

ACCA P6 Advanced Taxation

Approach to examining the syllabus

The paper consists of two sections:

Section A will comprise a case-study worth 50 marks and testing multiple taxes.

The 50 marks will comprise of 35 technical marks, 5 ethics marks and 10 professional skills marks.

Section B will consist of two compulsory 25 marks questions, together covering both business and personal tax issues. The 25 marks will comprise of 20 technical marks and 5 professional skills marks. Communication skills professional marks will not be examined in Section B.

The examination is a three hour 15 minutes paper.

Tax rates, allowances and information on certain reliefs will be given in the examination paper.

Present Syllabus Dec 2023 to Sep 2024 - Based on Budget 2022

Finance Act 2021, Act 833, gazetted on 31-Dec-2021 will be examinable.

Cukai Makmur (prosperity tax) will not be examined.

Since the 2023 Finance Bill was not passed by 31-March-2023, it will not be examined.

Changes to 2023/2024 Syllabus:

- Lessor's tax computation is deleted from the syllabus. (Leasing business)

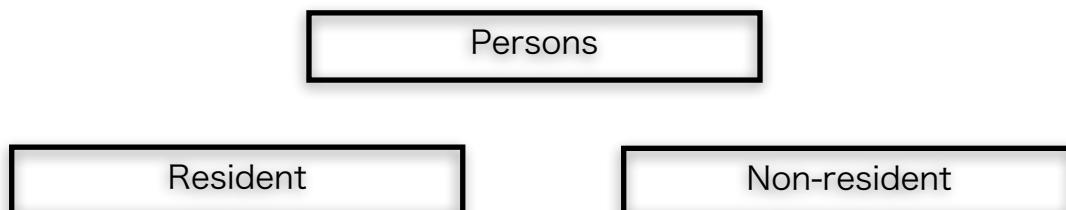
Changes to 2022/2023 Syllabus:

- Deletion of MSC Incentive from Syllabus
- Deletion of Export of Auto Parts Incentive from Syllabus

Chapter 1 Revision of Taxation Basics

Scope of Charge

- Sec 3 of ITA "Subject to and in accordance with this Act, a tax to be known as income tax shall be charged for each year of assessment upon the income of any person accruing in or derived from Malaysia or received in Malaysia from outside Malaysia"
- Person has been defined to include a company, a body of persons, a limited liability partnership and a corporation sole but excluding partnership; ("limited liability partnership" means a limited liability partnership registered under the Limited Liability Partnerships Act 2012)
- Sec 3B Notwithstanding section 3, tax shall not be charged under this Act on income in respect of an offshore business activity carried on by an offshore company. (However, it would subject to tax under the Labuan Offshore Business Activity Tax Act)
- Sch 6 Para 28(1) ...income of any person, other than a resident company carrying on the business of banking, insurance or sea or air transport, for the basis year for a year of assessment derived from sources outside Malaysia and received in Malaysia.



KEY ARTICLES OF DTA:**Article on RESIDENT**

1. For the purposes of this Convention, the term "resident of a Contracting State" means any person who, under the laws of that State, is liable to tax therein by reason of his domicile, residence, place of management or any other criterion of a similar nature, and also includes that State and any political subdivision or local authority thereof. This term, however, does not include any person who is liable to tax in that State in respect only of income from sources in that State or capital situated therein.
2. Where by reason of the provisions of paragraph 1 an **individual** is a resident of both Contracting States, then his status shall be determined as follows:
 - a) he shall be deemed to be a resident only of the State in which he has a **permanent home available to him**; if he has a permanent home available to him in both States, he shall be deemed to be a resident only of the State with which **his personal and economic relations are closer** (centre of vital interests);
 - b) if the State in which he has his centre of vital interests cannot be determined, or if he has not a permanent home available to him in either State, he shall be deemed to be a resident only of the State in which he has an **habitual abode**;
 - c) if he has an habitual abode in both States or in neither of them, he shall be deemed to be a resident only of the State of which he is a **national**;
 - d) if he is a national of both States or of neither of them, the competent authorities of the Contracting States shall settle the question by mutual agreement.
3. Where by reason of the provisions of paragraph 1 a **person other than an individual** is a resident of both Contracting States, then it shall be deemed to be a resident only of the State in which its place of **effective management** is situated.

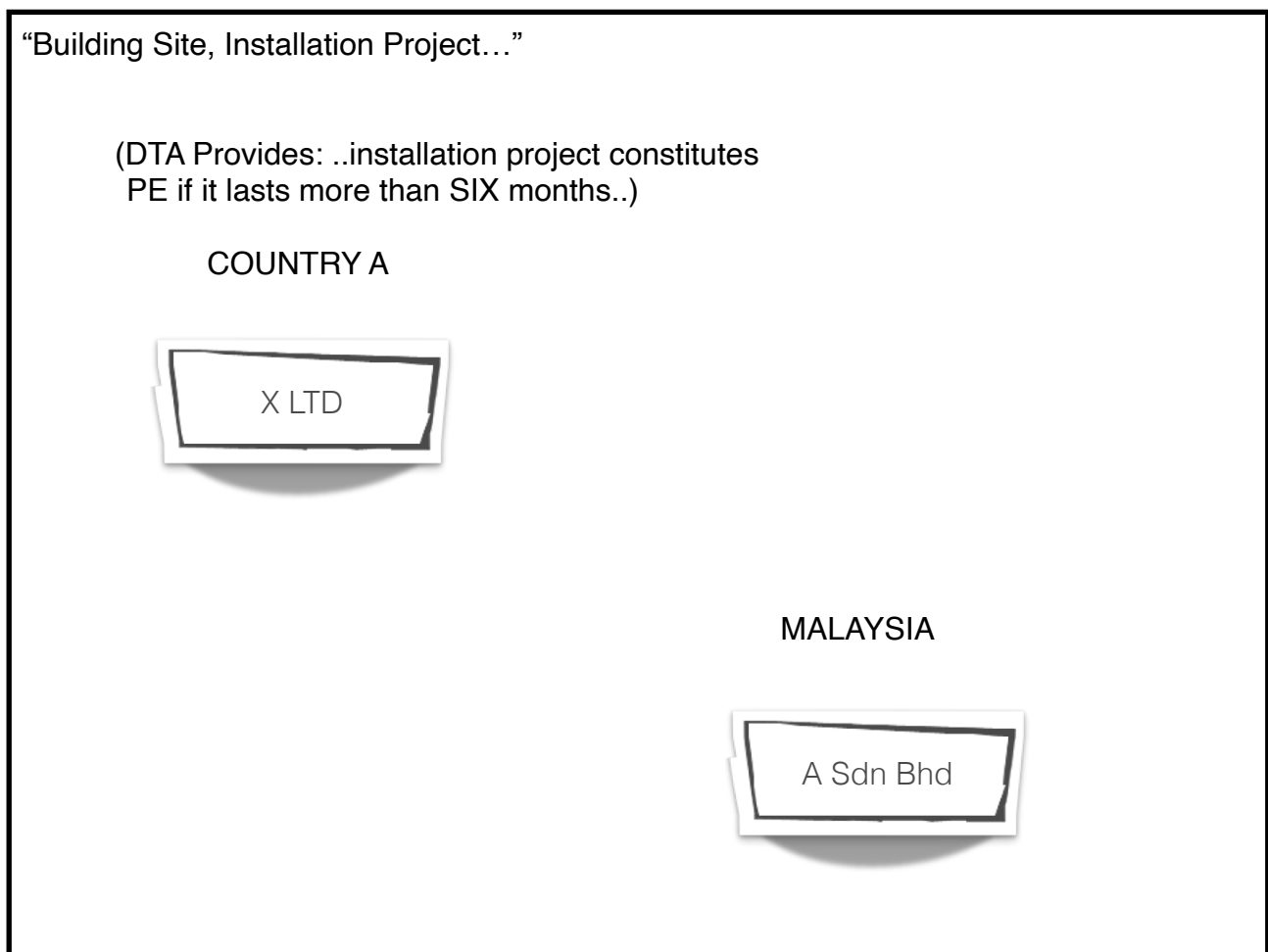
Article on PERMANENT ESTABLISHMENT

1. For the purposes of this Convention, the term "permanent establishment" means a fixed place of business through which the business of an enterprise is wholly or partly carried on.
2. The term "permanent establishment" includes especially:
 - a) a place of management;
 - b) a branch;
 - c) an office;
 - d) a factory;
 - e) a workshop, and
 - f) a mine, an oil or gas well, a quarry or any other place of extraction of natural resources.
3. A building site or construction or installation project constitutes a permanent establishment only if it lasts more than **SIX** months. **[Variation Applies to the Period]**
4. Notwithstanding the preceding provisions of this Article, the term "permanent establishment" shall be deemed **not to include**:
 - a) the use of facilities solely for the purpose of storage, display or delivery of goods or merchandise belonging to the enterprise;
 - b) the maintenance of a stock of goods or merchandise belonging to the enterprise solely for the purpose of storage, display or delivery;
 - c) the maintenance of a stock of goods or merchandise belonging to the enterprise solely for the purpose of processing by another enterprise;
 - d) the maintenance of a fixed place of business solely for the purpose of purchasing goods or merchandise or of collecting information, for the enterprise;
 - e) the maintenance of a fixed place of business solely for the purpose of carrying on, for the enterprise, any other activity of a preparatory or auxiliary character;
 - f) the maintenance of a fixed place of business solely for any combination of activities mentioned in subparagraphs a) to e), provided that the overall activity of the fixed place of business resulting from this combination is of a preparatory or auxiliary character.

5. Notwithstanding the provisions of paragraphs 1 and 2, where a person — other than an agent of an independent status to whom paragraph 6 applies — is acting on behalf of an enterprise and has, and habitually exercises, in a Contracting State an authority to conclude contracts in the name of the enterprise, that enterprise shall be deemed to have a permanent establishment in that State in respect of any activities which that person undertakes for the enterprise, unless the activities of such person are limited to those mentioned in paragraph 4 which, if exercised through a fixed place of business, would not make this fixed place of business a permanent establishment under the provisions of that paragraph.

6. An enterprise shall not be deemed to have a permanent establishment in a Contracting State merely because it carries on business in that State through a broker, general commission agent or any other agent of an independent status, provided that such persons are acting in the ordinary course of their business.

7. The fact that a company which is a resident of a Contracting State controls or is controlled by a company which is a resident of the other Contracting State, or which carries on business in that other State (whether through a permanent establishment or otherwise), shall not of itself constitute either company a permanent establishment of the other.



“Building Site, Installation Project...”

(DTA Provides: ..installation project constitutes PE if it lasts more than SIX months..)

COUNTRY A



MALAYSIA



Article on INCOME FROM EMPLOYMENT

1. Subject to the provisions of Articles 16, 18 and 19, salaries, wages and other similar remuneration derived by a resident of a Contracting State in respect of an employment shall be taxable only in that State unless the employment is exercised in the other Contracting State. If the employment is so exercised, such remuneration as is derived therefrom may be taxed in that other State.
2. Notwithstanding the provisions of paragraph 1, remuneration derived by a resident of a Contracting State in respect of an employment exercised in the other Contracting State shall be taxable only in the first-mentioned State if:
 - a) the recipient is present in the other State for a period or periods not exceeding in the aggregate 183 days in any twelve month period commencing or ending in the fiscal year concerned, and
 - b) the remuneration is paid by, or on behalf of, an employer who is not a resident of the other State, and
 - c) the remuneration is not borne by a permanent establishment which the employer has in the other State.
3. Notwithstanding the preceding provisions of this Article, remuneration derived in respect of an employment exercised aboard a ship or aircraft operated in international traffic, or aboard a boat engaged in inland waterways transport, may be taxed in the Contracting State in which the place of effective management of the enterprise is situated.

Article 23 A**EXEMPTION METHOD**

1. Where a resident of a Contracting State derives income or owns capital which, in accordance with the provisions of this Convention, may be taxed in the other Contracting State, the first-mentioned State shall, subject to the provisions of paragraphs 2 and 3, exempt such income or capital from tax.
2. Where a resident of a Contracting State derives items of income which, in accordance with the provisions of Articles 10 and 11, may be taxed in the other Contracting State, the first-mentioned State shall allow as a deduction from the tax on the income of that resident an amount equal to the tax paid in that other State. Such deduction shall not, however, exceed that part of the tax, as computed before the deduction is given, which is attributable to such items of income derived from that other State.
3. Where in accordance with any provision of the Convention income derived or capital owned by a resident of a Contracting State is exempt from tax in that State, such State may nevertheless, in calculating the amount of tax on the remaining income or capital of such resident, take into account the exempted income or capital.
4. The provisions of paragraph 1 shall not apply to income derived or capital owned by a resident of a Contracting State where the other Contracting State applies the provisions of the Convention to exempt such income or capital from tax or applies the provisions of paragraph 2 of Article 10 or 11 to such income.

Article 23 B**CREDIT METHOD**

1. Where a resident of a Contracting State derives income or owns capital which, in accordance with the provisions of this Convention, may be taxed in the other Contracting State, the first-mentioned State shall allow:
 - a) as a deduction from the tax on the income of that resident, an amount equal to the income tax paid in that other State;
 - b) as a deduction from the tax on the capital of that resident, an amount equal to the capital tax paid in that other State.

Such deduction in either case shall not, however, exceed that part of the income tax or capital tax, as computed before the deduction is given, which is attributable, as the case may be, to the income or the capital which may be taxed in that other State.

2. Where in accordance with any provision of the Convention income derived or capital owned by a resident of a Contracting State is exempt from tax in that State, such State may nevertheless, in calculating the amount of tax on the remaining income or capital of such resident, take into account the exempted income or capital.

Chap 9 Estates under Administration

1. Introduction

- A deceased individual would still be liable to income tax, being liable for income earned during the basis period up to the date of his death and also income earned after his date of death.
- The properties and wealth of a deceased person (at his time of his death) is referred as his “estate”.
- When a deceased person left a will, his estate will be distributed in accordance with his will. When there is **no will** left, the **intestate’s** estate will be distributed based on the Distribution Act. The person administering the estate is called as Executor.
- Sec 2 of ITA defines “executor” means the executor, administrator or other person administering or managing the estate of a deceased person;
- For **intestate case**, the beneficiaries [as determined under the Distribution (Amendment) Act 1997] can apply to be the administrator/s and apply for the letters of administration (LA).
- Whether it is a case involving a trustee (under a will) or administrators (where there is no will), the duties of an executor will apply with regard to tax matters during the period of executory administration of the deceased estate.

Distribution (Amendment) Act 1997, Malaysia West Malaysia & Sarawak

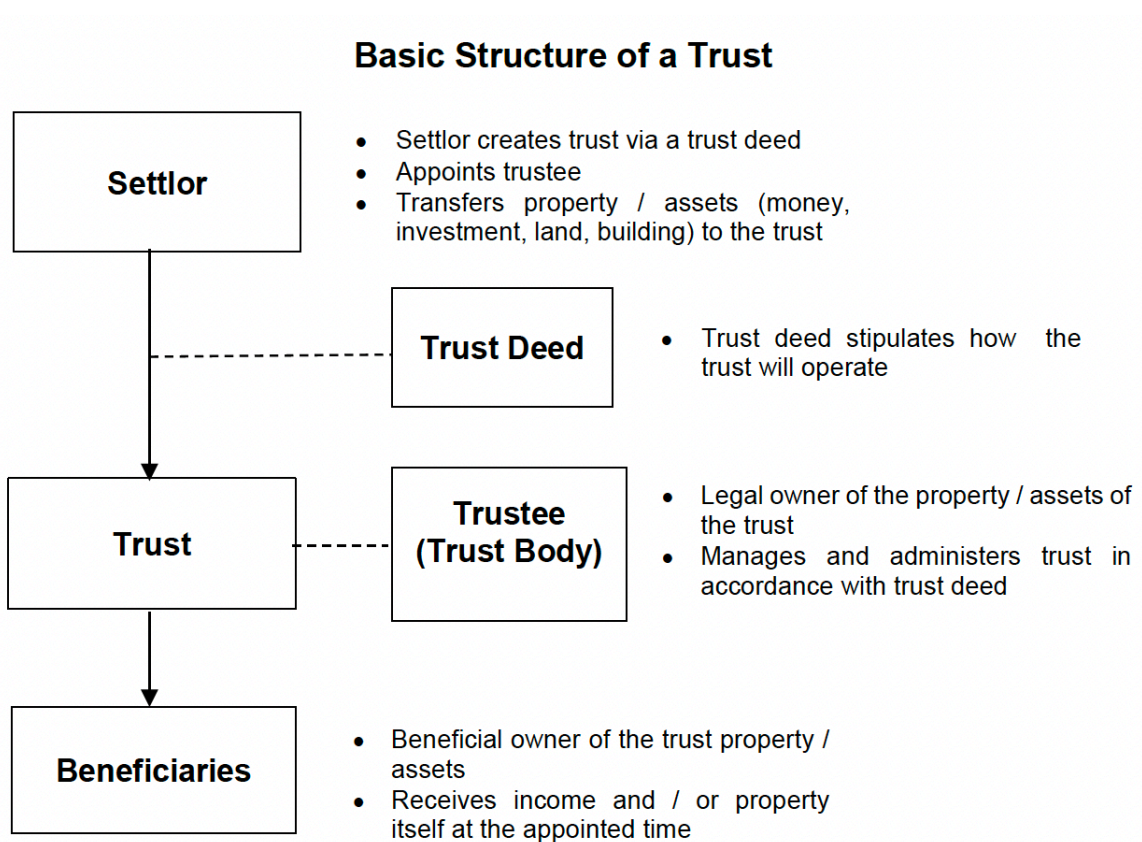
Intestate leaving surviving	Entitlement
Spouse only (no parents/issue)	Whole estate
Spouse & Parents (no issue)	Spouse 1/2 Parents 1/2
Issue only (no parents)	Whole estate
Spouse & Issue	Spouse 1/3 Issue 2/3
Parents & Issue	Parents 1/3 Issue 2/3
Parents, Spouse and Issue	Parents 1/4 Spouse 1/4 Issue 2/4

Issue refers to his children, grandchildren and all other lineal descendants.

Chap 11 Trust

1. Meaning of Trust

- Trust can be said as a fiduciary relationship in which one person (the trustee) holds the title to property (the trust estate or trust property) for the benefit of another. (the beneficiary). A trustee can at the same time, be a beneficiary as well.
- Trust is created by a trust deed where an individual settles his properties for the benefit of his beneficiaries.



- A trust is not a separate legal entity but a trust is an equitable obligation, binding a person (trustee) to deal with the property / assets over which he has control, for the benefit of persons (beneficiaries) of whom he may himself be one, and any of whom may enforce the obligation.
- A trust can be created by a will (executed upon his death) or during the lifetime of the settlor.

'Harry Potter' actress Emma Watson gets \$20M birthday present

By LEAH CHERNIKOFF
DAILY NEWS FEATURE WRITER | APR 16, 2008 AT 12:48 PM

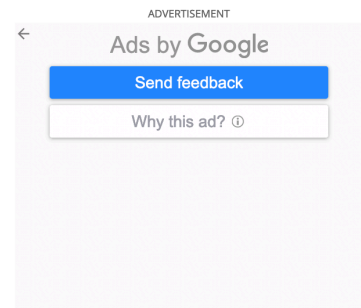


When [Harry Potter](#) actress [Emma Watson](#) turned 18 Tuesday, she received a birthday present fit for a wizard.

For most teens, turning the big 18 and becoming a legal adult comes with a few small perks including voting rights. For Emma Watson, Hermione in the Harry Potter films, turning 18 grants her access to the \$20 million she's amassed making the wildly popular film series.

But Watson's parents are making sure their daughter doesn't blow through her millions.

Watson has sat through a series of lessons in money management given by Coutts bank, the Daily Mail reports. She's reportedly learned about basic economics, investing, and philanthropy.



RECOMMENDED ON DAILY NEWS

Various Concepts - From PR 09/2020

Express Trust

- trust created knowingly and intentionally by settlor where assets, beneficiaries and trustees are specifically identified. Discretionary trust, Non-discretionary trust can all be example of a form of Express Trust.

Bare Trust

- Usually referred to trust where trustee is to hold assets and pass them to intended beneficiary at certain age. Usually for young beneficiaries. Trustee has no performance duty except to pass it to the beneficiary.

Charitable Trust

- Charitable trust is established for a purpose such as the advancement of education, alleviation of poverty, advancement of religion or some other purpose that is of benefit to the community. Charitable trusts differ from other trusts in that it does not have any particular beneficiaries but instead is for a particular purpose. For charitable trusts, the beneficiaries would be an identified class of people.

Testamentary Trust

- Testamentary trust is created in a will and only takes effect upon the death of a testator.

Discretionary Trust

- Discretionary trust is a trust where the income is distributed to the beneficiaries at the discretion of the trustee. Trustee has power to decide "how much to distribute", "which beneficiary to receive", "how regular the distribution to be made" or "conditions to impose on beneficiaries"

Non-Discretionary Trust or Fixed Trust

- The trust deed states the entitlement ratio for each beneficiary and must be complied with by the trustee

Trust for Accumulation

- To accumulate the income of the trust and add it to the capital and pay it out at a later date to the beneficiaries.

2. Chargeability of a Trust Body

- S61(1) so long as a trust subsists, the trustees for the time being shall be known as the trust body and the trust body shall be treated as a chargeable person.
- The income of the trust body of a trust shall be assessed and charged to tax separately from the income of a beneficiary from any source of his in relation to the trust, whether or not that beneficiary is also a trustee member of that body.

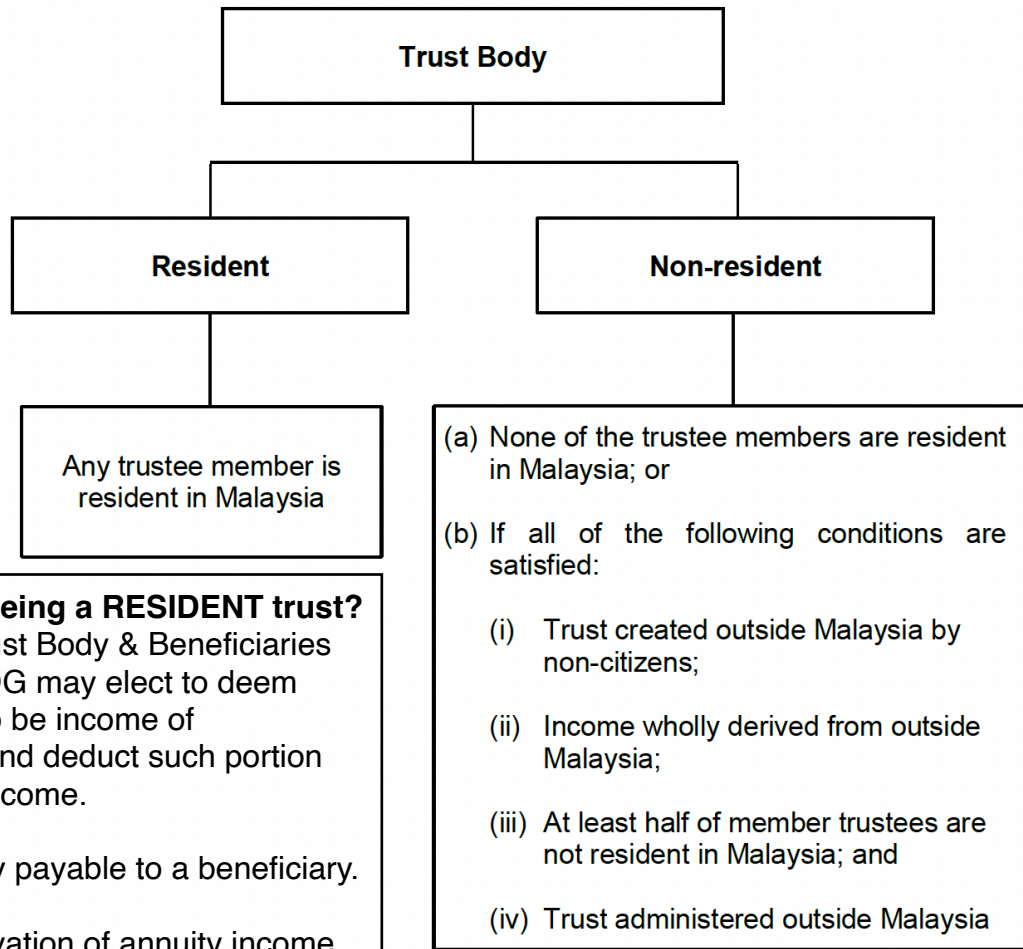
3. Residence Status of Trust Body

- A trust body shall be regarded as resident for the basis year for a year of assessment if, but only if, any trustee member of that body is resident for that basis year.
- A trust body would be non-resident trust should:

All trustees are non-resident (or)

4 conditions to be fulfilled

- (a) the trust was created outside Malaysia by a person or persons who were not citizens;
 - (b) the income of that trust body for that basis year is wholly derived from outside Malaysia;
 - (c) the trust is administered for the whole of that basis year outside Malaysia; and
 - (d) at least one-half of the number of the member trustees are not resident in Malaysia for that basis year,
- Tax residence of the Trust Body would determine the “derivation” of annuity income received by beneficiaries. Tax residence has little or no effect on the taxability of the Trust Body itself.



Significance of being a RESIDENT trust?

1. When both Trust Body & Beneficiaries are resident, DG may elect to deem trust income to be income of beneficiaries and deduct such portion from its total income.
2. Deduct annuity payable to a beneficiary.
3. Affect the derivation of annuity income of the annuitant

Tax Rate for Trust Body is always 24% whether Resident or Non-Resident

Illustration

Invesho Bhd is an investment holding company listed in Bursa Malaysia, with a paid up capital of RM25million. The financial results for the year ended 30 September 2021 are as follows:

RM000

Gross income and gains:	
Malaysian dividends - Single Tier	2,000
Rents from property	2,860
Fees for providing management services	500
Gains realised on the disposal of investments	1,200
Realised loss from disposal of investments	(450)
Interest from loan stocks of companies listed in Bursa Malaysia	60
Expenses:	
Maintenance & outgoings for investment properties	1,000
Depreciation	1,500
Rental of management office	
General allowance for doubtful debts	160
Cash donation to approved institution	130
Secretarial fees	12
Taxation fees	10
Repair and maintenance on management office	200
Direct expenses incurred to provide management services	520
Director fees	120
Interest on loan taken to subscribe loan stocks	55

240

Capital allowances on fixed assets used for administration and management amounted to RM400,000.

Invesho had unabsorbed adjusted losses brought forward from the prior year of assessment for its rental income amounting to RM40,000 and for its business of providing management services amounting to RM50,000.

Compute the Chargeable Income and Tax Payable for Invesho Bhd for year of assessment 2021.

8. Advantage of Investment Holding Company

IHC has prima-facie that its investments are held for “long term holding” and not “trading”. Therefore, gains or losses from disposal of investments are regarded as capital in nature. However, one must remember that this “infinite presumption”. If IHC disposes investments at high frequency or short holding period, tax authorities would deem it as “investment dealing”.

Chap 15 Unit Trust

1. An introduction to Unit Trust

- Unit trust funds are investment schemes structured to allow investors (with similar investment objectives) to participate in the investment markets (money, debt, equity, derivatives, even properties).
- It's a concept of collective investment, where funds are pooled by grouping together all the money invested by individual investors – which can be a natural person or even institutions. Then a professional fund manager would invest funds. Diversification is possible through unit trust as large pool of money is available. The investors will pump in money into unit trust by subscribing to the “units”. Investors are called as “unit holder”
- Advantages of investing in unit trust to investors would be:
 - o Funds are managed by professional fund manager
 - o Cost of funds management are low – being shared out by all unit holders.
 - o A lower risk investment – comparing if investing directly into shares.
 - o Less volatile price movement – minimise the need to monitor
 - o Liquidity
- The unit trust is constituted through a document known as a “trust deed” which brings together and binds the various parties to the deed:
 - o The trustee, who holds the assets of the trusts on behalf of the unitholders.
 - o The manager, who is the promoter of the scheme and provides investment and administrative expertise and markets units to the public
 - o The unitholders who provide the funds for investment and expect to receive the benefits derived from the investment. The effect of dividing the beneficiaries' interest in the trust into units is that their interest is quantified into discrete portions.

2. How Unit Trust is Priced? [Only for AWARENESS]

- Unlike Shares, Unit Trust is not determined by the demand and supply of the Unit Trust. Whether or not there's buyer or seller of the units, the price of unit is not affected.
- The price of the Unit is determined by the Net Asset Value (NAV).
- In order to accelerate growth and enhance investor protection in the unit trust industry, on 1 July 2007, the Securities Commission introduced a Single Pricing Regime (SPR) whereby there will only be one price - the Net Asset Value (NAV) per unit - quoted for selling and redeeming unit trusts.

Chap 17 Investment Incentives Manufacturing Sector

1. Introduction

- There are various forms of tax incentives for various sectors like manufacturing, agriculture, tourism, service industries, technology industry and etc. Manufacturing sector being the key industry with various attractive incentives available.
- Incentives are available under the Promotion of Investment Act 1986, as well as within Income Tax Act 1967.

2. Incentives for Manufacturing Sector

- Manufacturing is defined by the Industrial Coordination Act as “the making, altering, blending, ornamenting, finishing or otherwise treating or adapting any article or substance with a view to its use, sale, transport, delivery, or disposal and includes the assembly of parts and ship repairing but shall not include any activity normally associated with retail or wholesale trade. **(Source:MIDA)**
- Aditya Mills Ltd v Union of India – manufacturing as a process where the original material must undergo a transformation so that a new and different article or product emerges. The new substance or article must have a distinct name, character or use. The new commodity must be a commercially separate and distinct commodity having its own character and use.
- The ICA required that a manufacturer is required to apply for Manufacturing License from the Secretary General of MITI (Ministry of International Trade and Industry). However, exemption from licensing is given for:
 - o Company with shareholders’ fund less than RM2.5 million (or)
 - o Company with less than 75 full time employees **(Source MIDA)**
- Licensing by MITI would be granted based on various conditions like equity structure, employment, export level, local contents of raw materials and etc. Foreign Equity rules would depend on the “export level”

Foreign Equity	Required Exports Level
100%	80% and above
Up to 70%	51% to 79% and depending on other factors*
30% to 51%	20% to 50% and depending on other factors*
Maximum 30%	Less than 20%

* Examples: level of technology, location, value-added, size of investment, local content used.

- Generally major tax incentives for companies investing in manufacturing sector are the **Pioneer Status** and **Investment Tax Allowance**.
- Eligibility for Pioneer Status and Investment Tax Allowance is based on certain priorities, including the level of value-added, technology used and industrial linkages. Eligible activities and products are termed as “promoted activities” or “promoted products”.

Some Examples of Promoted Activities and Promoted Products (You Do Not Need To Know These For Exam)

AGRICULTURAL PRODUCTION	<ol style="list-style-type: none"> 1. Cultivation of tea 2. Cultivation of fruits 3. Cultivation of vegetables, tubers or roots 4. Cultivation of rice or maize 5. Cultivation of herbs or spices
PROCESSING OF AGRICULTURAL PRODUCE	<ol style="list-style-type: none"> 1. Chocolate and chocolate confectionery 2. Fruits 3. Vegetables, tubers or roots 4. Essential oils 5. Livestock products
FORESTRY & FORESTRY PRODUCTS	<ol style="list-style-type: none"> 1. Cultivation of timber, bamboo or cane 2. Cane products 3. Bamboo products
IV. MANUFACTURE OF RUBBER PRODUCTS	<ol style="list-style-type: none"> 1. Earthmover tyres, agricultural tyres, industrial tyres, commercial vehicle tyres, motorcycle tyres, aircraft tyres or solid tyres 2. Precured tread liners 3. Retreading of aircraft tyres 4. Latex products: <ol style="list-style-type: none"> a. Surgical gloves b. Safety/special function gloves c. Condoms d. Catheters e. Rubber (elastomeric) specialty coatings f. Rubberised fabrics
MANUFACTURE OF OIL PALM PRODUCTS AND THEIR DERIVATIVES	<ol style="list-style-type: none"> 1. Oleochemicals or oleochemical derivatives or preparations 2. Margarine, vanaspati, shortening or other manufactured fat products 3. Fatty acid distillate derivatives 4. Cocoa butter replacers, cocoa butter substitutes, cocoa butter equivalent, palm mid fraction or special olein 5. Crude palm kernel oil and palm kernel cake/expeller
MANUFACTURE OF CHEMICALS AND PETROCHEMICALS	<ol style="list-style-type: none"> 1. Chemical derivatives from organic or inorganic sources 2. Fine chemicals 3. Basic manufacture of pesticides 4. Petrochemical products 5. Epoxy encapsulation moulding Compounds
MANUFACTURE OF PHARMACEUTICAL AND RELATED PRODUCTS	<ol style="list-style-type: none"> 1. Pharmaceutical goods 2. Clinical diagnostic reagents 3. Gelatine or gelatine products 4. Intravenous, dialysis or irrigating solutions 5. Vaccines

Further Illustrations on PS and ITA

Illustration 1

Hitam Sdn Bhd (31 Dec year end) was granted pioneer status on 13th Nov 2014. Production day commenced on 1st Jan 2017. The following results were achieved during the year:

Year ended	31-Dec-2017	31-Dec-2018	31-Dec-2019	31-Dec-2020	31-Dec-2021
Pioneer Business					
Adjusted income	(2,500)	3,700	6,000	6,500	6,500
Capital allowance	(1,500)	(1,200)	(400)	(500)	(600)
Non-Pioneer Biz					
Adjusted income	2,000	(1,600)	(5,800)	7,000	5,000
Capital allowance	(1,400)	(500)	(1,300)	(1,500)	(700)
Rental Income	500	500	500	500	500
Approved Cash Donations	200	200	200	200	200

Compute the Chargeable Income of Hitam and amount of credit to Tax Exempt Income Account. Normal incentive would apply.

Illustration 2

Pioneer or ITA

Pita Sdn Bhd (31st Dec year end) a manufacturer of promoted products has been granted approval status for Pioneer Status. Production day commenced on 1st Jan 2016.

For the relevant years:

	2017	2018	2019	2020	2021
Additional Investments					
Cost of land	2,400				
Cost to construct factories	1,000		500		
Heavy Plant and Machineries	2,000	1,500		600	200
Capital allowances	600	1,200	600	900	500
Adjusted income / (loss)	(1,000)	(500)	2,500	3,200	4,200

Pita will remain profitable in the future years of assessment.

Assume Pita is NOT a small company.

- Compute the company's exempt income and tax payable for each years of assessment. (tax rate of 24% should apply throughout)
- Evaluate whether ITA would be more beneficial than Pioneer Status. Show relevant calculations to support your evaluations.

Additional Incentives for Manufacturing Sector

7. Reinvestment Allowance

Introduction

- RA is an incentive granted by Income Tax Act rather than PIA.
- It's sometimes called as 2nd round incentives as companies who enjoyed Pioneer or ITA can apply for RA.
- RA is given in respect of capital expenditure incurred for **15 consecutive years of assessment beginning from the y/a the RA is first claimed.**
- If during the "RA" period, a company is granted Pioneer or ITA, then RA would not be given during such basis period, instead the "affected years" where RA would be available should the company was not granted Pioneer or ITA would lapse.

Illustration

Life Force Sdn Bhd (accounts ending on 31/12) first incurs and claims RA on capital expenditure for the purposes of a qualifying project in the year 2007. The qualifying period of 15 consecutive years of assessment commences in the year of assessment 2007 and ends in the year of assessment 2021.

Life Force Sdn Bhd is granted pioneer status for a promoted product for the period 1.7.2009 – 30.6.2014. Since the company enjoys pioneer status for the years of assessment 2009 to 2014, that period will lapse and the company can only continue to enjoy RA for the years of assessment 2015 till 2021.

Y/A	07	08	09	10	11	12	13	14	15 2021	
	+===+===+		+---+---+---+---+---+---+					+===+===+===+===+===+===+					
	.. RA . . .		Pioneer status					RA RA					

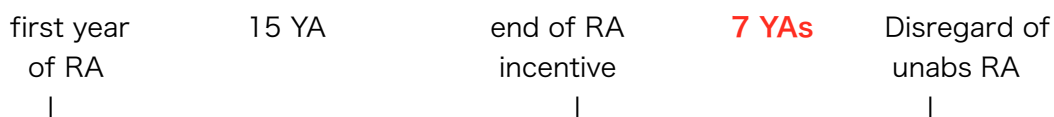
EXTENSION OF RA (PARA 2B)

Subject to this Schedule and notwithstanding paragraph 2, where a company has first made a claim for an allowance under this Schedule in the return of its income and the period for fifteen consecutive years of assessment referred to in paragraph 2—

- ended in the year of assessment 2019 or in any other preceding year of assessment, an allowance under paragraph 1 or 1A shall be given in respect of capital expenditure incurred by the company in the basis period for the years of assessment 2020, 2021, 2022, 2023 and 2024
- ends in the year of assessment 2020.. . . .basis period for the years of assessment 2021, 2022, 2023 and 2024; or
- ends in the year of assessment 2021.. . . .basis period for the years of assessment 2022, 2023 and 2024; or
- ends in the year of assessment 2022.. . . .basis period for the years of assessment 2023 and 2024; or
- ends in the year of assessment 2023.. . . .basis period for the years of assessment 2024; or

How RA works?

- Generally, 60% of the qualifying expenditure incurred would be given as RA. (for 15 y/a. Commence from the 1st year of claim)
- Exemption is only given if the RA is set-off against 70% of the Statutory Income. Any unabsorbed RA **can be carried forward** up to a **maximum of 7 consecutive Y/As** after the end of the 15 YAs. (Do not confuse with the 10 YA rule for unabs biz loss)



- Note that if the manufacturing business is ceased permanently, the unabsorbed RA will be permanently loss.
- **New Rule Budget 2015:** Sch 7A Sec 4A has defined that “Statutory income: shall be construed as the amount of statutory income of a person from a source consisting of a business in respect of a qualifying project. **(Refer to example 36 of PR 10/2020)**
- RA is allowed to set off against 100% of statutory income when the qualifying project has achieved the level of productivity (Process Efficiency Ratio) prescribed by the Minister of Finance. (PER is irrelevant to agriculture business) **(Refer to Public Ruling 9/2017 to understand more on PER)**
- Assets where RA were claimed, but subsequently disposed within **5 years** (exact 5 years, NOT 5 y/a) from date of acquisition, the RA previously claimed will be clawed back.
- Meaning of "**disposed of**" means sold, conveyed, transferred, assigned, ceased to be used or alienated with or without consideration;
- While meaning of "**ceased to be used**" in relation to an asset includes an asset classified as held for sale under paragraph 61A of Schedule 3;
- RA is not available to a company for the period during which it has been granted pioneer status or Investment Tax Allowance.

Illustration on how to compute & absorb RA

X Sdn Bhd has incurred capital expenditure in the expansion of its manufacturing plant as follows:-

Total capital expenditure	Cost (RM)
New factory in Malaysia	600,000
New plant and machinery for factory in Malaysia	350,000
Cost of machine transferred from subsidiary 1 (MV @ RM120,000) (The subsidiary had claimed RA on such expenditure)	190,000
Cost of machine transferred from subsidiary 2 (MV @ RM50,000) (Subsidiary 2 has NO Tax incentive)	110,000

Qualifying expenditure	
New factory in Malaysia	600,000
New plant and machinery for factory in Malaysia	350,000
Cost of machinery transferred from subsidiary 1	NIL
Cost of machine transferred from subsidiary 2	50,000
	1,000,000
Reinvestment at 60%	600,000

Tax Computation	
Adjusted income from business (say)	1,000,000
Less: Capital allowances (say) (Remember - machines from Subs 1 and 2 if required to compute CA, you have to apply Controlled-sale rules)	(300,000)
Statutory income	700,000
Less: RA subject to 70%	(490,000)
	210,000
Other income (interest)	10,000
Chargeable income	220,000
Tax liability at 24%	52,800
Exempt account (2 tier) – Credit to pay TE dividend	490,000
RA carried forward	
RA claimed during the year	600,000
RA utilised during the year	(490,000)
RA carried forward (max 7 consecutive YA after end of RA incentive)	110,000

Real Property Gains Tax (RPGT)

Introduction

Unlike country like UK, Malaysia does not have Capital Gains Tax (CGT). We do not pay tax on capital gains (eg. striking lottery, disposal of share investments). Instead, we have a “restricted scope” of capital gains tax - which is Real Property Gains Tax - where tax is imposed on gains arising from real-property gains. (eg. selling land)

Scope of RPGT

- RPGT is imposed on Chargeable Gain accruing on disposal of any real property.

What is real property?

- Real property is any land situated in Malaysia and any interest, option and other right in or over such land.
- Land includes:
 - (a) The surface of the earth and all substances forming that surface.
 - (b) The earth below the surface and substances therein.
 - (c) Buildings on land and anything attached to land or permanently fastened to any thing attached to land (whether on or below the surface).
 - (d) Standing timber, trees, crops and other vegetation growing on land; and
 - (e) Land covered by water.
- Malaysia Income Tax takes precedence over RPGT and both Income Tax and RPGT are mutually exclusive. Therefore, when a chargeable person is charged under the Income Tax, the same subject cannot be charged again under the RPGT.

Computation of chargeable gain (Overall)

Computation of Chargeable Gains	
	RM
Disposal Price	280,000
Less: Acquisition Price	(200,000)
Chargeable Gain	80,000
Less: Sch 4 Exemptions (if applicable) “10% of CG / 10K whichever higher”	(10,000)
	70,000
Less: Allowable loss (on/after 1 st Jan 2010)	(say) (20,000)
Gain subject to RPGT	70,000
	x RPGT rate
RPGT	RPGT

Computation of chargeable gain – an Expanded Version

Computation of Chargeable Gains		
	RM	RM
Disposal Price		
Consideration		700,000
Expenditure on defending title or right **		(80,000)
Incidental costs on disposal		(5,000)
Expenditure on enhancing value **		(335,000)
		280,000
Acquisition Price		
Consideration Paid ##	270,000	
+Incidental costs on acquisition ##	<u>12,000</u>	
	282,000	
Compensation received (for the property)	(40,000)	
Insurance proceed received (for the property)	(20,000)	
Deposit forfeited on intended sale	(22,000)	(200,000)
Chargeable gain		80,000

Disposal Price

- Disposal Price of an asset is the:
 - o Amount or value of consideration in money or money's worth for the disposal
 - o **Less:** the amount of expenditure wholly and exclusively incurred on the asset at any time after its acquisition for purpose of enhancing or preserving the value of the asset.
 - o **Less:** the amount of any expenditure wholly and exclusively incurred at any time after his acquisition in establishing, preserving or defending his title to, or to a right over, the asset, and
 - o **Less:** the incidental costs to the disposer of making the disposal.
- Incidental costs of disposal mean:
 - o Fees, commission or remuneration paid for the professional services of any surveyor, valuer, accountant, agent or legal adviser,
 - o Cost of transfer including stamp duty
 - o Cost of advertising to find a buyer
- Excluded expenditure would generally be any outgoings or expenses allowable as deduction in computing any adjusted income/loss for income tax purposes or would have been allowable (as income is tax exempt).
- ** (resetting of value to 1.1.1970 or 1.1.2013)
 - o RPGT min rate 5%: Asset acquired before 1.1.2013 - any "enhancement costs" and "legal expenses to defend title" that relates prior to 1.1.2013 shall be disregarded.
 - o
 - o RPGT min rate is 10%: Asset acquired before 1.1.1970 – any "enhancement costs" and "legal expenses to defend title" that relates prior to 1.1.1970 shall be disregarded.