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Deloitte Tax Challenge 2015

Individual Category - Final

Proposed Solutions

Part B

a)	**Option 1 - EHSB to purchase the land now and subsequently transfer to DPSB for development and sales**	**Tax Implications**			
		RPGT more than 5 years	**SD @ ad valorem rate 1%-3%**	**GST @ 6%**	**IT @ 24%**
	EHSB				
	- Acquire (2015)	-	RM144k	Input tax 6% @ RM5m = RM300k (sunk cost)*	-
	- Transfer (2025)	RM(8m-5m)* 5% = RM150k	-	-	-
	DPSB				
	- Acquire (2025)	-	Section 15A exemption	-	-
	- Sell after completion (2030)	-	-	Output tax 6% @ RM10m = RM600k (recoverable)	RM(10m-8m)* 24% = RM480k
		Option 1 tax impact = RM150k + RM144k + RM300k + RM480k = RM1.074m			
	Option 2 - DPSB to purchase the land now and keep it for development and sales				
	- Acquire (2015)	-	RM144k	Input tax 6% @ RM5m = RM300k (claimable)	-
	- Sell after completion (2030)	-	-	Output tax 6% @ RM10m = RM600k (recoverable)	RM(10m-5m)* 24% = RM1.2m
		Option 2 tax impact = RM144k + RM1.2m = RM1.644m			
	Recommendation – Option 1 is preferred given the tax saving of RM570k [RM(1.644m-1.074m)] **Though Option 1 is a preferred option, the input tax to be incurred by EHSB would become sunk cost. To overcome this, EHSB should consider providing annual taxable**				

	supply exceeding RM500k in order to claim the GST input tax on capital assets purchased. Where this is implemented, the tax saving would increase to RM870k.
b)	Given NEL is in a loss position, it is advisable that NEL to set up a company with minimum paid up share capital in Malaysia to provide assembly and supervisory services in order to alleviate from cash flow issue (i.e. paying WHT upfront). The unabsorbed business loss can be carried forward to future years for set off against the future statutory business income, if any.
c)	A new entity should be set up. DMSB being the most profitable company within the group should be the holding company of the new company and invest by way of subscribing RM20m ordinary share capital in the new company. The RM20m investment cost in the new company is eligible for a tax deduction against the business income of DMSB. The new company can enjoy tax exemption for 10 years commencing from the first year of assessment it derives statutory business income from the deep sea fishing project.
d)	Under the Labuan regime, a company incorporated under the Labuan Companies Act 1990 is only allowed to conduct trading transactions with non-residents in foreign currency. It is also important for the Labuan set up to fulfill all the substance requirements such as office space, full time employee, Labuan bank account etc so as not to be challenged by the tax authority. CFO may consider a new Labuan set up to be used for its new drop shipment business activities given all the purchases and sales are to be conducted with overseas parties. Where all of the above conditions are fulfilled, the annual profit derived by the new Labuan set up can be taxed at 3% of the net profit before tax or capped at RM20,000 whichever is the lower.

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