



Deloitte Tax Challenge 2008 Individual Category – Stage 2

1. Please place yourself in the shoes of a tax lecturer in a Malaysian university. You have a burning desire that your university should become the top university for taxation in Malaysia. Please deliver a 5-minute speech in English to the governing board of your university with a view to convince them to embrace your desire and include in your speech three steps required towards becoming Malaysia's top university in taxation.

(20 marks)

2. Your client, Green Farm Sdn Bhd ("Green Farm") is a first time developer which purchased an 80-acre plot of agricultural land in 1995 and based on the land laws applicable, it obtained permission from the authorities in Malaysia in 1996 to sell 1-acre plots. Purchasers of the plots may appoint a company from a panel of five contractors to build one unfenced house on each of those plots. These houses must comply with the concept of Green Farm – environmentally friendly homes which are energy efficient and use maximum bio-degradable construction materials. Foliage trees, fruit-bearing trees, beautiful shrubs must be preserved to the maximum extent during construction. Solar panels must cover roofs to generate electricity.

The farm includes a large lake teeming with fish suitable for the table. Other common facilities include an entry-exit guardhouse for the gated community, a 10-acre family sports club providing gym, sports, golf, swimming, food and beverage and other lifestyle facilities which together with the lake, roads, medical centre and electrical substation are held for the long-term by the developer as part of the infrastructure of Green Farm and were accordingly recorded in documents and balance sheet.

At its launch in 1996, 50% of the 1-acre plots were very quickly sold. However, a regional recession set in in 1997 and sales drew to a halt. Green Farm was highly geared and faced financial difficulties such that it had to sever 40% of its staff and fend off attempts by the bank to sue the company for loan repayment defaults. Its advertisements to sell more 1-acre plots from 1997 to 1999 drew few potential customers. In early 2000, a Japanese golf tournament was held at its club facilities and a Japanese golfer fell in love with the concept and environment of Green Farm. Being a multi-millionaire, he offered Green Farm RM50,000,000 for its reasonably challenging Jack Nicklaus-designed golf course and also bought three 1-acre plots. Green Farm was glad to sell the 3 plots and reluctantly signed the sale and purchase agreement in respect of the golf course in its financial year ended in 31 December 2001 on condition that the new owner of the golf course continued to provide one golf membership to every purchaser of the 1-acre plots. (It was part of the arrangement that all purchasers of the 1-acre plots receive a free sports club membership each.) Green Farm filed a real property gains tax ("RPGT") return and was assessed to that tax which was duly paid. A RPGT certificate of clearance was also issued by the Inland Revenue.



Green Farm also negotiated with its bank. It entered into several rounds of tough negotiations as the bank was unhappy with Green Farm's repayment track record. Finally, upon a change of bank personnel, the bank relented and in 2002 agreed to accept a hair cut on the amount outstanding. In its settlement agreement signed in 2002, the bank waived RM3,000,000 of the total amount owing, stating in the deed of release that the waiver related to the principal loan of a 10-year tenure which was used to purchase plant and machinery.

A field audit on the Green Farm was concluded in 2008. The Inland Revenue then wrote to Green Farm setting out its intention to charge the gain on sale of the golf course land to income tax, as the company was in business as a property developer. Further, the gain arising on the waiver of part of the amount owing to the bank was to be taxed.

Please prepare a letter in English to the Inland Revenue refuting the Inland Revenue's intention to tax your client, Green Farm, on the sale of the golf course land and the waiver from the bank providing grounds for your stance and addressing the Inland Revenue's position.

(80 marks)

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