
Answers

1 (a) (i) Dr Kwok's net chargeable income – 2003/04

	\$
Salary ($\$25,000 \times 10 + \$32,000 \times 2$)	314,000
Add: Value of quarters ($\$32,000 \times 2 \times 10\% - (\$1,600 \times 2)$)	3,200
	317,200
Add: Mrs Kwok's salary ($\$10,000 \times 9$)	90,000
	407,200
Less: Charitable donations	(10,000)
Married person's allowance (acceptable if the rate in 2004/05 is applied)	(208,000)
Dependent parent allowance	(30,000)
	167,200

Dr Kwok's net chargeable income – 2004/05

	\$
Salary ($\$32,000 \times 12$)	384,000
Add: Value of quarters ($\$384,000 \times 10\% - \$1,600 \times 12$)	19,200
	403,200
Less: Charitable donations	(10,000)
Married person's allowance	(200,000)
Child allowance	(30,000)
Dependent parent allowance	(30,000)
Additional dependent parent allowance	(30,000)
	103,200

Dr Kwok's net chargeable income – 2005/06

	\$
Salary ($\$32,000 \times 12$)	384,000
Add: Value of quarters $(\$32,000 \times 3 \times 10\%) + (\$32,000 \times 7 \times 8\%) - (\$1,600 \times 10)$	11,520
	395,520
Less: Charitable donations	(10,000)
Married person's allowance	(200,000)
Child allowance	(40,000)
Dependent parent allowance	(30,000)
	115,520

Dr Kwok's net chargeable income – 2006/07

	\$
Salary	32,000
Add: Value of quarters ($\$32,000 \times 8\% - \$1,600$)	960
	32,960
Add: Gratuity	330,120
	363,080
Less: Married person's allowance	(200,000)
Child allowance	(40,000)
	123,080

(ii) Dr Kwok's assessable income

Year of assessment	2003/04	2004/05	2005/06	2006/07
	\$	\$	\$	\$
Dr Kwok's income before gratuity	317,200	403,200	395,520	32,960
Mrs Kwok's income	90,000	—	—	—
	<u>407,200</u>	<u>403,200</u>	<u>395,520</u>	<u>32,960</u>
Add: Gratuity	100,870	110,040	110,040	9,170
Assessable income	<u>508,070</u>	<u>513,240</u>	<u>505,560</u>	<u>42,130</u>

Note

(1) Dr and Mrs Kwok's income is to be taken from part (a)(i) of this question.

(2) Calculation of gratuity to be related back:

2003/04: $\$330,120 \times 11/36$

2004/05: $\$330,120 \times 12/36$

2005/06: $\$330,120 \times 12/36$

2006/07: $\$330,120 \times 1/36$

(b) Mrs Kwok's profits tax assessments

Year of assessment	2004/05	2005/06	2006/07
	\$	\$	\$
Assessable profits	98,000	168,800	28,100
Tax payable thereon at 16%	<u>15,680</u>	<u>27,008</u>	<u>4,496</u>

(c) Dependent parent allowance may be granted where a parent of a taxpayer or his or her spouse, being a spouse not living apart, at any time during that year of assessment, was:

(i) ordinarily resident in Hong Kong; and

(ii) aged 55 or more or, if aged under 55, was eligible to claim an allowance under the Government's Disability Allowance Scheme; and

(iii) maintained by the taxpayer or the spouse by either residing with the taxpayer and/or his/her spouse otherwise than for full valuable consideration, for a continuous period of six months, or the taxpayer and/or his/her spouse has contributed not less than \$12,000 in the year of assessment in money towards the parent's maintenance.

(d) When two or more taxpayers are eligible to claim an allowance for the same parent in any year of assessment, the taxpayers should agree between them who will claim the allowance. The commissioner will not consider an allowance claim until such agreement is made. If contrary to the Inland Revenue Ordinance, a dependent parent allowance is granted to two or more taxpayers for the same parent, the commissioner will ask the relevant taxpayers to agree on who should receive the allowance. The commissioner is entitled to raise an additional assessment in accordance with the taxpayers' agreements. The commissioner may also raise additional assessments if the taxpayers fail to reach an agreement within a reasonable time. The commissioner shall exercise his powers in such manner as may appear to him to be just having regard to such information only as may be in his possession at the time when he exercises those powers.

2 (a) Re: Mr Choi

When an employer commences to employ an individual who is or is likely to be liable to salaries tax, he shall give a written notice to the Commissioner of Inland Revenue (the commissioner) not later than three months after the date of commencement of such employment, stating the full name and address of the individual, the date of commencement and the terms of employment. A director of a company is deemed to be an employee of the company for such purposes. In the present case, Mr Choi should be treated as an employee of True Colour Jewellery Ltd and the company therefore has a duty to comply with the requirements.

Re: Mr Tong

When an employment ceases the employer should give a written notice to the commissioner not later than one month before the date of cessation, stating the name and address of the individual and the date of cessation of his employment.

As Mr Tong was dismissed summarily, the company could not possibly have given the required notice within the time limit. However, the commissioner is empowered to accept such shorter notice as he may deem reasonable. In the present case, the commissioner would probably accept a shorter notice having regard to the circumstances surrounding the dismissal.

Re: Madam Yuen

True Colour Jewellery Ltd was aware of the fact that Madam Yuen would leave Hong Kong for a period exceeding one month (and probably for good). In this circumstance, the company is required to give a written notice to the commissioner informing him of the expected date of Madam Yuen's departure. Such notice should be given not later than one month before the expected date of departure (but the commissioner may accept such shorter notice as he may deem reasonable).

As Madam Yuen resigned from her employment, the company is further required (except with the consent of the commissioner or in the case of money paid to the commissioner on the direction of Madam Yuen) not to make any payment of money (e.g. salary) or money's worth to or for the benefit of Madam Yuen for a period of one month from the date on which the notice of the intended departure from Hong Kong is given by the company. Compliance with this requirement would constitute a valid defence in any action brought by Madam Yuen against the company for the non-payment to her.

- (b)** If the company, without reasonable excuse, fails to fulfil any of the above obligations, it commits an offence, the penalty for which is a fine at level 3 (\$10,000). The court may also order the company to fulfil the obligation it has failed to fulfil. Non-compliance with such an order is again an offence punishable by a fine at level 4 (\$25,000). Furthermore, the company is required to provide correct returns in respect of the employees. Failure to do so may render the company liable to a fine at level 3 (\$10,000) and a further fine of treble the amount of tax undercharged or would have been undercharged. However, all these offences may be compounded by the commissioner if he thinks fit.

3 (a) (i) Lucky Company – Profits tax computation 2006/07

	\$	\$
Net profit per account		154,000
<i>Add:</i> Salary to partners (\$110,000 + \$30,000 + \$6,000)	146,000	
Traffic fines	2,500	
Loan interest to Mr Chan	40,000	
Bad debt – loan to staff	5,000	
Depreciation per accounts	14,000	
Excess of market value over cost re shares sold to partners (\$150,000 - \$50,000)	100,000	
Adjustments under Rules 2A and 2C (\$14,000 + \$7,500)	21,500	329,000
		<u>483,000</u>
<i>Less:</i> Profits from foreign shares	70,000	
Dividends	12,500	
Profits from gold bullion	260,000	
Depreciation allowances	26,914	369,414
		<u>113,586</u>
Assessable profits		<u>113,586</u>

Personal assessment allocation

	Salary and interest \$	Share of balance \$	Net \$	Re-allocation of Mr Leung's loss \$	Total \$
Mr Au	110,000	(24,138)	85,862	(11,823)	74,039
Mr Chan	70,000	(24,138)	45,862	(6,315)	39,547
Mr Leung	6,000	(24,138)	(18,138)	18,138	–
	<u>186,000</u>	<u>(72,414)</u>	<u>113,586</u>	<u>0</u>	<u>113,586</u>

Notes

- (1) Mr Au's share of Mr Leung's loss:
 $\$18,138 \times [\$85,862 \div (\$85,862 + \$45,862)] = \$11,823$
- (2) Mr Chan's share of Mr Leung's loss:
 $\$18,138 \times [\$45,862 \div (\$85,862 + \$45,862)] = \$6,315$

Partners' share of profits and profits tax payable

	\$
Assessable profits	113,586
<i>Less:</i> Profits to be transferred to personal assessment	
– Mr Chan	39,547
– Mr Leung	0
	<u>74,039</u>
Assessable profits to be taxed to profits tax	74,039
Profits tax payable thereon at 16%	<u>11,846</u>

- (ii) The two rules provide for the apportionment of expenses in circumstances where the expenses are:
- not incurred wholly and exclusively in the production of chargeable profits, such as partly in the production of onshore and offshore profits (Rule 2A); and
 - incurred partly in the supervision and management of an investment portfolio (Rule 2C).

- (b) Any person aggrieved by an assessment made under the Inland Revenue Ordinance may, by notice in writing to the commissioner of Inland Revenue, object to the assessment; but no such notice shall be valid unless it states precisely the grounds of objection to the assessment and is received by the commissioner within one month after the date of the notice of assessment. In the case where the assessment objected to has been made in the absence of a tax return, no notice of objection against such assessment shall be valid unless, in addition to the above requirements, the return required as aforesaid has been made within the objection period or within such further period as the commissioner may approve for the making of such return.

4 (a)

A Ltd
Year of Assessment 2006/07
Basis period: 1 April 2006 to 31 March 2007 (Year of change)

		\$
1 April 2006 – 30 June 2006	\$450,000 × 3/12	112,500
1 July 2006 – 31 March 2007		340,000
Assessable profits		452,500

Year of Assessment 2005/06
Basis period: 1 April 2005 to 31 March 2006

		\$
1 April 2005 – 30 June 2005	\$240,000 × 3/12	60,000
1 July 2005 – 31 March 2006	\$450,000 × 9/12	337,500
Assessable profits		397,500
Less: Profits assessed in 2005/06 (basis period: 12 months to 30 June 2005)		(240,000)
Additional profits to be assessed		157,500

B Ltd
Year of Assessment 2006/07
Basis period: 1 January 2006 to 31 December 2006 (Year of change)

		\$
1 January 2006 – 30 June 2006	\$800,000 × 6/12	400,000
1 July 2006 – 31 December 2006		(350,000)
Assessable profits		50,000

Year of Assessment 2005/06
Basis period: 1 January 2005 to 31 December 2005

		\$
1 January 2005 – 30 June 2005	\$200,000 × 6/12	100,000
1 July 2005 – 31 December 2005	\$800,000 × 6/12	400,000
Assessable profits		500,000
Less: profits assessed in 2005/06 (basis period: 12 months to 30 June 2005)		(200,000)
Additional profits to be assessed		300,000

C Ltd
Year of Assessment 2006/07
Basis period: 1 June 2005 to 31 January 2007 (Year of change)

		\$
1 June 2005 – 30 May 2006		600,000
1 June 2006 – 31 January 2007		310,000
Assessable profits		910,000

Year of Assessment 2005/06
Basis period: 1 June 2004 to 31 May 2005

		\$
1 June 2004 – 30 May 2005		560,000
Less: Profits assessed in 2005/06 (basis period: 12 months to 31 May 2005)		(560,000)
Additional profits to be assessed		NIL

(b)

Depreciation allowances schedule
Year of Assessment: 2005/06
Basis period: 1 October 2004 to 30 September 2005

	20% pool \$	30% pool \$	Air- conditioner 20% \$	Allowance \$
Balance b/f	20,000	40,000		
Addition ⁽¹⁾		784 ⁽²⁾	5,000	
		<u>40,784</u>		
Less: I.A.		–	(1,080) ⁽³⁾	1,080
		<u>40,784</u>	<u>3,920</u>	
Less: A.A.	(4,000)	(12,235)	(784)	17,019
Balance c/f	<u>16,000</u>	<u>28,549</u>	<u>3,136</u>	<u>18,099</u>

Depreciation allowances schedule
Year of Assessment: 2006/07
Basis period: 1 July 2005 to 30 June 2006

	20% pool \$	30% pool \$	Air- conditioner 20% \$	Motor car 30% \$	Allowance \$
Balance b/f	16,000	28,549	3,136		
Less: Disposal		(15,000) ⁽⁴⁾			
		<u>13,549</u>			
Addition				15,000 ⁽⁵⁾	
Less: I.A.			(1,920) ⁽⁶⁾		1,920
			<u>1,216</u>		
Less: A.A.	(3,200)	(4,065)	(243)	(4,500)	12,008
Balance c/f	<u>12,800</u>	<u>9,484</u>	<u>973</u>	<u>10,500</u>	<u>13,928</u>
Less: Disallowable portion (\$4,500 x 50%)					2,250
					<u>11,678</u>

Note

(1): As a result of the change in the annual accounting date the basis periods for 2005/06 and 2006/07 partly overlapped. The overlapping period, i.e. 1 July 2005 to 30 September 2005 is deemed to fall within the basis period for 2005/06 only. Consequently, the air-conditioner and electric cooker should be treated as being purchased and introduced into the business in 2005/06 not 2006/07.

(2): $\$1,600 - \$1,600 \times 30\% - [(\$1,600 - \$1,600 \times 30\%) \times 30\%] = \784

(3): $(\$1,000 + \$400 \times 2) \times 60\% = \$1,080$

(4) and (5): By Section 39C(3) of the Inland Revenue Ordinance the market value of the asset must be removed from the pool.

(6): $(\$400 \times 8) \times 60\% = \$1,920$

		Marks
1	(a) (i) Dr Kwok's net chargeable income – 2003/04	
	Salary	1
	Value of quarters	1.5
	Mrs Kwok's salary	1
	Charitable donations	0.5
	Married person's allowance	0.5
	Dependent parent allowance	0.5
	Interest not taxable	1
	Dr Kwok's net chargeable income – 2004/05	
	Salary	1
	Value of quarters	1
	Charitable donations	0.5
	Married person's allowance	0.5
	Child allowance	0.5
	Dependent parent allowance	0.5
	Additional parent allowance	1
	Dr Kwok's net chargeable income – 2005/06	
	Salary	1
	Value of quarters	2
	Charitable donations	0.5
	Married person's allowance	0.5
	Child allowance	0.5
	Dependent parent allowance	0.5
	No additional dependent parent allowance	0.5
	Dr Kwok's net chargeable income – 2006/07	
	Salary	1
	Value of quarters	1
	Gratuity	1
	No charitable donations	0.5
	Married person's allowance	0.5
	Child allowance	0.5
		<u>21</u>
	(ii) Dr Kwok's assessable income	
	Gratuity (1 mark for each year of assessment)	4
	Remaining items as (i) (0.5 mark for each year of assessment)	2
		<u>6</u>
	(b) Mrs Kwok's profits tax	
	Assessable profits (0.5 mark for each year of assessment)	1.5
	Tax payable (0.5 mark for each year of assessment)	1.5
		<u>3</u>
	(c) Conditions to claim dependent parent allowance	
	Parent of self or spouse, not living apart	1
	Ordinarily resident in Hong Kong	1
	Aged 55 or more	0.5
	If aged under 55, was eligible to claim an allowance under the Government's Disability Allowance Scheme	0.5
	Residing for a continuous period of six months	1
	Or has contributed not less than \$12,000 in the year	1
		<u>5</u>

		Marks
(d) Actions that may be taken by the commissioner		
The commissioner will not consider an allowance claim in the absence of an agreement		1
If allowance already granted, the commissioner will ask the relevant taxpayers to agree on who should receive the allowance		1
The commissioner is entitled to raise additional assessments in accordance with the taxpayers' agreements		1
The commissioner may also raise additional assessments if the taxpayers fail to reach an agreement within a reasonable time		1
The commissioner shall exercise his powers in such manner as may appear to him to be just		1
		<u>5</u>
		40
2 (a) Obligations on True Colour Jewellery Ltd		
Mr Choi		
Give written notice to the commissioner not later than three months after commencement of employment		1
Stating full name and address, the date of commencement and the terms of employment		1
A director of the company is deemed to be an employee		1
Mr Tong		
Give written notice to the commissioner not later than one month before cessation of employment		1
Stating the name and address and the date of cessation of employment		0.5
The commissioner is empowered to accept such shorter notice as he may deem reasonable		1
Having regard to its circumstances he is likely to do so in this case		0.5
Madam Yuen		
Give notice to the commissioner to inform the expected date of departure		1
Written notice to be given to the commissioner one month before the expected date of departure		1
Not to make any payment to Madam Yuen for a period of one month		1
Compliance with the requirements will constitute a valid defence		1
		<u>10</u>
(b) Possible consequences for non-compliance		
Commits an offence and a fine of \$10,000		1
Court order to enforce compliance		1
Failure to do so an offence and a fine of \$25,000		1
Provide correct and full information		1
Failure to do so may render the company for a fine of \$10,000 / further fines		1
		<u>5</u>
		15

3 (a) (i) Lucky Company – profits tax 2006/07	Marks
<i>Profits tax computation</i>	
Salary to partners	1
Traffic fines	1
Loan interest to Mr Chan	1
Bad debt – loan to staff	1
Depreciation per account	0.5
Rules 2A and 2C adjustments (1 mark each)	2
Excess of market value over cost of shares	1
Profits from foreign shares	1
Dividends	1
Profits from gold bullion	1
Depreciation allowances	0.5
No adjustment for certificate of deposit profit	0.5
<i>Personal assessment allocation</i>	
Salary and interest (Au/Leung 0.5 mark each / Chan 1 mark)	2
Share of balance (0.5 mark each)	1.5
Net (0.5 mark each)	1.5
Re-allocation of loss to Au and Chan (0.5 mark each)	1
<i>Profits tax payable</i>	
Deduction of profits transferred to personal assessment (0.5 mark each)	1
Profits tax payable	0.5
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(ii) 1 mark for each point	2
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(b) Requirements for lodging a valid objection	
By notice in writing to the commissioner	1
States precisely the grounds of objection	1
Is received by the commissioner within one month	1
No notice of objection shall be valid unless the return has been furnished within the objection period	1
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4 (a) Calculation of assessable profits	
A Ltd: 2006/07	1.5
2005/06	2
B Ltd: 2006/07	1.5
2005/06	2
C Ltd: 2006/07	2
2005/06	1
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(b) Depreciation allowances	
<i>Year of assessment 2005/06</i>	
Additions: Electric cooker	1.5
Air conditioners	1
Initial allowance	1
Annual allowance (0.5 mark each)	1.5
<i>Year of assessment 2006/07</i>	
Disposal / addition at market value	1.5
Initial allowance	1
Annual allowance (0.5 mark each)	2
Disallowable portion	0.5
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