



**\*\* Explanatory Note**

9. Why is the answer not “C He was taxed on income he received from foreign sources while in Malaysia”? Is it not true that foreign income received in Malaysia by a person who is resident will be taxable?

For Y/A 2018, which is prior to 1 January 2022, the following applies:

<https://www.pwc.com/my/en/perspective/tax/230804-is-foreign-sourced-income-exempted-from-tax.html>

As at Y/A 2018, option C would also have been FALSE.

However, with effect from YA 2022:

This change took effect from 1 January 2022. Prior to this date, taxes from foreign sources are not taxed for residents.

<https://www.hasil.gov.my/media/p0lnthw/20221229-guidelines-tax-treatment-in-relation-to-income-received-from-abroad-amendment.pdf>

Prior to 1 January 2022:

<https://www.pwc.com/my/en/perspective/tax/230804-is-foreign-sourced-income-exempted-from-tax.html>

## **Short-Answer Questions**

### Question 1

	RM
Gross salary from employment	62,500
Rental income (1,500 x 12 months)	18,000
Part time art and photography classes	<u>16,000</u>
Aggregate income	96,500
	=====

### Question 2

- (a) There are differences in tax treatments between tax residents and non-residents. Tax reliefs are available for individual residents and these individuals are tax based on the marginal tax rates based on a graduated tax schedule. However, only tax residents will be entitled to tax relief. Residents are taxed on bands of chargeable income rates but non-residents are taxed on a flat rate.
- (b) Determination of tax residency:  
Y/A 2015: Non-resident as his stay in Malaysia was only for 122 days.  
Y/A 2016: Non-resident as the period of stay in Malaysia for 2016 was only 122 days (Section 7(1)(a). However, Y/A 2016 is linked to Y/A 2017. If the period of temporary absence (see below) in Y/A 2017 is acceptable to IRB, then Maddox will be deemed a tax resident under Section 7(1)(b).  
Y/A 2017: Temporary absences for reasons such as business trips, treatment for ill-health and social visits (less than 14 days) are counted as part of consecutive days. Assuming that the period of temporary absence is acceptable to IRB, Maddox will be a tax resident under Section 7(a)(1) as the combined number of days in the basis period was 193 days which is more than 182 days.
- The objective of this question is to discuss the application of Section 7(1) rather the issues that can arise in the case of temporary absence.

### Question 3

These “gifts” are provided by Jaspreet’s employer in appreciation for the past services performed (Long service award) and his excellent service (Employee of the year) rendered in respect of his employment or in respect of him exercising his employment. As such, they are to be treated as part of gross income under Section 13(a) of the Income Tax Act. They are perquisites from employment under PR5/2019. However, the certificate of appreciation is not taxable as it has no monetary value.

#### Question 4

Basic salary (RM 13,000 × 12) RM 156,000

Value of living accommodation:

William would qualify as a service director/employee as he does not own any shares. Hence, we use the lesser of:

(a) Defined value – Unfurnished (4,000 × 12)	RM 48,000 or
(b) 30% of RM156,000	46,800

We will include RM46,800 as value for the living accommodation in the gross income.

#### Computation of gross income from employment

	RM
Basic salary (RM 13,000 × 12)	156,000
Add: Value of living accommodation	46,800
Add: Semi-furnished (RM 70 × 12)	840
Add: Driver (RM600 × 12)	7,200
	-----
Gross income from employment	210,840
	=====

#### Question 5

- (a) Lottery winnings are a windfall gain which is generally not taxable.
- (b) Bonus is employment income is taxable under Section 13(1)(a)
- (c) Gain from sale of shares are capital gains which is exempted in Malaysia.
- (d) This is a real property gain which taxable under RPGT.

### **Discussion Questions**

#### Question 1

The three major strategies are:

- Reducing the tax consequences/liability that may arise because of a transaction.
  - These generally involve recharacterizing non-deductible expenses as deductible expenses or result in income being taxed at a lower rate.
  - Example:
    - Renegotiating the payment of reimbursements for entertainment instead of the payment of an entertainment allowance in certain cases.
    - Obtaining a mortgage to generate deductible interest expense.
    - Any other relevant answer
- Shifting the timing of taxable events
  - Involve tax acceleration or deferrals by shifting the timing of income and/or tax deductions.
  - Example:
    - Deferring the sale of appreciated property to the sixth year or beyond to reduce the impact of RPGT.
    - Contributing to a deferred annuity or private retirement scheme which are excluded from income tax if withdrawals are made after the age of 55.
    - Any other relevant answer

- Shifting income
  - Transferring income from one individual to another to lower the marginal tax rate applicable.
  - Example:
    - A husband transferring a rented property to his wife who is not working.
    - Transferring certain assets to trust fund to lower personal tax.
    - Any other relevant answer.

### Question 2

Suggested answers include:

- Potential audit risk
- Cost versus benefit – Tax planning may involve fees, implementation costs, time, and effort, which needs to be weighed together with the tax savings.
- Potential changes in tax laws
- Tax planning assumptions used (e.g. tax rates) in projections may be subject to change over the long run.

### Question 3

Suggested answers include:

- Shift of the responsibility of tax computations from the LHDN to the taxpayer.
- The tax return is deemed to be a notice of assessment upon its submission.
- Taxpayers need to keep proper records for potential audits by LHDN.
- Taxpayer has the responsibility of making payments of tax liability or any balance due.
- Heavy penalties up from 45% to 100% of tax discrepancies may apply if any tax audit or tax investigation is subsequently conducted by IRB. Travel restrictions could also apply.

## Case Study

### Question 1

Based on the prescribed value method (refer to the prescribed value table):

The prescribed value for the car valued at RM135,000 = RM5,000

Additional tax rules on fuel: The lower of:

Fuel prescribed value = RM 1,500 (no abatement)

Thus, the total BIK based on the prescribed method = 5,000 + 1,500 = RM6,500

		With Mileage
Total mileage for business use	A	65,000
Total Mileage for the year	B	90,000
Car value (RM 135,000 x 80%)÷ 8	C	13,500
Less : Business Use (A/B x C)	D	-9,750
BIK- Car		3,750
Fuel Cost		
Total Fuel Cost	E	14,200
Less : Business Use (A/B x E)		-10,256
BIK- Fuel		3,944
Formula Method- BIK Car and Fuel		7,694

Based on the calculation above, it is better to use the Prescribed Method as it will result in a lower BIK for cars and fuel. As such, it would be more beneficial for John Tan to use the Prescribed Method which would result in a lower aggregate and chargeable income, ceteris paribus.

## Question 2

Note:

- John took up the offer for the company car and accepted the RM2,800 less in salary
- John does not own any shares in Gold Coast Bhd
- Drivers allowance is a cash prerequisite and included as per the prescribed value (RM600 per month)
- BIK car is not included – See Public Ruling 11/2019 (Section 4)
- Assume the house is not furnished (otherwise there is additional prescribed values for furniture & fittings)

Value of Living Accommodation		Per month	With Car
Basic salary		20,500	246,000
Less : Basic salary adjustment for company car		- 2,800	-33,600
Bonus			35,400
Entertainment allowance		1,500	18,000
Total gross income			265,800
Lower of:			
Defined Value	A	4,500	54,000
30% of gross income under Section 13(1)(a)	B		79,740
In this case the lower of A and B is			54,000

Benefit in kind for the car is not included, as it is not “cash remuneration” (refer to Section 4 – Public ruling 11/2019)

Note: Assume the company car was taken and the basic salary was adjusted to RM17,700 (20,500-2,800) per month. As such, bonus will be based on the “adjusted basic salary” which is 2 x 17,700 = RM35,400.

### Question 3

	John Tan	
	With BIK- Car	Without BIK- Car
Basic Salary	212,400	246,000
Bonus	35,400	41,000
Entertainment allowance (1,500 X 12)	18,000	18,000
Benefit in Kind - Car (Prescribed value)	5,000	
Benefit in Kind - Petrol (Prescribed Value)	1,500	
Value of living accommodation	54,000	54,000
BIK- Driver	7,200	7,200
Part Time (Direct selling and Unit Trust)		
Part Time (Piano lessons)		
Rental Income (1,600 X 12)	19,200	19,200
Less : Repair and maintenance	(2,540)	(2,540)
Aggregate income	350,160	382,860
Less : Approved donations	(15,000)	(15,000)
	335,160	367,860
Less : Personal Reliefs		
Personal Relief	(9,000)	(9,000)
EPF- Restricted to RM4,000	(4,000)	(4,000)
Life Insurance- Restricted to RM3,000	(3,000)	(3,000)
Medical & education insurance - Restricted to RM3,000	(3,000)	(3,000)
Complete medical examination (Limit RM500)	(350)	(350)
Medical expenses on parent (Rachel's parents under John's name)	-	-
Jackson < 18 disabled	(6,000)	(6,000)
Jason > 18 full time tertiary education	(8,000)	(8,000)
Lifestyle relief (Restricted to RM2,500)	(2,050)	(2,050)
PERKESO/Socso	(250)	(250)
	(35,650)	(35,650)
Chargeable income	299,510	332,210
Tax for Y/A 2019		
On first RM 250,000	46,900	46,900
On the next RM100,000 @ 24.5%	12,130	20,141
Tax Payable	59,030	67,041
Tax Savings	8,012	

Question 4

<b>Tax Computation for Y/A 2019 - John &amp; Rachel Tan</b>		
	John	Rachel
	(RM)	(RM)
Basic Salary ((20,500 -2800) X 12)	212,400	-
Bonus ((20,500- 2,800) X 2)	35,400	-
Entertainment allowance (1,500 X 12)	18,000	-
Benefit in Kind - Car (Prescribed value)	5,000	-
Benefit in Kind - Petrol (Prescribed Value)	1,500	-
Value of living accommodation	54,000	
BIK- Driver	7,200	
Part Time (Direct selling and Unit Trust)		45,600
Part Time (Piano lessons) (500x12)		6,000
Rental Income (1,600 X 12)	19,200	
Less : Repair and maintenance	(2,540)	
Aggregate income	350,160	51,600
Less : Approved donations	(15,000)	-
	335,160	51,600
Less : Personal Reliefs		
Personal Relief	(9,000)	(9,000)
EPF- Restricted to RM4,000	(4,000)	
Life Insurance- Restricted to RM3,000	(3,000)	
Medical & education insurance - Restricted to RM3,000	(3,000)	
Complete medical examination (Limit RM500)	(350)	(350)
Medical expenses on parent (Rachel's parents under John's name)	-	-
Jackson < 18 disabled	(6,000)	-
Jason > 18 full time tertiary education	(8,000)	-
Lifestyle relief (Restricted to RM2,500)	(2,050)	(1,890)
PERKESO/Socso	(250)	-
	(35,650)	(11,240)
Taxable Income	299,510	40,360
Tax Payable (Refer Y/A 2019)		
On the first RM35,000		600
On the next RM15,000 @ 8%		429
On first RM 250,000	46,900	
On the next RM100,000 @ 24.5%	12,130	
Tax Payable	59,030	1,029
Less : Monthly Tax Deductions	(50,400)	
Net Tax Payable	8,630	1,029

### Question 5

Suggested answers include:

- John could transfer the house to Rachel and, in so doing, transfers the rental income to her. This will lower the household tax payable.
- In future, Rachel should pay for the medical bills for her mother (receipt under her name) to be entitled to the tax relief for medical expenses for the parent.
- They should consider investing in Private Retirement Schemes or approved annuity/retirement schemes, where each of them could be entitled to RM3,000 relief up to the Y/A 2020. Rachel could consider buying some life insurance to get a maximum tax relief of RM3,000.
- Any other relevant answer.