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# Answers

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- 1 (a) (i) Any individual being a permanent resident may elect for personal assessment. A permanent resident means an individual who ordinarily resides in Hong Kong. Peter and Susan were clearly permanent residents before they left Hong Kong for Singapore. Therefore, they are eligible to elect for personal assessment for the year of assessment 2004/05.
- (ii) Peter and Susan can make an election for personal assessment not later than two years after the end of the year of assessment 2004/05, i.e. before 31 March 2007.

(iii) **Peter's Salaries Tax Assessment – 2004/05**

	\$	\$
Self income		720,000
Spouse's income		70,000
		790,000
<i>Less:</i>		
Charitable donations (limited to \$790,000 x 25%)	197,500	
Married person's allowance	200,000	
Child allowance	60,000	457,500
Net Chargeable Income		332,500
Tax payable thereon:		
	\$30,000	at 2% 600
	\$30,000	at 8% 2,400
	\$30,000	at 14% 4,200
	\$242,500	at 20% 48,500
		55,700

**Peter's Profits Tax Assessment – 2004/05**

	\$
Assessable profits	150,000
Tax payable thereon at 16%	24,000

**Susan's Property Tax Assessment – 2004/05**

	\$
Rent received	90,000
Less: Rates paid (\$4,800 x 3/4)	3,600
	86,400
Less: Statutory deduction (20%)	17,280
Net assessable value	69,120
Tax payable thereon at 16%	11,059

**Peter and Susan's Personal Assessment – 2004/05**

	Peter \$	Susan \$	Total \$
Salaries	720,000	70,000	790,000
Net assessable value	–	69,120	69,120
Assessable profits	150,000	–	150,000
Total income	870,000	139,120	1,009,120
Less: Charitable donations	217,500	2,500	220,000
Assessed loss	–	70,000	70,000
Reduced total income	652,500	66,620	719,120
Less: Married person's allowance			200,000
Child allowance			60,000
Net Chargeable Income			459,120
Tax payable thereon:			
		\$30,000	at 2% 600
		\$30,000	at 8% 2,400
		\$30,000	at 14% 4,200
		\$369,120	at 20% 73,824
			81,024

	Peter \$	Susan \$	Total \$
Share of tax payable (Note)	73,518	7,506	81,024
Less: Salaries tax paid	55,700	–	55,700
Profits tax paid	24,000	–	24,000
Property tax paid	–	11,059	11,059
Tax refundable	<u>6,182</u>	<u>3,553</u>	<u>9,735</u>

**Note**

Peter's share of tax payable = \$81,024 x \$652,500/\$719,120

Susan's share of tax payable = \$81,024 x \$66,620/\$719,120

- (b) (i) The incapacitated person's trustee.
- (ii) The non-resident person's agent.
- (iii) The precedent partner of the partnership.
- (iv) The secretary, manager, any director or the liquidator of the corporation.
- (v) The principal officer of the body of persons.
- 2 (a) (i) According to DIPN No. 10, the three determining factors are the place where the contract of employment is negotiated, entered into and enforceable, the place where the employer is resident and the place where the remuneration is paid to the taxpayer.
- (ii) For a person who is neither a civil servant nor ship or aircraft personnel, his income is exempt from salaries tax if he renders all his services outside Hong Kong. He can also claim exemption if he visits Hong Kong for not more than 60 days in a year of assessment. Further, a person who has paid non-Hong Kong tax similar to salaries tax on services rendered outside Hong Kong can also enjoy exemption in respect of the income from services rendered by him outside Hong Kong.

(iii) Hong Kong employment:

Year of assessment	2002/03	2003/04	2004/05
Salary subject to salaries tax	Exempt	\$730,000	\$730,000

Non-Hong Kong employment:

Year of assessment	Calculation	Salary subject to salaries tax
2002/03	–	Exempt
2003/04	\$730,000 x 61/366	\$121,666
2004/05	\$730,000 x 120/365	\$240,000

- (b) (i) To constitute a valid notice of objection against such an assessment, the notice must satisfy the following conditions:
- it must be in writing addressed to the Commissioner;
  - it must state precisely the grounds of objection;
  - it must be received by the Commissioner within one month after the date of the notice of assessment. If the taxpayer is prevented from lodging an objection within the requisite time limit owing to sickness or absence from Hong Kong or other reasonable cause, he may request the Commissioner to extend the period within which to lodge an objection; and
  - the duly completed tax return must be submitted to the Commissioner within one month after the date of the notice of assessment or such longer period as the Commissioner may allow.
- (ii) On receipt of a valid notice of objection, the Commissioner shall consider the same and within a reasonable time may confirm, reduce, increase or annul the assessment.

The Commissioner may, by notice in writing, require the person giving the notice of objection to furnish such particulars as the Commissioner may deem necessary or to produce all books or other documents in his custody or under his control, and may summon any person who is able to give evidence respecting the assessment to attend before him and may examine such person on oath or otherwise.

If the Commissioner agrees to revise the assessment being objected to, he shall make any necessary adjustment to the assessment accordingly.

If the Commissioner fails to agree to revise the assessment being objected to, he shall, within one month after his determination of the objection, transmit in writing to the person objecting to the assessment his determination together with the reasons therefor and a statement of the facts upon which the determination was arrived at.

3 (a)

**Eric Engineering Company**  
**Profits Tax Computation – Year of assessment 2004/05**  
**Basis Period : Year ended 31 March 2005**

	\$	\$
Profit per accounts		1,947,000
<i>Add:</i>		
Depreciation	200,000	
Agency fee	10,000	
Cost of computer hardware and software	nil	
Proprietor's contribution to MPF (\$60,000 – \$12,000)	48,000	
Staff's contribution to MPF	nil	
Donation	100,000	
Exchange loss on trade debts	nil	
Exchange loss on acquisition of office equipment	3,000	
Interest on capital	100,000	
Bank overdraft interest	nil	
Legal fee re: new tenancy agreement	2,000	
Registration of trade mark	nil	
General business advice fees	nil	
Provision for doubtful debts	200,000	
Provision for repairs and maintenance	50,000	
Proprietor's salary	1,200,000	
Removal expenses	20,000	
	1,933,000	3,880,000
<i>Less:</i>		
Hang Seng Bank interest income	nil	
Interest on Exchange Fund debt instruments	100,000	
Interest on qualifying debt instruments	150,000	
Forfeiture of deposit	nil	250,000
	250,000	3,630,000
Adjusted profits		3,630,000
<i>Less:</i>		
No deduction for donations in kind		nil
Depreciation allowance		49,720
		3,580,280
Assessable profits for normal trading receipts		3,580,280
Tax payable thereon at 16%		572,845
		150,000
Assessable profits for concessionary trading receipts		150,000
Tax payable thereon at 8%		12,000
		584,845
Total tax payable thereon (\$572,845 + \$12,000)		584,845

**Depreciation allowance schedule**

	10% pool		20% pool	Allowance
	\$	\$	\$	\$
Balance b/f	100,000		100,000	
Additions (\$26,000 + \$3,000)		29,000		
Less: I.A. (60%)		17,400	11,600	17,400
			111,600	
A.A.	10,000		22,320	32,320
Balance c/f	90,000		89,280	49,720

- (b) An assessment which has become final and conclusive can nevertheless be corrected if an application is made within six years after the end of the relevant year of assessment or within six months after the relevant notice of assessment is served, whichever is the later, and an assessor is satisfied that the assessment is excessive by reason of any error or omission in any return or by reason of any arithmetic error or omission in the calculation of profit, income or tax.

## 4 (a)

Year of assessment 2001/02				
	Success Limited	Success Limited	Partnership Prosperous Limited	Total
	Profit/(loss)	Profit/(loss)	Profit/(loss)	Profit/(loss)
	\$	\$	\$	\$
Operating results	100,000	(250,000)	(250,000)	(500,000)
Transfer of loss	(100,000)	100,000	–	100,000
Assessable profits/loss carried forward	<u>NIL</u>	<u>(150,000)</u>	<u>(250,000)</u>	<u>(400,000)</u>
Year of assessment 2002/03				
	Success Limited	Success Limited	Partnership Prosperous Limited	Total
	Profit/(loss)	Profit/(loss)	Profit/(loss)	Profit/(loss)
	\$	\$	\$	\$
Operating results	100,000	100,000	100,000	200,000
Less: Loss b/f	–	(150,000)	(250,000)	(400,000)
	<u>100,000</u>	<u>(50,000)</u>	<u>(150,000)</u>	<u>(200,000)</u>
Transfer of loss	(50,000)	50,000	–	50,000
Assessable profits/loss carried forward	<u>50,000</u>	<u>NIL</u>	<u>(150,000)</u>	<u>(150,000)</u>
Year of assessment 2003/04				
	Success Limited	Success Limited	Partnership Prosperous Limited	Total
	Profit/(loss)	Profit/(loss)	Profit/(loss)	Profit/(loss)
	\$	\$	\$	\$
Operating results	(300,000)	150,000	150,000	300,000
Less: Loss b/f	–	–	(150,000)	(150,000)
	<u>(300,000)</u>	<u>150,000</u>	<u>–</u>	<u>150,000</u>
Transfer of loss	150,000	(150,000)	–	(150,000)
Assessable profits/loss carried forward	<u>(150,000)</u>	<u>NIL</u>	<u>NIL</u>	<u>NIL</u>
Year of assessment 2004/05				
	Success Limited	Success Limited	Partnership Prosperous Limited	Total
	Profit/(loss)	Profit/(loss)	Profit/(loss)	Profit/(loss)
	\$	\$	\$	\$
Operating results	50,000	200,000	200,000	400,000
Less: Loss b/f	(150,000)	–	–	–
	<u>(100,000)</u>	<u>200,000</u>	<u>200,000</u>	<u>400,000</u>
Transfer of loss	100,000	(100,000)	–	(100,000)
Assessable profits/loss carried forward	<u>NIL</u>	<u>100,000</u>	<u>200,000</u>	<u>300,000</u>

## (b)

		Linda Limited		
			\$	\$
2001/02	Cost			300,000
	Initial allowance (\$300,000 x 20%)			(60,000)
				<u>240,000</u>
2002/03	Cost			500,000
	Initial allowance (\$500,000 x 20%)	100,000		
	Annual allowance (\$800,000 x 4%)	32,000		(132,000)
				<u>608,000</u>
2003/04	Annual allowance			(32,000)
	Residue before sale			<u>576,000</u>
2004/05	Sale proceeds			600,000
	Balancing charge			<u>24,000</u>

**Erica Limited**

Residue after sale ( $\$576,000 + \$24,000$ )	\$600,000
Year of first use of the building (by Linda Limited)	2002/03
25th year after the year of first use	2027/28
Year of first allowance to Erica Limited	2004/05
Fraction for annual allowance = $1/2004/05$ to $2027/28$ (inclusive)	
= $1/24$	
2004/05 Annual allowance ( $\$600,000 \times 1/24$ )	\$25,000





		Marks
<b>1</b>	<b>(a) (i) Eligibility to elect for personal assessment</b>	
	Any permanent resident may elect for personal assessment	1
	Ordinarily resides in Hong Kong	1
	Permanent residents before leaving Hong Kong	1
		<u>3</u>
	<b>(ii) Time limit for election</b>	
	Two years after the end of the year of assessment	1
	Before 31 March 2007	1
		<u>2</u>
	<b>(iii) Tax refundable under Personal Assessment</b>	
	Salaries Tax:	
	Self income	0.5
	Spouse's income	0.5
	Charitable donations	1
	Married person's allowance	0.5
	Child allowance	0.5
	Tax payable	0.5
	Profits Tax:	
	Assessable profits	0.5
	Tax payable	0.5
	Property Tax:	
	Rent received	0.5
	Rates paid	1
	Statutory deduction	1
	Tax payable	0.5
	Personal Assessment:	
	Total income (0.5 mark each for Peter and Susan)	1
	Charitable donations (1 mark each for Peter and Susan)	2
	Assessed loss	0.5
	Reduced total income (0.5 mark each for Peter and Susan)	1
	Net Chargeable Income	0.5
	Tax payable	0.5
	Share of tax payable (1 mark each for Peter and Susan)	2
	Tax refundable (0.5 mark each for Peter and Susan)	1
		<u>16</u>
	<b>(b) (i) The trustee</b>	1
	<b>(ii) The agent</b>	1
	<b>(iii) The precedent partner</b>	1
	<b>(iv) Any one of the secretary, the manager, any director or the liquidator</b>	1
	<b>(v) The principal officer</b>	1
		<u>5</u>
		<u><b>26</b></u>

		Marks
2	(a) (i) <b>The determining factors:</b> 1 mark for each factor	3 <hr/>
	(ii) <b>Exemption from salaries tax:</b> Neither civil servant nor ship or aircraft personnel All services rendered outside Hong Kong Not more than 60 days in Hong Kong Paid tax and rendered services outside Hong Kong	1 1 1 2 <hr/> 5
	(iii) <b>Amount of salary subject to salaries tax:</b> 1 mark for each correct answer	6 <hr/>
(b)	(i) <b>Requirement of a valid objection:</b> In writing addressed to the Commissioner State precisely the grounds of objection Within one month from the date of notice of assessment or such further period on reasonable grounds Duly completed tax return must be submitted	1 1 2 1 <hr/> 5
	(ii) <b>Commissioner's power in disposing of objections:</b> To confirm, reduce, increase or annul assessments To require the production of further information, books or documents, and to summon any person To make adjustments if agreed To transmit his determination and content thereof	1 1.5 1 1.5 <hr/> 5 <hr/> <b>24</b>

	Marks
<b>3 (a) Eric Engineering Company – 2004/05 profits tax</b>	
Depreciation	1
Agency fee	1
100% write off of computer hardware and software	1
Proprietor's contribution to MPF	1.5
Staff's contribution to MPF	0.5
Donation	1
Exchange loss on trade debts	0.5
Exchange loss on acquisition of office equipment	1
Interest on capital	1
Bank overdraft interest	0.5
Legal fee re: new tenancy agreement	1
Registration of trade mark	0.5
General business advice fees	0.5
Provision for doubtful debts	1
Provision for repairs and maintenance	1
Proprietor's salary	1
Removal expenses	1
Hang Seng Bank interest income	0.5
Interest on Exchange Fund debt instruments	1
Interest on qualifying debt instruments	1
Forfeiture of deposit	0.5
No deduction for donations in kind	0.5
Depreciation allowances:	
Additions	1
Initial allowance	1
Annual allowance (1 mark for each pool of assets)	2
Tax payable for normal trading receipts	1
Assessable profits of concessionary trading receipts	1.5
Tax payable for concessionary trading receipts	1
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<b>(b) Remedy to re-open assessments:</b>	
Application is made within six years	1
Or within six months	1
Excessive by reason of any error or omission in any return	1
Or by reason of any arithmetic error or omission	1
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	<b>30</b>
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<b>4 (a) (i) &amp; (ii) Assessable profits of Success Limited and the partnership:</b>	
Assessable profits and losses carried forward for Success Limited and the partnership for each of the four years of assessment	8
Transfer of losses between Success Limited and the partnership for each of the four years of assessment	4
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<b>(b) Industrial building allowance and balancing charge to Linda Limited:</b>	
2001/02	1
2002/03	2
2003/04	1
2004/05	1
<b>Industrial building allowance to Erica Limited:</b>	
Residue after sale	1
Industrial building allowance for 2004/05	2
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	8
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	<b>20</b>
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