The Singapore Income-tax Act has been referred to as 'ITA' in the answer sheet.

Answer-to-Question-_1_

Tax residency status of Jubba PL ('Jubba'):

In this regard, it is important to determine the tax residential status of Jubba for the purposes of analysing the income tax implications on the activities performed by Jubba.

We understand that:
- Jubba is incorporated in Singapore;
- Jubba's directors are also based in Singapore.

Under the laws of Singapore, the residential status is not determined only on the basis of country of incorporation. There is no explicit information as to whether the control and management of Jubba is exercised in Singapore or not.

However, since all the directors are based in Singapore and further, Jubba also conducts its business strategy, market planning and phone design and planning from its office in Singapore, it could be considered that the substantial and strategic decisions of Jubba are exercised in Singapore and therefore, the control and management is in Singapore. Accordingly, as per section 2(1) of ITA, Jubba could be considered as tax resident of Singapore.

Tax implications in relation to the activities undertaken by Jubba:

As per section 10(1) of ITA, a company being a tax resident in Singapore will be taxed on income accruing in or derived from Singapore or received in Singapore from outside India.

However, since Jubba undertakes different activities across various countries, such activities require an independent analysis with regard to the facts of each case:

- Strategic and planning activities in Singapore:
Based on section 10(1) of the ITA, the income accruing in or derived from Singapore will be taxed in Singapore and shall be charged to a corporate tax rate of 17%.

- Manufacturing operations in country X:
Any income arising from manufacturing operations shall be considered to be income earned from outside of Singapore. According to section 10(1) of ITA, gains from any trade, business arising in another country will be taxed in Singapore only if they are remitted to Singapore. However, such income could be further subject to exemption based on the provisions of section 13(8) of ITA.

The exemption provisions of section 13(8) shall apply subject to the conditions prescribed under section 13(9) of ITA and are as follows:
a) the said income is also subject to tax in other country (i.e., Country X in our case);
b) the headline tax in other country is not less than 15%; and
c) The Comptroller is satisfied that the tax exemption would be beneficial to the person resident in Singapore.

In this regard, we understand that condition (a) and (b) above shall be satisfied since Country X applies a 25% tax rate on income earned (higher than the 15% rate prescribed). Assuming that the Comptroller will be satisfied that tax exemption would be beneficial to Jubba, it can be held that any amount of income remitted to Singapore from Country X, shall not be subject to tax.

Under the provisions of DTA with Country X:

The business profits earned by Jubba in Country X shall be subject to tax in Country X based on the provisions of DTA between X and Singapore (in accordance with Article 7 - Business Profits). However, the same is subject to constitution of a Permanent Establishment in Country X.

Based on Article 5 of DTA, we understand that the manufacturing plant of Jubba in Country X could be considered as a PE and hence, the income earned in Country X shall be subject to tax in Country X. Assuming that the corporate tax rate is 25%, the income attributed to the PE shall be subject to 25% tax.

However, Jubba shall be entitled to tax credits in Singapore in accordance with the provisions of DTA or section 50A of ITA, subject to dual taxation of the subject income.

- Activity carried in Countries Y, P and Z:

As stated above, according to section 10(1) of ITA, gains from any trade, business arising in another country will be taxed in Singapore only if they are remitted to Singapore. However, such income could be further subject to exemption based on the provisions of section 13(8) of ITA.

In this regard, we understand that any gains arising from Country Y and Z shall be subject to exemption in Singapore, since Country Y and Z fulfills the conditions specified in Section 13(9) of ITA (i.e., income is subject to tax at 25% rate and assuming comptroller is satisfied that the tax exemption would be beneficial). Accordingly, any gains remitted to Singapore from Country Y or Z, shall not to be subject to tax in Singapore.

Tax implication under DTA with Country Y and Z:

As stated above, the operations carried out by Jubba in Country Y and Z may constitute a PE in these countries and accordingly, any business profits attributed to such PE shall be subject to tax in the respective countries. However, Jubba shall be entitled to tax credit benefit in accordance with the provisions of DTA or section 50A of ITA.

However, with regard to Country P, since Country P does not have any income tax, accordingly, Country P shall not be able fulfill the conditions prescribed in section 13(9) and hence, the income shall be taxed in Singapore. However, further exemption may be availed in terms of provisions of section 13(12) of ITA.

Where any income is taxed outside Singapore with a country with which Singapore does not have a DTA, Jubba shall be entitled to unilateral tax credit in accordance with the provisions of section 50A of ITA.

The taxability of amount remitted to Singapore from Country Y and Country P has already been discussed above (i.e., the exemption provisions of section 13(8) and 13(9) of ITA) and further, allowance of tax relief in Singapore.

---------DO-NOT-EDIT-THIS-DIVIDER----------

Answer-to-Question-_2_

We understand that Sloman PL (Sloman) will be considered to be a tax resident of Singapore, since the directors are based in Singapore (considering the limited information available here).

Further, Pink Ltd and Hiro PL shall be tax resident of Country X and Country Y, respectively, since the provisions are similar to Singapore tax laws.

Tax implications on the interest income received by Sloman:

The interest on the amount of money loaned to Hiro shall be subject to tax in Singapore, if the same is received in Singapore by Sloman (as per section 10(1) of ITA). There are no exemption provisions available with respect to the interest income.

Further, the said amount of interest shall be subject to taxation in Country Y and further, withholding tax in Country Y in accordance with the provisions of DTA between Y and Singapore. However, Sloman shall be entitled to tax relief in accordance with the DTA provisions or even otherwise in accordance with section 50A of ITA.

Tax implications on the dividend income received by Sloman:
the dividend income earned by Sloman shall be subject to tax in Singapore, if the same is received in Singapore by Sloman (as per section 10(1) of ITA). However, such income shall be further subject to exemption based on the provisions of section 13(8) of ITA.

The exemption provisions of section 13(8) shall apply subject to the conditions prescribed under section 13(9) of ITA and are as follows:
a) the dividend income is subject to tax in other country (i.e., Country Y in our case);
b) the headline tax in other country is not less than 15%; and
c) The Comptroller is satisfied that the tax exemption would be beneficial to the person resident in Singapore.

In this regard, we understand that condition (a) and (b) above

shall be satisfied since Country Y applies a 25% tax rate on any income earned in that country (higher than the 15% rate prescribed). However, the rate prescribed generally under the DTA is lower than the 25% rate prescribed here. Even otherwise, we understand that the condition (c) specified above shall not be satisfied since the Comptroller will not be satisfied that tax exemption would be beneficial to Sloman because Sloman is not the beneficial owner of such dividend income and such income may be repatriated to Pink Ltd.

Accordingly, the said dividend income could be subject to tax in Singapore. Further, the said amount of dividend income shall be subject to taxation in Country Y and further, withholding tax in Country Y shall apply in accordance with the provisions of DTA between Y and Singapore. However, Sloman shall be entitled to tax relief in accordance with the DTA provisions or even otherwise in accordance with section 50A of ITA.

Tax implications on service income received by Sloman:
Any professional or service income shall be subject to tax in Singapore in accordance with the provisions of section 10(1) of ITA. However, the exemption provisions under section 13(8)(c) and 13(9) mentioned above shall equally apply to such service/ professional income and in this regard, we understand that the conditions prescribed under section 13(9) could be satisfied in the instant case.

Further, the tax credit provisions (as discussed above) shall equally apply to the service income as well.

The rationale for setting up the current structure is reduction in the overall tax base of the group since Singapore enjoys a reduced tax rate of 17% and also provides for exemption provisions on various incomes. Further, Singapore adopts a 'one-

tier tax system' and any dividend income distributed by Sloman to Pink Ltd. shall not be subject to tax in Singapore.

Such structure carries a lot of risk in terms of denial of exemption provisions as provided in section 13(8)/ 13(9) of ITA. Further, the provisions of section 33 of ITA relating to avoidance measures may also kick-in since the Comptroller may see the entire arrangement as impermissible. The concept of beneficial owner of income as provided under the various DTAs shall also be relevant.

Further, with the introduction of multilateral instrument on account of the BEPS Action Plans as devised by OECD, it may be important to note the updated provisions of the tax treaties which provides for an updated Preamble and a Principle Purpose Test forming part of the tax treaties.

---------DO-NOT-EDIT-THIS-DIVIDER----------

Answer-to-Question-_3_

Determination of tax residency of Renee:
We understand that Renee is a tax resident in Country X.

However, since Renee has taken up a three employment contract in Singapore and will be staying in Singapore for the entire duration of 3 years (except for short visits to her family), Renee will also be considered as a tax resident of Singapore in terms of section 2(1) of ITA, which provides that the person shall be a tax resident if the period of stay in Singapore is more than 183 days in a calendar year.

In view of the above, Renee shall be a dual resident and the residency shall be determined basis the 'tie-breaker' tests as provided in the DTA between X and Singapore.

The relevant factors as prescribed in DTA for deciding the residency, in the order of priority are:
- permanent home;
- center of vital interests (i.e., presence of economic and personal relations);
- Habitual abode;
- Citizenship status; and
- Mutual agreement between tax authorities of both countries.

In the present case, Renee has a permanent place of stay in both countries. Further, Renee's center of vital interests are not only based in Singapore as she earns income from other countries as well, including X and further, her personal relations are also based in Country X. Accordingly, the same cannot be a factor to decide the residency and the same shall be decided basis habitual abode.

We understand that Renee shall be staying in Singapore for a period of 3 years, except for short visits to Country X. It could be said that the habitual abode of Renee is in Singapore and therefore, she could be considered as a tax resident of Singapore.

Based on the above, the tax implications of various activities shall be as follows:

(1) Employment income from Singapore:

- Should be taxed in Singapore under section 10(1)(b) of ITA, irrespective of whether employment is exercised in Singapore or Country X;

- Further, as per Article 15 of DTA, employment when exercised in Country X cannot be said to be taxable in Country X, since Renee has not been present in Country X for more than 183 days and further, the salary is paid by a resident of Singapore.

(2) Income from sale of shares (share trading):

- There are no capital gains taxes in Singapore and accordingly, it may be important to determine whether the said income from sale of shares is gains from trade or business and taxable under section 10(1) of ITA or not.

- In order to determine the above, there are six tests or 6 badges of trade which are as follows:
    a) the nature of transaction;
    b) the frequency of transaction;
    c) the holding period of the object;
    d) any subsequent value addition;
    e) the circumstances of the transaction; and
    f) motive of transaction.

- Under the present case, since sale of shares is done by Renee regularly (not a one-off transactions) and the motive is to earn income, it could be said that such income shall be profits or gains from trade or business and hence taxable in Singapore.

- Further, any overseas income from such sale shall only be taxed if same is remitted to Singapore and shall be further subject to exemption provisions under section 13(7A) of ITA.

(3) Income from dividend from shares:

- Dividend accruing in or derived from investments in Singapore shall not be subject to tax as Singapore has a one-tier tax system for Dividends

- Dividends from other countries shall be subject to tax in accordance with the provisions of relevant domestic tax laws/ DTA (wherever available) in the source country and shall be subject to tax in Singapore if such dividend is remitted to Singapore. however, based on exemption provisions under section 13(7A) of ITA, such income could be exempt where comptroller is satisfied that exemption would be beneficial for Renee.

(4) Income from interest from bank accounts in different countries:

- interest income accruing in or derived in Singapore shall not be subject to tax based on section 13(1)(zd)of ITA.

- Interest from Country X shall be subject to tax in Country X in accordance with DTA provisions

- Interest from Country P shall not be subject to tax in Country P in accordance with domestic tax laws of P

- Interest income from Country X and P shall be subject to tax in Singapore if such income is remitted to Singapore. However, based on exemption provisions under section 13(7A) of ITA, such income could be exempt where comptroller is satisfied that exemption would be beneficial for Renee.

(5) Income from trading and investment advice through a website:

- Such income represents income from trade or profession and shall be subject to tax in Singapore, if remitted to Singapore from overseas.

- We understand that such income shall not be taxed in Country P as country P does not have any Income-taxes and also does not

have a DTA with Singapore.

- With regard to income if remitted to Singapore, based on exemption provisions under section 13(7A) of ITA, such income could be exempt where comptroller is satisfied that exemption would be beneficial for Renee.

---------DO-NOT-EDIT-THIS-DIVIDER----------

Answer-to-Question-_5_

We understand that Boa Ltd. (Boa) is not a tax resident of Singapore under section 2(1) of ITA since its central management and control is outside Singapore and business activities are also outside Singapore.

Generally, the non-resident companies are subject to tax on any income accruing in or derived from Singapore or received in Singapore from outside Singapore. Further, the business profits are subject to tax if they are derived from a permanent establishment in Singapore and is subject to the same tax rates as applicable for non-residents.

The definition of Permanent Establishment under section 2(1) of ITA is closely worded to the definition provided in the OECD model convention as followed by Singapore. Accordingly there shall not be any difference in tax implications where Boa's residence country has a DTA with Singapore or not.

Tax implications under Scenario 1 (both from DTA or no DTA perspective):

- Under this scenario, we understand that Boa shall not

constitute a PE in Singapore, since there is no fixed place present in India and further, the employees visiting Singapore for short stays do not have the authority to conclude sales contract.

- Accordingly, income shall be taxed only if such income is sourced from Singapore under the ITA. Therefore, we understand that the business profits derived from Singapore shall get taxed in Singapore under ITA (where there is no DTA).

- However, where there is a DTA, the business profits shall not be taxed in Singapore at all in the absence of PE in Singapore (Article 7 read with Article 5).

Tax implications under Scenario 2 (both from DTA or no DTA perspective):

- Under this scenario, the warehouse in Singapore shall constitute a PE in Singapore both under ITA and DTA. Accordingly, the profits derived from such PE or attributed to such PE in Singapore, shall be taxed in Singapore as business profits at 17% both under ITA and DTA.

Tax implications under Scenario 3 (both from DTA or no DTA perspective):

- Similar to the above scenario, since the employees visiting Singapore have authority to conclude contracts on behalf of BOA, such employees may constitute an Agency PE in Singapore both under ITA and DTA. Accordingly, the profits derived from such PE or attributed to such PE in Singapore, shall be taxed in Singapore as business profits at 17% both under ITA and DTA.

---------DO-NOT-EDIT-THIS-DIVIDER----------

Answer-to-Question-_7_

In order to determine the Goods and Services Tax (GST) implications on each of the transactions, it is important to understand that place of taxation of such services and whether such services can qualify as 'international services' or not, in order to qualify for zero-rating relief.

1) Provision of services to Dodum in relation to business expansion in South East Asia:

- The said services may be categorised as international services in accordance with section 21(3)(j) of the GST Act since such services are supplied to a person outside India and for the benefit of the person outside India.

- Accordingly, the said services shall qualify for zero-rating relief and should not be subject to GST.

2) Provision of services to Dodum in relation to business expansion in South East Asia, however employee visited Singapore:

- Unlike the above scenario, the service recipient in the instant case was not outside Singapore and was present in the Singapore at the time of delivery of service. The fact that it was in relation to earlier service does not matter.

- The said services shall not qualify as international services under section 21(3)(j) of GST Act and should be subject to GST.

3) Provision of services to Dodum in relation to a property development project in Singapore.

- Similar to above, such services shall not qualify as

international services, since in the instant case the service recipient is present outside Singapore but the benefit of such service shall not be outside Singapore, since the immovable property is located in Singapore. Accordingly, the general rule of levy of GST shall be applicable in the instant case, i.e., GST to be levied where service provider is located (Section 13(4) of the GST Act).

- The said services should be subject to GST.

4) Provision of services to Poppin (Singapore) for overseas business expansion

- Similar to above in (3), such services shall not qualify as international services, since in the instant case the service recipient is present in Singapore. Accordingly, the nature of service does not matter and the general rule of levy of GST shall be applicable in the instant case, i.e., GST to be levied where service provider is located (Section 13(4) of the GST Act).

- The said services should be subject to GST.