Deloitte Tax Challenge 2015

Team Category - Final

Proposed Solutions

Part B

<table>
<tr><td rowspan="1">a)</td><td colspan="2">AHSB is
to charge management fee to the subsidiaries at a mark-up to reflect the transaction is at arm-length basis.
to charge interest to the loan extended to DSSB. DSSB can claim a tax deduction on the interest expense incurred.
to receive single tier dividend income in cash from profitable subsidiaries as follows to repay the existing term loan:
- BCSB – RM5m
- DSSB – RM5m
to provide ancillary and maintenance service actively and comprehensively so that the letting of property can be treated as a business source – to overcome Section 60F computation.</td></tr>
<tr><td>b)</td><td colspan="2">CFSB is unable to surrender its current year loss to BCSB. To overcome this, the following actions are required:
BCSB is required to increase its shareholding in CFSB to 70%.
BCSB is required to change its financial year end to 31 December 2015.
CFSB is required to increase its paid up ordinary share capital from RM2m to more than RM2.5m.</td></tr>
<tr><td rowspan="6">c)</td><td colspan="2">DSSB may enjoy:
EITHER</td></tr>
<tr><td>Reinvestment allowance (“RA”) @ 60% on qualifying capital expenditure</td><td>Tax saving = 60% * RM5m * 25% = RM750,000</td></tr>
<tr><td colspan="2">OR</td></tr>
<tr><td>Allowance for increase of export (“AIE”) - Tax exemption on 10% of the value of increased exports</td><td>Tax saving = 10% * RM10m * 25% = RM250,000</td></tr>
<tr><td colspan="2">Conclusion :
Given RA and AIE is mutually exclusive, DSSB should opt for RA with higher tax savings.</td></tr>
<tr><td>d)</td><td colspan="2">Stamp duty relief under Section 15A – transfer of assets between associated companies. Associated means one is beneficial owner of not less than 90% of the issued share capital of the other. Conditions:
consideration or part of the consideration is not from a 3rd party
the beneficial interest should not have been previously transferred, directly or indirectly by a third party, that is, one who is not associated
the 2 associated parties should not cease to be associated by reason of a change in the % of the issued share capital of the transferee in the beneficial ownership of the transferor
DSSB is not be eligible for stamp duty relief given that DSSB and EMSB are not associated company. To qualify for the stamp duty relief, AHSB should increase its shareholding in EMSB from 89% to 90% prior to EMSB transferring the land and building to DSSB.</td></tr>
<tr><td>e)</td><td colspan="2">The transfer of land and factory building to DSSB is considered a taxable supply and as such, EMSB is required to account for output tax on the transfer of land and factory building.
Nonetheless, when a supply of business assets is made as transfer of going concern (“TOGC”), such supply of assets by a taxable person (transferor) to another taxable person</td></tr>
</table>

	(transferee) is treated as neither a supply of goods nor a supply of services – Paragraph 1, Second Schedule of GST Act 2014. The transfer of business assets can only be regarded as a TOGC when the following conditions are met: (i) both the transferor and transferee must be GST registered person before the transfer of a business is carried out. (ii) the transferee shall be treated as having carried on such business before as well as after the transfer and any taxable supplies made by the transferor shall be treated as supplied by the transferee. (iii) the business transferred must be a going concern before and immediately after the transfer. Any business which has actually ceased operation before the transfer does not qualify for TOGC consideration. (iv) the transferee must use the transferred assets to continue with the same kind of business of the transferor.