

Hong Kong Society of Accountants
Module D – Taxation (June 2002 Session)
Examiners' Report

I. Section A – Case

General comments

The case questions covered a wide spectrum of areas from salaries tax computation, taxable income under profits tax and salaries tax, allowable deductions, tax investigation and penalty and anti-avoidance provision. In general the performance of the candidates was not satisfactory.

Three factors contributed to the overall poor performance. The first was the weak analytical skills as shown in the answers. In many cases, candidates failed to identify the issues in the question. Lack of preparation appeared to be the second contributing factor. Apparently many candidates were not well prepared and relied on the materials that they could bring to the examination. These materials would only be useful if candidates had studied and understood the concepts and principles. Time management also appeared to be a common problem among candidates.

Specific comments

Question 1

This is mainly a salaries tax computation with a small part requiring property tax computation. Many candidates could do the computations. However marks were lost because explanations were not given, especially for those items being excluded from the computation. It is clear in the question that explanations are necessary. On the other hand some candidates, provided explanations without actually preparing the computation. It would be difficult to award marks in this case. Explanations and tax computation were equally important.

Common mistakes included: (1) failure to give a clear answer on the treatment of options granted and exercised on different dates, (2) incorrect treatment of the personal allowances, and (3) omission of deductions of expenses and depreciation allowances.

Question 2

This question appeared to be the worst answered among all the questions in Section A. Most of the candidates were unable to identify the nature of the fees received from different sources. They explained either salaries tax liability or profits tax liability, but not both.

Fees received in relation to supplying goods to his employer were part of the employment income and were subject to Salaries Tax (rebates) and fees received from acting as agents in sales to other companies were subject to profits tax (Commission).

Question 3

This question involved tax administration. Materials from the CLP could be useful. However candidates were still required to analyse the case. Many candidates gave a good account of the indirect method of quantifying the assessable amounts and the tax penalty provisions (both of them could be referred to from the CLP though they needed to relate the case to the materials). They usually did poorly in the parts asking them to identify the proper sources of information and provide advice as a tax representative. These parts required critical analysis.

Question 4

A similar answer to this question could be found in the CLP. Many candidates lost marks when they copied materials relevant to s 9A without relating it to the case. The ability of applying the provisions in s 9A was weak. A few candidates mixed up Type I service company (under s 9A) and Type II service company.

II. Section B – Essay/Short Questions

Specific Comments

Question 1

This question was very poorly answered. Not many candidates received a pass mark. Many candidates left parts of this question unanswered. This might be a reflection of poor preparation or time management. It was also disappointing to note that candidates in general seemed to have difficulties in handling practical questions such as this one.

Many candidates did not follow the format of the report as required in the question. A number of candidates concentrated and spent too much time on a few issues, such as the explanation of capital gain, but failed to address others. Most candidates were not able to grasp the points raised and missed the key tax issues. Some candidates were able to understand the issues, but their answers were too brief without elaboration. A vast majority of candidates failed to identify the issue of apportionment of selling price between land and building, and the need to value the land for the purpose of calculating the cost of the redeveloped property.

The question required profits tax implications of the transactions, but some candidates wasted their time in explaining the stamp duty implication on the transfer of immovable property and on lease. Some candidates became side-tracked by tackling this question as one on source of profit for “processing agreement” and “independent subcontractor” with mainland Chinese entities.

Questions 2 and 3

The questions in this section covered stamp duty, profit tax, objection and appeal procedures, anti-avoidance provisions and tax issues arising from group restructuring. All in all, they were relatively straight forward and easy. So the overall result was quite disappointing due to factors outlined below:

- (1) The candidates generally had no problem answering the question on appeal/objection procedures. However, many failed to distinguish the difference between a valid error claim under s 70A and the objection procedure under s 64.
- (2) Generally, in areas that required an analysis of the tax implication arising from restructuring, many candidates did not perform well.
- (3) For stamp duty, most were able to outline the charging section and the group relief under s 45. However, only a few mentioned the adjudication procedure. Those with a strong grasp of the basic stamp duty provisions performed well.