



# Taxation Malaysia (TX MYS) December 2020 Examiner's report

The examining team share their observations from the marking process to highlight strengths and weaknesses in candidates' performance, and to offer constructive advice for those sitting the exam in the future.

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## **General Comments**

There were two sections in the examination and all the questions were compulsory. Section A consisted of 15 multiple choice questions of two marks each, which covered a broad range of syllabus topics.

Section B had four questions worth 10 marks each and two longer questions worth 15 marks, each testing the candidates' understanding and application of key areas in Malaysian taxation.

Future candidates should aim to:

- i) Focus on all areas of the syllabus
- ii) Understand the basic principles of tax and apply them accordingly
- iii) Read each question carefully and answer accordingly. If a question requests income tax payable or a due date, provide it
- iv) Keep informed with the latest tax updates

Future candidates are encouraged to prepare for the exam by ensuring they have sufficient knowledge of all aspects of the syllabus.

The following paragraphs report on each section and focus on some of the key learning points. This report should be used in conjunction with the published exam which can be found [here](#).

## **Specific Comments**

### **Section A**

Section A questions seek to provide a broad coverage of the syllabus; accordingly, candidates should study all areas of the TX MYS syllabus in order to be in a good position to answer Section A questions correctly.

Candidates who focus on all the areas of syllabus can score well in Section A which will help in obtaining an overall pass in this exam. Therefore, future candidates are encouraged to devote due importance to this section, which accounts for 30% of the overall mark allocation.

The following two questions are reviewed with the aim of giving future candidates an indication of the types of questions asked, guidance on dealing with exam questions and to provide a technical debrief on the topics covered by the specific questions selected.

## Sample Questions for Discussion

### Example 1

**Which of the following statements in respect of acquisition price and disposal price for real property gains tax purposes are TRUE?**

(1)	When there is a disposal by way of exchange for another asset, the market value of the asset sold by the disposer is taken as the consideration for the disposal
(2)	When there is only one party to the disposal of an asset, the disposal price is deemed to be market value
(3)	When a person disposes of an asset in a transaction for transfer of a business for a lump sum consideration, the disposal price is deemed to be the market value

<b>A</b>	1 and 2 only
<b>B</b>	2 and 3 only
<b>C</b>	1 and 3 only
<b>D</b>	1, 2 and 3

This question tested candidates' knowledge of real property gains tax. Many candidates chose C, 1 and 3 only, which was incorrect because statement 1 is not true since, when there is a disposal by way of an exchange of assets, the disposer's consideration is taken as the market value of the asset of the acquirer. The correct answer is B, 2 and 3 only. Unfortunately, many candidates did not answer this question well. Candidates' knowledge of how to determine prices for real property gains tax purposes could be improved.

## Example 2

Ranau Sdn Bhd (RSB), a Malaysian tax resident company, runs a three-star boutique hotel and is not registered for service tax purposes. On 11 May 2020, RSB received an invoice for RM100,000 from Euro Designers for advisory services on how to improve its efficiency. RSB paid the invoice immediately. Euro Designers is a company who operates in Italy and does not conduct any business in Malaysia.

**Which of the following statements is TRUE in respect of the service provided by Euro Designers?**

A	RSB is not required to pay service tax on the amount paid to Euro Designers because it is not registered for service tax purposes.
B	RSB is required to pay service tax on the amount paid to Euro Designers even if RSB is not registered for service tax purposes.
C	RSB is required to pay service tax on this payment only when RSB is subsequently registered for service tax purposes.
D	RSB must withhold the service tax amount from the fee and remit the amount to the Royal Malaysian Customs Department.

The top answer choice was D, which was incorrect. The correct answer is B, where the business operator has to self-account for the service tax under the reverse charge mechanism and pay the service tax to the Royal Malaysian Customs Department, whether the business is registered or not. Option D incorrectly states that the service tax has to be deducted from the payment to the service supplier. Candidates appear to have incorrectly applied the rule to deduct withholding tax from the payment, which typically only applies under the income tax.

## Section B

### Question One

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The following scenario relates to four requirements.

On 3 November 2019, Pua, a Malaysian citizen and non-resident, transferred a house in Malaysia as a wedding anniversary gift to his wife, Zen, a Thai citizen. The market value of the property on the transfer date is RM530,000. Pua acquired the house on 15 May 2015 for RM380,000, paying stamp duty of RM6,600 and legal fees of RM4,400.

Zen became a permanent Malaysian resident in March 2020. She paid RM30,000 for legal fees in defending the title of her property when an attempt was made to illegally transfer it from her.

Zen received compensation of RM5,000 from her neighbour due to damage caused to Zen's house when her neighbour was carrying out renovation works.

On 1 December 2020, Zen sold the property for RM800,000 to Karu, a Singaporean citizen. Zen incurred real estate agency fees of RM19,000. During the period she owned the property, she paid RM2,000 as assessment tax to the local council. It was confirmed that the property was not rented out.

(a) Explain the real property gains tax implications arising on the transfer of the house from Pua to Zen on 3 November 2019. (2 marks)

(b) Explain whether the real property gains tax position would be different if the transfer took place a year later in November 2020. (1 mark)

(c) Compute the real property gains tax arising from the disposal of the house by Zen. (6 marks)

(d) State the amount that Karu has to retain and remit to the Inland Revenue Board (IRB). (1 mark)

(10 marks)

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This 10-mark question tested the real property gains tax (RPGT) area of the syllabus. The first part (a) tested the rules regarding when RPGT does not apply on the grounds of a no-gain-no-loss scenario when a husband transfers a property to his wife as a gift. Candidates must take note of the conditions which should be met such that RPGT does not have to be paid, i.e. the donor must be a Malaysian citizen, and state this to ensure they obtain the available marks. In the second part, it was encouraging to note that candidates correctly stated there would not be any difference in treatment depending on when the gift is made. The RPGT computation in the third part was well answered and candidates correctly made the appropriate adjustments to determine the disposal price and acquisition price. Candidates must take note that an exemption under Schedule 4 for an individual disposing of or transferring a property exists regardless of what country the person is from.

Part (d) was on tax administration and required candidates to state the retention rules. This part was not well answered. Unfortunately, some candidates did not state the amount as was required. Future candidates are reminded to read the question carefully and state the RPGT or retention amount if asked to ensure appropriate marks are awarded.

Overall, it was encouraging to note that many candidates are aware of the basic principles of RPGT and this question was answered well.

## Question Two

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The following scenario relates to requirements (a)(i) and (a)(ii) only.

Jeguh Sdn Bhd (JSB), a service tax registrant, is in the business of providing engineering services and closes its accounts annually on 31 December.

Details of the transactions for the months of January 2020 and February 2020 and other relevant information are shown below:

Date invoice was issued	Details	Date payment received
30 January 2020	Invoice for engineering services to a customer, C Enterprise, for RM100,000.	21 February 2020
12 July 2019	Received payment of RM90,000 for an invoice issued to a customer, Loy Sdn Bhd.	29 February 2020
29 February 2020	Invoice for engineering services to a customer, Diva Sdn Bhd, for RM200,000.	4 April 2020

Mr Karan was appointed under a contract for service as a director by JSB in his personal capacity and for his technical expertise in architecture and his vast experience in dealing with government departments. Mr Karan issued an invoice dated 12 October 2020 to JSB for a fee of RM800,000.

The following scenario relates to requirements (b)(i) and (b)(ii) only.

Eurika Sdn Bhd is a manufacturer of tiles, registered under the Sales Tax Act, 2018, and closes its accounts annually on 31 December. The sales tax rate applicable to tiles is 10%.

Details of the transactions in the period from 1 January 2020 to 31 March 2020 are shown below:

(a)(i) Compute Jeguh Sdn Bhd's service tax payable, if any, for the transactions listed in the table, for the relevant taxable period. For items where service tax is not applicable, or not yet due, state the reason. (3 marks)

Excel spreadsheet interface showing a blank grid for calculation.

This 10-mark question covered the service tax and sales tax areas of the syllabus. The first part required calculation of service tax and many were aware of the payment received basis of accounting. However, there were some candidates who applied the sales tax rate in the service tax calculation. The service tax rate is available in the table of tax rates provided in the exam. The second part tested the scope of service tax for a director providing consultation services under specific situations and unfortunately, this part was not well answered. Candidates did not appear to be familiar with situations in which a director providing services under a contract for services based on his personal expertise falls within the scope of service tax. Part (b) on sales tax required a calculation of sales tax and quite a few candidates were aware that sales tax applies to the gift of goods which the sales tax registrant company manufactures. The bi-monthly taxable period aspect of the question was well answered except for a few candidates who treated a quarter as a taxable period. However, there were some candidates who applied the sales tax rate of 5% despite the correct sales tax rate of 10% being provided in the scenario. Many candidates correctly provided the amount of penalty as asked for in the question, but some only provided the rates.

## Question Three

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The following scenario relates to requirement (a) only.

Murni is a director of a newly set-up restaurant, Café Chendol Sdn Bhd, with a paid-up ordinary share capital of RM3 million.

Her accountant, Sarah, informs her that capital allowances on assets with a life span of two years or less can be claimed at the annual allowance rate of 100%, as long as the value of each asset is below RM2,000.

The following scenario relates to requirement (b) only.

Ole Sdn Bhd, a manufacturer of luxury furniture, which closes its accounts annually on 31 October, has provided the following details of its non-current asset transactions for the year ended 31 October 2020.

Details	
(1) Disposal of car	The company car used by the director was disposed of on 4 June 2020 for RM160,000. The motor vehicle was acquired for RM200,000 on 8 May 2018.
(2) Disposal of table	On 8 December 2019, the company disposed of a conference table for RM19,000. The table was acquired on 7 May 2017 for RM18,500.
(3) Lorry	On 1 November 2019, the company acquired a lorry on hire purchase for a period of two years. The relevant details are as follows: Cost – RM100,000 Deposit paid – RM20,000

(a) State, with reasons, why Sarah's statement is incorrect, and explain, with examples, how the claim for capital allowances can be made. (3 marks)

(b) Compute the relevant balancing adjustments arising and the capital allowances available to Ole Sdn Bhd for the year of assessment 2020. (7 marks)

(10 marks)

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This 10-mark question covered the capital allowances (CA) area of the syllabus. The first part was narrative and tested how to claim CA on assets with a life-span of two years or less. For such assets, a claim can be made based on a replacement basis. Also tested were small value assets in a certain scenario. Many candidates did not do well in this part. They were not able to distinguish between and explain the treatment of each type of asset. In particular, candidates were not familiar with the treatment of assets with a life span of two years or less which can be claimed on a replacement basis. Candidates were more familiar with the treatment of small value assets. Candidates can ensure they achieve as many of the available marks as possible by reading the question carefully. Unfortunately, many candidates did not provide an example of each type of asset, as was asked for in the requirement.

Part (b) involved computing CA for a company disposing of assets and acquiring an asset during the basis period for a year of assessment. Many candidates were not familiar with the calculation of the balancing adjustments which arise on the disposal of assets. It required the restriction of cost and the computation of a balancing charge. Many candidates did not appear to be aware of the basic principles such as the restriction for a company director's car costing more than RM150,000 and how to deal with an asset acquired for hire purchase during the basis period. Many were not aware of the updated amount of RM2,000 or below for each small value asset item and many quoted the old amount.

Well prepared candidates were familiar with the tax treatment and calculations. Candidates' performance in this question was satisfactory.

## Question Four

TX MYS December 2020 exam – 2021 syllabus

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The following scenario relates to three requirements.

Denai Sdn Bhd (DSB), a Malaysian tax resident manufacturing company, acquired a plot of agricultural land in Ulu Selangor, Malaysia. The plot was acquired for RM200,000 in May 2016 for investment purposes. The company had never acquired any property before this transaction. The acquisition was financed wholly by borrowings from the bank.

In June 2017, the company received information that the government decided to build a new international airport in Ulu Selangor. The board of directors decided to make an application to the local authorities to convert the agricultural land to all-purpose commercial use. The application was successful. The company engaged the services of a real estate property agent to market and dispose of the land, and on 3 November 2018 the company sold the land for RM20 million. The company treated the gain as a capital gain not subject to income tax.

During a tax audit, the Inland Revenue Board (IRB) took the position that the disposal of the land should be subject to tax under income tax. As a result, on 5 November 2020, it issued and served an additional assessment to DSB of RM4 million, inclusive of penalties for submitting an incorrect return.

(a) State, with reasons, why and how Denai Sdn Bhd can lodge an appeal against the assessment issued by the Inland Revenue Board (IRB), and by when the appeal should be made. (3 marks)

(b) Assuming the appeal is not lodged within the due date, state by when an extension of time to appeal can be made. (1 mark)

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This 10-mark narrative question was made up of three parts. The first two parts covered tax administration and the self-assessment system in relation to an appeal against an assessment issued by the Inland Revenue Board (IRB) arising from a tax audit. The last part was on the taxability or otherwise of the profit/gain on disposal of land for income tax purposes. The scenario involved a company generating profit/gain from selling land and the company treating it as a capital gain not subject to income tax, followed by the IRB issuing an assessment on the grounds that it was a trading gain and subject to income tax. The first part was on the appeal procedures and asked for the date up until which the company can appeal. Part (b) covered the period during which an appeal for the extension of time can be lodged for a person who could not lodge the appeal within the due date. Generally, both parts were not well answered, and many candidates did not appear to be familiar with the tax appeal procedures and tax administration. Many incorrectly stated the due dates applicable for the submission of tax estimates and revisions and the due dates for the filing of company tax returns, showing that they were familiar with certain aspects of the syllabus and not others. Candidates who focussed on all areas of the syllabus were able to answer well.

The third part required candidates to discuss whether the profit should be taxed as a trading profit or capital gain and tested the application of the badges of trade to determine whether it was a capital or revenue transaction. Many candidates did not seem familiar with this fundamental area of income, that is, whether the income is revenue or capital in nature. Many did not appear to read the question properly and explained the tax treatment of how a claim is to be made for agriculture allowance and how real property gains tax is calculated and went on to provide a tax computation. This showed that candidates were focussing on certain parts of the syllabus. Some candidates answered the question well by providing arguments for either revenue or capital however overall, this question was not well answered.



## Question Five

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The following scenario relates to requirement (a) only.

Awan Sdn Bhd (ASB), a Malaysian tax resident, manufactures energy saving lights and related equipment, and closes its accounts on 30 April each year. ASB's paid up ordinary share capital is RM1 million which is 55% owned by Malaysian citizens.

ASB's statement of profit or loss for the financial year ended 30 April 2020 is as follows:

	Note	RM'000	RM'000
Sales			80,560
Less: Cost of sales	1		(78,523)
			2,037
Add: Other income	2		33
			2,070
Less: Expenditure			
Irrecoverable debts written off	3	69	
Interest expenses and exchange loss	4	111	
Marketing and sponsorship expenses	5	631	
Staff salaries and benefits	6	1,059	
			(1,870)
Profit before tax			200

Notes

(1) Cost of sales includes:

	RM'000
(i) Depreciation of non-current assets	360
(ii) Allowance for inventory obsolescence (see	230

(a) Compute Awan Sdn Bhd's chargeable income and income tax payable for the basis period for the year of assessment 2020.

Note: Your computation should start with the profit before tax and list all the items of income and expenditure in Notes (1) to (7), indicating by the use of '0' any item referred to for which no adjusting entry needs to be made in the income tax computation. (13 marks)

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Sheet1

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This 15-mark question was made up of two parts and required a tax computation in part (a) for a company with business and non-business sources of income and, in part (b), tested the deductibility of retrenchment expenses as part of a downsizing exercise. Generally, candidates were familiar with adjustments and deductions rules although there were some who did not attempt the narrative part. However, there were a number of candidates who did not apply the updated definition for a small or medium enterprise (SME) company, which also requires annual business income of RM50 million, not just the required paid-up share capital. A majority of the candidates incorrectly applied the SME concession rate. Candidates must be aware of the latest updates to ensure maximum marks. However, there were quite a surprising number of candidates who applied the income tax rates applicable to individuals in computing the income tax payable for a company. Furthermore, some candidates did not calculate the income tax payable as required in the question.

## Question Six

TX.MYS December 2020 exam – 20/21 syllabus

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The following scenario relates to requirement (a) only.

Natasha, a Malaysian tax resident, has been a sales manager for KYS Sdn Bhd, a manufacturing company, for many years. Natasha also translates Korean documents into Bahasa Malaysia on a part-time basis for the Ministry of Education. She is married to Aiqil who has been living in Singapore for many years. During 2020 Aiqil was diagnosed with a serious disease. He does not have any income.

Natasha's income and other relevant details for the year ending 31 December 2020 are provided below:

- (1) Her gross monthly salary is RM8,900 net of employee's provident fund of 11%.
- (2) Natasha was promoted in March 2020 and received a bonus equal to two months of her current salary.
- (3) Natasha joined the Nature's club, an individual membership club. KYS Sdn Bhd paid the joining fee of RM12,000 and from 1 June 2020 onwards, paid the monthly subscription of RM100 directly to the club.
- (4) On 1 March 2020, KYS Sdn Bhd provided her with a new car costing RM112,000 and a driver with a monthly salary of RM2,000. No fuel is provided.
- (5) KYS Sdn Bhd provided her with unfurnished accommodation at a monthly rent of RM2,000 from 1 March 2020. However, she moved into the accommodation on 1 July 2020.

**Other details**

- (6) Natasha received a royalty of RM22,000 for translating a Korean book on literature at the request of the Minister of Education.
- (7) She made a cash donation of RM40,000 to the Federal Government.
- (8) She paid RM7,000 for an approved private retirement scheme.
- (9) Natasha spent RM4,000 on medical treatment for Aiqil's serious disease and she spent RM3,000 on her fertility treatment. Both payments were supported with the required medical certification and receipts.

(a) Compute Natasha's chargeable income and income tax payable for the year of assessment 2020.

Note: You should list all sources of income and personal reliefs available to Natasha and indicate by the use of '0' any item referred to in the question for which no entry needs to be made

(13 marks)

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This 15-mark question was made up of two parts. In part (a) candidates were required to prepare a calculation of income tax payable for an individual who was married with employment and royalty income. Most candidates were able to make the correct adjustments, and many answered this part very well. However, some candidates did not correctly adjust the net salary to determine the gross amount. In part (b) candidates showed they are familiar with income derived from sources outside Malaysia/ foreign source income however, some candidates did not attempt the narrative part. Candidates who were well prepared and familiar with the format of deducting donations from aggregate income and claiming reliefs against total income did well. It was pleasing to see that quite a few candidates did extremely well in this question.

However, some points to note include:

- Other income such as royalty income should not be combined with employment income. These sources should be assessed separately.
- Claims for donations such as cash donations to government are allowable in full and not subject to any restriction.
- Deductible amounts for donations are to be set off against aggregate income and not against total income. The donation claim is to be made before any personal reliefs.
- Refer to the tax rates and allowances provided in the exam for latest amounts available for reliefs.

Overall, this question was well answered.