts FRS 39 in its financial statements for the year ended 30 June 2009. Section 34A of the Income Tax Act requires the income tax treatment of its financial assets and liabilities on revenue account to be aligned with the company's accounting treatment. Hence, there will be no adjustment for unrealised gains or losses arising therefrom for income tax purposes.

Based on the provisions set out in s.34A, the impairment losses of $1·2 million on the debt due from the Korean client and the $250,000 on the valuation of the units in the real estate investment trust should be tax deductible. This will increase the adjusted loss by $1·45 million to $7·45 million. After adjusting for the balancing charge of $7 million (see (b) above) RTPL will have a final tax loss for the year of assessment 2010 of $450,000.

On the other hand, RTPL can elect not to adopt s.34A. However, RTPL will then need to satisfy the Singapore Inland Revenue that the impairment loss on the debt due from the Korean client is either bad or doubtful, thus qualifying for an income tax deduction under s.14(1)(d) of the Income Tax Act. Further, the impairment loss from the fair valuation of the units in the real estate investment trust is an unrealised loss, and so will not be an allowed deduction for income tax purposes.

If the Singapore Inland Revenue disallowed these two items as deductions, this would result in a chargeable income of $1 million (balancing charge of $7 million less $6 million). Given that RTPL is financially tight, I would recommend the adoption of s.34A, as in this case there will be no income tax adjustment and thus, no deferred tax asset or liability to consider.

Assuming s.34A is adopted, RTPL can elect to carry back the tax loss of $450,000 incurred in the year of assessment 2010. Under the enhanced carry back relief scheme, the loss arising in the year of assessment 2010 is allowed for carry back for up to three years of assessment immediately preceding the year of assessment 2010, i.e. the years of assessment 2007, 2008 and 2009. The qualifying loss, subject to a limit of $200,000, is allowed for carry back to these three preceding years of assessment. The carry back of the loss is subject to RTPL meeting the continuity of ownership test at the relevant dates. The relevant dates are as follows:

(i) the first day of the year of assessment in which the capital allowances arose or the losses were incurred; and
(ii) the last day of the year of assessment in which the allowances or losses were utilised.

With the election, the loss of $450,000 will be utilised against the assessable income for year of assessment 2007 of $200,000 giving rise to a tax refund of $36,000 ($200,000 at 18%).

(e) Remittance of proceeds from disposal of five units of bungalows

I note that RTPL is proposing to dispose of five units of bungalows purchased in the year 2000. RTPL has used these bungalows for conducting residential workshops for staff and clients as well as for renting as holiday homes. RTPL should therefore, be able to justify to the Singapore Inland Revenue that the gains are capital in nature, and thus, not subject to Singapore income tax. RTPL will not benefit from the temporary relief available for remittance of foreign sourced income during the period from 22 January 2009 to 21 January 2010 because the relief is only for remittance of foreign income earned on or before 21 January 2009.

APPENDIX

Schedule 1

Original income tax computation with investment allowance

Year of assessment 2008

	$
Adjusted profit	4,000,000
Less: Capital allowances	
$33^1/_3$% * 4,500,000	(1,500,000)
	2,500,000
Less: Investment allowance	
100% * 4,500,000	(4,500,000)
Chargeable income	0
Investment allowance account	
100% * 4,500,000	4,500,000
Less: Utilised in the year	(2,500,000)
Unutilised investment allowance carried forward	2,000,000

Year of assessment 2009

	$
Adjusted profit	10,000,000
Less: Capital allowances	
$33^1/_3$% * 16,500,000	(5,500,000)
	4,500,000
Less: Investment allowance	(4,500,000)
Chargeable income	0
Investment allowance account	
Balance brought forward	2,000,000
Add: 100% * 12,000,000	12,000,000
	14,000,000
Less: Utilised in the year	(4,500,000)
Unutilised investment allowance carried forward	9,500,000

Schedule 2

Income tax computation without investment allowance

Year of assessment 2008

		$
Chargeable income (as Schedule 1)		2,500,000
Less: Partial tax exemption		
75% * 10,000	7,500	
50% * 290,000	145,000	
		(152,500)
Chargeable income		2,347,500
Tax payable at 18%		422,550

Year of assessment 2009

	$
Chargeable income (as Schedule 1)	4,500,000
Less: Partial tax exemption	(152,500)
Chargeable income	4,347,500
Tax payable at 18%	782,550
Total tax payable 2008 and 2009	1,205,100

Schedule 3

Income tax resulting on disposal

	$	$
Sale proceeds		16,800,000
Original cost	16,500,000	
Less: capital allowances claimed	(7,000,000)	
Tax written down value		(9,500,000)
		7,300,000
Balancing charge – limited to allowances received		7,000,000
Tax payable at 17%		1,190,000

2 Mr Alan Tan

ABC Tax Consultants
Firm's address

Mr Alan Tan
Address

7 December 2009

Dear Mr Tan

I am pleased to set out below my comments and advice on the Singapore income tax implications of the proposed business and your employment in Singapore.

(a) Two options for the structure of your proposed business

Option 1 – Partnership

In a partnership structure, the partnership is not a taxable person. Instead, the tax is imposed on the partners based on their share of profits in the partnership. Under this option, the loss in the first year can be offset against your employment income, thereby reducing your income tax payable for the year of assessment 2010. There is therefore an immediate cash flow benefit.

However, in the subsequent years of assessment, your taxable income from the partnership will be taxable at the marginal tax rate of 20% as your employment income is in excess of $320,000. This rate is higher than the regular corporate tax rate of 17%.

Option 2 – Company

A company is a separate legal and taxable entity. Hence, under this option the tax loss cannot be relieved against your employment income. The company itself can carry forward the tax loss and the unabsorbed capital allowances and set these off against its future taxable income, subject to meeting the continuity of ownership test, and in addition, the carry forward of the unabsorbed capital allowances is subject to a further test, which requires the continuity of the same trade or business.

Due to the tax loss and unabsorbed capital allowances in the year of assessment 2010, the company will have its first chargeable income in the year of assessment 2011; and in the first three years of assessment, the company's chargeable income will be taxed as follows:

– the first $100,000 – tax exempt;
– the next $200,000 – 50% tax exempt; and
– the balance – taxed at 17%.

There is no further tax payable on any dividends distributed by the company out of the after-tax profits under the one-tier system.

Recommendation

Though there is a tax deferral under Option 1, I recommend you to operate the business as a company (Option 2) as this structure will result in a lower effective tax rate in the future years. Based on the detailed workings set out in the appendix to this letter, there is no tax payable in the years of assessment 2010 and 2011 and the effective tax rate in the year of assessment 2012 is 1·62%.

(b) Proposed gift of a 10% interest in the business

Notwithstanding that, you make a gift personally to your friend, your friend will be taxable on the value of the gift, being a benefit received in respect of his employment. The value of the gift subject to tax will be determined based on the value of the net assets of the business at the time of the gift.

Further, given your reasons for making the gift, the value of the gift will not be tax deductible to the business under either structure. To be deductible the 'gift' must be made in a form that will satisfy the deduction principle, i.e. wholly and exclusively incurred in the production of income. The type of payment that will both secure a deduction and provide a similar link to the success of the business as a participative share, will be a variable bonus based on 10% of the earnings of the business.

In addition, the payment of the bonus will avoid the charge to stamp duty which would be payable on the transfer of an interest in the partnership or of shares in the company.

(c) Non-ordinarily resident scheme

The non-ordinarily resident (NOR) scheme was introduced to attract foreign talent to relocate to Singapore. A person who is granted NOR status will benefit from the following tax concessions:

(i) Time apportionment of Singapore employment income

Under the time apportionment concession, an individual will not be subject to tax on the portion of income that corresponds to the number of days that he has spent outside Singapore for business, notwithstanding that these trips are pursuant to his Singapore employment.

A NOR has to meet the following criteria in order to qualify for the apportionment:

– Spends at least 90 days in a calendar year outside Singapore for business reasons. His employer will need to certify the number of days outside Singapore as well as confirm that he performs duties on behalf of the employer. In your case, you would meet this criterion if indeed you were away from Singapore for the 100 days, as based on your projection.

  In computing the number of days, s.2(2) of the Income Tax Act provides that where an individual is in Singapore for part of a day, he will be regarded as in Singapore for that day. Therefore, if you leave Singapore and return on the same day, you will be regarded as not away from Singapore for that day.

  As an administrative concession, an individual can opt to treat the day of departure as a day outside Singapore provided that he does not return on the same day, otherwise, the provision in s.2(2) as stated above will apply. This option, once made is irrevocable.

– Has Singapore employment income of at least $160,000 per annum. This minimum income threshold includes benefits in kind such as accommodation and gains from stock options. Again, this should be satisfied in your case.

(ii) Minimum tax rate

The tax payable on the apportioned income is computed based on the graduated tax rates for resident individuals. However, a NOR must pay a minimum tax of not less than 10% of his total employment income, otherwise, the apportioned income will be re-grossed to arrive at the minimum tax. The minimum tax rate of 10% is referred to as the floor rate. In your case, the tax on your apportioned income will meet the floor rate of 10%, provided your projections prove correct.

	$
Total Singapore employment income	480,000
Days away from Singapore on business trips	100
Apportioned income – (365 – 100)/365 * 480,000)	348,493
Tax payable on first $320,000	42,700
Tax payable on balance of $28,493 at 20%	5,699
	48,399
Tax rate of apportioned income – (48,399/480,000)	10·08%

Note however, that based on the above workings, your apportioned income may have to be re-grossed by the floor rate if you were to spend more than 100 days outside Singapore on business trips.

(iii) **Tax exemption on employer's non-mandatory contributions to overseas pension fund**

Such non-mandatory contributions, subject to a cap, are exempt if the employer does not claim a tax deduction for the contributions. The cap is computed in accordance with the provisions of the Singapore' Central Provident Fund Scheme (CPF). If you would like to have more information on the CPF cap, please let me know.

An individual can elect for the NOR scheme from any year of assessment in which he first meets the following criteria:

– he is a resident of Singapore for income tax purposes for that year of assessment; and
– he has not been resident for Singapore income purposes for the three consecutive years of assessment immediately before that year of assessment.

Once the NOR status is granted, it will be retained for a period of five years, regardless of the individual's actual tax residential status. However, the election is irrevocable.

In your case, you should qualify as a NOR from the year of assessment 2010 but as stated above, you may not enjoy significant tax savings if your apportioned income has to be re-grossed to meet the floor rate. Perhaps, you might consider restructuring your all-inclusive remuneration to achieve tax efficiency. I should be happy to discuss this further with you.

I trust the above meets with your requirement. If you need any clarification, please do not hesitate to contact us.

Yours sincerely,

ABC Tax Consultants

APPENDIX

Detailed workings of the tax payable under the two options

Year of assessment	**2010**	**2011**	**2012**
	$	$	$
Net profit/(loss)	(21,000)	51,000	131,000
Add: Depreciation	6,000	9,000	9,000
Adjusted profit/(loss)	(15,000)	60,000	140,000
Capital allowances claim	10,000	15,000	15,000
Option 1 – Partnership – Alan Tan has 90% interest			
Divisible profit/(loss)	(13,500)	54,000	126,000
Less: Capital allowance	(9,000)	(13,500)	(13,500)
	(22,500)	40,500	112,500
Add: Employment income	480,000	480,000	480,000
Assessable income	457,500	520,500	592,500
Option 2 – Company			
Adjusted profit/(loss) as above	(15,000)	60,000	140,000
Less: Capital allowances			
Brought forward	–	(10,000)	–
Current year	(10,000)	(15,000)	(15,000)
Less: Loss brought forward	–	(15,000)	0
Chargeable income	Nil	20,000	125,000
Tax payable	Nil		
First $100,000		0	0
Balance of 25,000 * 50% * 17%			2,125
Total tax payable	Nil	Nil	2,125
Effective tax rate*	0·00%	0·00%	1·62%

* The effective tax rate of 1·62% is derived from total tax payable (2,125)/net profit (131,000)

3 (a) Multivalue GmbH

Although the proposed trading office in Singapore is likely to have a turnover of $10 million, the supplies may not be treated as supplies made in Singapore under the Goods and Services Tax (GST) Act. Under the GST Act, a supply of goods will be made in Singapore if the goods are in Singapore at the time of supply and are not removed from or to Singapore.

In the case of the sales secured by the proposed Singapore office, Multivalue will arrange for the delivery of the goods directly from the warehouse in Germany to the customers in and outside Singapore. The goods are therefore outside Singapore at the time of supply. For GST purposes, these are out-of-scope supplies. Thus, the proposed Singapore office will not be required to register for GST since it will not have any taxable supplies made in Singapore in the course or furtherance of business. Additionally, input GST incurred in the making of out-of-scope supplies is not claimable.

However, the proposed Singapore office may apply for voluntary registration provided that:

(i) it has a permanent establishment in Singapore or its usual place of residence is in Singapore; and
(ii) it intends or has supplies outside Singapore, which would be taxable supplies if made in Singapore.

Since the proposed office will be a trading office, it will be required to establish a legal presence in Singapore. This legal presence should constitute a permanent establishment as required in (i) above.

As a GST registered person, Multivalue's Singapore office can claim input GST incurred which is attributable to the making of the out-of-scope supplies. However, only the input GST correctly suffered and supported by proper tax invoices is claimable. In this regard, the GST incurred on the purchase of the office space is claimable, but this would not be the case for any GST paid on the purchase of residential property. However, the supply of residential property is exempt from GST and thus, no GST should be payable on this transaction.

In general, GST does not increase the cost of doing business in Singapore for a GST registered person. Thus, Mr Wood should not be concerned with the GST costs as they will not increase the cost of doing business in Singapore, so long as Multivalue registers itself as a GST person as explained above.

(b) Capital Limited

If Capital Limited raises funds from the banks, it will incur a funding cost of 3·5%. The question from an income tax perspective, is whether or not the funding cost is deductible against the income chargeable to Singapore income tax? If so, it will reduce the company's income tax liability and thus, increase the after-tax rate of return on the investment.

In a rights issue, there is no funding cost. However, the costs of the exercise can be expensive and these costs are not tax deductible. However, it is only a once-off cost compared to the recurring funding cost in the case of bank finance.

Singapore exempts offshore dividend income received in Singapore if the following three conditions are met:

(i) The income remitted into Singapore has been subject to income tax under the law of the territory from which the income is received.
(ii) At the time of remittance, the country from which the income is received has a headline tax rate of at least 15%.
(iii) The Singapore Inland Revenue is satisfied that the income tax exemption is beneficial to the person resident in Singapore.

If the dividend is tax-exempt, the funding cost deduction cannot reduce the tax liability (as there will be none) and hence there can be no tax benefit. Therefore, in this case, the rights issue exercise, recommended by the tax manager may be a better alternative.

4 (a) Dragon Trading Pte Ltd (DTPL)

In accordance with the accounting standard on 'Accounting for Deferred Tax', deferred tax has to be recognised for temporary timing differences. Consequently, these timing differences will not contribute to the variance from the statutory tax rate.

In the year ended 31 December 2008, DTPL incurred expenditure on software. Such expenditure qualifies for capital allowances of 100% in the year in which the expenditure was incurred. Therefore, if DTPL depreciates the software cost over a useful life of more than one year, deferred tax ought to have been provided for this in the accounts.

The two subsidiaries in Hong Kong and Taiwan have yet to make any dividend distribution. Hence, there will be no impact on the amount of tax provided for by DTPL in the year ended 31 December 2008.

DTPL will be taxed on the remittance of any interest income derived from placement of surplus funds in Hong Kong. However, the Budget 2009 introduces a temporary relief from this tax, for companies tax resident in Singapore, for a one-year period from 22 January 2009 to 21 January 2010. DTPL has no intention to remit the funds into Singapore, instead, it has plans to use these funds to expand in Hong Kong and China. Under s.10(25), the utilisation of offshore income for the purpose of business expansion is not regarded as 'deemed received in Singapore'. Hence, it would also have been reasonable not to provide for tax on the interest income earned from the placement of funds.

The liquidation of the long-term investments occurred in the year 2005, thus, if the liquidation gains were taxable, DTPL should have provided for tax on such gains in the accounts for the year ended 31 December 2005. In any event, these gains should be capital in nature, and so free from tax in the absence of a Singapore capital gains tax.

In general, distributions received from REITs are taxable unless the distributions are made out of capital gains realised from the disposal of assets held as investment assets. Based on the statement received from M–REIT, DPTL will only be subject to tax on the $10,000, which was paid out of taxable income, and not on the $90,000, which was paid out of capital gains from disposal of investment assets. This will help reduce DTPL's tax rate to lower than the statutory tax rate.

Donations to charities with institution of public character status qualify for a double deduction for tax purposes. DTPL donated $200,000 to such charities in the year ended 31 December 2008 and therefore qualifies for deduction of $400,000 for income tax purposes, twice the sum charged in the accounts of $200,000. This will help reduce DTPL's effective tax rate to lower than the statutory tax rate. The donation by the subsidiary in Taiwan does not affect the effective tax rate of DTPL.

(b) Once DTPL is aware that it has filed an incorrect tax return, it should immediately notify the Singapore Inland Revenue by filing an amended tax return. The income tax officer may impose a penalty of up to 100% of the tax undercharged under s.95 of the Income Tax Act. However, in practice, he will review the circumstances and the reasons for filing the incorrect tax return and where there is a reasonable excuse and the correction is done voluntarily prior to the finalisation of the taxpayer's income tax affairs, the income tax officer is unlikely to impose a penalty.

5 Mr Alex Cheong

(a) Fixed deposit

Individuals are exempt from tax on interest income derived from the placement of funds with financial institutions. 'Financial institutions' includes finance companies.

Investment in real estate

Rental income derived from the investment in real estate is taxable. It is taxed as a business source under s.10(1)(a) or as a non-business source under s.10(1)(f). In the case of the former, the provisions in s.10E apply. Under s.10E, only expenses incurred for investments, which produce income, are deductible. Any excess of expenses over income is forfeited, as it is not available for set off against other income, carry backward or forward. Capital allowances on qualifying capital expenditure are available and except for industrial building allowances, any excess allowances are similarly forfeited.

Cost of land is not qualifying capital expenditure. If an industrial building is partly used for a non-qualifying trade and the expenditure incurred on the non-qualifying trade exceeds 10% of the total expenditure on both the qualifying and non-qualifying trade, the cost attributable to the non-qualifying trade will not qualify for industrial building allowances.

A 'qualifying trade' includes the renting of a factory for the purpose of a trade carried on in a factory or similar business.

Where rental income is taxed as a non-business source, expenses incurred directly in the production of the rental income are allowed as a deduction. As for a business source, where the expenses incurred exceed the rental income, the excess will be forfeited. Capital allowances incurred on plant and machinery are not claimable because the expenditure is not incurred for the purpose of a business or trade. Such expenditure is only available as a deduction on a replacement basis. The cost of an industrial building is, however, eligible for industrial building allowances, as explained above.

(b) In the five years under review, Mr Alex Cheong will have a chargeable income in excess of $320,000. This means that any additional taxable income will be taxed at 20%.

From a pure cash flow standpoint, the investment in the factory will give Mr Alex Cheong the highest net return after tax over the first five years of $2,522,000, due to the higher rental and the ability to claim industrial building allowances. However, these allowances will be clawed-back when the building is disposed of. The least attractive option is the investment in the bungalow, which only generates $176,000 over the same period.

However, Mr Cheong should also consider the potential capital appreciation or fall in the capital value of the two different types of properties. In general, freehold properties have greater capital appreciation. Gains realised from the disposal of investment properties should be capital in nature, and free from income tax since Singapore does not have a capital gains tax regime.

Supporting calculations of after tax cash flow in the initial five year period

	$
Fixed deposit	
Principal sum	6,000,000
Interest – 2·4% * 6million * 5 years	720,000
Income tax – exempt	nil
Excess cash flow in the five-year period	720,000

Factory-cum-office offered by a private developer

		$
Expenditure qualifying for industrial building allowance (IBA)		
Purchase price		10,000,000
Less: Land cost		(3,500,000)
		6,500,000
Less: Office space – 15% of 6·5million		(975,000)
Expenditure qualifying for IBA		5,525,000

Net return on investment in the five-year period

Year 1

		$
Rental income – 12 * 65,000		780,000
Less: Interest cost – 4·5% * 4million	180,000	
Expenses	80,000	
		(260,000)
Net rental income		520,000
Less: IBA		
Initial allowance – 25% * 5·525million	1,381,250	
Annual allowance – 3% * 5·525million	165,750	
		1,547,000
Chargeable income		NIL
IBA carried forward		1,027,000

Years 2 to 5

		$
Net rental income per year as above		520,000
Net rental income for four years		2,080,000
Less: IBA		
Brought forward	1,027,000	
Annual allowances for four years	663,000	
		(1,690,000)
Chargeable income		390,000
Tax at 20%		78,000
Excess cash flow in five-year period		2,522,000

Bungalow offered by a private developer

		$
Purchase price		10,000,000
Rental – 60 * 22,000		1,320,000
Less: Expenses – 40,000 * 5	200,000	
Interest cost – 4·5% * 4million * 5	900,000	
		(1,100,000)
Net rental income		220,000
Income tax at 20%		44,000
Net return after tax		176,000
Excess cash flow in the five-year period		176,000

			Marks
1	Ram Tech Pte Ltd		
(a)	**Benefits of the investment allowance incentive**		
	Tax exemption	0·5	
	Based on investment allowance percentage and fixed capital expenditure incurred	0·5	
	Qualifying period of five or eight years	1·0	
	No conditions for carry forward	0·5	
	Quantify benefit to RTPL	0·5	
			3
(b)	**Singapore income tax implications of the sale and leaseback**		
	Not allowed to dispose within qualifying period and within two years after relief period	1·0	
	Prior written approval of EDB required	0·5	
	Clawback of relief without EDB's prior approval	0·5	
	Balancing charge on disposal	0·5	
	Computation – original		
	Y/A 2008		
	Capital allowances	0·5	
	Investment allowance	1·0	
	Amount of investment allowance utilised	0·5	
	Amount of investment allowance carried forward	0·5	
	Y/A 2009		
	Capital allowances	0·5	
	Investment allowance	1·0	
	Investment allowance utilised	0·5	
	Computation – without investment allowance		
	Y/A 2008		
	Chargeable income	0·5	
	Partial tax exemption	0·5	
	Tax payable	0·5	
	Y/A 2009		
	Chargeable income	0·5	
	Partial tax exemption	0·5	
	Tax payable	0·5	
	Total tax payable	0·5	
	Computation of balancing charge		
	Sales proceeds	0·5	
	Tax written down value	1·0	
	Restriction of balancing charge	1·0	
			13
(c)	**Monthly rental payable to the Industrial Bank of Korea Limited**		
	Income deemed to be derived from Singapore, with reasons	1·5	
	Subject to withholding tax at 15%	1·0	
	Effect of double taxation between Singapore and Korea	1·0	
	Timing of withholding tax payment and late payment penalties	1·0	
	Re-grossed payment/total cost	0·5	
			5
(d)	**Impairment losses**		
	General comments on FRS 39 and s.34A and alignment of accounting and tax treatment	2·0	
	Applicability of s.34A to RTPL – Korean debt and units in real estate investment trust	2·0	
	Adjusted loss of $450,000, taking into account balancing charge	0·5	
	Option to elect not to adopt s.34A and consequences	2·0	
	Recommend adoption of s.34A	0·5	
	Carry back of $450,000 to three preceding years	1·0	
	Conditions for carry back – cap of $200,000 and continuity of ownership test	2·0	
	Relevant dates for continuity test	1·0	
	Applicability of carry back provisions to RTPL and the tax refund	1·0	
			12

		Marks
(e) Remittance of proceeds from disposal of five units of bungalows		
Reasons for treating the disposal as capital	2·0	
No benefit from temporary relief with reasons	2·0	
		4
Appropriate format and presentation of the report	1·0	
Effectiveness of communication	1·0	
		2
		39

		Marks
2 Mr Alan Tan		
(a) Implication of the two options		
Computations		
Partnership:		
Adjusted profit/loss	0·5	
Capital allowances	0·5	
Divisible profit/capital allowances	1·0	
Employment income	0·5	
Company		
Current year's capital allowances	0·5	
Unabsorbed allowances	0·5	
Loss carried forward	0·5	
Effective tax rate	0·5	
Partnership – non-taxable entity/taxed on partners	0·5	
Set off against employment income	1·0	
Immediate relief	1·0	
Subsequent years taxed at 20%	1·0	
Company – taxable entity – loss and unabsorbed allowances carry forward within company	1·0	
Continuity of ownership test	0·5	
Continuity of business test	0·5	
Tax rates in first three years of assessment	1·0	
Tax exemption on dividend	1·0	
Recommendation – in favour of company structure	1·0	
		13
(b) Implications of gift		
Gift taxable with reason	1·0	
Basis of valuation	1·0	
Gift not a deductible expense	1·0	
Need to satisfy deduction principle	1·0	
Valid alternative method such as bonus	1·0	
Stamp duty	1·0	
		6
(c) Non-ordinarily resident scheme		
Tax concession – time apportionment	0·5	
90 days outside Singapore	0·5	
Comment on Mr Alan Tan	0·5	
Computation of days – s.2(2)	0·5	
Administrative concession/irrevocable	1·0	
Minimum employment income, including definition	1·0	
Minimum tax rate	1·0	
Minimum tax rate – computation	1·0	
Comment on Mr Alan Tan	0·5	
Exemption on non-mandatory contributions/cap	0·5	
Criteria for election of NOR status	1·0	
Five-year status/irrevocable	1·0	
Recommendation to Mr Alan Tan	1·0	
		10
Appropriate format and presentation of the letter	1·0	
Effectiveness of communication	1·0	
		2
		31

				Marks
3	**(a)**	**Multivalue GmbH**		
		Meaning of taxable supply for goods	1·0	
		Sales by the Singapore office will be out-of-scope supplies, with reasons	1·5	
		Consequences of having out-of-scope supplies – no requirement for registration and no input GST claimable	2·0	
		Voluntary registration	0·5	
		Required criteria (0·5 mark each)	1·0	
		Office as 'permanent establishment'	1·0	
		Ability to claim input GST attributable to out-of-scope supplies	0·5	
		GST on purchase of office space	0·5	
		GST on purchase of residential property	1·0	
		GST does not increase cost of doing business in Singapore	1·0	
				10
	(b)	**Capital Limited**		
		Key issue – whether funding cost is tax deductible, thereby increasing the after-tax return on investment	1·0	
		Cost of rights issue not tax deductible but once off	1·0	
		Tax exemption conditions re dividend income – (0·5 mark each)	1·5	
		No benefit from deduction of funding cost against exempt income	1·0	
		Rights issue may be a better alternative	0·5	
				5
				15

4	**Dragon Trading Pte Ltd**			
	(a)	Comments on need to recognise deferred tax on temporary timing differences	1·0	
		Cost of software – 100% allowance, but offset by deferred tax charge	2·0	
		No distribution by two subsidiaries in Hong Kong and Taiwan – no impact	1·0	
		Interest income taxed on remittance basis	0·5	
		Temporary relief provided for in Budget 2009	0·5	
		Utilisation of funds for expansion of business in Hong Kong and China not deemed 'remitted' under s.10(25)	1·5	
		Reasonable not to provide for tax	1·0	
		Liquidation proceeds 2005 year	1·0	
		Distributions from M–REIT	2·0	
		Donations qualifying for double deduction	1·0	
		Taiwan subsidiary donation no effect	0·5	
				12
	(b)	Notify Inland Revenue immediately and re-file correct return	1·0	
		Potential 100% penalty under s.95	0·5	
		Reasonable excuse/voluntary correction before finalisation	1·0	
		In practice Revenue unlikely to raise penalty	0·5	
				3
				15

		Marks	
5	**Mr Alex Cheong**		
(a)	Fixed deposit interest – exempt	0·5	
	Meaning of 'financial institution'	0·5	
	Rental income taxed as business or non-business source	0·5	
	Applicability of s.10E	0·5	
	Excess expenses over income forfeited	0·5	
	Capital allowances available on qualifying expenditure	0·5	
	Excess allowances forfeited except for industrial building allowances	0·5	
	Land – not qualifying expenditure	0·5	
	Costs attributable to non-qualifying trade exceeding 10%	0·5	
	Meaning of 'qualifying trade'	0·5	
	Non-business source – excess expenses over income/industrial building allowances as business income	0·5	
	Capital expenditure on plant and machinery – not available for capital allowances but deductible on replacement	0·5	
			6
(b)	Additional taxable income taxed at 20%	0·5	
	Comments on best option from cash flow angle	1·0	
	Identification of clawback on disposal	0·5	
	Comment on capital appreciation	1·0	
	Calculations		
	Interest income on fixed deposit/excess cash flow in the five-year period	0·5	
	Factory – rental income	0·5	
	Deductible interest and other expenses	0·5	
	Industrial building qualifying expenditure	1·0	
	Available allowances	1·0	
	Cash flow in the five-year period	0·5	
	Bungalow – rental	0·5	
	Deductible interest and other expenses	0·5	
	Cash flow in the five-year period	1·0	
			9
			15