

---

# Answers

---



1 (a)	Mr Lam Tax computation YA2004			
	RM	RM	RM	Marks
<b>Business income: Partnership</b>				
Statutory income			Nil	1/2
Capital allowance c/f (10,500)			Nil	1
<b>Employment income</b>				
Good-Vibes				
Salary		3,000		1/2
Gratuity (taxable – less than 10 years' service with the same employer, spread over 6 years: 270,000/6)		45,000		1 + 1
Public relations company				
Salary		17,000		1/2
Compensation for loss of employment		12,800		1
		<hr/>		
Statutory income from employment			77,800	
Interest on bank savings account (exempt or tax already withheld)			nil	1
Rental received		21,600		
Less Mortgage interest	(18,575)			1/2
Quit rent and assessment	(2,589)			1/2
Repairs and maintenance	(3,683)	(24,847)		1/2
		<hr/>		
Rental loss		(3,429)		
Rental loss not allowable			nil	1
Dividend (regrossed – 4,104/72 x 100)			5,700	1
			<hr/>	
Aggregate income			83,500	1/2*
Less Current year business loss			(35,800)	1
			<hr/>	
Total income			47,700	1/2*
<b>Personal reliefs</b>				
Self		8,000		1/2
EPF		2,530		1/2
Education & medical policies (2,590 + 1,300) – restricted to		3,000		1
		<hr/>		
			(13,530)	
			<hr/>	
Chargeable income			34,170	1/2*
			<hr/>	
Tax on first RM20,000			475.00	
On next M14,170 at 7%			991.97	
			<hr/>	
Tax charged			1,466.97	1/2
Rebate (C.I. not exceeding RM35,000)			(350.00)	1
			<hr/>	
			1,116.97	
Less s.110 set-off (4,104/72 x 28)			(1,596.00)	1
			<hr/>	
Tax refund			(479.03)	
			<hr/>	

Note: Marks indicated with a "\*" are awarded for the allocation of the appropriate description to the figure calculated, not for the figure itself.

(b)

**Mrs Lam**  
**Tax computation YA2004**

	RM	RM	Marks
Employment income			
Salary		36,000	1/2
Perquisite – college fees paid by employer		60,640	1
Car benefit		5,000	1
Furnishing (12 x 280)		3,360	1
Accommodation benefit [no comparison with s.13(1) (a); director of a controlled company]		48,000	1 + 1
		<hr/>	
Statutory income from employment		153,000	
Interest from loan to partnership		1,040	1
Dividend from UK (foreign income exempted)		nil	1
Dividend from co-operative society (exempt)		nil	1
		<hr/>	
Aggregate income		154,040	1/2*
Less Approved donation		(5,000)	1/2
		<hr/>	
Total income		149,040	1/2*
Personal reliefs			
Self	8,000		1/2
Life insurance & EPF (1,850 + 3,960) restricted to	5,000		1
Child relief First (in Malaysia)	4,000		1/2
Second (in Malaysia)	4,000		1 1/2
Third	1,000		1/2
		<hr/>	
		(22,000)	
		<hr/>	
Chargeable income		127,040	1/2*
		<hr/>	
Tax on first RM100,000		14,475.00	
Tax on next RM27,040 at 27%		7,300.80	
		<hr/>	
Tax charged		21,774.80	1/2

Note: Marks indicated with a "\*" are awarded for the allocation of the appropriate description to the figure calculated, not for the figure itself.

**2 (a) Total income for YA2004**

	RM	RM	
Adjusted income from manufacturing business		138,000	1/2
Less Unabsorbed capital allowance b/fwd	7,890		1
Capital allowance for the year of assessment 2004	18,710		1
		<hr/>	
		(26,600)	
		<hr/>	
Statutory income from manufacturing business		111,400	1/2*
Statutory income from retail business		nil	1
Statutory income from food business		12,000	1
		<hr/>	
Statutory income from all businesses		123,400	
Less Unabsorbed business loss b/fwd		(23,400)	1
		<hr/>	
		100,000	
Add Statutory income from interest		20,000	1
		<hr/>	
Aggregate income		120,000	1/2*
Less Current year business loss	115,000		1
Approved donation (restricted to 5% of aggregate income i.e. 120,000 x 5% = 6,000, further restricted to availability of aggregate income after setting-off current year loss)	5,000		1
		<hr/>	
		120,000	
		<hr/>	
Total income		nil	1/2*

Note: Marks indicated with a "\*" are awarded for the allocation of the appropriate description to the figure calculated, not for the figure itself.

- (b) (i) AieBeeSi's responsibilities as an employer are:**
- New employees**  
 Give written notice to the Director General stating the full name and address of the employees and the terms, and date of commencement of the employment within 1 month of the commencement of employment 1/2  
1  
1
- Monthly salary**  
 Deduct in each month the monthly deduction in accordance with the schedular tax deductions from the remuneration of each of his employees, and pay over the total tax deductions to the Director General by the 10th day of every calendar month, and render a monthly return setting out the names, identify card number and tax reference of the employees. 1/2  
1  
1/2  
1/2
- Employer's return**  
 Prepare and deliver an annual return in the prescribed form to the Director General stating the name, residential address, and gross employment income paid and benefits provided to each employee. 1  
1
- (ii) Sales tax**  
 Sales tax is imposed on certain locally manufactured goods and on similar goods imported. 1/2  
 As AieBeeSi  
 – is engaged in manufacturing in Malaysia; and 1/2  
 – the item manufactured is not specifically exempted from sales tax; and 1/2  
 – its turnover exceeds RM100,000 in a 12-month period. 1/2  
 sales tax provisions are therefore applicable. 1/2  
 Exemption is available in respect of the 30% output exported 1  
 as all exports are exempted from sales tax. 1/2
- (iii) How often and due date**  
 A taxable period for sales tax is normally two calendar months 1  
 Sales tax must be paid to the Customs Department within 28 days after the taxable period. 1

**3 (a) Computation of tax relief on the allowable loss**

	RM	RM	
Disposal price (on 15.6.2002)		209,000	
Acquisition price (on 1.4.2001)		(218,000)	
		(9,000)	1
Allowable loss			
Disposal within 2 years			1
RPGT at 30% of RM9,000			1
Tax relief		2,700-00	1

**(b) Computation of RPGT for Tommy**

Disposal consideration		650,000	1/2
Less Enhancement cost – cost of house construction	400,000		1
Real estate agent's fee	19,500		1/2
Legal fee	1,500		1/2
		421,000	
Disposal price		229,000	1/2*
Acquisition cost of land	150,000		1
Legal fee & stamp duty	2,800		1/2
Acquisition price		152,800	1/2*
Chargeable gain		76,200	1/2*
Schedule 4 exemption			
The greater of 10% (of 76,200) or 5,000		7,620	1 1/2
		68,580	
Disposal date	3.10.2000		
Acquisition date	8.6.2005		
Disposal in the 5th year			1
RPGT at 5%		3,429-00	1
Less Tax relief on allowable loss		(2,700-00)	1
		729-00	

Note: Marks indicated with a '\*' are awarded for the allocation of the appropriate description to the figure calculated, not for the figure itself.

		Marks
<b>(c) Notification and payment of RPGT</b>		
Tommy must notify the DGIR of the disposal within one month of the date of disposal by submitting a return in a prescribed form.		1
Tommy must pay the real property gains tax assessed by the DGIR within 30 days after the service of the notice of assessment.		1
<b>(d) Private residence exemption</b>		
For the purposes of the private residence exemption, a private residence owned and rented out by an individual's wife is deemed to be owned and rented out by the individual.		1
Therefore, Jane's rental property is deemed to be Tommy's.		
As Tommy had already elected for the private residence exemption in 2001, he has utilised the once-in-a-lifetime exemption.		1
Jane cannot avail herself of the private residence exemption.		1
<b>4 (a) Whether withholding tax is applicable and if applicable at what rate</b>		
<i>Royalties to Hong Kong architects for the use of copyrighted designs RM45,000</i>		
Yes, withholding tax is applicable on royalties paid to non-residents		1
The withholding rate is 10%		1
<i>Technical fees to Singaporean structural engineers for work performed solely from Singapore RM28,300</i>		
As the service was not rendered in Malaysia, the technical fees were not deemed to be derived from Malaysia.		1
As such, withholding tax is not applicable.		1
<i>Technical fees to Singaporean structural engineers for work performed in Malaysia RM61,900</i>		
Technical fees paid to a non-resident for technical services rendered in Malaysia are subject to withholding tax. The rate of withholding is 10%		1
<i>Commission to a US company for introducing the supplier of certain building material RM23,680</i>		
Merely introducing the supplier of building materials is not a technical service.		1
Therefore, the commission is not a technical fee and is thus not subject to withholding tax.		1
<i>Contract payments to Korean sub-contractor for construction of a bridge in Johor RM1,850,000</i>		
Contract payments to a non-resident contractor in respect of services under a contract are subject to withholding tax.		1
The rate of withholding is 10% on account of the sub-contractor's tax and 3% in respect of tax of the non-resident employees of the sub-contractor.		1
<b>(b) (i) The rules of derivation of employment income relevant to Mr Dee</b>		
Gross income is derived from Malaysia if it is in respect of gains or profits from an employment for any period during which the employment is exercised in Malaysia.		1 <sup>1/2</sup>
Where an employee performs duties outside Malaysia but incidental to the exercise of an employment in Malaysia, such income is also derived in Malaysia.		1 <sup>1/2</sup>
In this case, Mr Dee exercised his employment in Malaysia during the period 1.2.2004 to 31.7.2004.		1
From 1.8.2004 to 31.7.2006, he exercised and will continue to exercise his employment in Vietnam, not Malaysia, as his duties in Vietnam are not incidental to his employment in Malaysia during that period.		1
<i>Statutory income from employment for YA2004</i>		
Statutory income (1.2.2004 – 31.7.2004) <span style="float: right;">RM36,000</span>		1
<b>(ii) Residence status for YA2004 to 2006</b>		
<b>YA2004</b>		
In Malaysia for 213 days (1.1.2004 – 31.7.2004)		1/2
Resident, 182 days or more – s.7(1)(a)		1
<b>YA2005</b>		
In 2005, Mr Dee was in Malaysia for 92 days (1.3.2005 – 31.5.2005), and he was resident or was in Malaysia for 90 days or more for three out of the four immediately preceding years YA2001 to 2004.		1/2
He therefore qualifies for residence in YA2005 under s.7(1)(c).		1
<b>YA2006</b>		
He will be in Malaysia for less than 182 days (1.11.2006 – 31.12.2006) but that period will be linked to another period of 182 or more consecutive days in 2007 (he will remain in Malaysia after his return from Vietnam).		1/2
Therefore, he will qualify for residence in YA2006 under s.7(1)(b).		1