KEMENTERIAN PERDAGANGAN ANTARABANGSA DAN INDUSTRI
MINISTRY OF INTERNATIONAL TRADE AND INDUSTRY
Menara Perdagangan Antarabangsa dan Industri,
No.7, Jalan Sultan Haji Ahmad Shah,
50480 Kuala Lumpur,
MALAYSIA

Tel : 603 8000 8000
Faks (Fax) : 603 6206 4693
Laman Web (Web) : www.miti.gov.my
E-mel (E-mail) : webmiti@miti.gov.my

MITI.S.600-2/20/2(2)
21 October 2021

The Director
Investigations 1
GPO Box 2013
Canberra ACT 2601
Australia

Sir,

SUBMISSION OF RESPONSES TO THE QUESTIONNAIRE BY THE GOVERNMENT OF MALAYSIA RELATING TO THE CONTINUATION INQUIRY ON ANTI-DUMPING AND COUNTERVAILING MEASURE IMPOSED ON EXPORTS OF ALUMINIUM EXTRUSIONS FROM MALAYSIA

Reference is made to the notice regarding the initiation of continuation inquiry on anti-dumping and countervailing measures on Aluminium Extrusions exported from Malaysia and the Socialist Republic of Vietnam by the Anti-Dumping Commission, Department of Industry, Science, Energy and Resources, Australia (the Commission) on 15 September 2021 which was published on the Commission's website through Anti-Dumping Publication Notice ADN2021/119.

2. I attach herewith the submission of responses by the Government of Malaysia (GOM) and the accompanying appendices for the Commission's further action. Should the Commission require more information, please contact Mr. Ahmad Afif Abdul Aziz (+603-6208 4637 or afif.aziz@miti.gov.my) and copy the email to alltps@miti.gov.my for clarification.

3. The GOM would also like to take the opportunity to raise some concerns about the on-going investigation as follows:

i. Unsubstantiated Adequate and Accurate Evidence

The GOM would like to refute claims that it provided export subsidies to Malaysian Aluminium Extrusions producers, that have caused material injury to the domestic industry in Australia.

The GOM would like to emphasise that pursuant to Article 10 of the WTO Agreements on Subsidies and Countervailing Measures (SCM Agreement), Members shall take all necessary steps to ensure that the imposition of countervailing duty on any product of the territory of any Member imported into the territory of another Member is in accordance with the provisions of Article VI of GATT 1994 and the terms of the SCM Agreement. Countervailing duties may only be imposed pursuant to investigation initiated and conducted in accordance with the provisions of the SCM Agreement.

In addition, Article 11.2 of SCM Agreement provides that:

"An application under paragraph 1 shall include **sufficient evidence** of the existence of (a) a subsidy and, if possible, its amount, (b) injury within the meaning of Article VI of GATT 1994 as interpreted by this Agreement, and (c) a causal link between the subsidised imports and the alleged injury. Simple assertion, unsubstantiated by relevant evidence, cannot be considered sufficient to meet the requirements of this paragraph..." [emphasis added]

Based on the Anti-dumping Notice 2021/037 published by the Commission, only Premium Aluminium, PMB Aluminium Sdn. Bhd. and all other Malaysian exporters were imposed with countervailing measure that is proportion to export price. The import volume from these three (3) sources **does not even represent the majority import volume from Malaysia**, hence the causal link to the injury suffered by the Domestic Industry in Australia cannot be attributed by the alleged export subsidisation by the GOM. Thus, this warrant for the countervailing measure imposed on Malaysian exporters needs to be revoked as stipulated by Article 21.2 of SCM Agreement as follows:

"...If, as a result of the review under this paragraph, the authorities determine that the **countervailing duty is no longer warranted, it shall be terminated immediately**."[emphasis added]

ii. Redundant Trade Remedy Measures

The GOM observed that there are trade remedy redundancies against Malaysia's exports as follows:

- the Australian domestic industry had filed and were granted anti-dumping measure for aluminium extrusions (mill finish) and aluminium (surface finish) **on top of the existing anti-dumping and countervailing measure** imposed on the same product from Malaysia; and

- it is alarming that the Commission has taken measures in favour of Capral Limited to the extent that double anti-dumping measures were imposed on the same product imported from Malaysia without clear clarification/demonstration on the causal relationship between the subsidised imports and the injury of the domestic industry.

Also, the **countervailing measure** on exports of **aluminium extrusions by exporters/producers in Malaysia should not be continued** as no clear causal link was established between the alleged export subsidies of aluminium extrusions and the injury.

4. In conclusion, as stipulated in Article 15.4 of the SCM Agreement that the Investigating Authority shall examine all relevant elements in determining that the subsidised imports have an adverse effect on the state of their domestic industry. In this regard, GOM urges the Commission to thoroughly and objectively assess the impact of the subsidised imports on the domestic industry and shall include all relevant economic factors and indices, and demonstrate that the alleged subsidised imports from Malaysia through the effects of subsidies are causing injury to the domestic

industry in Australia. It is GOM's hope that the Commission would ensure the continuation inquiry be conducted in a fair manner and in line with the WTO SCM Agreement and Anti-Dumping Agreement.

Thank you.

Yours sincerely,

(**NORAZAH ABDUL JABBAR**)
Director
Trade Practices Section
for Secretary General
Ministry of International Trade and Industry Malaysia
Copy:

The Australian High Commission
6, Jalan Yap Kwan Seng
Kampung Baru
50450 Kuala Lumpur

High Commmission of Malaysia
7 Perth Avenue Yarralumla ACT
2600 Canberra
Australia

Australian Government
Department of Industry, Innovation and Science

Anti-Dumping Commission

GOVERNMENT QUESTIONNAIRE - MALAYSIA

PRODUCT CONCERNED: **CERTAIN ALUMINIUM EXTRUSIONS**

PERIOD OF REVIEW: **1 JULY 2020 TO 30 JUNE 2021**

RESPONSE DUE BY: **22 OCTOBER 2021**

CASE MANAGER: Ben Merlin

PHONE: +61 3 8539 2408

Anti-Dumping Commission website: www.adcommission.gov.au

Return completed questionnaire to:

investigations1@adcommission.gov.au

OR mail to:

Anti-Dumping Commission
GPO Box 2013
Canberra ACT 2601
Australia

Attention: Director Investigations 1

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SECTION A: BACKGROUND AND GENERAL INSTRUCTIONS

1. Background

On 15 September 2021, the Commissioner of the Anti-Dumping Commission initiated an inquiry into whether the anti-dumping measures, in the form of a dumping duty notice and countervailing duty notice, applying to certain aluminium extrusions exported to Australia from Malaysia and the Socialist Republic of Vietnam (Vietnam) should be continued.

This inquiry follows an application by Capral Limited (Capral), a member of the Australian industry manufacturing like goods, that the dumping duty notice and countervailing duty notice should be continued for a further five years after 27 June 2022.

As the current measures include countervailable subsidies for aluminium extrusions produced in Malaysia, it is requested that the Government of Malaysia (GOM) also complete this questionnaire. Please note that this questionnaire is the same as you submitted for Review 509. Therefore, you may want to use that as the basis for your response to this questionnaire, and inform us of any changes for this inquiry period (1 July 2020 to 30 June 2021).

The anti-dumping measures were initially imposed by public notice on 28 June 2017 following publication of Report 362.

Anti-Dumping Notice (ADN) No. 2021/119 outlines the details of this inquiry. The procedures to be followed during the inquiry can be accessed on the Commission's website at www.adcommission.gov.au.

2. Product concerned

The goods under consideration (the goods) i.e. the goods exported to Australia, in receipt of subsidies, are:

"Aluminium extrusions that:

- *are produced by an extrusion process;*
- *are of alloys having metallic elements falling within the alloy designations published by The Aluminium Association commencing with 1, 2, 3, 5, 6 or 7 (or proprietary or other certifying body equivalents);*
- *have finishes being:*
  - *as extruded (mill);*
  - *mechanically worked*
  - *anodized; or*
  - *painted or otherwise coated, whether or not worked;*
- *have a wall thickness or diameter greater than 0.5 mm;*
- *have a maximum weight per metre of 27 kilograms; and*
- *have a profile or cross-section fitting within a circle having a diameter of 421 mm".*

The goods under consideration include aluminium extrusion products that have been further processed or fabricated to a limited extent, after aluminium has

been extruded through a die. For example, aluminium extrusion products that have been painted, anodised, or otherwise coated, or worked (e.g. precision cut, machined, punched or drilled) fall within the scope of the goods.

The goods under consideration do not extend to intermediate or finished products that are processed or fabricated to such an extent that they no longer possess the nature and physical characteristics of an aluminium extrusion, but have become a different product.

The following additional information assists in understanding the goods:

> Extrusion is the process of shaping heated material by forcing it through a shaped opening in a die with the material emerging as an elongated piece with the same profile as the die cavity. For greater clarity, the goods do not include goods made by the process of impact extrusion or cold extrusion.
>
> Alloys are metals composed of more than one metallic element. Alloys used in aluminium extrusions contain small amounts (usually less than five percent) of elements such as copper, manganese, silicon, magnesium, or zinc which enable characteristics such as corrosion resistance, increased strength or improved formability to be imparted to the major metallic element, aluminium.
>
> Aluminium alloys are produced to specifications in "International Alloy Designations and Chemical Composition Limits for Wrought Aluminum and Wrought Aluminum Alloys" published by The Aluminum Association. It includes all alloy designations - these specifications are known in the industry as "Teal Sheets"). These specifications have equivalent designations issued by other certifying bodies such as the International Standards Organization.

Effects of Alloying Elements

The properties and characteristics of aluminium, such as density, conductivity, corrosion resistance, finish, mechanical properties, and thermal expansion, are modified by the addition of alloying elements. The resulting effect depends upon the principal alloying elements used, as detailed in the table below.

Wrought Alloy Designation	**Major Alloying Elements and Typical Alloy Characteristics**
1xxx Series	Minimum 99% aluminium High corrosion resistance. Excellent finishability. Easily joined by all methods. Low strength. Poor machinability. Excellent workability. High electrical and thermal conductivity.
2xxx Series	Copper High strength. Relatively low corrosion resistance. Excellent machinability. Heat treatable.
3xxx Series	Manganese Low to medium strength. Good corrosion resistance. Poor machinability. Good workability.
4xxx Series	Silicon Not available as extruded products.
5xxx Series	Magnesium Low to moderate strength. Excellent marine corrosion resistance. Very good weldability.
6xxx Series	Magnesium & Silicon Most popular extrusion alloy class. Good extrudability. Good strength. Good corrosion resistance. Good machinability. Good weldability. Good formability. Heat treatable.
7xxx Series	Zinc Very high strength. Good machinability. Heat treatable.

Source: The Aluminum Association (US)

Profiles and shapes - All aluminium extrusions are produced as either hollow or solid profiles. Hollow profile extrusions generally cost more to produce and obtain higher prices than solid profile extrusions. Extrusions are often produced in standard shapes such as bars, rods, pipes and tubes, angles, channels and tees but they are also produced in customised profiles.

Finishes - In addition to 'as extruded' or mill finish, extrusions can be finished mechanically by polishing, buffing or tumbling. Extrusions can have anodized finishes applied by means of an electro-chemical process that forms a durable, porous oxide film on the surface of the aluminium. Also, they can be finished by painting with liquid or powder coatings utilising an electrostatic application process.

For the purposes of this application, aluminium extrusions are further classified into four "finish" types:

- Mill Finish - Plain metal finish, uncoated (i.e. "as extruded from the die");
- Anodised - Surface converted to aluminium oxide (by electrolysis) and may be coloured by electrolytic or chemical dye means;
- Powder Coated - Charged powder particles are sprayed and adhere to electrically grounded surfaces, heated and fused into a smooth coating in a curing oven; and
- Painted or Other Finish - Painted or finished in other surface applications.

Size range - The ability to produce the full range of profiles is determined by the extrusion and ancillary equipment.

"Working" extrusions includes any operation performed other than mechanical, anodized, painted or other finishing, prior to utilisation of the extrusion in a finished product.

Standards - Aluminium extrusions are manufactured to a variety of Australian and International standards. Products exported to Australia are often claimed to comply with one or more of the following standards:

- ASTMB221M-88 (USA);
- BS1474.1987 (UK); and
- GB/5237.1-2000 (China).

The most common Australian / New Zealand standard is AS/NZ 1866:1997, which specifies requirements for aluminium and aluminium alloy extruded rod, bar, solid and hollow products for general engineering purposes.

The table below provides examples of the coverage of the goods and like goods (and intended end-use applications) and will be used for this investigation. Examples of the goods and like goods are outlined in columns 1-4 and non-subject goods are outlined in columns 5 to 7.

< GUC >				< Non GUC >		
1	2	3	4	5	6	7
Aluminium extrusions	Aluminium extrusions with minor working	Aluminium extrusions that are parts intended for use in intermediate or finished products	Aluminium extrusions that are themselves finished products	Unassembled products containing aluminium extrusions, e.g. 'kits' that at time of import comprise all necessary parts to assemble finished goods	Intermediate or partly assembled products containing aluminium extrusions	Fully assembled finished products containing aluminium extrusions
< Examples >						
Mill finish, painted, powder coated, anodised, or otherwise coated aluminium extrusions	Precision cut, machined, punched or drilled aluminium extrusions	Aluminium extrusions designed for use in a door or window	Carpet liner, fence posts, heat sinks	Shower frame kits, window kits, unassembled unitised curtain walls	Unglazed window or door frames	Windows, doors

The goods are normally classified to the following tariff subheadings of Schedule 3 to the *Customs Tariff Act 1995:*

Tariff classification (*Schedule 3 of the Customs Tariff Act 1995*)			
Tariff code	*Statistical code*	*Unit*	*Description*
7604.10.00	06	Kg	Non alloyed aluminium bars, rods and profiles
7604.21.00	07	Kg	Aluminium alloy hollow angles and other shapes
7604.21.00	08	Kg	Aluminium allow hollow profiles
7604.29.00	09	Kg	Aluminium alloy non hollow angles and other shapes
7604.29.00	10	Kg	Aluminium alloy non hollow profiles
7608.10.00	09	Kg	Non alloyed aluminium tubes and pipes
7608.20.00	10	Kg	Aluminium alloy tubes and pipes
7610.10.00	12	Kg	Doors, windows and their frames and thresholds for doors
7610.90.00	13	Kg	Other

3. Inquiry period

The existence and amount of any subsidisation in relation to aluminium extrusions exported to Australia from Malaysia by EverPress will be determined on the basis of an inquiry period of 1 July 2020 to 30 June 2021 (the period).

4. Purpose of this questionnaire

The purpose of this questionnaire is to assist the Commission to obtain information from the Government of Malaysia (GOM) it considers necessary for the inquiry into countervailable subsidies received by Malaysian aluminium extrusion exporters.

Please note that the subsidy/countervailing sections of this questionnaire focus on the 6 programmes identified in the original investigation, refer REP362. The Commission may also review any additional subsidy programme(s) if additional information becomes available.

Any additional questions will be posed to the GOM using supplementary questionnaires.

A separate questionnaire has been sent to identified Malaysian exporters of aluminium extrusions. The exporter questionnaire also requests information on subsidies.

5. Response to this questionnaire

The GOM may elect not to respond to and complete the questionnaire.

However, if the GOM does not respond the Commission may be required to rely on information supplied by other parties (possibly information supplied by the Australian industry).

Therefore, it may be in the GOM's interests, and the interest of Malaysian exporters of aluminium extrusions, to provide a complete response.

If the GOM elects to respond to this questionnaire, the response is due by **22 October 2020.**

6. If you decide to respond

Should the GOM elect to provide a response to this questionnaire, please note the following.

Confidential and non-confidential versions

If the GOM elects to respond to this questionnaire, you are required to lodge a confidential and a non-confidential version of your submission by the due date.

In submitting these versions, please ensure that each page of the information you provide is clearly marked either "**IN-CONFIDENCE**" or "**NON-CONFIDENTIAL**" in the header and footer.

All information provided to the Commission in confidence will be treated accordingly. The non-confidential version of your submission will be placed on the Public Record, which all interested parties can access.

Your non-confidential submission must contain sufficient detail to allow a reasonable understanding of the substance of the confidential version. If, for some reason, you cannot produce a non-confidential summary, contact the case manager (see contact details on Page 1 of this questionnaire).

Declaration

You are required to make a declaration that the information contained in the GOM's response is complete and correct. You must return the signed declaration of an authorised GOM official at Section D of this questionnaire with the GOM's response.

Coordination of responses

In completing the questionnaire, if a question requires information from other authorities (e.g. provincial or local Governments, state owned entities, etc.) please forward the questions to the correct source.

However, it is the responsibility of the GOM to ensure that a full and complete response to all sections of the questionnaire is submitted, and that responses from all levels of Government, agencies and/or other applicable entities are collated and coordinated in the one response.

Consultants/parties acting on your behalf

If you intend to have another party acting on your behalf please advise the Commission of the relevant details.

The Commission will generally require a written authorisation from the GOM for any party acting on its behalf.

Provision of documents

Numerous documents are requested from the GOM throughout this questionnaire. In many cases, the titles or description of these documents within the questionnaire may not correlate to the official title that the GOM has granted each document, but is rather a descriptor of the document to the best of the Commission's knowledge.

If the listed title is unknown to the GOM but a document that appears to be similar to the requested document, relates to a similar topic area, or otherwise would be considered to contain useful information is identified by the GOM, please provide this document.

Further, when providing requested documents, please indicate whether the documents:

- are current/in force;
- were current/in force during the inquiry period; or
- have been repealed, revised or superseded.

Where the documents have been repealed, revised or superseded, where applicable:

- indicate when this revision occurred;
- provide any notice of repeal;
- provide the revised version;
- provide the document that supersedes the requested document; and
- indicate whether the revised version was in force during the inquiry period.

Lodgement

You may lodge your response by mailing it to the address for lodgement shown on the front cover of this questionnaire.

Alternatively, you are welcome to lodge your response by email. The email address for lodgement is shown on the front cover of this questionnaire. If you lodge by email you are still required to provide a confidential and a non-confidential version of your submission by the due date.

In completing any lists of names and addresses requested throughout this questionnaire, electronic responses in a Microsoft Excel spreadsheet would be preferred. If lodging your response in hard copy, please include these lists in electronic format.

General matters

Responses to questions should:

- be as accurate and complete as possible, and attach all relevant supporting documents,[1] even where not specifically requested in this questionnaire;
- be in English (with fully translated versions of all requested and other applicable documents submitted);
- list your source(s) of information for each question;
- identify all units of measurement used in any tables, lists and calculations;
- show any amounts in the currency in which they were originally denominated.

Please note that references throughout this questionnaire to companies benefiting from a particular programme should be read as including any parent

[1] This includes, but is not limited to, any laws, decrees, regulations, statements of policy, or other administrative guidelines. In each case, include any legislative history as well as other descriptive materials and explanations of the criteria underlying the decisions relating to each of the programmes mentioned in this questionnaire. If applicable, a sample of each of the applications that a company must complete to participate in each of the programs should also be included.

and associated companies, and, if the company has been subject to merger or acquisition, any former associated companies or former parent companies.

Please note that answers such as "Not Applicable", or an answer that only refers to an exhibit or an attachment without any explanation, may be considered to be inadequate by the Commission. We therefore suggest that in answering the questions you outline the key elements of your response in the primary submission document, and not merely refer to supporting documents the relevance and reliability of which has not been explained in your answer.

7. Clarification

If you have any difficulties in completing the questionnaire, or require clarification on any questions asked, contact the case manager as soon as possible (contact details are provided on Page 1 of this questionnaire).

8. Future questions and verification

The Commission may decide to verify the information provided. You will be contacted in advance of such a meeting in order to make arrangements.

A complete response, including all of the documentation requested, must be submitted to the Commission before a verification meeting will be considered.

If a verification is undertaken the key Government officials involved in preparing the response, and those who have knowledge of the source documentation and the information contained therein, should be available to meet with Commission officers and to provide additional clarification and explanation, as required.

If verification meetings are unreasonably delayed, cancelled, or otherwise hindered by the GOM, the assessment of a particular market situation and the assessment as to the amount of countervailable subsidy may be based on the facts available to the Commission.

The purpose of the verification meeting will be to verify the information provided in your questionnaire response. It is not intended to be a second opportunity for the GOM to provide new or additional information. Accordingly, it is important that your response be as complete and accurate as possible.

SECTION B: GENERAL QUESTIONS

B1 Identify the administration co-ordinating the response to this questionnaire and provide the names and contact details of the official(s) (including email addresses). Please note that the Commission may have further inquiries concerning the questionnaire response and a contact must be available to respond to any further information requests.

MS. NORAZAH ABDUL JABBAR
DIRECTOR
TRADE PRACTICES SECTION
MINISTRY OF INTERNATIONAL TRADE AND INDUSTRY
LEVEL 9, MITI TOWER
NO 7 JALAN SULTAN HAJI AHMAD SHAH
50480 KUALA LUMPUR
Email : alltps@miti.gov.my
Phone: +603-6208 4632
Fax : +603-6211 4429

B2 Describe the nature and structure of the aluminium extrusions industry and market sector in Malaysia. Also describe the nature and structure of the aluminium industry and market sector in Malaysia.

Without limiting your response, include information concerning the size and output (value and quantity) of these industries, the extent of vertical integration in the industries, the extent of the reliance on imported aluminium, and Government involvement at each level of the industry, the extent of any restrictions, quotas or limits for the production volumes in these industries.

[redacted]

In Malaysia, the aluminium extrusion products such as profiles, frames, panels and etc. are mainly used for construction and general industrial applications.

B3 Are any of the companies listed in **Appendix A** located in an area or economic zone which entitles them to preferential tax or other preferential policies provided by the GOM[2] including those provided by regional, provincial or municipal authorities?

If so identify which particular zone or area the company under investigation is located in.

None of the companies listed in Appendix A are located in an area or economic zone.

---

[2] Refer to this questionnaire's Glossary of Terms for a definition of the GOM.

B4 Provide a list of all manufacturers/producers of aluminium[3] in Malaysia that produced aluminium during the inquiry period. If possible, please provide this listing in Microsoft Excel format. Please see the GOM Questionnaire spreadsheet provided with this questionnaire.

This listing will be referred to as '<u>your response to Question B4</u>' throughout this questionnaire.

Please refer to Attachment B-2.

Within this list, indicate the following:

- the business' address (including the city/town and province);
- the function and type of business;
- the ownership structure of the business, including indirect ownership through associated companies (i.e. State Invested Enterprises (SIE)[4], private, co-operative, Foreign Invested Enterprise (FIE)[5] or joint venture);
- if the business is not an SIE, whether it is otherwise associated with the GOM;
- whether the business is a manufacturer of aluminium extrusions and whether it produces ingot, billet, or both;
- total production quantity of aluminium extrusions by the business during the inquiry period;
- Is the GOM a shareholder in the business? If so, the percentage of GOM holdings;
- If there is GOV representation in the business; and
- The value of total benefit received annually.

For all companies that are SIEs, indicate the percentage ownership held by the GOM during the inquiry period.

For all companies that are otherwise associated with the GOM, explain this association as it was during the inquiry period.

B5 It is the Commission's understanding that within Malaysia there are various zones, areas, or other regions that encourage the operations of industries/enterprises located within that region and/or entitle/facilitate entities to access differential treatment (this may include preferential tax programmes or other preferential policies).

Provide:

- a listing of the names of all such zones, areas, or other regions in Malaysia;

---

[3]Tthroughout this questionnaire, aluminium has been used to refer to including primary aluminium, electrolytic aluminium, secondary aluminium, scrap aluminium, and aluminium cast into billets of aluminium alloy or alone.

[4] Refer to this questionnaire's Glossary of Terms for a definition of the SIE

[5] Refer to this questionnaire's Glossary of Terms for a definition of the FIE

- an explanation of each such type of zone, area or other region in Malaysia; and
- a listing and explanation of what location in each zone makes businesses eligible for (including any GOM assistance or differential treatment).

Not applicable.

B6 Are any of the entities listed in **Appendix A** located in an area, zone or other region listed in your response to B5 above? If so identify which entities and which particular zone or area the entity is located in.

None of the companies listed in Appendix A are located in an area or economic zone.

B7 Provide the names and addresses of all national, provincial and regional producer organisations that represent the interests of aluminium extrusions and aluminium manufacturers and traders in Malaysia.

Federation of Malaysian Manufacturer
Aluminium Manufacturers Group Malaysia (FMM-AMGM)
Wisma FMM, No 3 Persiaran Dagang, PJU 9
Bandar Sri Damansara, 52200 Kuala Lumpur.
Tel: +603-62867200
Fax: +603-62741266/7288
E-mail: webmaster@fmm.org.my

B8 Specify and provide supporting documentation for the standard corporate tax rate during the inquiry period for:

(a) companies that manufacture aluminium extrusions;
(b) companies that trade in aluminium extrusions;
(c) companies that manufacture aluminium;
(d) companies that trade in aluminium.

Corporate tax rate for all companies resident in Malaysia during the period of review (POR) is 24% (Subparagraph 2(a) of Schedule 1, Income Tax Act 1967 (ITA)) (Attachment B-3).

B9 Specify and provide supporting documentation for the corporate tax rates applicable in all provincial or local jurisdictions in Malaysia for those types of companies listed in (a) to (d) of Question B8 above.

Corporate tax rate for all companies resident in Malaysia during the POI is 24% (Subparagraph 2(a) of Schedule 1, Income Tax Act 1967 (ITA)) (Attachment B-3).

SECTION C: SUBSIDIES

INVESTIGATED PROGRAMMES

The following are programmes that the Commission is currently reviewing:

Programme Number	Programme Name	Programme Type
1	Income Tax Reductions	Tax
2	Investment Tax Allowance	Tax
3	Double Deduction for Export Credit Insurance	Tax
4	Double Deduction for Freight Charges Relating to Goods Originating From Sabah and Sarawak	Tax
5	Double Deduction for Insurance Premiums Paid By Exporters and Importers	Tax
6	Reinvestment Allowance	Tax

Note: the above titles of programmes are to the best of the Commission's knowledge and in some cases may simply be descriptions of the programme. Consequently, the above titles may not exactly reflect any official titles that the GOM has in place.

ANY OTHER PROGRAMME NOT PREVIOUSLY ADDRESSED

If the GOM, any of its agencies, or any other authorised non-Governmental body, provides any other assistance programmes not previously addressed (including market development assistance programmes or any domestic support programmes related to the manufacture of subject goods) to manufacturers of aluminium extrusions in Malaysia, identify these programmes.

Such assistance programmes are those that constitute a subsidy as defined in the Glossary of Terms.

Please provide the information requested in the following Section C-1 for each programme identified above and any additional programmes you have identified. In addition, please respond to the programme-specific information requested.

PROGRAMME 1:
INCOME TAX REDUCTIONS ("PIONEER STATUS")

C1.1 Provide details of the programme including the following.

a) Title of the programme;

Exemptions of Income.

b) Policy objective and/or purpose of the programme;

To encourage high impact, high value-added, and strategic investments that can contribute to the future growth and development of the economy.

c) Legislation under which the subsidy is granted;

Refer to Income Tax (Exemption) Order (No.11) 2006 [P.U.(A) 112/2006] (Attachment C-1).

d) Nature or form of the subsidy;

The assistance is an exemption of statutory income.

e) When the programme was established;

In 2006.

f) Duration of the programme;

This is an on-going programme.

g) How the programme is administered and how it operates;

Companies are required to submit the applications for the programme to Malaysian Investment Development Authority (MIDA), an agency under Ministry of International Trade and Industry (MITI) before commencing operation/production. This is to ensure that the company has complied with the conditions imposed. After MIDA is satisfied that the company has complied with the conditions, MIDA will determine the production date for the company and determine the start and end date of the programme. Subsequently, companies that were approved with the programme will submit their claims to the Inland Revenue Board (IRB) together with their annual tax returns containing the calculation of claim for the tax exemptions.

Refer to Attachment C-2 for the application form.

h) To whom and how the programme is provided; and

This programme may be granted to any company intending to participate in high impact, high value-added, and strategic investments that can contribute to the future growth and development of the economy.

i) The eligibility criteria in order to receive benefits under the programme.

i. **Value added;**
ii. **Level of technology measured based on number of Managerial, Technical and Supervisory (MTS) Index in the company;**
iii. **Proposed product/activity should be listed in the Promoted Products/ Activities; and**
iv. **Compliance with a specific amount of fixed asset investment (excluding land cost) by specific time period.**

C1.2 Provide translated copies in English of the decrees, laws and regulations relating to the programme and any reports pertaining to the programme published during or since the investigation period. Specify the sections that govern the programme.

Refer to Income Tax (Exemption) Order (No.11) 2006 [P.U.(A) 112/2006] (Attachment C-1).

C1.3 Provide copies together with translations in English of all legislative, regulatory, administrative and public documents relating to this programme.

Refer to Income Tax (Exemption) Order (No.11) 2006 [P.U.(A) 112/2006] (Attachment C-1).

C1.4 Identify the GOM department or agency administering the programme.

Granting Authorities:

1) Secretary General of Treasury
Ministry of Finance Complex,
Precint 2, 62592 Putrajaya, Malaysia

2) Secretary General
Ministry of International Trade and Industry
MITI Tower No.7, Jalan Sultan Haji Ahmad Shah
50480 Kuala Lumpur, Malaysia
Administrative Authorities:

1) Chief Executive Officer
Malaysian Investment Development Authority (MIDA)

Level 30, MIDA Sentral
No. 5, Jalan Stesen Sentral 5
Kuala Lumpur Sentral
50470 Kuala Lumpur, Malaysia

2) Chief Executive Officer
Inland Revenue Board Malaysia
Menara Hasil, Level 17
Persiaran Rimba Permai, Cyber 8
63000 Cyberjaya, Selangor, Malaysia

C1.5 Identify and explain the types of records maintained by the relevant Government or agency (e.g., accounting records, company-specific files, databases, budget authorisations, etc.) regarding the programme.

The IRB maintains a database of approved companies (based on companies' declaration) and softcopies of companies' return form as submission via e-filing is compulsory for all companies starting from Year of Assessment 2014.

C1.6 Indicate which of the companies listed in **Appendix A** or your response to Question B4 applied for, accrued, or received benefits under the programme during the investigation period.

[redacted]

C1.7 Answer the following questions regarding the application process:

a) Describe the application process (including any application fees charged by the Government agency or authority) for the programme and provide a blank copy of the application form (translated, if necessary).

Companies are required to submit the application for the programme to MIDA, an agency under MITI as explained in C1.1(g). To refer Attachment C-2 for the application form.

b) After an application is submitted, describe the procedures by which an application is analysed and eventually approved or refused.

MIDA will evaluate the application based on information submitted by the company and will ask for additional information if needed. Upon completion of the evaluation, the recommendation for approval or rejection will be deliberated in an approval committee for final decision.

c) If the application is approved, provide the approval documents together with any conditions or criteria subject to which the approval is made.

Refer to Attachment C-3 (Example of Approval letter)

d) If the application is refused, provide the refusal documents together with the reasons for refusal.

Refer to Attachment C-4 (Example of Rejection letter)

C1.8 Answer the following questions regarding eligibility for and actual use of the benefits provided under this programme.

a) Is eligibility for, or actual use of this programme contingent, whether solely or as one of several other conditions, upon export performance? If so, please describe.

No, the eligibility is not based upon export performance.

b) Is eligibility for this programme contingent, whether solely or as one of several other conditions, upon the use of domestic over imported goods? If so, please describe.

No, the eligibility is not based upon the use of domestic over imported goods.

c) Is eligibility for the subsidy limited to enterprises or industries located within designated regions? If so, specify the enterprises or industries and the designated regions.

No, the eligibility is not limited to enterprises or industries or group of enterprises or group of industries located within designated regions.

d) Is eligibility limited, by law, to any enterprise or group of enterprises, or to any industry or group of industries? If so, describe and specify the eligible enterprises or industries.

No. Refer to answer in C1.1(h) and the programme is applicable to all enterprises or industries.

C1.9 Respond to the following questions regarding the criteria governing the eligibility for and receipt of any benefit under this programme.

a) Describe the criteria governing the size of the benefit provided.

To refer answer in C1.1.

b) Provide a copy of any law, regulation or other official document detailing these criteria.

Refer to Income Tax (Exemption) Order (No.11) 2006 [P.U.(A) 112/2006] (Attachment C-1).

c) If the eligibility criteria as listed in the applicable law, regulation or other official documents are met, will the applicant always receive

a benefit or is final approval contingent upon the Government agency or authority that administers the programme?

Refer to answer in C1.1(g) and C1.7. The application will be evaluated and recommended for approval or rejection, and subsequently need to be deliberated at the approval committee for final decision. Reasons for rejection can vary from applicants who are not able to meet criteria stated above and some other relevant criteria determined by the Government.

d) Is the amount of the benefit provided exclusively determined by established criteria found in the law, regulation or other official document or does the Government agency or authority that administers the programme determine the benefit amount?

Amount of the benefit is determined by the established law.

e) Provide any contractual agreements between the GOM and the companies that are receiving the benefits under the programme (e.g. loan contracts, grant contracts, etc.).

No contractual agreements between the GOM and the companies receiving benefits under this programme.

C1.10 Provide a list by industry and by region of the companies that have received benefits under this programme in the year the provision of benefits was approved and in each of the years 2017, 2018, 2019, 2020 and the first half of 2021.

[redacted]

C1.11 How many applicants have received financial assistance/benefit and how many applicants have been rejected in the year the financial assistance/benefit was approved and in each of the years 2017, 2018, 2019, 2020 and the first half of 2021? Provide the main reasons why applicants have been rejected.

[redacted]

C1.12 Describe any anticipated changes in the programme. Provide documentation substantiating your answer. If the programme has been terminated, state the last date that a company could apply for or claim benefits under the programme. When is the last date that a company could receive benefits under the programme?

Changes will be made to the programme as Malaysia is committed to adopt the Forum on Harmful Tax Practices programme under the OECD (Attachment C-5).

C1.13 If assistance under the programme was provided by an entity other than a national, state or local Government entity, please respond to the following questions:

None. This programme is only provided by the GOM's department or agency as outlined in C1.4 (Granting and Administrative Authorities).

a) What is the legal status of the entity e.g. is it a separately incorporated entity and/or a Government corporation, Government lending institution, commercial entity?

b) Please explain how the entity was established and whether the entity operates pursuant to statutes, decrees and/or regulations. Please explain the relevant statute, decrees and regulations under which the entity was established and operates;

c) What is the legal basis that governs the entity's provision of assistance under the programme? Please provide translated copies of the relevant legal measures.

d) Has the entity received any direct or indirect funding or support from a Government entity? Please specify if the Government provided any such direct or indirect funding for the purpose of providing assistance under this programme.

e) Did the entity provide assistance under the programme pursuant to specific guidelines and/or criteria under this programme? Please describe those guidelines and/or criteria.

f) Please provide the ownership structure of each such entity and specify the amount of any direct or indirect Government ownership during the investigation period (and for each year in which the assistance was provided).

g) Please provide the translated annual report during the investigation period (and for each year in which the assistance was provided) for each such entity.

h) What are the core activities and functions of each entity that provided the assistance under the programme?

i) Explain why the assistance under this programme was provided by this entity rather than directly by the Government.

C2 PREFERENTIAL TAX POLICIES (PROGRAMME 1: INCOME TAX REDUCTIONS "PIONEER STATUS")

In addition to the general questions at C1 above, please answer the following specific questions in relation to any tax programmes.

If any of the companies listed in **Appendix A** or your response to Question B4 used any programme to take deductions from taxable income, to receive credit towards taxes payable, to take exemptions from taxes owed, to reduce the tax rate, to defer payment of taxes, to carry forward losses from previous tax years, to use accelerated depreciation, or to benefit from other tax advantages on the tax return filed during the investigation period, please respond to the following questions.

C2.1 Explain whether the assistance is a deduction from taxable income, a credit towards taxes payable, an exemption from taxes owed, a reduction in the tax rate, a deferral of taxes, a loss carry-forward from previous tax years, accelerated depreciation, or other tax benefit.

The assistance is an exemption of statutory income.

C2.2 How do companies using this programme calculate the tax benefit they claim? Please be specific and provide a sample calculation using a blank tax form.

[redacted]

C2.3 If the company carried forward a loss from prior years and used that loss to offset taxes due on the tax return filed during the investigation period, demonstrate that this loss was not generated by use of any countervailable tax programme.

The assistance is an exemption of statutory income. Therefore, if the company experiences losses during the exemption period, no exemption is given and the losses will be carried forward until it is fully utilized from the statutory income. Any unutilised losses after the exemption period can be carried forward up to a maximum 7 years of assessment.

C2.4 If the programme involves a deferral of taxes owed, please provide the amount and length of the deferral, and the details of any interest charged on the deferral.

Not applicable for this programme.

C2.5 If the tax assistance results in negative income for tax purposes, for example through accelerated depreciation, is the company able to carry forward this loss?

Not applicable for this programme.

C2.6 For a programme that provides a reduction in the tax rate or an exemption from taxes payable, please report the tax rate that was paid under the programme and the tax rate that would have applied in absence of the programme.

Not applicable for this programme.

PROGRAMME 2: INVESTMENT TAX ALLOWANCE (ITA)

C1.1 Provide details of the programme including the following.

a) Title of the programme;

Exemption of Income Equivalent to Capital Expenditure Incurred.

b) Policy objective and/or purpose of the programme;

To encourage high impact, high value-added, and strategic investments that can contribute to the future growth and development of the economy.

c) Legislation under which the subsidy is granted;

Refer to Income Tax (Exemption) Order (No.12) 2006 [P.U.(A) 113/2006] (Attachment C-1).

d) Nature or form of the subsidy;

The exemption of income equivalent to capital expenditure incurred is an allowance deducted from statutory income.

e) When the programme was established;

2006.

f) Duration of the programme;

This is an on-going programme.

g) How the programme is administered and how it operates;

Companies are required to submit the applications for the programme namely, the exemption of income equivalent to capital expenditure incurred to MIDA, an agency under MITI. The company is then required to establish the commencement of ITA period which is on the incurrence of the first capital expenditure duly certified by MIDA. Subsequently, companies that were approved with the programme will submit their claims to the IRB together with their annual tax returns containing the calculation of claim for the tax allowance.
Refer to Attachment C-2 for the application form. Application form can also be accessed at https://investmalaysia.mida.gov.my.

h) To whom and how the programme is provided; and

This programme may be granted to any company intending to participate in high impact, high value-added, and strategic investments that can contribute to the future growth and development of the economy. The allowance is only given on capital expenditure incurred on industrial buildings, plant and machinery directly used.

i) The eligibility criteria in order to receive benefits under the programme.

i. Value added;
ii. Level of technology measured based on number of Managerial, Technical and Supervisory (MTS) Index in the company;
iii. Proposed product/activity should be listed in the Promoted Products/ Activities; and
iv. Compliance with a specific amount of fixed asset investment (excluding land cost) by specific time period.

C1.2 Provide translated copies in English of the decrees, laws and regulations relating to the programme and any reports pertaining to the programme published during or since the investigation period. Specify the sections that govern the programme.

Refer to Income Tax (Exemption) Order (No.12) 2006 [P.U.(A) 113/2006] (Attachment C-1).

C1.3 Provide copies together with translations in English of all legislative, regulatory, administrative and public documents relating to this programme.

Refer to Income Tax (Exemption) Order (No.12) 2006 [P.U.(A) 113/2006] (Attachment C-1).

C1.4 Identify the GOM department or agency administering the programme.

Granting Authorities:

1) Secretary General of Treasury
Ministry of Finance Complex,
Precint 2, 62592 Putrajaya, Malaysia

2) Secretary General
Ministry of International and Trade Industry
MITI Tower No.7, Jalan Sultan Haji Ahmad Shah
50480 Kuala Lumpur, Malaysia

Administrative Authorities:

1) Chief Executive Officer
Malaysian Investment Development Authority (MIDA)
Level 30, MIDA Sentral
No. 5, Jalan Stesen Sentral 5
Kuala Lumpur Sentral
50470 Kuala Lumpur, Malaysia

2) Chief Executive Officer
Inland Revenue Board Malaysia
Menara Hasil, Level 17
Persiaran Rimba Permai, Cyber 8
63000 Cyberjaya, Selangor, Malaysia

C1.5 Identify and explain the types of records maintained by the relevant Government or agency (e.g., accounting records, company-specific files, databases, budget authorisations, etc.) regarding the programme.

The IRB maintains a database of approved companies (based on companies' declaration) and softcopies of companies' return form as submission via e-filing is compulsory for all companies starting from Year of Assessment 2014.

C1.6 Indicate which of the companies listed in **Appendix A** or your response to Question B4 applied for, accrued, or received benefits under the programme during the investigation period.

[redacted]

C1.7 Answer the following questions regarding the application process:

a) Describe the application process (including any application fees charged by the Government agency or authority) for the programme and provide a blank copy of the application form (translated, if necessary).

Companies are required to submit the applications for the programme to MIDA, an agency under MITI. The company is then required to establish the commencement period which is on the incurrence of the first capital expenditure duly certified by MIDA. Subsequently, companies that were approved with the programme will submit their claims to the IRB together with their annual tax returns containing the calculation of claim for the tax allowance.
Refer to Attachment C-2 for the application form.

b) After an application is submitted, describe the procedures by which an application is analysed and eventually approved or refused.

MIDA will evaluate the application based on information submitted by the company and will ask for additional information if needed. Upon completion of the evaluation, the recommendation for approval or rejection will be deliberated at the approval committee for final decision.

c) If the application is approved, provide the approval documents together with any conditions or criteria subject to which the approval is made.

Refer to Attachment C-3 (Example of Approval letter).

d) If the application is refused, provide the refusal documents together with the reasons for refusal.

Refer to Attachment C-4 (Example of Rejection letter).

C1.8 Answer the following questions regarding eligibility for and actual use of the benefits provided under this programme.

a) Is eligibility for, or actual use of this programme contingent, whether solely or as one of several other conditions, upon export performance? If so, please describe.

No, the eligibility is not based upon export performance.

b) Is eligibility for this programme contingent, whether solely or as one of several other conditions, upon the use of domestic over imported goods? If so, please describe.

No, the eligibility is not based upon the use of domestic over imported goods.

c) Is eligibility for the subsidy limited to enterprises or industries located within designated regions? If so, specify the enterprises or industries and the designated regions.

No, the eligibility is not limited to enterprise or industries or group of enterprises or group of industries located within designated regions.

d) Is eligibility limited, by law, to any enterprise or group of enterprises, or to any industry or group of industries? If so, describe and specify the eligible enterprises or industries.

No. Refer to answer in C1.1(h) and the programme is applicable to all industries.

C1.9 Respond to the following questions regarding the criteria governing the eligibility for and receipt of any benefit under this programme.

a) Describe the criteria governing the size of the benefit provided.

Refer to item C1.1.

b) Provide a copy of any law, regulation or other official document detailing these criteria.

Refer to Income Tax (Exemption) Order (No.12) 2006 [P.U.(A) 113/2006] (Attachment C-1).

c) If the eligibility criteria as listed in the applicable law, regulation or other official documents are met, will the applicant always receive a benefit or is final approval contingent upon the Government agency or authority that administers the programme?

Refer to answer in C1.1(g) and C1.7. The application will be evaluated and recommended for approval or rejection, and subsequently it still need to be deliberated at the approval committee for final decision. Reasons for rejection can vary from applicants who are not able to meet the criteria stated above and some other criteria set by the Government.

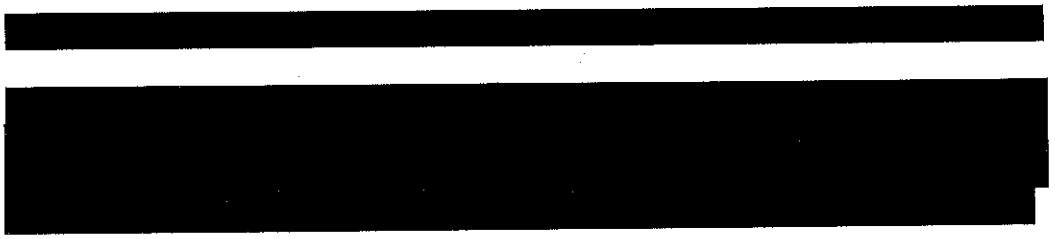
d) Is the amount of the benefit provided exclusively determined by established criteria found in the law, regulation or other official document or does the Government agency or authority that administers the programme determine the benefit amount?

Amount of the benefit is determined by the established law.

e) Provide any contractual agreements between the GOM and the companies that are receiving the benefits under the programme (e.g., loan contracts, grant contracts, etc.).

No contractual agreements between the GOM and the companies.

C1.10 Provide a list by industry and by region of the companies that have received benefits under this programme in the year the provision of benefits was approved and in each of the years 2017, 2018, 2019, 2020 and the first half of 2021.



[redacted]

C1.11 How many applicants have received financial assistance/benefit and how many applicants have been rejected in the year the financial assistance/benefit was approved and in each of the years **2017, 2018, 2019, 2020 and the first half of 2021**? Provide the main reasons why applicants have been rejected.

[redacted]

C1.12 Describe any anticipated changes in the programme. Provide documentation substantiating your answer. If the programme has been terminated, state the last date that a company could apply for or claim benefits under the programme. When is the last date that a company could receive benefits under the programme?

There are no anticipated changes to the programme.

C1.13 If assistance under the programme was provided by an entity other than a national, state or local Government entity, please respond to the following questions:

None. This programme is only provided by the GOM's department or agency as outlined in C1.4 (Granting and Administrative Authorities).

a) What is the legal status of the entity e.g. is it a separately incorporated entity and/or a Government corporation, Government lending institution, commercial entity?

b) Please explain how the entity was established and whether the entity operates pursuant to statutes, decrees and/or regulations. Please explain the relevant statute, decrees and regulations under which the entity was established and operates;

c) What is the legal basis that governs the entity's provision of assistance under the programme? Please provide translated copies of the relevant legal measures.

d) Has the entity received any direct or indirect funding or support from a Government entity? Please specify if the Government provided any such direct or indirect funding for the purpose of providing assistance under this programme.

e) Did the entity provide assistance under the programme pursuant to specific guidelines and/or criteria under this programme? Please describe those guidelines and/or criteria.

f) Please provide the ownership structure of each such entity and specify the amount of any direct or indirect Government ownership during the investigation period (and for each year in which the assistance was provided).

g) Please provide the translated annual report during the investigation period (and for each year in which the assistance was provided) for each such entity.

h) What are the core activities and functions of each entity that provided the assistance under the programme?

i) Explain why the assistance under this programme was provided by this entity rather than directly by the Government.

C2 PREFERENTIAL TAX POLICIES (PROGRAMME 2: INVESTMENT TAX ALLOWANCE)

In addition to the general questions at **Error! Reference source not found.**1 above, please answer the following specific questions in relation to any tax programmes.

If any of the companies listed in **Appendix A** or your response to Question B4 used any programme to take deductions from taxable income, to receive credit towards taxes payable, to take exemptions from taxes owed, to reduce the tax rate, to defer payment of taxes, to carry forward losses from previous tax years, to use accelerated depreciation, or to benefit from other tax advantages on the tax return filed during the investigation period, please respond to the following questions.

C2.1 Explain whether the assistance is a deduction from taxable income, a credit towards taxes payable, an exemption from taxes owed, a reduction in the tax rate, a deferral of taxes, a loss carry-forward from previous tax years, accelerated depreciation, or other tax benefit.

The programme is a deduction of statutory income. Qualifying capital expenditure incurred in the basis period for a year of assessment which is deducted from the statutory income. The amount of allowance is either 60% or 100% of qualifying capital expenditure incurred. The amount of allowance can be off-set either 70% or 100% of statutory income.

C2.2 How do companies using this programme calculate the tax benefit they claim? Please be specific and provide a sample calculation using a blank tax form.

[redacted]

[redacted]

[redacted]

C2.3 If the company carried forward a loss from prior years and used that loss to offset taxes due on the tax return filed during the investigation period, demonstrate that this loss was not generated by use of any countervailable tax programme.

The assistance is an allowance deducted from statutory income. Therefore, if the company experiences losses, no deduction is given and the allowance will be carried forward until it is fully utilised from the statutory income.

C2.4 If the programme involves a deferral of taxes owed, please provide the amount and length of the deferral, and the details of any interest charged on the deferral.

Not applicable for this programme.

C2.5 If the tax assistance results in negative income for tax purposes, for example through accelerated depreciation, is the company able to carry forward this loss?

Not applicable for this programme.

C2.6 For a programme that provides a reduction in the tax rate or an exemption from taxes payable, please report the tax rate that was paid under the programme and the tax rate that would have applied in absence of the programme.

Not applicable for this programme.

PROGRAMME 3: DOUBLE DEDUCTION FOR EXPORT CREDIT INSURANCE

C1.1 Provide details of the programme including the following.

a) Title of the programme;

Double Deduction for Export Credit Insurance.

b) Policy objective and/or purpose of the programme;

The double deduction of export credit insurance premiums aims to encourage Malaysian exporters to penetrate into non-traditional markets.

c) Legislation under which the subsidy is granted;

Refer to Income Tax (Deductions of Premiums for Export Credit Insurance) Rules 1985 (P.U.(A) 526/1985) made under Section 154 of the Income Tax Act 1967 (Attachment C-6).

d) Nature or form of the subsidy;

The double deduction to arrive at adjusted income.

e) When the programme was established;

1985.

f) Duration of the programme;

This is an on-going programme.

g) How the programme is administered and how it operates;

Premium paid is in respect of export credit insurance insured with a company approved by the Minister of Finance. During the POR, Export Import Bank of Malaysia Berhad (EXIM Bank) is the only approved insurance company under this programme. This programme is effective from year of assessment 1986 and subsequent years of assessment. Any person is eligible to this deduction.

Upon request by policyholder, EXIM Bank will issue a certificate under Income Tax (Deduction for Export Credit Insurance) Rules 1985 for policyholders to claim for double deduction. Policyholder has to retain the certificate along

with all official receipts issued by EXIM Bank to the IRB for audit purposes.

h) To whom and how the programme is provided; and

This programme is available to all Malaysian incorporated companies.

i) The eligibility criteria in order to receive benefits under the programme.

i. **A person conducting business activity; and**
ii. **The insurance company must be approved by the Minister of Finance.**

C1.2 Provide translated copies in English of the decrees, laws and regulations relating to the programme and any reports pertaining to the programme published during or since the investigation period. Specify the sections that govern the programme.

Refer to Income Tax (Deduction of Premiums for Export Credit Insurance) Rules 1985 (P.U.(A) 526/1985) made under Section 154 of the Income Tax Act 1967 (Attachment C-6).

C1.3 Provide copies together with translations in English of all legislative, regulatory, administrative and public documents relating to this programme.

Refer to Income Tax (Deduction of Premiums for Export Credit Insurance) Rules 1985 (P.U.(A) 526/1985) made under Section 154 of the Income Tax Act 1967 (Attachment C-6).

C1.4 Identify the GOM department or agency administering the programme.

Granting Authority:

Secretary General of Treasury
Ministry of Finance Complex
Precint 2, 62592 Putrajaya, Malaysia

Administrative Authority:

Chief Executive Officer
Inland Revenue Board Malaysia
Menara Hasil, Level 17
Persiaran Rimba Permai, Cyber 8
63000 Cyberjaya, Selangor, Malaysia

C1.5 Identify and explain the types of records maintained by the relevant Government or agency (e.g., accounting records, company-specific files, databases, budget authorisations, etc.) regarding the programme.

The IRB maintains a database of approved companies (based on companies' declaration) and softcopies of companies' return form as e-filing is compulsory for all companies starting from Year of Assessment 2014.

C1.6 Indicate which of the companies listed in **Appendix A** or your response to Question B4 applied for, accrued, or received benefits under the programme during the investigation period.

[redacted]

C1.7 Answer the following questions regarding the application process:

a) Describe the application process (including any application fees charged by the Government agency or authority) for the programme and provide a blank copy of the application form (translated, if necessary).

There is no application process for this programme. The claims are made during submission of annual income tax return (self-assessment).

b) After an application is submitted, describe the procedures by which an application is analysed and eventually approved or refused.

Not applicable as there is no application needed.

c) If the application is approved, provide the approval documents together with any conditions or criteria subject to which the approval is made.

Not applicable as there is no application needed.

d) If the application is refused, provide the refusal documents together with the reasons for refusal.

Not applicable as there is no application needed.

C1.8 Answer the following questions regarding eligibility for and actual use of the benefits provided under this programme.

a) Is eligibility for, or actual use of this programme contingent, whether solely or as one of several other conditions, upon export performance? If so, please describe.

No, the eligibility is not based upon export performance.

b) Is eligibility for this programme contingent, whether solely or as one of several other conditions, upon the use of domestic over imported goods? If so, please describe.

No, the eligibility is not based upon the use of domestic over imported goods.

c) Is eligibility for the subsidy limited to enterprises or industries located within designated regions? If so, specify the enterprises or industries and the designated regions.

No, the eligibility is not limited to enterprise or industries or group of enterprises or group of industries located within designated regions.

d) Is eligibility limited, by law, to any enterprise or group of enterprises, or to any industry or group of industries? If so, describe and specify the eligible enterprises or industries.

No, it is applicable to all industries.

C1.9 Respond to the following questions regarding the criteria governing the eligibility for and receipt of any benefit under this programme.

a) Describe the criteria governing the size of the benefit provided.

Actual amount claimed subject to the eligibility criteria.

b) Provide a copy of any law, regulation or other official document detailing these criteria.

Refer to Income Tax (Deduction of Premiums for Export Credit Insurance) Rules 1985 (P.U.(A) 526/1985) made under Section 154 of the Income Tax Act 1967 (Attachment C-6).

c) If the eligibility criteria as listed in the applicable law, regulation or other official documents are met, will the applicant always receive a benefit or is final approval contingent upon the Government agency or authority that administers the programme?

The applicant will claim when the eligibility criteria are met and IRB will ensure that the claims are in order during tax audits.

d) Is the amount of the benefit provided exclusively determined by established criteria found in the law, regulation or other official document or does the Government agency or authority that administers the programme determine the benefit amount?

The amount of the benefit provided is exclusively determined by established criteria found in the Income Tax (Deduction of Premiums for Export Credit Insurance) Rules 1985 (P.U.(A) 526/1985) made under Section 154 of the Income Tax Act 1967 (Attachment C-6).

e) Provide any contractual agreements between the GOM and the companies that are receiving the benefits under the programme (e.g., loan contracts, grant contracts, etc.).

No contractual agreements between the GOM and the companies.

C1.10 Provide a list by industry and by region of the companies that have received benefits under this programme in the year the provision of benefits was approved and in each of the years 2017, 2018, 2019, 2020 and the first half of 2021.

[redacted]

C1.11 How many applicants have received financial assistance/benefit and how many applicants have been rejected in the year the financial assistance/benefit was approved and in each of the years 2017, 2018, 2019, 2020 and the first half of 2021? Provide the main reasons why applicants have been rejected.

[redacted]

C1.12 Describe any anticipated changes in the programme. Provide documentation substantiating your answer. If the programme has been terminated, state the last date that a company could apply for or claim benefits under the programme. When is the last date that a company could receive benefits under the programme?

There are no anticipated changes to the programme.

C1.13 If assistance under the programme was provided by an entity other than a national, state or local Government entity, please respond to the following questions:

None. This programme is only provided by the GOM's department or agency as outlined in C1.4 (Granting and Administrative Authorities).

a) What is the legal status of the entity e.g. is it a separately incorporated entity and/or a Government corporation, Government lending institution, commercial entity?

b) Please explain how the entity was established and whether the entity operates pursuant to statutes, decrees and/or regulations. Please explain the relevant statute, decrees and regulations under which the entity was established and operates;

c) What is the legal basis that governs the entity's provision of assistance under the programme? Please provide translated copies of the relevant legal measures.

d) Has the entity received any direct or indirect funding or support from a Government entity? Please specify if the Government provided any such direct or indirect funding for the purpose of providing assistance under this programme.

e) Did the entity provide assistance under the programme pursuant to specific guidelines and/or criteria under this programme? Please describe those guidelines and/or criteria.

f) Please provide the ownership structure of each such entity and specify the amount of any direct or indirect Government ownership during the investigation period (and for each year in which the assistance was provided).

g) Please provide the translated annual report during the investigation period (and for each year in which the assistance was provided) for each such entity.

h) What are the core activities and functions of each entity that provided the assistance under the programme?

i) Explain why the assistance under this programme was provided by this entity rather than directly by the Government.

C2 PREFERENTIAL TAX POLICIES (PROGRAMME 3: DOUBLE DEDUCTIONS FOR EXPORT CREDIT INSURANCE)

In addition to the general questions at C1 above, please answer the following specific questions in relation to any tax programmes.

If any of the companies listed in **Appendix A** or your response to Question B4 used any programme to take deductions from taxable income, to receive credit towards taxes payable, to take exemptions from taxes owed, to reduce the tax rate, to defer payment of taxes, to carry forward losses from previous tax years, to use accelerated depreciation, or to benefit from other tax advantages on the tax return filed during the investigation period, please respond to the following questions.

C2.1 Explain whether the assistance is a deduction from taxable income, a credit towards taxes payable, an exemption from taxes owed, a reduction in the tax rate, a deferral of taxes, a loss carry-forward from previous tax years, accelerated depreciation, or other tax benefit.

A deduction to arrive at adjusted income.

C2.2 How do companies using this programme calculate the tax benefit they claim? Please be specific and provide a sample calculation using a blank tax form.

C2.3 If the company carried forward a loss from prior years and used that loss to offset taxes due on the tax return filed during the investigation period, demonstrate that this loss was not generated by use of any countervailable tax programme.

The loss-making company can carry forward the business loss up to a maximum of 7 years of assessment.

C2.4 If the programme involves a deferral of taxes owed, please provide the amount and length of the deferral, and the details of any interest charged on the deferral.

Not applicable for this programme.

C2.5 If the tax assistance results in negative income for tax purposes, for example through accelerated depreciation, is the company able to carry forward this loss?

Not applicable for this programme.

C2.6 For a programme that provides a reduction in the tax rate or an exemption from taxes payable, please report the tax rate that was paid under the programme and the tax rate that would have applied in absence of the programme.

Not applicable for this programme.

PROGRAMME 4: DOUBLE DEDUCTION FOR FREIGHT CHARGES FROM SABAH OR SARAWAK

C1.1 Provide details of the programme including the following.

a) Title of the programme;

Double Deduction for Freight Charges from Sabah or Sarawak

b) Policy objective and/or purpose of the programme;

To encourage products from Sabah and Sarawak to be shipped to Peninsular Malaysia.

c) Legislation under which the subsidy is granted;

The Income Tax (Deduction for Freight Charges from Sabah or Sarawak) Rules 2000 (P.U.(A) 50/2000) (Attachment C-7).

d) Nature or form of the subsidy;

Deduction to ascertain adjusted income.

e) When the programme was established;

2000.

f) Duration of the programme;

This is an on-going programme.

g) How the programme is administered and how it operates;

The ship freight charges incurred by manufacturers for the shipment of their manufactured goods from Sabah or Sarawak to any ports in Peninsular Malaysia is given double deduction.

h) To whom and how the programme is provided; and

To any manufacturing companies located in Sabah or Sarawak.

i) The eligibility criteria in order to receive benefits under the programme.

Manufacturing companies located in Sabah or Sarawak.

C1.2 Provide translated copies in English of the decrees, laws and regulations relating to the programme and any reports pertaining to the programme published during or since the investigation period. Specify the sections that govern the programme.

The Income Tax (Deduction for Freight Charges from Sabah or Sarawak) Rules 2000 (P.U.(A) 50/2000) (Attachment C-7).

C1.3 Provide copies together with translations in English of all legislative, regulatory, administrative and public documents relating to this programme.

The Income Tax (Deduction for Freight Charges from Sabah or Sarawak) Rules 2000 (P.U.(A) 50/2000) (Attachment C-7).

C1.4 Identify the GOM department or agency administering the programme.

Granting Authority:

Secretary General of Treasury
Ministry of Finance Complex
Precint 2, 62592 Putrajaya, Malaysia

Administrative Authority:

Chief Executive Officer
Inland Revenue Board Malaysia
Menara Hasil, Level 17
Persiaran Rimba Permai, Cyber 8
63000 Cyberjaya, Selangor, Malaysia

C1.5 Identify and explain the types of records maintained by the relevant Government or agency (e.g., accounting records, company-specific files, databases, budget authorisations, etc.) regarding the programme.

The IRB maintains a database of approved companies (based on companies' declaration) and softcopies of companies' return form as e-filing is compulsory for all companies starting from Year of Assessment 2014.

C1.6 Indicate which of the companies listed in **Appendix A** or your response to Question B4 applied for, accrued, or received benefits under the programme during the investigation period.

[redacted]

C1.7 Answer the following questions regarding the application process:

a) Describe the application process (including any application fees charged by the Government agency or authority) for the programme and provide a blank copy of the application form (translated, if necessary).

There is no application process for this programme. The claims are made during submission of annual income tax return (self-assessment).

b) After an application is submitted, describe the procedures by which an application is analysed and eventually approved or refused.

Not applicable as there is no application needed.

c) If the application is approved, provide the approval documents together with any conditions or criteria subject to which the approval is made.

Not applicable as there is no application needed.

d) If the application is refused, provide the refusal documents together with the reasons for refusal.

Not applicable as there is no application needed.

C1.8 Answer the following questions regarding eligibility for and actual use of the benefits provided under this programme.

a) Is eligibility for, or actual use of this programme contingent, whether solely or as one of several other conditions, upon export performance? If so, please describe.

No, the eligibility is not based upon export performance.

b) Is eligibility for this programme contingent, whether solely or as one of several other conditions, upon the use of domestic over imported goods? If so, please describe.

No, the eligibility is not based upon the use of domestic over imported goods.

c) Is eligibility for the subsidy limited to enterprises or industries located within designated regions? If so, specify the enterprises or industries and the designated regions.

Manufacturing companies located in Sabah or Sarawak.

d) Is eligibility limited, by law, to any enterprise or group of enterprises, or to any industry or group of industries? If so, describe and specify the eligible enterprises or industries.

Manufacturing companies located in Sabah or Sarawak.

C1.9 Respond to the following questions regarding the criteria governing the eligibility for and receipt of any benefit under this programme.

a) Describe the criteria governing the size of the benefit provided.

Actual amount claimed subject to the eligibility criteria.

b) Provide a copy of any law, regulation or other official document detailing these criteria.

The Income Tax (Deduction for Freight Charges from Sabah or Sarawak) Rules 2000 (P.U.(A) 50/2000) (Attachment C-7).

c) If the eligibility criteria as listed in the applicable law, regulation or other official documents are met, will the applicant always receive a benefit or is final approval contingent upon the Government agency or authority that administers the programme?

The applicant will claim when the eligibility criteria are met and IRB will ensure that the claims are in order during tax audits.

d) Is the amount of the benefit provided exclusively determined by established criteria found in the law, regulation or other official document or does the Government agency or authority that administers the programme determine the benefit amount?

Not applicable.

The amount of the benefit provided is exclusively determined by established criteria found in the Income Tax (Deduction for Freight Charges from Sabah or Sarawak) Rules 2000 (P.U.(A) 50/2000) (Attachment C-7).

e) Provide any contractual agreements between the GOM and the companies that are receiving the benefits under the programme (e.g., loan contracts, grant contracts, etc.).

No contractual agreements between the GOM and the companies.

C1.10 Provide a list by industry and by region of the companies that have received benefits under this programme in the year the provision of benefits was approved and in each of the years 2017, 2018, 2019, 2020 and the first half of 2021.

[redacted]

C1.11 How many applicants have received financial assistance/benefit and how many applicants have been rejected in the year the financial assistance/benefit was approved and in each of the years 2017, 2018, 2019, 2020 and the first half of 2021? Provide the main reasons why applicants have been rejected.

[redacted]

C1.12 Describe any anticipated changes in the programme. Provide documentation substantiating your answer. If the programme has been terminated, state the last date that a company could apply for or claim benefits under the programme. When is the last date that a company could receive benefits under the programme?

There are no anticipated changes to the programme.

C1.13 If assistance under the programme was provided by an entity other than a national, state or local Government entity, please respond to the following questions:

None. This programme is only provided by the GOM's department or agency as outlined in C1.4 (Granting and Administrative Authorities).

a) What is the legal status of the entity e.g. is it a separately incorporated entity and/or a Government corporation, Government lending institution, commercial entity?

b) Please explain how the entity was established and whether the entity operates pursuant to statutes, decrees and/or regulations. Please explain the relevant statute, decrees and regulations under which the entity was established and operates;

c) What is the legal basis that governs the entity's provision of assistance under the programme? Please provide translated copies of the relevant legal measures.

d) Has the entity received any direct or indirect funding or support from a Government entity? Please specify if the Government provided any such direct or indirect funding for the purpose of providing assistance under this programme.

e) Did the entity provide assistance under the programme pursuant to specific guidelines and/or criteria under this programme? Please describe those guidelines and/or criteria.

f) Please provide the ownership structure of each such entity and specify the amount of any direct or indirect Government ownership during the investigation period (and for each year in which the assistance was provided).

g) Please provide the translated annual report during the investigation period (and for each year in which the assistance was provided) for each such entity.

h) What are the core activities and functions of each entity that provided the assistance under the programme?

i) Explain why the assistance under this programme was provided by this entity rather than directly by the Government.

C2 PREFERENTIAL TAX POLICIES (PROGRAMME 4: DOUBLE DEDUCTION FOR FREIGHT CHARGES FROM SABAH OR SARAWAK)

In addition to the general questions at C1 above, please answer the following specific questions in relation to any tax programmes.

If any of the companies listed in **Appendix A** or your response to Question B4 used any programme to take deductions from taxable income, to receive credit towards taxes payable, to take exemptions from taxes owed, to reduce the tax rate, to defer payment of taxes, to carry forward losses from previous tax years, to use accelerated depreciation, or to benefit from other tax advantages on the tax return filed during the investigation period, please respond to the following questions.

C2.1 Explain whether the assistance is a deduction from taxable income, a credit towards taxes payable, an exemption from taxes owed, a reduction in the tax rate, a deferral of taxes, a loss carry-forward from previous tax years, accelerated depreciation, or other tax benefit.

A deduction to arrive at adjusted income

C2.2 How do companies using this programme calculate the tax benefit they claim? Please be specific and provide a sample calculation using a blank tax form.

[redacted]

C2.3 If the company carried forward a loss from prior years and used that loss to offset taxes due on the tax return filed during the investigation period, demonstrate that this loss was not generated by use of any countervailable tax programme.

The loss-making company can carry forward the business loss up to a maximum of 7 years of assessment.

C2.4 If the programme involves a deferral of taxes owed, please provide the amount and length of the deferral, and the details of any interest charged on the deferral.

Not applicable for this programme.

C2.5 If the tax assistance results in negative income for tax purposes, for example through accelerated depreciation, is the company able to carry forward this loss?

Not applicable for this programme.

C2.6 For a programme that provides a reduction in the tax rate or an exemption from taxes payable, please report the tax rate that was paid under the programme and the tax rate that would have applied in absence of the programme.

Not applicable for this programme.

PROGRAMME 5: DOUBLE DEDUCTION FOR INSURANCE PREMIUMS FOR EXPORTERS AND IMPORTERS

C1.1 Provide details of the programme including the following.

a) Title of the programme;

Double Deduction for Insurance Premiums for Exporters and Importers.

b) Policy objective and/or purpose of the programme;

The double deduction of this programme aims to encourage companies to take insurance in order to secure the risks of doing business.

c) Legislation under which the subsidy is granted;

i. **The Income Tax (Deductions of Insurance Premiums for Exporters) Rules 1995 [P.U(A) 79/1995] (Attachment C-8);**

ii. **Income Tax (Deductions of Insurance Premiums for Exporters) (Revocation) Rules 2012 - Revoke from Year of Assessment 2016 (Attachment C-9);**

iii. **The Income Tax (Deductions of Insurance Premiums for Importers) Rules 1982 [P.U(A) 72/1982] (Attachment C-10); and**

iv. **Income Tax (Deduction of Insurance Premiums for Importers)(Revocation) Rules 2012 - Revoke from Year of Assessment 2016 (Attachment C-11).**

d) Nature or form of the subsidy;

Deduction to ascertain adjusted income.

e) When the programme was established;

i. **Double deduction of Insurance Premiums for exporters - 1995**

ii. **Double deduction of Insurance Premiums for importers - 1982**

f) Duration of the programme;

Double deduction of insurance premiums for exporters and importers were revoked in 2012 for the year of Assessment 2016 onwards.

g) How the programme is administered and how it operates;

Insurance premium paid in respect of cargo exported or imported by a person, provided the risks are insured with any insurance company incorporated in Malaysia. Any person/company is eligible for this deduction. The company makes the claim in the annual tax return for the respective fiscal year (basis period). The company has to retain all supporting receipts and documents for audit purposes by the IRB.

h) To whom and how the programme is provided; and

Any person/company is eligible for this deduction.

i) The eligibility criteria in order to receive benefits under the programme.

Any person who conducts business in Malaysia is eligible for this deduction and the risks are insured with any insurance company incorporated in Malaysia.

C1.2 Provide translated copies in English of the decrees, laws and regulations relating to the programme and any reports pertaining to the programme published during or since the investigation period. Specify the sections that govern the programme.

i. **The Income Tax (Deductions of Insurance Premiums for Exporters) Rules 1995 [P.U(A) 79/1995] (Attachment C-8);**

ii. **Income Tax (Deductions of Insurance Premiums for Exporters) (Revocation) Rules 2012 - Revoke from Year of Assessment 2016 (Attachment C-9);**

iii. **The Income Tax (Deductions of Insurance Premiums for Importers) Rules 1982 [P.U(A) 72/1982] (Attachment C-10); and**

iv. **Income Tax (Deductions of Insurance Premiums for Importers)(Revocation) Rules 2012 - Revoke from Year of Assessment 2016 (Attachment C-11).**

C1.3 Provide copies together with translations in English of all legislative, regulatory, administrative and public documents relating to this programme.

i. **The Income Tax (Deductions of Insurance Premiums for Exporters) Rules 1995 [P.U(A) 79/1995] (Attachment C-8);**

ii. **Income Tax (Deductions of Insurance Premiums for Exporters) (Revocation) Rules 2012 - Revoke from Year of Assessment 2016 (Attachment C-9);**

iii. **The Income Tax (Deductions of Insurance Premiums for Importers) Rules 1982 [P.U(A) 72/1982] (Attachment C-10); and**

iv. **Income Tax (Deductions of Insurance Premiums for Importers)(Revocation) Rules 2012 - Revoke from Year of Assessment 2016 (Attachment C-11).**

C1.4 Identify the GOM department or agency administering the programme.

Granting Authority:

Secretary General of Treasury
Ministry of Finance Complex
Precint 2, 62592 Putrajaya, Malaysia

Administrative Authority:

Chief Executive Officer
Inland Revenue Board Malaysia
Menara Hasil, Level 17
Persiaran Rimba Permai, Cyber 8
63000 Cyberjaya, Selangor, Malaysia

C1.5 Identify and explain the types of records maintained by the relevant Government or agency (e.g., accounting records, company-specific files, databases, budget authorisations, etc.) regarding the programme.

The IRB maintains a database of approved companies (based on companies' declaration) and softcopies of companies' return form as e-filing is compulsory for all companies starting from Year of Assessment 2014.

C1.6 Indicate which of the companies listed in **Appendix A** or your response to Question B4 applied for, accrued, or received benefits under the programme during the investigation period.

[redacted]

C1.7 Answer the following questions regarding the application process:

a) Describe the application process (including any application fees charged by the Government agency or authority) for the programme and provide a blank copy of the application form (translated, if necessary).

There is no application process for this programme. The claims are made during submission of annual income tax return (self-assessment).

b) After an application is submitted, describe the procedures by which an application is analysed and eventually approved or refused.

Not applicable as there is no application needed.

c) If the application is approved, provide the approval documents together with any conditions or criteria subject to which the approval is made.

Not applicable as there is no application needed.

d) If the application is refused, provide the refusal documents together with the reasons for refusal.

Not applicable as there is no application needed.

C1.8 Answer the following questions regarding eligibility for and actual use of the benefits provided under this programme.

a) Is eligibility for, or actual use of this programme contingent, whether solely or as one of several other conditions, upon export performance? If so, please describe.

No, the eligibility is not based upon export performance.

b) Is eligibility for this programme contingent, whether solely or as one of several other conditions, upon the use of domestic over imported goods? If so, please describe.

No, the eligibility is not based upon the use of domestic over imported goods.

c) Is eligibility for the subsidy limited to enterprises or industries located within designated regions? If so, specify the enterprises or industries and the designated regions.

No, the eligibility is not limited to enterprise or industries or group of enterprises or group of industries located within designated regions.

d) Is eligibility limited, by law, to any enterprise or group of enterprises, or to any industry or group of industries? If so, describe and specify the eligible enterprises or industries.

No, it is applicable to all industries.

C1.9 Respond to the following questions regarding the criteria governing the eligibility for and receipt of any benefit under this programme.

a) Describe the criteria governing the size of the benefit provided.

Actual amount claimed subject to the eligibility criteria.

b) Provide a copy of any law, regulation or other official document detailing these criteria.

i. **The Income Tax (Deductions of Insurance Premiums for Exporters) Rules 1995 [P.U(A) 79/1995] (Attachment C-8);**

ii. **Income Tax (Deductions of Insurance Premiums for Exporters) (Revocation) Rules 2012 - Revoke from Year of Assessment 2016 (Attachment C-9);**

iii. **The Income Tax (Deductions of Insurance Premiums for Importers) Rules 1982 [P.U(A) 72/1982] (Attachment C-10); and**

iv. **Income Tax (Deductions of Insurance Premiums for Importers)(Revocation) Rules 2012 - Revoke from Year of Assessment 2016 (Attachment C-11).**

c) If the eligibility criteria as listed in the applicable law, regulation or other official documents are met, will the applicant always receive a benefit or is final approval contingent upon the Government agency or authority that administers the programme?

The applicant will claim when the eligibility criteria are met and IRB will ensure that the claims are in order during tax audits.

d) Is the amount of the benefit provided exclusively determined by established criteria found in the law, regulation or other official document or does the Government agency or authority that administers the programme determine the benefit amount?

Not applicable.

e) Provide any contractual agreements between the GOM and the companies that are receiving the benefits under the programme (e.g., loan contracts, grant contracts, etc.).

No contractual agreements between the GOM and the companies.

C1.10 Provide a list by industry and by region of the companies that have received benefits under this programme in the year the provision of benefits was approved and in each of the years 2017, 2018, 2019, 2020 and the first half of 2021.

[redacted]

C1.11 How many applicants have received financial assistance/benefit and how many applicants have been rejected in the year the financial assistance/benefit was approved and in each of the years 2017, 2018, 2019, 2020 and the first half of 2021? Provide the main reasons why applicants have been rejected.

[redacted]

C1.12 Describe any anticipated changes in the programme. Provide documentation substantiating your answer. If the programme has been terminated, state the last date that a company could apply for or claim benefits under the programme. When is the last date that a company could receive benefits under the programme?

There are no anticipated changes to the programme.

C1.13 If assistance under the programme was provided by an entity other than a national, state or local Government entity, please respond to the following questions:

None. This programme is only provided by the GOM's department or agency as outlined in C1.4 (Granting and Administrative Authorities).

a) What is the legal status of the entity e.g. is it a separately incorporated entity and/or a Government corporation, Government lending institution, commercial entity?

b) Please explain how the entity was established and whether the entity operates pursuant to statutes, decrees and/or regulations. Please explain the relevant statute, decrees and regulations under which the entity was established and operates;

c) What is the legal basis that governs the entity's provision of assistance under the programme? Please provide translated copies of the relevant legal measures.

d) Has the entity received any direct or indirect funding or support from a Government entity? Please specify if the Government provided any such direct or indirect funding for the purpose of providing assistance under this programme.

e) Did the entity provide assistance under the programme pursuant to specific guidelines and/or criteria under this programme? Please describe those guidelines and/or criteria.

f) Please provide the ownership structure of each such entity and specify the amount of any direct or indirect Government ownership during the investigation period (and for each year in which the assistance was provided).

g) Please provide the translated annual report during the investigation period (and for each year in which the assistance was provided) for each such entity.

h) What are the core activities and functions of each entity that provided the assistance under the programme?

i) Explain why the assistance under this programme was provided by this entity rather than directly by the Government.

C2 PREFERENTIAL TAX POLICIES (PROGRAMME 5: DOUBLE DEDUCTIONS FOR INSURANCE PREMIUMS FOR EXPORTERS AND IMPORTERS)

In addition to the general questions at C1 above, please answer the following specific questions in relation to any tax programmes.

If any of the companies listed in **Appendix A** used the programme to take deductions from taxable income, to receive credit towards taxes payable, to take exemptions from taxes owed, to reduce the tax rate, to defer payment of taxes, to carry forward losses from previous tax years, to use accelerated depreciation, or to benefit from other tax advantages on the tax return filed during the investigation period, please respond to the following questions.

C2.1 Explain whether the assistance is a deduction from taxable income, a credit towards taxes payable, an exemption from taxes owed, a reduction in the tax rate, a deferral of taxes, a loss carry-forward from previous tax years, accelerated depreciation, or other tax benefit.

A deduction to arrive at adjusted income.

C2.2 How do companies using this programme calculate the tax benefit they claim? Please be specific and provide a sample calculation using a blank tax form.

C2.3 If the company carried forward a loss from prior years and used that loss to offset taxes due on the tax return filed during the investigation period, demonstrate that this loss was not generated by use of any countervailable tax programme.

The loss-making company can carry forward the business loss up to a maximum of 7 years of assessment.

C2.4 If the programme involves a deferral of taxes owed, please provide the amount and length of the deferral, and the details of any interest charged on the deferral.

Not applicable for this programme.

C2.5 If the tax assistance results in negative income for tax purposes, for example through accelerated depreciation, is the company able to carry forward this loss?

Not applicable for this programme.

C2.6 For a programme that provides a reduction in the tax rate or an exemption from taxes payable, please report the tax rate that was paid under the programme and the tax rate that would have applied in absence of the programme.

Not applicable for this programme.

PROGRAMME 6: REINVESTMENT ALLOWANCE

C1.1 Provide details of the programme including the following.

a) Title of the programme;

Reinvestment Allowance (RA).

b) Policy objective and/or purpose of the programme;

To encourage reinvestment by a company or a person who is in operation and resident in Malaysia that incurs capital expenditure to expand, modernise, automate or diversify its existing manufacturing and agricultural projects as stated in Public Ruling 10/2020 (Attachment C-12) and Public Ruling 11/2020 (Attachment C-13).

c) Legislation under which the subsidy is granted;

Please see Schedule 7A, Income Tax Act 1967 (Attachment C-14).

d) Nature or form of the subsidy;

Where a company or a person qualifies to claim RA, RA shall be given in respect of capital expenditure incurred in the basis periods for fifteen (15) consecutive years of assessment beginning from the year of assessment for the basis period in which a claim for that RA is made by the company or the person.

e) When the programme was established;

RA was established in 1980 under Schedule 7A Income Tax Act 1967 (Attachment C-14).

f) Duration of the programme;

This is an on-going programme.

g) How the programme is administered and how it operates;

The IRB is responsible for the administration of this programme. A company or a person is required to make the claim for the incentive by completing a form and substantiate the claims together with copies of supporting documents pertaining to the capital expenditure incurred. The original supporting documents have to be retained by the company for audit purposes by the IRB. The claim can

be made in the annual tax returns for the basis period in which the capital expenditure is incurred.

h) To whom and how the programme is provided; and

This programme is eligible to all companies or any person who fulfils the conditions as stated in paragraph C1.1(i).

i) The eligibility criteria in order to receive benefits under the programme.

A company or a person resident in Malaysia is granted RA upon fulfilling the following conditions:

i. the business has been in operation for not less than thirty six (36) months; and

ii. the company or person has incurred in the basis period for a year of assessment, capital expenditure on a factory, plant or machinery used in Malaysia for the purposes of a qualifying project.

C1.2 Provide translated copies in English of the decrees, laws and regulations relating to the programme and any reports pertaining to the programme published during or since the investigation period. Specify the sections that govern the programme.

Refer to Schedule 7A, Income Tax Act 1967 (Attachment C-14).

C1.3 Provide copies together with translations in English of all legislative, regulatory, administrative and public documents relating to this programme.

Refer to Schedule 7A, Income Tax Act 1967 (Attachment C-14).

C1.4 Identify the GOM department or agency administering the programme.

Administrative Authority:

Chief Executive Officer
Inland Revenue Board Malaysia
Menara Hasil, Level 17
Persiaran Rimba Permai, Cyber 8
63000 Cyberjaya, Selangor, Malaysia

C1.5 Identify and explain the types of records maintained by the relevant Government or agency (e.g., accounting records, company-specific files, databases, budget authorisations, etc.) regarding the programme.

The IRB is responsible for the administration of this programme. A company or a person is required to make claims for the incentive by completing a form and substantiate the claims together with copies of supporting documents pertaining to the capital expenditure incurred. The original supporting documents have to be retained by the company for audit purposes by the IRB. The claim can be made in the annual tax returns for the basis period in which the capital expenditure is incurred.

C1.6 Indicate which of the companies listed in **Appendix A** or your response to Question B4 applied for, accrued, or received benefits under the programme during the investigation period.

[redacted]

C1.7 Answer the following questions regarding the application process:

a) Describe the application process (including any application fees charged by the Government agency or authority) for the programme and provide a blank copy of the application form (translated, if necessary).

There is no application process for this programme. The person claims in the Income Tax Return Form under self-assessment.

b) After an application is submitted, describe the procedures by which an application is analysed and eventually approved or refused.

Not applicable as there is no application needed.

c) If the application is approved, provide the approval documents together with any conditions or criteria subject to which the approval is made.

Not applicable as there is no application needed.

d) If the application is refused, provide the refusal documents together with the reasons for refusal.

Not applicable as there is no application needed.

C1.8 Answer the following questions regarding eligibility for and actual use of the benefits provided under this programme.

a) Is eligibility for, or actual use of this programme contingent, whether solely or as one of several other conditions, upon export performance? If so, please describe.

No, the eligibility is not based upon export performance.

b) Is eligibility for this programme contingent, whether solely or as one of several other conditions, upon the use of domestic over imported goods? If so, please describe.

No, the eligibility is not based upon the use of domestic over imported goods.

c) Is eligibility for the subsidy limited to enterprises or industries located within designated regions? If so, specify the enterprises or industries and the designated regions.

No, the eligibility is not limited to enterprise or industries or group of enterprises or group of industries located within designated regions.

d) Is eligibility limited, by law, to any enterprise or group of enterprises, or to any industry or group of industries? If so, describe and specify the eligible enterprises or industries.

No, it is applicable to all industries.

C1.9 Respond to the following questions regarding the criteria governing the eligibility for and receipt of any benefit under this programme.

a) Describe the criteria governing the size of the benefit provided.

RA is available to a company or a person resident in Malaysia carrying manufacturing activities and agriculture projects which:

i. Has been in operation for not less than 36 months; and

ii. Has incurred in the basis period for a year of assessment capital expenditure on a factory, plant or machinery used in Malaysia for the purposes of a qualifying project referred to in paragraph Schedule 7A of Income Tax Act 1967 (Attachment C-14).

b) Provide a copy of any law, regulation or other official document detailing these criteria.

i. Public Ruling 10/2020 (Attachment C-12);
ii. Public Ruling 11/2020 (Attachment C-13); and
iii. Schedule 7A, Income Tax Act 1967 (Attachment C-14).

c) If the eligibility criteria as listed in the applicable law, regulation or other official documents are met, will the applicant always receive a benefit or is final approval contingent upon the Government agency or authority that administers the programme?

The applicant always receives a benefit if the eligibility criteria as specified under Schedule 7A of Income Tax Act 1967 are met.

d) Is the amount of the benefit provided exclusively determined by established criteria found in the law, regulation or other official document or does the Government agency or authority that administers the programme determine the benefit amount?

The amount of benefit is as determined under Schedule 7A of Income Tax Act 1967 (Attachment C-14).

e) Provide any contractual agreements between the GOM and the companies that are receiving the benefits under the programme (e.g., loan contracts, grant contracts, etc.).

No contractual agreements between the GOM and the companies.

C1.10 Provide a list by industry and by region of the companies that have received benefits under this programme in the year the provision of benefits was approved and in each of the years 2017, 2018, 2019, 2020 and the first half of 2021.

[redacted]

C1.11 How many applicants have received financial assistance/benefit and how many applicants have been rejected in the year the financial assistance/benefit was approved and in each of the years 2017, 2018, 2019, 2020 and the first half of 2021? Provide the main reasons why applicants have been rejected.

[redacted]

C1.12 Describe any anticipated changes in the programme. Provide documentation substantiating your answer. If the programme has been terminated, state the last date that a company could apply for or claim benefits under the programme. When is the last date that a company could receive benefits under the programme?

There are no anticipated changes to the programme.

C1.13 If assistance under the programme was provided by an entity other than a national, state or local Government entity, please respond to the following questions:

None as the programme is only provided by the GOM's department or agency as outlined in C1.4 (Administrative Authority).

a) What is the legal status of the entity e.g. is it a separately incorporated entity and/or a Government corporation, Government lending institution, commercial entity?

b) Please explain how the entity was established and whether the entity operates pursuant to statutes, decrees and/or regulations. Please explain the relevant statute, decrees and regulations under which the entity was established and operates;

c) What is the legal basis that governs the entity's provision of assistance under the programme? Please provide translated copies of the relevant legal measures.

d) Has the entity received any direct or indirect funding or support from a Government entity? Please specify if the Government provided any such direct or indirect funding for the purpose of providing assistance under this programme.

e) Did the entity provide assistance under the programme pursuant to specific guidelines and/or criteria under this programme? Please describe those guidelines and/or criteria.

f) Please provide the ownership structure of each such entity and specify the amount of any direct or indirect Government ownership during the investigation period (and for each year in which the assistance was provided).

g) Please provide the translated annual report during the investigation period (and for each year in which the assistance was provided) for each such entity.

h) What are the core activities and functions of each entity that provided the assistance under the programme?

i) Explain why the assistance under this programme was provided by this entity rather than directly by the Government.

C2 PREFERENTIAL TAX POLICIES (PROGRAMME 6: REINVESTMENT ALLOWANCE)

In addition to the general questions at **Error! Reference source not found.** above, please answer the following specific questions in relation to any tax programmes.

If any of the companies listed in **Appendix A** or your response to Question B4 used any programme to take deductions from taxable income, to receive credit towards taxes payable, to take exemptions from taxes owed, to reduce the tax rate, to defer payment of taxes, to carry forward losses from previous tax years, to use accelerated depreciation, or to benefit from other tax advantages on the tax return filed during the investigation period, please respond to the following questions.

C2.1 Explain whether the assistance is a deduction from taxable income, a credit towards taxes payable, an exemption from taxes owed, a reduction in the tax rate, a deferral of taxes, a loss carry-forward from previous tax years, accelerated depreciation, or other tax benefit.

RA is given to a company or a person at a rate of 60% on the capital expenditure incurred in the basis period for a year of assessment which is deducted from 70% of statutory income.

Any RA unutilised in the basis period in which the capital expenditure was incurred can be carried forward up to a maximum 7 years of assessment after the end of the qualifying period.

C2.2 How do companies using this programme calculate the tax benefit they claim? Please be specific and provide a sample calculation using a blank tax form.

[redacted]

[redacted]

[redacted]

[redacted]

[redacted]

[redacted]

[redacted]

[redacted]

[redacted]

C2.3 If the company carried forward a loss from prior years and used that loss to offset taxes due on the tax return filed during the investigation period, demonstrate that this loss was not generated by use of any countervailable tax programme.

The loss making company can carry forward the business loss deduction up to a maximum of 7 years of assessment.

C2.4 If the programme involves a deferral of taxes owed, please provide the amount and length of the deferral, and the details of any interest charged on the deferral.

Not applicable for this programme.

C2.5 If the tax assistance results in negative income for tax purposes, for example through accelerated depreciation, is the company able to carry forward this loss?

The assistance is an allowance deducted from statutory income. Therefore, if the company experience losses, no deduction is given and the allowance will be carried forward up to a maximum 7 years of assessment after the end of the qualifying period.

C2.6 For a programme that provides a reduction in the tax rate or an exemption from taxes payable, please report the tax rate that was paid under the programme and the tax rate that would have applied in absence of the programme.

The standard corporate tax rate under Subparagraph 2(a) of Schedule 1, ITA will be applicable with or without the programme.

SECTION D - DECLARATION

DECLARATION

The undersigned certifies that all information supplied herein in response to the questionnaire (including any data supplied in an electronic format) is complete and correct to the best of his/her knowledge and belief.

21/10/2021
Date

Signature of authorised official

NORAZAH ABDUL JABBAR
Name of authorised official

Trade Practices Section
Ministry of International Trade & Industry
Malaysia
Title of authorised official

Trade Practices Section
MALAYSIA
Ministry of International Trade and Industry

GLOSSARY OF TERMS

Throughout this questionnaire certain words and terminology have been used and they have the following meanings:

Associated Persons and/or Companies

Persons shall be deemed to be associates of each other if:

(a) both being natural persons:

(i) they are connected by a blood relationship or by marriage or adoption; or
(ii) one of them is an officer or director of a body corporate controlled, directly or indirectly, by the other;

(b) both being bodies corporate:

(i) both of them are controlled, directly or indirectly, by a third person (whether or not a body corporate); or
(ii) both of them together control, directly or indirectly, a third body corporate; or
(iii) the same person (whether or not a body corporate) is in a position to cast, or control the casting of, 5% or more of the maximum number of votes that might be cast at a general meeting of each of them; or

(c) one of them, being a body corporate, is, directly or indirectly, controlled by the other (whether or not a body corporate); or

(d) one of them, being a natural person, is an employee, officer or director of the other (whether or not a body corporate); or

(e) they are members of the same partnership.

Enterprise

"Enterprise" includes a group of enterprises, an industry and a group of industries.

Foreign Invested Enterprise (FIE)

An FIE may be:

1. Malaysian-foreign equity joint venture:

Joint venture between a Malaysian company, enterprise, or other business organisation and a foreign company, enterprise, business organisation or individual set up in the form of a Malaysian limited liability company.

The characteristics of a Malaysian-foreign equity joint venture are joint investment, joint operation, and the participants share profits, risks and losses in proportion to their respective contributions to the registered capital of the joint venture.

The proportion of the investment by the foreign party is no less than 25% in the registered capital of equity joint venture.

2. Malaysian-foreign contractual joint venture:

A joint venture established between foreign enterprises and other economic organisations or individuals, and Malaysian enterprises or other economic organisations within the territory of Malaysia. The rights and obligations of each party are determined in accordance with the agreement specified in the contractual joint venture contract. The investment or conditions for cooperation contributed by the Malaysian and foreign parties may be provided in cash or in kind, or may include the right to the use of land, industrial property rights, non-patent technology or other property rights.

3. Wholly foreign owned enterprises:

A wholly foreign owned enterprise is established by foreign enterprises and other economic organisations or by individuals pursuant to the Malaysian laws within the territory of Malaysia. All of the wholly foreign owned enterprise's capital is invested by foreign investors. It may also be referred to as a Foreign Enterprise (FE).

Government of Malaysia (GOM)

For the purposes of this questionnaire, GOM refers to all levels of Government, i.e., central, provincial, regional, city, special economic zone, municipal, township, village, local, legislative, administrative or judicial, singular, collective, elected or appointed.

It also includes any person, agency, enterprise, or institution acting for, on behalf of, or under the authority of any law passed by, the Government of that country or that provincial, state or municipal or other local or regional Government.

Programme(s)

The term "programme", as used throughout this questionnaire in reference to alleged subsidies, refers to broad categories of subsidies that the Commission has reason to believe may be available to exporters of the goods.

In this regard, the term "programme" as used in this questionnaire should not be taken to necessarily refer to formal programmes maintained by the GOM, nor should it be taken to refer to one specific subsidy. Rather,

"programme" as used in this questionnaire can refer to informal subsidies provided by the GOM, and can also refer to multiple individual, albeit similar, subsidies.

Economic Zone

Refers to a Special Economic Area, Economic and Technical Development Zone, Bonded Zone, Export Processing Zone, High Technology Industrial Development Zone, or any other designated area where benefits from the GOM (including central, provincial, municipal or county Government) accrue to a company because of being located in such an area.

State Invested Enterprises (SIE)

For the purposes of this questionnaire, SIE refers to any company or enterprise that is wholly or partially owned by the GOM as defined above (either through direct ownership or through association).

Subsidy

Subsidy, in respect of goods exported to Australia, means:

(a) a financial contribution:
(i) by a Government of the country of export or country of origin of the goods; or
(ii) by a public body of that country or a public body of which that Government is a member; or
(iii) by a private body entrusted or directed by that Government or public body to carry out a Governmental function;

that involves:

(iv) a direct transfer of funds from that Government or body; or
(v) the acceptance of liabilities, whether actual or potential, by that Government or body; or
(vi) the forgoing, or non-collection, of revenue (other than an allowable exemption or remission) due to that Government or body; or
(vii) the provision by that Government or body of goods or services otherwise than in the course of providing normal infrastructure; or
(viii) the purchase by that Government or body of goods or services; or

(b) any form of income or price support as referred to in Article XVI of the General Agreement on Tariffs and Trade 1994 that is received from such a Government or body;

if that financial contribution or income or price support confers a benefit (whether directly or indirectly) in relation to the goods exported to Australia

APPENDIX A

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25. SUPERB ALUMINIUM INDUSTRIES SDN. BHD.
26. TONG HEER ALUMINIUM INDUSTRIES SDN BHD

LIST OF ATTACHMENTS

No.	Attachment	Description
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2	B-2	Aluminium Extrusion GOM Questionnaire Spreadsheet (Sensitive)
3	B-3	Schedule 1 Income Tax Act 1967
4	C-1	Income Tax (Exemption) Order (No.11) 2006 [P.U.(A) 112/2006]
5	C-2	Application form for pre-package incentive: 1. ICAJA1 - Application For Manufacturing Licence And/Or Incentive And/Or Expatriate Posts For A New Manufacturing Project 2. ICAJA2 - Application For Manufacturing Licence And/Or Incentive And/Or Expatriate Posts: For An Expansion And/Or Diversification Project By A Licensed Manufacturer Or By An Existing Non-Licensed Manufacturer 3. ICAJA3 - Application For New Manufacturing Licence And/Or Incentive And/Or Expatriate Posts (High Technology / Strategic Project) 4. ICAJA4 - Application For Manufacturing Licence And/Or Incentive For Expansion And/Or Diversification And/Or Expatriate Posts (High Technology / Strategic Project)
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10	C-7	Income Tax (Deductions For Freight Charges From Sabah or Sarawak) Rules 2000 (P.U.(A) 50/2000)
11	C-8	Income Tax (Deductions of Insurance Premiums for Exporters) Rules 1995/[P.U(A) 79/1995]
12	C-9	Income Tax (Deductions of Insurance Premiums for Exporters) (Revocation) Rules 2012 - Revoke from Year of Assessment 2016
13	C-10	Income Tax (Deductions of Insurance Premiums for Importers) Rules 1982/[P.U(A) 72/1982]
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16	C-13	Public Ruling 11/2020
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LAWS OF MALAYSIA

ONLINE VERSION OF UPDATED
TEXT OF REPRINT

Act 53

INCOME TAX ACT 1967

As at 1 March 2020

INCOME TAX ACT 1967

First enacted … … … … … … … … … …	1967 (Act No. 47 of 1967)
Revised … … … … … … … … … ... … …	1971 (Act 53 w.e.f. 21 October 1971)
Latest amendment made by Act 823 which came into operation on … … … … … … …	See section 3 of Act 823

PREVIOUS REPRINTS

First Reprint … … … … … … 1980

Second Reprint … … … … … 1993

Third Reprint … … … … … … 2002

Fourth Reprint … … … … … 2006

LAWS OF MALAYSIA

Act 53

INCOME TAX ACT 1967

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LAWS OF MALAYSIA

Act 53

INCOME TAX ACT 1967

An Act for the imposition of income tax.

[*Throughout Malaysia—28 September 1967*]

PART I

PRELIMINARY

Short title and commencement

1. (1) This Act may be cited as the Income Tax Act 1967.

(2) (*Omitted*).

(3) This Act shall have effect for the year of assessment 1968 and subsequent years of assessment.

Interpretation

2. (1) In this Act, unless the context otherwise requires—

"adjusted income", in relation to a source and a basis period, means adjusted income ascertained in accordance with this Act;

"adjusted loss", in relation to a source and a basis period, means adjusted loss ascertained in accordance with this Act;

"aggregate income", in relation to a person and a year of assessment, means aggregate income ascertained in accordance with this Act;

"amended return" means an amended return made in accordance with section 77B;

"approved loan" means—

(a) any loan or credit made to the Government, State Government (including any loan or credit made to a person other than the Government or State Government where the loan or credit is guaranteed by the Government or State Government), local authority or statutory body; or

(b) any loan or credit other than a loan or credit of the kind specified in paragraph (*a*), made to a person pursuant to an application received prior to 25 October 1996 where the amount of such loan or credit exceeds two hundred and fifty million ringgit,

by a person pursuant to an application received prior to 25 October 1996 not resident in Malaysia:

Provided that—

(i) the loan or credit has been approved by the Minister of Finance; and

(ii) the loan or credit agreement was executed in Malaysia or where the loan or credit agreement with the prior approval of the Minister was executed outside Malaysia;

"approved operational headquarters company" has the meaning assigned thereto by section 60E;

"approved scheme" means the Employees Provident Fund, private retirement scheme or any pension or provident fund, scheme or society approved by the Director General under section 150;

"assessment" means any assessment or additional assessment made under this Act;

"authorized officer" means, within the scope of his authority—

(a) an officer authorized by subsections 136(1) to (4) to exercise any function of the Director General; or

(b) an officer authorized under subsection 136(5) to exercise or assist in exercising any such function;

"basis period", in relation to a person, a source of his and a year of assessment, means such basis period, if any, as is ascertained in accordance with section 21 or 21A;

"basis year" has the meaning assigned by section 20;

"body of persons" means an unincorporated body of persons (not being a company), including a Hindu joint family but excluding a partnership;

"building" includes any structure erected on land (not being plant or machinery);

"business" includes profession, vocation and trade and every manufacture, adventure or concern in the nature of trade, but excludes employment;

"business trust" has the same meaning assigned to it in the Capital Markets and Services Act 2007 [*Act 671*];

"Central Bank" means the Central Bank of Malaysia established under section 3 of the Central Bank of Malaysia Act 2009 [*Act 701*];

"chargeable income" in relation to a person and a year of assessment, means chargeable income ascertained in accordance with this Act;

"company" means a body corporate and includes any body of persons established with a separate legal identity by or under the laws of a territory outside Malaysia and a business trust;

"composite assessment" means a composite assessment made in accordance with section 96A;

"controlled company" means a company having not more than fifty members and controlled, in the manner described by section 139, by not more than five persons;

"co-operative society" means any co-operative society registered under any written law relating to the registration of co-operative societies in Malaysia;

"deferred annuity" means deferred annuity contracted on or after 1 January 2014 issued by insurers licensed under the Financial Services Act 2013 [*Act 758*] or takaful operators registered under the Islamic Financial Services Act 2013 [*Act 759*], and contains the Retirement Saving Standards approved by the Central Bank;

"director", in relation to a company, includes any person occupying the position of director (by whatever name called), any person in accordance with whose directions or instructions the directors are accustomed to act and any person who—

(a) is a manager of the company or otherwise concerned in the management of the company's business;

(b) is remunerated out of the funds of that business; and

(c) is, either on his own or with one or more associates within the meaning of subsection 139(7), the beneficial owner of (or able directly or through the medium of other companies or by any other indirect means to control) twenty per cent or more of the ordinary share capital of the company ("ordinary share capital" here meaning all the issued share capital of the company, by whatever name called, other than capital the holders whereof have a right to a dividend at a fixed rate but have no other right to share in the profits of the company);

"Director General" means the Director General of Inland Revenue referred to in section 134;

"employee", in relation to an employment, means—

(a) where the relationship of master and servant subsists, the servant;

(b) where that relationship does not subsist, the holder of the appointment or office which constitutes the employment;

"employer", in relation to an employment, means—

(a) where the relationship of master and servant subsists, the master;

(b) where that relationship does not subsist, the person who pays or is responsible for paying any remuneration to the employee who has the employment, notwithstanding that that person and the employee may be the same person acting in different capacities;

"employment" means—

(a) employment in which the relationship of master and servant subsists;

(b) any appointment or office, whether public or not and whether or not that relationship subsists, for which remuneration is payable;

"executor" means the executor, administrator or other person administering or managing the estate of a deceased person;

"foreign tax" means any tax on income (or any other tax of a substantially similar character) chargeable or imposed by or under the laws of a territory outside Malaysia and in relation to paragraph 132(4)*(d)* or section 132A includes other taxes of every kind imposed by or under the laws of that territory;

"Hindu joint family" means what in any system of law prevailing in India is known as a Hindu joint family or coparcenary;

"husband who elects" means the husband who is referred to in paragraph 45(2)*(b)*;

"incapacitated person" means a minor or a person adjudged under any law to be in a state of unsoundness of mind (however described);

"individual" means a natural person;

"Inland Revenue Board of Malaysia" means the Inland Revenue Board of Malaysia established under the Inland Revenue Board of Malaysia Act 1995 [*Act 533*];

"input tax" has the same meaning assigned to it in the *Goods and Services Tax Act 2014 [*Act 762*];

"Labuan business activity" has the meaning assigned to it in the Labuan Business Activity Tax Act 1990 [*Act 445*];

"Labuan company" means a Labuan entity as provided under subsection 2B(1) of the Labuan Business Activity Tax Act 1990;

"lease" includes a sublease, a tenancy for three years or less and any agreement for a lease or sublease;

"limited liability partnership" means a limited liability partnership registered under the Limited Liability Partnerships Act 2012 [*Act 743*];

"Malaysia" means the territories of the Federation of Malaysia, the territorial waters of Malaysia and the sea-bed and subsoil of the territorial waters, and the airspace above such areas, and includes any area extending beyond the limits of the territorial waters of Malaysia, and the sea-bed and subsoil of any such area, which has been or may hereafter be

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**NOTE*—The Goods and Services Act 2014 [*Act 762*] has since been repealed by the Goods and Services Tax (Repeal) Act 2018 [*Act 805*] which comes into operation on 1 September 2018–*see* section 3 of Act 805.

designated under the laws of Malaysia as an area over which Malaysia has sovereign rights or jurisdiction for the purposes of exploring and exploiting the natural resources, whether living or non-living;

"market value", in relation to any thing, means the price which that thing would fetch if sold in a transaction between independent persons dealing at arm's length;

"Minister" means the Minister for the time being charged with the responsibility for finance;

"output tax" has the same meaning assigned to it in the Goods and Services Tax Act 2014;

"partnership" means an association of any kind (including joint adventures, syndicates and cases where a party to the association is itself a partnership) between parties who have agreed to combine any of their rights, powers, property, labour or skill for the purpose of carrying on a business and sharing the profits therefrom, but excludes a Hindu joint family although such a family may be a partner in a partnership, a limited liability partnership and any association which is established pursuant to a scheme of financing in accordance with the principles of Syariah;

"permanent total disablement" has the same meaning assigned to it in the Employees' Social Security Act 1969 [*Act 4*];

"person" includes a company, a body of persons, a limited liability partnership and a corporation sole;

"premises" means a building (or, where a building is divided into separate parts used or capable of being used as separate residential flats or otherwise as separate tenements, any one of those parts) and includes—

(a) any other building or part of a building used or intended to be used in conjunction therewith as domestic offices or for some other ancillary purpose; and

(b) any land attached thereto for use by way of amenity as garden or grounds;

"prescribed" means prescribed by rules made under section 154 or, in relation to a form other than the form mentioned in subsection 138(1), prescribed under section 152;

"private retirement scheme" means a retirement scheme approved by the Securities Commission in accordance with the Capital Markets and Services Act 2007 [*Act 671*];

"public entertainer" includes—

(a) a compere, model, circus performer, lecturer, speaker, sportsperson, an artiste or individual exercising any profession, vocation or employment of a similar nature; or

(b) an individual who uses his intellectual, artistic, musical, personal or physical skill or character in,

carrying out any activity in connection with any purpose through live, print, electronic, satellite, cable, fibre optic or other medium, for film or tape, or for television or radio broadcast, as the case may be;

"rent" includes any sum paid for the use or occupation of any premises or part thereof or for the hire of any thing;

"research and development" means any systematic, investigative and experimental study that involves novelty or technical risk carried out in the field of science or technology with the object of acquiring new knowledge or using the results of the study for the production or improvement of materials, devices, products, produce, or processes, but does not include—

(a) quality control or routine testing of materials, devices or products;

(b) research in the social sciences or the humanities;

(c) routine data collection;

(d) efficiency surveys or management studies;

(e) market research or sales promotion;

(f) routine modifications or changes to materials, devices, products, processes or production methods; or

(g) cosmetic modifications or stylistic changes to materials, devices, products, processes or production methods;

"resident" means resident in Malaysia for the basis year for a year of assessment by virtue of section 7 or 8;

"royalty" includes any sums paid as consideration for, or derived from—

(a) the use of, or the right to use in respect of, any copyrights, software, artistic or scientific works, patents, designs or models, plans, secret processes or formulae, trademarks or other like property or rights;

(b) the use of, or the right to use, tapes for radio or television broadcasting, motion picture films, films or video tapes or other means of reproduction where such films or tapes have been or are to be used or reproduced in Malaysia, or other like property or rights;

(c) the use of, or the right to use, know-how or information concerning technical, industrial, commercial or scientific knowledge, experience or skill;

(d) the reception of, or the right to receive, visual images or sounds, or both, transmitted to the public by—

(i) satellite; or

(ii) cable, fibre optic or similar technology;

(e) the use of, or the right to use, visual images or sounds, or both, in connection with television broadcasting or radio broadcasting, transmitted by—

(i) satellite; or

(ii) cable, fibre optic or similar technology;

(f) the use of, or the right to use, some or all of the part of the radiofrequency spectrum specified in a relevant licence;

(g) a total or partial forbearance in respect of—

(i) the use of, or the granting of the right to use, any such property or right as is mentioned in paragraph *(a)* or *(b)* or any such knowledge, experience or skill as is mentioned in paragraph *(c)*;

(ii) the reception of, or the granting of the right to receive, any such visual images or sounds as are mentioned in paragraph *(d)*;

(iii) the use of, or the granting of the right to use, any such visual images or sounds as are mentioned in paragraph *(e)*; or

(iv) the use of, or the granting of the right to use, some or all such part of the spectrum specified in a spectrum licence as is mentioned in paragraph *(f)*; or

(h) the alienation of any property, know-how or information mentioned in paragraph *(a)*, *(b)* or *(c)* of this definition;

"Secretary" means the Secretary to the Special Commissioners;

"Securities Commission" means the Securities Commission established under section 3 of the Securities Commission Malaysia Act 1993 [*Act 498*];

"serious disease" means acquired immunity deficiency syndrome, Parkinson's disease, cancer, renal failure, leukemia or other similar diseases;

"service director", in relation to a company, means a director (not being a person to whom, together with his associates within the meaning of subsection 139(7), if any, there would be distributed, on the distribution of a dividend by the company, more than five per cent of the dividend) who is employed in the service of the company in a managerial or technical capacity, and is not, either on his own or with any associate within that meaning, the beneficial owner of (or able directly or through the medium of other companies or by any other indirect means to control) more than five per cent of the ordinary share capital of the company ("ordinary share capital" here having the same meaning as in the definition of "director" in this subsection);

"share", in relation to a company, includes stock other than debenture stock;

"source" means a source of income;

"Special Commissioners" means the Special Commissioners of Income Tax referred to in section 98;

"statutory authority" means any authority or body established by or under a written law (not being an authority or body established under the *Companies Act 1965 [*Act 125*], or any written law of a corresponding kind in force before the commencement of that Act in any place comprised in Malaysia on 1 January 1968) to discharge any functions of a public nature, including the provision of public utility and similar services;

"statutory income", in relation to a person, a source and a year of assessment, means statutory income ascertained in accordance with this Act;

"statutory order" means an order having legislative effect;

**NOTE*—The Companies Act 1965 [*Act 125*] has since been repealed by the Companies Act 2016 [*Act 777*] which comes into operation on 31 January 2017–*see* subsection 620(1) of Act 777.

"stock in trade", in relation to a business, means property of any description, whether movable or immovable, being either—

(a) property such as is sold in the ordinary course of the business or would be so sold if it were mature or if its manufacture, preparation or construction were complete; or

(b) materials such as are used in the manufacture, preparation or construction of any such property as is referred to in paragraph *(a)* of this definition,

and includes any work in progress;

"sukuk" has the same meaning assigned to it in the Capital Markets and Services Act 2007;

"tax" means the tax imposed by this Act;

"total income", in relation to a person and a year of assessment, means total income ascertained in accordance with this Act;

"treasury share" means a share of a company that was previously issued but was repurchased, redeemed or otherwise acquired by such company and not cancelled;

"trust body", in relation to a trust, means the trust body provided for by section 61;

"wife" means a woman who (whether or not she has gone through any religious or other ceremony) is regarded by virtue of any law or custom as the wife of a man or as one of his wives;

"wife who elects" means the wife who is referred to in paragraph 45(2)*(a)*;

"year of assessment", subject to subsection (5), means calendar year.

(2) Any reference in this Act to income shall, if the income is not described as being income of a particular kind, be construed as a

reference to income generally or to gross, adjusted, statutory, aggregate, total or chargeable income as the context and circumstances may require.

(3) Unless the context otherwise requires, "payable for" and "receivable for", when used in this Act with reference to a period, mean payable or receivable, as the case may be, for that period or any part thereof.

(4) Where—

(a) two or more companies are related within the meaning of section 6 of the *Companies Act 1965;

(b) a company is so related to another company which is itself so related to a third company;

(c) the same persons hold more than fifty per cent of the shares in each of two or more companies; or

(d) each of two or more companies is so related to at least one of two or more companies to which paragraph *(c)* applies,

all the companies in question are in the same group for the purposes of this Act.

(5) References in this Act to a year or years of assessment shall be construed (except where Schedule 9 provides otherwise) as references to a year or years of assessment in relation to which this Act has effect by virtue of subsection 1(3).

(6) For the purposes of this Act—

(a) the reference to tax in paragraph 79*(e)* shall be deemed to include a reference to any tax imposed by any of the repealed laws ("repealed laws" in this subsection having the same meaning as in Schedule 9);

**NOTE*—The Companies Act 1965 [*Act 125*] has since been repealed by the Companies Act 2016 [*Act 777*] which comes into operation on 31 January 2017–*see* subsection 620(1) of Act 777.

(b) the reference to this Act in section 81, paragraph 116*(c)* and section 153 shall be deemed to include references to each of the repealed laws; and

(c) the reference to functions under this Act in paragraph 116*(b)* shall be deemed to include a reference to functions under any of the repealed laws exercised by virtue of this Act.

(7) Any reference in this Act to interest shall apply, *mutatis mutandis*, to gains or profits received and expenses incurred, in lieu of interest, in transactions conducted in accordance with the Syariah.

(8) Subject to subsection (7), any reference in this Act to the disposal of an asset or a lease shall exclude any disposal of an asset or lease by or to a person pursuant to a scheme of financing approved by the Central Bank, the Labuan Financial Services Authority or the Malaysia Co-operative Societies Commission, or approved or authorized by, or lodged with, the Securities Commission as a scheme which is in accordance with the principles of Syariah where such disposal is strictly required for the purpose of complying with those principles but which will not be required in any other schemes of financing.

(9) Any reference—

(a) in subsection 107C(4A), to a company which has a paid-up capital in respect of ordinary shares of two million five hundred thousand ringgit and less at the beginning of the basis period for a year of assessment; and

(b) in paragraph 2A of Schedule 1 and paragraph 19A of Schedule 3, to a company which has a paid-up capital in respect of ordinary shares of two million five hundred thousand ringgit and less at the beginning of the basis period for a year of assessment and gross income from source or sources consisting of a business not exceeding fifty million ringgit for the basis period for that year of assessment,

shall exclude a business trust and a company which is established for the issuance of asset-backed securities in a securitization transaction approved by the Securities Commission.

(10) Any reference in this Act to—

(a) "Labuan Offshore Business Activity Tax Act 1990" is construed as reference to "Labuan Business Activity Tax Act 1990";

(b) "Labuan Offshore Financial Services Authority" is construed as reference to "Labuan Financial Services Authority";

(c) "offshore business activity" is construed as reference to "Labuan business activity";

(d) "Offshore Companies Act 1990" is construed as reference to "Labuan Companies Act 1990"; and

(e) "offshore company" is construed as reference to "Labuan company".

(11) In relation to a business trust, any reference in this Act to shares or ordinary share capital, shareholders and dividend shall be read as including a reference to units or derivatives of units, unit holders and distributions, respectively.

PART II

IMPOSITION AND GENERAL CHARACTERISTICS OF THE TAX

Charge of income tax

3. Subject to and in accordance with this Act, a tax to be known as income tax shall be charged for each year of assessment upon the income of any person accruing in or derived from Malaysia or received in Malaysia from outside Malaysia.

3A. (*Deleted by Act 451*).

Non-chargeability to tax in respect of offshore business activity

3B. Notwithstanding section 3, tax shall not be charged under this Act on income in respect of an offshore business activity carried on by an offshore company, other than an offshore company (in this Act referred to as "chargeable offshore company"), which has made an election under section 3A of the Labuan Offshore Business Activity Tax Act 1990.

3C. (*Deleted by Act 578*).

Classes of income on which tax is chargeable

4. Subject to this Act, the income upon which tax is chargeable under this Act is income in respect of—

(a) gains or profits from a business, for whatever period of time carried on;

(b) gains or profits from an employment;

(c) dividends, interest or discounts;

(d) rents, royalties or premiums;

(e) pensions, annuities or other periodical payments not falling under any of the foregoing paragraphs;

(f) gains or profits not falling under any of the foregoing paragraphs.

Special classes of income on which tax is chargeable

4A. Notwithstanding section 4 and subject to this Act, the income of a person not resident in Malaysia for the basis year for a year of assessment in respect of—

(i) amounts paid in consideration of services rendered by the person or his employee in connection with the use of property or rights belonging to, or the installation or operation of any plant, machinery or other apparatus purchased from, such persons;

(ii) amounts paid in consideration of any advice given, or assistance or services rendered in connection with the management or administration of any scientific, industrial or commercial undertaking, venture, project or scheme; or

(iii) rent or other payments made under any agreement or arrangement for the use of any moveable property,

which is derived from Malaysia is chargeable to tax under this Act.

Non-business income

4B. For the purpose of section 4, gains or profit from a business shall not include any interest that first becomes receivable by a person in the basis period for a year of assessment other than interest where subsection 24(5) applies.

Gain or profits from a business arising from stock in trade parted with by any element of compulsion

4C. For the purpose of paragraph 4*(a)*, gains or profits from a business shall include an amount receivable arising from stock in trade parted with by any element of compulsion including on requisition or compulsory acquisition or in a similar manner.

Manner in which chargeable income is to be ascertained

5. (1) Subject to this Act, the chargeable income of a person upon which tax is chargeable for a year of assessment shall be ascertained in the following manner:

(a) first, the basis period for each of his sources for that year shall be ascertained in accordance with Chapter 2 of Part III;

(b) next, his gross income from each source for the basis period for that year shall be ascertained in accordance with Chapter 3 of that Part;

(c) next, his adjusted income from each source (or, in the case of a source consisting of a business, his adjusted income or adjusted loss from that source) for the basis period for that year shall be ascertained in accordance with Chapter 4 of that Part;

(d) next, his statutory income from each source for that year shall be ascertained in accordance with Chapter 5 of that Part;

(e) next, his aggregate income for that year and his total income for that year shall be ascertained in accordance with Chapter 6 of that Part; and

(f) next, his chargeable income for that year shall be ascertained in accordance with Chapter 7 of that Part.

(1A) For the purpose of ascertaining the chargeable income of a person under subsection (1), any amount or income received by that person which is subject to deduction of tax under section 109C, 109E or 109G shall be excluded.

(2) For the purposes of this Act, any income of a person from any source or sources, and any adjusted loss of a person from any source or sources consisting of a business, may be ascertained for any period (including a year of assessment) notwithstanding that—

(a) the person in question may have ceased to possess that source or any of those sources prior to that period; or

(b) in that period that source or any of those sources may have ceased to produce gross income or may not have produced any gross income.

(3) (*Deleted by Act 337*).

(4) (*Deleted by Act 337*).

Rates of tax

6. (1) *(a)* Except where this subsection provides otherwise and subject to section 6A, income tax shall be charged for each year of assessment upon the chargeable income of every person for that year at the appropriate rate as specified in Part I of Schedule l;

(b) subject to section 109 but notwithstanding any other provisions of this Act, where—

(i) the income of a person not resident in Malaysia for the basis year for a year of assessment consists of interest (other than interest on an approved loan or interest of the kind referred to in paragraph 33 of Part 1, Schedule 6) or royalty derived from Malaysia; or

(ii) the income of a person (other than a company) not resident in Malaysia for the basis year for a year of assessment consists of remuneration or other income in respect of services performed or rendered in Malaysia by a public entertainer,

income tax there on shall be charged at the appropriate rate as specified in Part II of Schedule 1;

(c) (*Deleted by Act 451*);

(d) income tax shall be charged for each year of assessment upon the chargeable income of every co-operative society for that year at the appropriate rate as specified in Part IV of Schedule 1;

(e) subject to section 109B but notwithstanding any other provisions of this Act, income tax shall be charged for each year of assessment upon the income of a person charged under section 4A at the appropriate rate as specified under Part V of Schedule 1;

(f) subject to section 109C but notwithstanding any other provisions of this Act, income tax shall be charged for each year of assessment upon the income of an individual resident in Malaysia which consists of interest (other than interest exempt from tax under this Act or any order made thereto) accruing in or derived from Malaysia and received from a person referred to in subsection 109C(4) at the appropriate rate as specified under Part VI of Schedule 1;

(g) (*Deleted by Act 624*);

(h) income tax shall be charged for each year of assessment upon the chargeable income of a foreign fund management company in relation to the source consisting of the provision of fund management services to foreign investors for that year at the appropriate rate as specified in Part IX of Schedule 1;

(i) subject to section 109D but notwithstanding any other provisions of this Act, income tax shall be charged for each year of assessment upon the income of a unit holder other than a unit holder which is a resident company which consists of income distributed by the unit trust referred to in section 61A at the appropriate rate as specified under Part X of Schedule 1 provided that the rates specified under such Part shall apply, in

respect of subparagraphs *(a)* and *(c)* of that Part for a period of six years from the year of assessment 2020 and in respect of subparagraph *(b)* of that Part for the year of assessment 2016 and subsequent years of assessment;

(j) subject to the provision of section 109E but notwithstanding any other provisions of this Act, income tax shall be charged for each year of assessment upon the income of a participant, other than a participant which is a resident company, which consists of profits distributed or credited by an operator referred to in section 60AA at the appropriate rate as specified under Part XI of Schedule 1;

(k) subject to section 109F but notwithstanding any other provisions of this Act, income tax shall be charged for each year of assessment upon the income of a non-resident person charged under paragraph 4*(f)* at the appropriate rate as specified under Part XIII of Schedule 1;

(l) subject to section 109G but notwithstanding any other provisions of this Act, income tax shall be charged for a year of assessment upon the income of an individual consisting of the total amount received in respect of withdrawal from a deferred annuity or a private retirement scheme where such withdrawal is made by that individual before reaching the age of fifty-five (other than by reason of permanent total disablement, serious disease, mental disability, death, permanently leaving Malaysia, healthcare or housing, for which such withdrawal shall be in compliance with the criteria as set out in the relevant guidelines of the Securities Commission) at the appropriate rate as specified under Part XVI of Schedule 1.

(2) The Minister, where he is satisfied that it is the intention of the Government to promote the introduction into the Dewan Rakyat of a Bill to vary in any particular way the rates of tax, may by statutory order declare those rates to be varied in that way; and, where he does

so, then, subject to subsections (3) and (4), this Act shall have effect as if those rates as so varied had come into force at the beginning of the first year of assessment for which the Bill seeks to vary those rates.

(3) Every order made under subsection (2) shall be laid before the Dewan Rakyat as soon as may be after it has been made and shall cease to have effect—

(a) at the expiration of a period of three months (or such longer period as may be specified by resolution of the Dewan Rakyat) beginning on the date when the order was made; or

(b) on the coming into force (after the date when the order was made) of an Act varying the rates of tax,

whichever first occurs.

(4) Where an order made under subsection (2) ceases to have effect pursuant to subsection (3)—

(a) the amount of any tax which—

(i) has been charged by any assessment by reference to the order; and

(ii) is payable (whether or not it is due or due and payable) but not paid at the date when the order ceases to have effect,

shall be taken to be amended to the amount which would have been payable if the order had not been made; and

(b) so much of any tax paid by any person in consequence of the order as exceeds the tax payable under the law in force immediately after the date when the order ceases to have effect shall be repaid by the Director General if that person—

(i) makes a claim therefor in the prescribed form within one year after that date; and

(ii) furnishes to the Director General such further particulars of the claim as the Director General may require.

(5) In subsections (2) and (3) any reference to rates of tax includes a reference to the rate of any abatement specified under Schedule 1.

Tax rebate

6A. (1) Subject to this section, income tax charged for each year of assessment upon the chargeable income of every individual resident for the basis year for that year shall be rebated for that year of assessment in accordance with subsections (2), (2A) and (3) before any set off is made under section 110 and any credit is allowed under section 132 or 133.

(2) A rebate shall be granted for a year of assessment in the following amounts:

(a) four hundred ringgit in the case of an individual who has been allowed a deduction under paragraph 46(1)*(a)* for that year of assessment where his chargeable income for that year of assessment does not exceed thirty-five thousand ringgit;

(b) four hundred ringgit in the case of an individual who has been allowed a deduction under subsection 47(1) or (2) for that year of assessment where his chargeable income for that year of assessment does not exceed thirty-five thousand ringgit;

(c) four hundred ringgit in the case of a wife who has been allowed a deduction under section 45A for that year of assessment where her chargeable income for that year of assessment does not exceed thirty-five thousand ringgit:

Provided that where Part XIV or XV of Schedule 1 applies, thirty-five thousand ringgit shall consist of chargeable income of that individual from all sources.

(2A) A rebate shall be granted for a year of assessment in respect of departure levy which is charged and levied under the Departure Levy Act 2019 [*Act 813*] on any person who leaves Malaysia by air for the purpose of performing *umrah* or other religious pilgrimage and shall be evidenced by the boarding pass and—

(a) in the case of *umrah*, a copy of the visa issued by the embassy of the Kingdom of Saudi Arabia; or

(b) in the case of any other religious pilgrimage, a written verification by a religious body recognized by the Committee for the Promotion of Inter Religious Understanding and Harmony Among Adherents, Prime Minister's Department.

(2B) For the purpose of subsection (2A), the rebate—

(a) shall be granted for not more than two times in respect of the departure levy paid for the purpose of performing *umrah* or other religious pilgrimage; and

(b) shall not be granted in respect of the departure levy paid for the purpose of performing hajj.

(3) A rebate shall be granted for a year of assessment for any *zakat*, *fitrah* or any other Islamic religious dues payment of which is obligatory and which are paid in the basis year for that year of assessment to, and evidenced by a receipt issued by, an appropriate religious authority established under any written law.

(3A) (*Deleted by Act 661*).

(4) Where the total amount of the rebate under subsections (2), (2A) and (3) exceeds the income tax charged (before any such rebate) for any year of assessment, the excess shall not be paid to the individual

or available as a credit to set off his tax liability for that year of assessment or any subsequent year.

6B. (*Deleted by Act 661*).

6C. (*Deleted by Act 719*).

Residence: individuals

7. (1) For the purposes of this Act, an individual is resident in Malaysia for the basis year for a particular year of assessment if—

(a) he is in Malaysia in that basis year for a period or periods amounting in all to one hundred and eighty two days or more;

(b) he is in Malaysia in that basis year for a period of less than one hundred and eighty-two days and that period is linked by or to another period of one hundred and eighty-two or more consecutive days (hereinafter referred to in this paragraph as such period) throughout which he is in Malaysia in the basis year for the year of assessment immediately preceding that particular year of assessment or in that basis year for the year of assessment immediately following that particular year of assessment:

Provided that any temporary absence from Malaysia—

(i) connected with his service in Malaysia and owing to service matters or attending conferences or seminars or study abroad;

(ii) owing to ill-health involving himself or a member of his immediate family; and

(iii) in respect of social visits not exceeding fourteen days in the aggregate,

shall be taken to form part of such period or that period, as the case may be, if he is in Malaysia immediately prior to and after that temporary absence;

(c) he is in Malaysia in that basis year for a period or periods amounting in all to ninety days or more, having been with respect to each of any three of the basis years for the four years of assessment immediately preceding that particular year of assessment either—

(i) resident in Malaysia within the meaning of this Act for the basis year in question; or

(ii) in Malaysia for a period or periods amounting in all to ninety days or more in the basis year in question; or

(d) he is resident in Malaysia within the meaning of this Act for the basis year for the year of assessment following that particular year of assessment, having been so resident for each of the basis years for the three years of assessment immediately preceding that particular year of assessment.

(1A) For the purposes of subsection (1), an individual shall be deemed to be in Malaysia for a day if he is present in Malaysia for part of that day and in ascertaining the period for which he is in Malaysia during any year, any day (within paragraphs 1*(a)* and *(c)* for which he is in Malaysia shall be taken into account whether or not that day forms part of a continuous period of days during which he is in Malaysia.

(1B) Notwithstanding subsection (1), where a person who is a citizen and—

(a) is employed in the public services or service of a statutory authority; and

(b) is not in Malaysia at any day in the basis year for that particular year of assessment by reason of—

(i) having and exercising his employment outside Malaysia; or

(ii) attending any course of study in any institution or professional body outside Malaysia which is fully-sponsored by the employer,

he is deemed to be a resident for the basis year for that particular year of assessment and for any subsequent basis years when he is not in Malaysia.

(2) (*Deleted by Act A226*).

Residence: companies and bodies of persons

8. (1) For the purposes of this Act—

(a) a Hindu joint family is resident in Malaysia for the basis year for a year of assessment if its manager or *karta* is resident for that basis year;

(b) a company or a body of persons (not being a Hindu joint family) carrying on a business is resident in Malaysia for the basis year for a year of assessment if at any time during that basis year the management and control of its business or of any one of its businesses, as the case may be, are exercised in Malaysia; and

(c) any other company or body of persons (not being a Hindu joint family) is resident in Malaysia for the basis year for a year of assessment if at any time during that basis year the management and control of its affairs are exercised in Malaysia by its directors or other controlling authority.

(1A) Notwithstanding subsection (1), for the purposes of this Act —

(a) a limited liability partnership carrying on a business is resident in Malaysia for the basis year for a year of

assessment if at any time during that basis year the management and control of its business or of any one of its businesses, as the case may be, are exercised in Malaysia;

(b) any other limited liability partnership is resident in Malaysia for the basis year for a year of assessment if at any time during that basis year the management and control of its affairs are exercised in Malaysia by its partners;

(c) a business trust is resident in Malaysia for the basis year for a year of assessment if the trustee manager of that business trust is resident in Malaysia and a trustee manager of a business trust is resident for the basis year for a year of assessment if —

(i) the trustee manager in his capacity as such carries on such business trust in Malaysia; and

(ii) the management and control of the business of such business trust is exercised in Malaysia.

(2) If it is shown that it has been established as between the Director General and a company, limited liability partnership, business trust or body of persons for any tax purpose that the company, limited liability partnership, business trust or body was resident in Malaysia for the basis year for any year of assessment, it shall be presumed until the contrary is proved that the company, limited liability partnership, business trust or body was resident in Malaysia for the purposes of this Act for the basis year for every subsequent year of assessment.

9. (*Deleted by Act A226*).

10. (*Deleted by Act A226*).

11. (*Deleted by Act 624*).

Derivation of business income in certain cases

12. (1) Where for the purposes of this Act it is necessary to ascertain any gross income of a person derived from Malaysia from a business of his, then—

(a) subject to subsection (2), so much of the gross income from the business as is not attributable to operations of the business carried on outside Malaysia shall be deemed to be derived from Malaysia;

(b) notwithstanding paragraph *(a)*, if the business consists wholly or partly of the manufacturing, growing, mining, producing or harvesting in Malaysia of any article, product, produce or other thing—

(i) the gross income from any sale of the article, product, produce or other thing taking place outside Malaysia in the course of carrying on the business; or

(ii) where the article, product, produce or other thing is exported in the course of carrying on the business and subparagraph (i) does not apply, an amount equal to the market value of the article, produce, product or other thing at the time of its export,

shall be deemed to be gross income of that person derived from Malaysia from the business.

(2) Where in the case of a business to which paragraph (1)*(a)* applies—

(a) the business or a part thereof is carried on in Malaysia;

(b) any of the gross income of the business (from wherever derived) consists of a dividend or interest to which subsection 24(4) or (5) applies; and

(c) the dividend or interest relates either—

(i) to a share, debenture, mortgage or other source which forms or has formed part of the stock in trade of the business or, where only part of the business is carried on in Malaysia, of that part of the business; or

(ii) to a loan of the kind mentioned in subsection 24(5) granted in the course of carrying on the business or that part of the business, as the case may be,

so much of that gross income as consists of that dividend or interest shall be deemed to be derived from Malaysia.

(3) Notwithstanding subsections (1) and (2), the income of a person from a business that is attributable to a place of business in Malaysia shall be deemed to be the gross income of that person derived from Malaysia from the business.

(4) For the purpose of subsection (3), a place of business includes—

(a) a place of management;

(b) a branch;

(c) an office;

(d) a factory;

(e) a workshop;

(f) a warehouse;

(g) a building site, or a construction, an installation or an assembly project;

(h) a farm or plantation; and

(i) a mine, an oil or gas well, a quarry or any other place of extraction of natural resources,

and without prejudice to the generality of the foregoing, a person shall be deemed to have a place of business in Malaysia if that person—

(i) carries on supervisory activities in connection with a building or work site, or a construction, an installation or an assembly project; or

(ii) has another person acting on his behalf who—

(A) habitually concludes contracts, or habitually plays the principal role leading to the conclusion of contracts that are routinely concluded without material modification;

(B) habitually maintains a stock of goods or merchandise in that place of business from which such person delivers goods or merchandise; or

(C) regularly fills orders on his behalf.

General provisions as to employment income

13. (1) Gross income of an employee in respect of gains or profits from an employment includes—

(a) any wages, salary, remuneration, leave pay, fee, commission, bonus, gratuity, perquisite or allowance (whether in money or otherwise) in respect of having or exercising the employment;

(b) an amount equal to the value of the use or enjoyment by the employee of any benefit or amenity (not being a benefit or amenity convertible into money) provided for the employee by or on behalf of his employer, excluding—

(i) a benefit or amenity consisting of medical or dental treatment or a benefit for child care;

(ii) a benefit or amenity consisting of—

(A) leave passages including meals and accommodation for travel within Malaysia not exceeding three times in any calendar year; or

(B) one leave passage for travel between Malaysia and any place outside Malaysia in any calendar year, limited to a maximum of three thousand ringgit:

Provided that the benefit or amenity enjoyed under this subparagraph is confined only to the employee and members of his immediate family;

(iii) a benefit or amenity used by the employee solely in connection with the performance of his duties; and

(iv) a benefit or amenity falling under paragraph *(c)*;

(c) an amount in respect of the use or enjoyment by the employee of living accommodation in Malaysia (including living accommodation in premises occupied by his employer) provided for the employee by or on behalf of the employer rent free or otherwise;

(d) so much of any amount (other than a pension, annuity or periodical payment falling under paragraph 4*(e)*) received by the employee, whether before or after his employment ceases, from a pension or provident fund, scheme or society not approved for the purpose of this Act as would not have been so received if his employer had not made contributions in respect of the employee to the fund, scheme or society or its trustees; and

(e) any amount received by the employee, whether before or after his employment ceases, by way of compensation for loss of the employment, including any amount in respect of—

(i) a covenant entered into by the employee restricting his right after leaving the employment to engage in employment of a similar kind; or

(ii) any agreement or arrangement having the like effect.

(1A) The total amount of gross income referred to in subsection (1), where applicable, shall include any amount of output tax paid under the Goods and Services Tax Act 2014 in connection with the gross income which is borne by the employer.

(2) Gross income in respect of gains or profits from an employment—

(a) for any period during which the employment is exercised in Malaysia;

(b) for any period of leave attributable to the exercise of the employment in Malaysia;

(c) for any period during which the employee performs outside Malaysia duties incidental to the exercise of the employment in Malaysia;

(d) for any period during which a person is a director of a company and that company is resident in Malaysia for the basis year for a year of assessment and within that basis year that period or part of that period falls; or

(e) for any period during which the employment is exercised aboard a ship or aircraft used in a business operated by a person who is resident in Malaysia for the basis year for a

year of assessment and within that basis year that period or part of that period falls,

shall be deemed to be derived from Malaysia.

(3) Gross income in respect of gains or profits from an employment in the public services or the service of a statutory authority—

(a) for any period during which the employment is exercised outside Malaysia; or

(b) for any period of leave attributable to the exercise of the employment outside Malaysia,

shall be deemed to be derived from Malaysia if the employee is a citizen.

(4) For the purposes of subsection (1) a benefit, amenity or living accommodation provided for an employee as therein mentioned shall be deemed to be used or enjoyed by the employee if it is used or enjoyed by his spouse, family, servants, dependants or guests.

(5) Any question whether any gross income is gross income for a period mentioned in subsection (2) shall be decided by applying the appropriate provisions of Chapter 3 of Part III as if that period were the basis period for a year of assessment.

13A. (*Deleted by Act 293*).

General provisions as to dividend income

14. (1) Subject to this section, where a company resident for the basis year for a year of assessment pays, credits or distributes a dividend in the basis period for that year of assessment, the dividend shall be deemed to be derived from Malaysia.

(2) Where a company resident for the basis year for a year of assessment was not resident for the basis year for the year of assessment immediately preceding that year of assessment, only dividends paid, credited, or distributed by the company on or after the day on which the management and control of any business of the company (or, in the case of a company which does not carry on a business, the management and control of its affairs by its directors or other controlling authority) were first exercised in Malaysia in that first-mentioned basis year shall be deemed to be derived from Malaysia.

(3) Where—

(a) the management and control of the business of a company (or, if it has more than one business, of all its businesses); or

(b) in the case of a company which does not carry on a business, the management and control of its affairs by its directors or other controlling authority,

cease to be exercised in Malaysia in the basis year for a year of assessment and the company is not resident for the basis year for the year of assessment following that first-mentioned year of assessment, dividends paid, credited or distributed in that first-mentioned basis year after the cessation shall not be deemed to be derived from Malaysia.

(4) Where a dividend consists of property other than money, that dividend shall be taken to consist of an amount equal to the market value of the property at the time of the distribution of the dividend.

Derivation of interest and royalty income in certain cases

15. Gross income in respect of interest or royalty shall be deemed to be derived from Malaysia—

(a) if responsibility for payment of the interest or royalty lies with the Government, a State Government or a local authority;

(b) (i) if responsibility for payment of the interest or royalty in the basis year for a year of assessment (the responsibility of any guarantor being disregarded in the case of interest) lies with a person who is resident for that basis year; and

(ii) in the case of interest it is payable in respect of money borrowed by that person and employed in or laid out on assets used in or held for the production of any gross income of that person derived from Malaysia or the debt in respect of which the interest is paid is secured by any property or asset situated in Malaysia; or

(c) if the interest or royalty is charged as an outgoing or expense against any income accruing in or derived from Malaysia.

Derivation of special classes of income in certain cases

15A. Gross income in respect of—

(a) amounts paid in consideration of services rendered by a person or his employee in connection with the use of property or rights belonging to, or the installation or operation of any plant, machinery or other apparatus purchased from, such person;

(b) amounts paid in consideration of any advice given, or assistance or services rendered in connection with the management or administration of any scientific, industrial or commercial undertaking, venture, project or scheme;

(c) rent or other payments made under any agreement or arrangement for the use of any moveable property,

shall be deemed to be derived from Malaysia—

(i) if responsibility for payment of the above or other payments lies with the Government, a State Government or a local authority;

(ii) if responsibility for the payment of the above or other payments lies with a person who is a resident for that basis year; or

(iii) if the payment of the above or other payments is charged as an outgoing or expense in the accounts of a business carried on in Malaysia.

Derivation of gains or profits in certain cases

15B. Gross income in respect of gains or profits to which paragraph 4*(f)* applies shall be deemed to be derived from Malaysia—

(a) if responsibility for the payment of such gains or profits lies with the Government, a State Government or a local authority;

(b) if responsibility for the payment of such gains or profits lies with a person who is a resident for that basis year; or

(c) if the payment of such gains or profits is charged as an outgoing or expense in the accounts of a business carried on in Malaysia.

Voluntary pensions, etc.

16. Where any pension or other periodical payment is paid voluntarily to any person who has permanently ceased to exercise an employment (or to that person's widow or widower, child, relative or dependant) by his former employer or the successor of his former employer, there shall be deemed to be a source of that person or of that person's widow or widower, child, relative or dependant, as the case may be, in respect

of that pension or payment and that pension or payment shall be deemed to be gross income from that source chargeable to tax.

Derivation of pensions, etc.

17. (1) Gross income in respect of a pension from the Government or a State Government shall be deemed to be derived from Malaysia.

(2) Where—

(a) a person has a right to a pension or other like payment—

(i) from a pension fund or a fund of a similar kind;

(ii) under a pension scheme or a scheme of a similar kind; or

(iii) by virtue of his membership of a pension society or a society of a similar kind; and

(b) the forum of the administration of the fund, scheme or society is in Malaysia at any time in the basis year for a year of assessment,

the gross income for the basis period for that year of assessment in respect of the pension or other like payment shall be deemed to be derived from Malaysia.

(3) The gross income for the basis period for a year of assessment from any source of the kind mentioned in section 16 or in respect of a pension or other periodical payment to which paragraph 4*(e)* applies shall be deemed to be derived from Malaysia if the person paying that income was resident for the basis year for that year of assessment:

Provided that this subsection shall not apply to a pension or other payment to which subsection (1) or (2) applies.

PART III

ASCERTAINMENT OF CHARGEABLE INCOME

Chapter 1 - Preliminary

Interpretation of Part III

18. In this Part, unless the context otherwise requires—

"agriculture" means any form of cultivation of crops, animal farming, aquaculture, inland fishing and any other agricultural or pastoral pursuit;

"cargo" includes mail, currency, specie, livestock and all kinds of goods;

"crops" includes any form of vegetable produce;

"defined value", in relation to living accommodation provided for an employee by or on behalf of his employer, means—

(a) where the accommodation is not affected by any written law providing for the restriction or control of rents and the person so providing the accommodation holds the accommodation on lease the rent which is or would have been paid if the accommodation is or had been unfurnished and the lessor and lessee were independent persons dealing at arm's length;

(b) in any other case, the rateable value or, in the absence of a rateable value, the economic rent;

"disabled person" means any individual certified in writing by the Department of Social Welfare to be a disabled person;

"economic rent", in relation to any premises or part of any premises, means the rent at which those premises or that part might reasonably be expected to be let if—

(a) the lessor covenanted to pay the cost of fire insurance, public rates and work of repair and maintenance (being work which would normally be included in a covenant to repair and maintain if such a covenant were entered into by a lessor dealing at arm's length); and

(b) any written law providing for the restriction or control of rents were disregarded;

"entertainment" includes—

(a) the provision of food, drink, recreation or hospitality of any kind; or

(b) the provision of accommodation or travel in connection with or for the purpose of facilitating entertainment of the kind mentioned in paragraph *(a)*,

by a person or an employee of his, with or without any consideration paid whether in cash or in kind, in promoting or in connection with a trade or business carried on by that person;

"farm" means any land used for the purposes of agriculture;

"furniture" includes air-conditioning equipment and any fixture which, if it were not a fixture, would be regarded as furniture;

"insurance" includes a takaful scheme pursuant to the *Takaful Act 1984 [*Act 312*];

"licensed Malaysian offshore bank" has the meaning assigned to it by the Labuan Offshore Business Activity Tax Act 1990 [*Act 445*];

"mine" means a source of minerals over which mining operations are, have been or may lawfully be carried on;

"minerals" means minerals and mineral substances (other than mineral oils), and includes precious metals, precious stones and non-

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**NOTE*—The Takaful Act 1984 [*Act 312*] has since been repealed by the Islamic Financial Finance Act 2013 [*Act 759*] which comes into operation on 30 June 2013–*see* section 282 of Act 759.

precious minerals, but does not include common clay (other than kaolin or bentonite), sand, sandstone or any sodium compound or any other similar common mineral substance obtainable without underground mining operations and not containing any precious metal or precious stones in economically workable quantities;

"mining operations" includes every method or process by which minerals are won or obtained;

"payroll tax" means any tax of that name imposed by a written law;

"premiums", in relation to insurance, includes contributions or instalments payable under a takaful scheme pursuant to the *Takaful Act 1984;

"rateable value", in relation to premises, means the annual value as determined for rating purposes by the local rating authority, if any;

"replanting" means the replacement of the crop of any product on any area of land by taking such action as is calculated to produce on the same area a crop of the same product and includes reforestation of timber;

"turnover tax" means any tax of that name imposed by a written law.

Supplementary provisions for the interpretation of Part III

19. (1) A period overlaps another period for the purposes of this Part if—

(a) it begins before and ends in or at the same time as or after that other period; or

(b) it begins at the same time as or during that other period and ends after that other period.

**NOTE*—The Takaful Act 1984 [*Act 312*] has since been repealed by the Islamic Financial Finance Act 2013 [*Act 759*] which comes into operation on 30 June 2013–*see* section 282 of Act 759.

(2) For the purposes of this Part, an individual and a wife of his shall be treated as living together unless—

(a) they are separated under an order of a court or under a deed of separation or a written agreement for separation; or

(b) they are in fact separated in such circumstances that the separation is likely to be permanent.

(3) Where—

(a) it is necessary for the purposes of Chapter 4 to ascertain the amount of any interest, rent or any payment of any other kind which is payable for the basis period (or for a part of the basis period) for a year of assessment; and

(b) the period for which the interest, rent or payment is payable (in this subsection referred to as the relevant period) overlaps that basis period,

the interest, rent or payment shall be taken to accrue evenly over the relevant period, and so much of the interest, rent or payment as is thus found to accrue during the period of the overlap shall be taken to be the amount of the interest, rent or payment which is payable for that basis period or that part of that basis period, as the case may be.

(4) In this Part a reference to—

(a) gross income or any other item receivable; or

(b) rent or any other sum payable,

is a reference to any gross income, other item, rent or other sum, as the case may be, which is payable to the recipient, whether or not it is due or due and payable.

(5) Any reference to this Part in section 18 or this section includes a reference to Schedules 2, 3, 4 and 4B.

(6) For the avoidance of doubt it is declared that, where a person who is a partner in a partnership is not in fact personally engaged in carrying on the business of that partnership, nothing in section 55, 56 or 57 shall cause that partner to be treated as being personally engaged in his proprietorship or continuing proprietorship business in relation to that partnership.

Chapter 2 —Basis years and basis periods

Basis years

20. For the purposes of this Act, the calendar year coinciding with a year of assessment shall constitute the basis year for that year of assessment.

Basis period of a person other than a company, limited liability partnership, trust body or co-operative society

21. The basis year for a year of assessment shall constitute, in relation to a source of a person other than a company, limited liability partnership, trust body or co-operative society, the basis period for that year of assessment.

Basis period of a company, limited liability partnership, trust body or co-operative society

21A. (1) Except as provided in this section, the basis year for a year of assessment shall constitute, in relation to a source of a company, limited liability partnership, trust body or co-operative society, the basis period for that year of assessment.

(2) Subject to subsections (5) and (6), where a company, limited liability partnership, trust body or co-operative society has made up the accounts of its operations for a period of twelve months ending on a day other than 31 December in the basis year, that period shall

constitute the basis period for that year of assessment for any of its sources of income.

(3) Where the company, limited liability partnership, trust body or co-operative society has made up the accounts of its operations for a period of twelve months ending on a day in a basis year and there is a failure to make up the accounts of the company, limited liability partnership, trust body or cooperative society ending on the corresponding day in the following basis year, the Director General may direct that the basis period for the year of assessment in which the failure occurs, or the basis periods for that year and the following year of assessment, shall consist of a period or periods (which may be of any length) as specified in the direction.

(3A) Where a company, limited liability partnership, trust body or co-operative society has made up the accounts of its operations for a period of twelve months ending on a day in a basis year and has failed to make up its accounts ending on the corresponding day in the following basis year ("hereinafter referred to as "the new accounts"), the company, limited liability partnership, trust body or co-operative society shall notify the Director General of such failure in the prescribed form—

(a) in the case where the new accounts are made up ending before the corresponding day, thirty days before the end of the new accounts; or

(b) in the case where the new accounts are made up ending after the corresponding day, thirty days before the corresponding day.

(4) Subject to subsections (5) and (6), where a company, limited liability partnership, trust body or co-operative society commences operation on a day in a basis year for a year of assessment (hereinafter referred to as the "first year of assessment") and makes up its account —

(a) for a period of less than twelve months ending on a day in that basis year, that period shall constitute the basis period for the first year of assessment;

(b) for any period of months ending on a day in the immediately following basis year (hereinafter referred to as the "second basis year"), that period shall constitute the basis period for the year of assessment (hereinafter referred to as the "second year of assessment") immediately following the first year of assessment, there shall be no basis period in relation to any of its sources of income for the first year of assessment; or

(c) for a period of more than twelve months ending on a day in the basis year immediately following the second basis year, that period shall constitute the basis period for the year of assessment immediately following the second year of assessment and there shall be no basis period in relation to any of its sources of income for the first year of assessment and the second year of assessment.

(5) Where a company commences operations and—

(a) is required under any law of the place of incorporation to make up its accounts ending on a specified day; or

(b) being a company within a group of companies makes up its accounts ending on the same day as that of all other companies in that group,

the period which begins from the day the company commences operations until the end of the accounting period of the company shall constitute, for those operations of that company, the basis period for a year of assessment.

(6) Where a company, limited liability partnership, trust body or co-operative society on the day on which it commences a new operation is already carrying on one or more operations, the basis period of the existing operation or operations for a year of assessment in which that day falls shall constitute for the new operation the basis period for that year of assessment and there shall be no basis period for the new operation for the year of assessment preceding that year.

(7) In subsections (4) and (6), references to company, limited liability partnership, trust body or co-operative society commencing to carry on an operation shall be construed only as references to cases where the company, limited liability partnership, trust body or co-operative society in question commences to carry on—

(a) its own operations; or

(b) the operations of another company, limited liability partnership, trust body or cooperative society being operations not previously carried on by that other company, limited liability partnership, trust body or cooperative society or its agents.

(8) For the purposes of this section, "operations" in relation to a company, limited liability partnership, trust body or co-operative society means—

(a) an activity which consists of the carrying on of a business;

(b) an activity which consists wholly in the making of investments;

(c) an activity which consists of both the carrying on of a business and the making of investments; or

(d) an activity which consists of the making of investments prior to the commencement of a business or after the cessation of a business.

Chapter 3—Gross income

Gross income generally

22. (1) Subject to this Act, the gross income of a person from a source of his for the basis period for a year of assessment shall be the gross income from that source for that period ascertained in accordance with the following provisions of this Chapter (that person and that period

being referred to in those provisions as the relevant person and the relevant period respectively).

(2) Subject to this Act, the gross income of a person from a source of his for the basis period for a year of assessment shall include any sums receivable or deemed to have been received for that basis period in relation to that source by way of—

(a) insurance, indemnity, recoupment, recovery, reimbursement or otherwise—

(i) where such sums are in respect of the kind of outgoings and expenses deductible in ascertaining the adjusted income of that person from that source; or

(ii) under a contract of indemnity; and

(b) compensation for loss of income from that source.

(c) (*Deleted by Act 661*).

Interpretation of sections 24 to 28

23. For the purposes of sections 24 to 28—

(a) a reference to a debt is a reference to a debt in a liquidated sum (whether or not due or due and payable);

(b) a dividend deemed to be derived from Malaysia by virtue of section 14 shall be treated as paid on the day on which cash or its equivalent (whether in the form of a voucher, cheque or otherwise) in respect of the dividend is posted or delivered by or on behalf of the payer, and as distributed in specie on the day on which it is posted or delivered by or on behalf of the distributor;

(c) where any tax or foreign tax has been deducted in paying, crediting or distributing any gross income, then, with respect to that gross income, any reference in those sections to gross income paid, credited or received shall be taken to mean the amount of that gross income before the deduction;

(d) where any dividend deemed to be derived from Malaysia by virtue of section 14 is paid or credited without deduction of tax or is distributed in specie, the amount of the gross income in respect of that dividend shall be taken to be such an amount as, after deduction of tax at the rate deductible at the date of payment, crediting or distribution, would be equal to—

(i) the amount in fact paid;

(ii) the amount in fact credited; or

(iii) the market value of the dividend at the date of distribution,

as the case may be.

Basis period to which gross income from a business is related

24. (1) Where in the relevant period a debt owing to the relevant person arises in respect of—

(a) any stock in trade sold in or before the relevant period in the course of carrying on a business;

(aa) any stock in trade parted with by any element of compulsion including on requisition or compulsory acquisition or in a similar manner, in or before the relevant period;

(b) any services rendered or to be rendered at any time in the course of carrying on a business; or

(c) the use or enjoyment of any property dealt or to be dealt with at any time in the course of carrying on a business,

the amount of the debt shall be treated as gross income of the relevant person from the business for the relevant period.

(1A) Except where subsection (1) applies, where in the relevant period, any sum is received by a relevant person in the course of carrying on a business in respect of any services to be rendered or the use or enjoyment of any property to be dealt with in the relevant period or in any following basis period, the sum shall be treated as the gross income of the relevant person from the business for the relevant period the sum is received notwithstanding that no debt is owing to the relevant person in respect of such services or such use or enjoyment.

(2) Where in the relevant period any stock in trade of a business of the relevant person is—

(a) withdrawn for his own use; or

(b) withdrawn (otherwise than on requisition or compulsory acquisition or in a similar manner) without any consideration being received therefor or for a consideration consisting of—

(i) any property not being either a debt owing to the relevant person or a sum in cash or the equivalent of cash;

(ii) any such property together with a debt owing to the relevant person or any such sum; or

(iii) any such property together with a debt owing to the relevant person and any such sum,

then, subject to subsection (3), an amount equal to the market value of that stock in trade at the time of its withdrawal shall be treated as gross income of the relevant person from the business for the relevant period.

(3) Where in a case to which subsection (2) applies the consideration for the withdrawal of any stock in trade is consideration of the kind described in subparagraph *(b)*(ii) or (iii) of that subsection, then, for the purposes of that subsection—

(a) the amount of the market value of that stock in trade shall be reduced by the amount of the debt or sum or the amount of the debt and sum, as the case may be, referred to in whichever of those subparagraphs applies to the case;

(b) subsection (1) shall apply to the debt as if it were a debt arising on the sale of that stock in trade; and

(c) section 28 shall apply to any such sum.

(4) Subject to section 3, where in the relevant period a dividend is paid, credited or distributed to the relevant person, then, if the stock, share or other source to which the dividend relates forms or has formed in or before the relevant period part of the stock in trade of a business of the relevant person—

(a) the amount of the dividend shall be treated as gross income of the relevant person from the business for the relevant period, if the business is carried on at any time in the relevant period; and

(b) subsection (1) shall not apply to a debt owing to the relevant person in respect of any such dividend:

Provided that, where this subsection has applied to a dividend which has been credited, it shall not apply to that dividend when paid.

(5) Subject to section 3, where in the relevant period any gross interest first becomes receivable by the relevant person, then, if the debenture, mortgage or other source to which the interest relates forms or has formed in or before the relevant period part of the stock in trade of a business carried on by or on behalf of the relevant person, or if the interest is in respect of a loan granted in or before the relevant period

in the course of carrying on the business of lending of money and the business is one which is licensed under any written law —

(a) the interest shall be treated as gross income of the relevant person from the business for the relevant period if the business is carried on at any time in the relevant period; and

(b) subsection (1) shall not apply to a debt owing to the relevant person in respect of any such interest.

(6) Where in the relevant period any article, product, produce or other thing is exported from Malaysia in the course of carrying on a business in such circumstances that subsection 12(1) applies thereto in relation to the business—

(a) subsection (2) shall not apply with respect to that article, product, produce or other thing or to any gross income received in respect thereof; and

(b) the amount equal to the market value of the article, product, produce or other thing deemed under subsection 12(1) to be gross income derived from the business shall be treated as gross income of the relevant person from the business for the relevant period.

(7) Where this section applies to any particular item of gross income, nothing in sections 25 to 29 and nothing in section 30 shall apply to that item.

(8) This section shall not apply to income under section 4A.

Basis period to which gross income from an employment is related

25. (1) Subject to this section, where gross income from an employment is receivable in respect of any particular period, it shall, when received in the relevant period, be treated as the gross income of the relevant person for the relevant period.

(1A) The gross income from an employment in respect of any right to acquire shares in a company of the kind to which paragraph 13(1)*(a)* applies, shall where the right is exercised, assigned, released or acquired in the relevant period be treated as gross income of the relevant person for that relevant period.

(2) (*Deleted by Act 773*).

(2A) (*Deleted by Act 773*).

(3) (*Deleted by Act 773*).

(4) (*Deleted by Act 773*).

(5) (*Deleted by Act 773*).

(6) Notwithstanding the foregoing subsections, where the Director General is satisfied that—

(a) an employee has left or will be leaving Malaysia in the basis year for the year of assessment to which the relevant period relates (that year of assessment being in this subsection referred to as the relevant year) and will not be resident for the basis year for the following year of assessment;

(b) no pension derived from Malaysia will be receivable by the employee for the basis period for that following year; and

(c) gross income from the employee's employment will cease to be derived from Malaysia on the expiration of a period of leave following the employee's departure from Malaysia,

any gross income from the employment which but for this subsection would by virtue of any of the foregoing subsections be receivable for the basis period for the relevant year or for the basis period for the year of assessment following the relevant year, shall be treated as deemed

to have been received for the relevant period unless the employee in making his return of income for the relevant year (or within such period after the making of that return as the Director General may allow) makes a written request to the Director General that this subsection shall not apply in relation to his gross income from the employment.

Basis period to which gross income in respect of dividend is related

26. (1) Subject to subsection (2), where gross income from a source consists of a dividend deemed to be derived from Malaysia by virtue of section 14, all gross income from that source paid, credited or distributed in the relevant period shall be taken to be gross income of the relevant person for the relevant period:

Provided that, where this section has applied to a dividend which had been credited, it shall not apply to that dividend when paid.

(2) In relation to gross income to which subsection (1) applies, where the relevant period overlaps the basis period for the immediately preceding year of assessment, the gross income in relation to the part of the relevant period which overlaps that basis period shall not be taken to be the gross income of the relevant person for the relevant period.

Basis period to which gross income in respect of interest, etc., is related

27. (1) Subject to this section where gross income from a source in Malaysia of the relevant person—

(a) consists of any interest, discount, rent or royalty or of any pension, annuity or other periodical payment to which paragraph 4*(e)* applies; and

(b) first becomes receivable in the relevant period,

it shall when it has been received be treated as gross income of the relevant person for the relevant period.

(1A) Where gross income from a source in Malaysia of a company consists of any amount of discount or premium from the subscription or issuance of bond, as the case may be, and first becomes receivable in the relevant period, that amount shall be deemed to accrue over the whole period of the bond and the gross income of the company for the relevant period that relates to the period of the bond shall be a sum to be determined in accordance with the following formula:

$$\frac{A}{B} \times C$$

where A is the number of days in the relevant period that falls within the period of the bond;

B is the total number of days of the whole period of the bond; and

C is the total amount of discount or premium in respect of the bond:

Provided that the Director General may allow the company to consistently apply any other formula which is in accordance with the generally accepted accounting principles applicable during the relevant period.

(2) Where gross income from a source of the relevant person is gross income to which subsection (1) or (1A) applies and is receivable in respect of a period (in this subsection referred to as the overlapping period) which overlaps the relevant period, that gross income when received shall be apportioned between the part of the overlapping period which overlaps the relevant period and the remaining part of the overlapping period (the apportionment, unless the Director General having regard to the facts of any particular case otherwise directs, being made in the proportion that the number of days of the overlapping period that fall into the relevant period bears to the total number of days of the overlapping period) and so much of that gross

income as is apportioned to the overlapping part of the overlapping period shall be treated as gross income of the relevant person from that source for the relevant period:

Provided that—

(a) where that gross income is in respect of an amount of interest calculated for two or more periods of accrual which together make up the overlapping period, the gross income in respect of the interest in respect of each period of accrual shall be ascertained and—

(i) if any such period of accrual falls into the relevant period, subsection (1) shall apply to the gross income so ascertained in respect of that period of accrual;

(ii) if any such period of accrual overlaps the relevant period, this subsection (without this paragraph of this proviso) shall apply to the gross income so ascertained in respect of that period of accrual as if that period of accrual were the overlapping period and as if that last mentioned gross income were gross income receivable in respect of the overlapping period;

(b) where the overlapping period in respect of which that gross income is receivable partly the elapsed more than four years before the day on which the receipt of that gross income first became known to the Director General, then, for the purposes of this subsection, that gross income shall whenever necessary be deemed to have been receivable in respect of and to have accrued evenly over that part of the overlapping period which did not so elapse and, if that part falls wholly into the relevant period, shall whenever necessary be deemed to be gross income of the relevant person from that source for the relevant period;

(c) where the overlapping period in respect of which that gross income is receivable wholly elapsed more than four years before the day on which the receipt of that gross income first became known to the Director General, that gross income shall whenever necessary be treated as gross income of the relevant person for the basis period for the year of assessment which began four years before the beginning of the year of assessment which includes that day.

(3) Where gross income mentioned in subsection (1) or (1A) becomes receivable in the relevant period and is in respect of—

(a) a period which commences after the end of the relevant period; or

(b) a period which overlaps the relevant period and which partly elapsed after the end of the relevant period,

subsection (2) shall not apply and that gross income shall when received be treated as gross income of the relevant person for the relevant period:

Provided that, where the relevant period wholly elapsed more than four years before the day on which the receipt of that gross income first becomes known to the Director General, that gross income shall whenever necessary be treated as gross income of the relevant person for the basis period for the year of assessment which began four years before the beginning of the year of assessment which includes that day.

(4) In subsection (2) "period of accrual" means a period throughout which there is no change in the rate of interest or in the principal sum in respect of which interest is payable.

Basis period to which gross income not provided for by sections 24 to 27 is related

28. Subject to this Act, where in the relevant period there is received by the relevant person from a source any gross income to which

sections 24 to 27 do not apply, the amount of that income (or, where the income consists of something having a market value, the amount of its market value at the time of its receipt) shall be treated as gross income of the relevant person from that source for the relevant period.

Basis period to which income obtainable on demand is related

29. (1) Notwithstanding anything in sections 23 to 28, where the circumstances are such that the relevant person is entitled to any gross income (other than gross income to which section 24 or 26 applies) accruing in or derived from Malaysia and is able to obtain the receipt thereof on demand, that gross income shall be treated as being received by him at the time those circumstances arise.

(2) The reference in subsection (1) to gross income the receipt of which the relevant person is able to obtain on demand includes a reference to gross income the receipt of which he would be able to obtain on demand but for the fact that it is lawfully receivable by a receiver of any kind.

(3) For the purposes of this section, where gross income from a source in Malaysia of the relevant person consists of interest that relates to a loan—

(a) between persons one of whom has control over the other;

(aa) between individuals who are relatives of each other; or

(b) between persons both of whom are controlled by some other person,

the relevant person is deemed to be able to obtain on demand the receipt of such interest when such interest is due to be paid to the relevant person in the relevant period.

(4) Subject to subsection (3) and for the purposes of this section, where a relevant person is entitled to any gross income—

(a) accruing in or derived from Malaysia to which section 25, section 27 other than subsection 27(1A), or section 28 applies;

(b) the amount of which relates to any transactions—

(i) between persons one of whom has control over the other;

(ii) between individuals who are relatives of each other; or

(iii) between persons both of whom are controlled by some other persons; and

(c) the amount of which first becomes receivable to the relevant person in the relevant period,

the relevant person is deemed to be able to obtain on demand the receipt of such amount in the basis period immediately following the relevant period.

(5) In this section, "relative" and "transaction" have the meanings assigned to them under subsection 140(8).

Special provisions applicable to gross income from a business

30. (1) Where a deduction has been made under subsection 34(2) in ascertaining the adjusted income of the relevant person from a business for the basis period for a year of assessment, that basis period being prior to the relevant period, then—

(a) if the deduction has been made in respect of a debt estimated to have become wholly irrecoverable, any sum recovered on account of the debt by that person in the relevant period shall be treated as gross income of the relevant person from the business for the relevant period; and

(b) if the deduction has been made in respect of a debt estimated to have become partly irrecoverable and there has been received by that person in respect of the debt a sum (or an aggregate of sums) in excess of the amount of that part of the debt not estimated to have become irrecoverable, so much of that excess as is recovered by him in the relevant period shall be treated as gross income of the relevant person from the business for the relevant period.

(2) Where during the relevant period any sum is refunded to the relevant person—

(a) on account of payroll tax paid by him in respect of remuneration paid by him to any person employed by him in the production of his gross income from a business for the relevant period or any basis period ending prior to the relevant period; or

(b) on account of turnover tax paid by him in respect of the turnover of the business,

the sum refunded shall be treated as gross income of his from the business derived from Malaysia for the relevant period.

(3) Where during the relevant period—

(a) recovered expenditure (within the meaning of Schedule 2) is recovered by or on behalf of the relevant person in connection with a business of his which includes the working of a mine; and

(b) the total recovered expenditure so recovered exceeds the aggregate of—

(i) the residual expenditure (within the meaning of that Schedule) at the date on which that period begins; and

(ii) the qualifying mining expenditure (within the meaning of that Schedule) incurred by him during that period,

the amount of the excess shall be treated as gross income of the relevant person from the business for the relevant period.

(4) Where—

(a) a deduction has been made under subsection 33(1) in computing the adjusted income of the relevant person from a business for the basis period for a year of assessment (that basis period being prior to the relevant period) in respect of any outgoing or expense (including any sum payable, rent payable or expense incurred of the kind described in paragraph 33(1)*(a)*, *(b)* or *(c)*); or

(b) any allowance or aggregate amount of allowances has been made under section 42 in computing the statutory income of the relevant person from a business for the basis period for a year of assessment (that basis period being prior to the relevant period) in respect of any expenditure incurred under Schedule 3,

and the whole or any part of a debt in respect of any such outgoing, expense, sum, rent or expenditure is released in the relevant period, the amount released shall be treated as gross income of the relevant person from that business for the relevant period.

31. (*Deleted by Act 624*).

Special provisions applicable to gross income from an employment

32. (1) Where in the relevant period there has been the use or enjoyment by the relevant person of any benefit or amenity of the kind to which paragraph 13(1)*(b)* applies, the amount in respect thereof to be included in his gross income from the employment for the relevant

period shall be an amount equal to the value of that use or enjoyment as ascertained by whatever method is just and reasonable in the circumstances.

(1A) *(a)* Where in the relevant period a relevant person acquired any right to acquire shares in a company of the kind to which paragraph 13(1)*(a)* applies, under his name or in the name of his nominee or agent, the amount in respect thereof to be included in his gross income from the employment shall be—

(i) the market value of the shares where the right shall be exercised, assigned, released or acquired on a specified date or where the right shall be exercised, assigned, released or acquired within a specified period, the first day of that period; or

(ii) the market value of the shares on the date of the exercise, assignment, release or acquisition of the right,

whichever is the lower less the amount paid for the shares.

(b) In this subsection, "market value" means—

(i) in the case of a company listed on any stock exchange, the average price of the shares which is ascertained by averaging the highest and the lowest price of the shares for the day; or

(ii) in any other case, the net asset value of the shares for the day.

(2) Where in the relevant period there has been the use or enjoyment by the relevant person of living accommodation of the kind to which paragraph 13(1)*(c)* applies, then, subject to subsection (3), the amount in respect thereof to be included in his gross income from the employment for the relevant period shall be—

(a) an amount equal to the defined value of the living accommodation for the relevant period or an amount equal to thirty per cent of the gross income which by virtue of paragraph 13(1)*(a)* and section 25 or 28 falls to be included in his gross income from the employment for the relevant period, whichever is the less; or

(b) where the living accommodation is provided in—

(i) a hotel, hostel or similar premises;

(ii) any premises on a plantation or in a forest; or

(iii) any premises which, although in a rateable area, are not subject to public rates,

an amount equal to three per cent of the gross income which by virtue of paragraph 13(1)*(a)* and section 25 or 28 falls to be included in his gross income from the employment for the relevant period.

(3) Notwithstanding subsection (2), where in the relevant period there has been the use and enjoyment by the relevant person of living accommodation of the kind to which paragraph 13(1)*(c)* applies, then—

(a) where the relevant person's employer is a company and the relevant person at any time during the relevant period is a director of the company (not being a service director) while the company is a controlled company, then, whether or not he is a director at the time of the use and enjoyment, the amount to be included in his gross income for the relevant period shall be the defined value of the accommodation for the relevant period or, if the accommodation is wholly or partly shared with other employees, such proportion of the defined value as is just and reasonable;

(b) where the living accommodation is provided for only a part of the relevant period, the amount to be included in his gross income for the relevant period under subsection (2) or this subsection shall be reduced in such a proportion, if any, as is just and reasonable having regard to all the circumstances;

(c) where the living accommodation (except in a case to which paragraph *(a)* or paragraph (2)*(b)* applies) is provided in such circumstances that—

(i) it is to be wholly or partly shared with other employees;

(ii) the relevant person is required by the employer to reside therein; or

(iii) the relevant person is required or expected by the employer to use it for the advancement of the employer's interests by the provision of hospitality or otherwise and, in order that it may be so used, it is larger or more valuable accommodation than the relevant person would otherwise need,

the amount to be included in his gross income for the relevant period under paragraph (2)*(a)* shall be so much of the defined value of the accommodation for the relevant period as is just and reasonable or thirty per cent of the gross income which by virtue of paragraph 13(1)*(a)* and section 25 or 28 falls to be included in his gross income from the employment for the relevant period, whichever is the less (that amount being reduced in any case to which paragraph *(b)* applies in such a proportion, if any, as is just and reasonable having regard to all the circumstances).

(4) For the purposes of this section, the amount of gross income from the employment mentioned in paragraphs (2)*(a)*, *(b)* and (3)*(c)* shall not include the amount of gross income in respect of any right to acquire shares in a company ascertained under subsection (1A).

Adjusted income generally

33. (1) Subject to this Act, the adjusted income of a person from a source for the basis period for a year of assessment shall be an amount ascertained by deducting from the gross income of that person from that source for that period all outgoings and expenses wholly and exclusively incurred during that period by that person in the production of gross income from that source, including—

(a) subject to subsection (2), any sum payable for that period (or for any part of that period) by way of interest upon any money borrowed by that person and—

(i) employed in that period in the production of gross income from that source; or

(ii) laid out on assets used or held in that period for the production of gross income from that source;

(b) rent payable for that period (or for any part of that period) by that person in respect of any land or building or part thereof occupied by him in that period for the purpose of producing gross income from that source;

(c) expenses incurred during that period for the repair of premises, plant, machinery or fixtures employed in the production of gross income from that source or for the renewal, repair or alteration of any implement, utensil or article so employed, other than implements, utensils, articles (the expenditure on which would be qualifying plant expenditure for the purposes of Schedule 3) or any means of conveyance, excluding the cost of reconstructing or rebuilding—

(i) any premises, buildings, structures or works of a permanent nature;

(ii) any plant or machinery; or

(iii) any fixtures; and

(d) such other deductions as may be prescribed.

(2) Where a person, being a person to whom paragraph (1)*(a)* applies in relation to gross income from a business of his for the basis period for a year of assessment and in relation to borrowed money, has made (otherwise than for the purpose of producing that gross income) any loan of money or any investment in movable or immovable property, and the loan or any part thereof is outstanding at any time in that period or the investment or any part thereof is held by him at any time in that period and it appears to the Director General that the loan or any part thereof or the investment or any part thereof has been financed wholly or partly or directly or indirectly out of the borrowed money—

(a) the total sum payable for that period or any part thereof by way of interest on that borrowed money shall be deemed to accrue evenly over that period or part thereof, and so much of that sum as is thus found to accrue during each calendar month shall be taken to be the monthly figure for the purposes of this subsection;

(b) if at the end of any calendar month the aggregate of—

(i) the amount of the loan then outstanding if any; and

(ii) the cost of so much of the investment as is held by him at that time if any,

is less than the amount of that borrowed money, the monthly figure for that month shall be reduced by an amount which bears to that monthly figure the same proportion as that aggregate bears to the amount of that borrowed money or by an amount which in the opinion of the Director General is just and reasonable in all the circumstances;

(c) if at the end of any calendar month the aggregate mentioned in the preceding paragraph is more than the amount of that borrowed money, the monthly figure for that month shall be reduced to nil or to an amount which in the opinion of the Director General is just and reasonable in all the circumstances; and

(d) the amount of the deduction to be made for that period in respect of that borrowed money shall be an amount consisting of the aggregate of—

(i) the monthly figures for all calendar months to which paragraph *(b)* or *(c)* applies, as reduced by either of those paragraphs; and

(ii) the monthly figures for the other calendar months.

(3) In subsection (2) "calendar month", in relation to a basis period or part thereof, means a period which is included in that basis period or part thereof and is either—

(a) one of the twelve months of the Gregorian calendar; or

(b) where that basis period or part thereof includes a part, but not the whole, of such a month, that part of that month.

(4) For the purposes of paragraph (1)*(a)* and subsection (2), where any sum payable for a basis period for a year of assessment is not due to be paid in that period, the sum shall when it is due to be paid be deducted in arriving at the adjusted income of a person for that period.

(5) For the purpose of subsection (4), where any sum payable for a basis period for a year of assessment is due to be paid in any following year of assessment—

(a) a person shall notify the Director General in writing of the deduction in respect of the sum not later than twelve months from the end of the basis period for the year of assessment when the sum is due to be paid; and

(b) upon receipt of the notice, the Director General may reduce the assessment that has been made in respect of such sum.

Special provisions applicable to adjusted income from a business

34. (1) In ascertaining the adjusted income of a person from a business for the basis period for a year of assessment, deductions shall be made from the gross income from the business for that period in accordance with the following subsections (the person, business, period and gross income in question being referred to in those subsections as the relevant person, the business, the relevant period and the relevant gross income respectively).

(2) There shall be deducted in the case of any debt as defined in subsection (3)—

(a) if at the end of the relevant period the debt is reasonably estimated in all the circumstances of the case to be wholly irrecoverable, an amount equal to the amount of the debt;

(b) if at the end of the relevant period the debt is reasonably estimated in all the circumstances of the case to be partly irrecoverable, an amount equal to so much of the debt as is estimated to be irrecoverable,

the deduction being in either case reduced by the amount of any deduction made under this subsection in respect of the debt for the basis period for a year of assessment prior to the year of assessment to which the relevant period relates.

(3) In subsection (2) “debt” means—

(a) a debt arising in respect of any matter referred to in subsection 24(1) or in respect of interest of the kind referred to in subsection 24(5), where the amount of any such debt has been included in the relevant gross income or in the gross income of the relevant person from the business for the basis period for a year of assessment prior

to the year of assessment to which the relevant period relates; or

(b) a debt arising in respect of a loan of the kind mentioned in subsection 24(5) granted in the course of carrying on the business in the relevant period or in the basis period for any such prior year of assessment.

(3A) (*Deleted by Act 785*).

(3B) (*Deleted by Act 785*).

(4) Where in the relevant period the relevant person has made a contribution to an approved scheme in respect of an employee of his, then—

(a) if the employee's remuneration as determined under the rules, regulations, by-laws or constitution of that scheme for the period for which the contribution is made (that period being a period which coincides with or overlaps the relevant period) is deductible as a whole, or in parts aggregating the whole, in computing the adjusted income from the business for any basis period or periods for a year or years of assessment in relation to the business, there may be deducted from the relevant gross income an amount equal to the contribution or nineteen per cent of the employee's remuneration as so determined for the period for which the contribution is made, whichever is the less;

(b) if only a part or parts of that remuneration is or are so deductible, there may be deducted from the relevant gross income an amount equal to so much of the contribution or of that percentage of the remuneration (whichever of those amounts is the less) as bears to the whole of the contribution or to that percentage of the remuneration, as the case may be, the same proportion as that part or the aggregate of those parts, as the case may be, bears to the whole of that remuneration.

(5) Where on the first establishment of a scheme of the kind referred to in subsection (4) a special contribution thereto is made in the relevant period by the relevant person whereby any of his employees engaged in activities relating to the production of the relevant gross income or gross income of the relevant person from the business for the basis period for a year of assessment (that basis period being prior to the relevant period) may qualify for the benefits under that scheme, the Director General may when approving that scheme authorize deductions in respect of that special contribution of such amounts (being amounts which in total are equal to or less than the special contribution) from the gross income of the relevant person from the business for the basis periods for such years of assessment as he thinks fit.

(6) There may be deducted from the relevant gross income—

(a) an amount equal to any payroll tax paid by the relevant person in the relevant period in respect of any remuneration paid by him to any person employed by him in the production of gross income of his from the business;

(b) an amount equal to any turnover tax in respect of the turnover of the business paid by the relevant person in the relevant period;

(c) where any part of the relevant gross income is derived from the working of a mine, such amounts in respect of capital expenditure as may be allowed for the relevant period pursuant to Schedule 2;

(d) where any part of the relevant gross income is derived from the working of a farm relating to cultivation of crops, an amount equal to any expense (not being an expense which is qualifying expenditure or qualifying agriculture expenditure for the purposes of Schedule 3 or incurred in the acquisition of land or anything growing thereon) incurred by the relevant person in the relevant period in replanting the farm for the purposes of cultivation of crops

or in effecting any improvement of the farm or any part of the farm in connection with such replanting;

(e) an amount equal to the amount of expenditure incurred by the relevant person in the relevant period on the provision of any equipment, or on the alteration or renovation of premises, necessary to assist any disabled person employed by him in the production of gross income of his from the business;

(f) an amount equal to the expenditure incurred by the relevant person in the relevant period in respect of translation into or publication in the national language of cultural, literary, professional, scientific or technical books approved by the Dewan Bahasa dan Pustaka;

(g) an amount equal to the expenditure incurred by the relevant person in the relevant period on the provision of library facilities which are accessible to the public and in respect of contributions to public libraries and libraries of schools and institutions of higher education:

Provided that the amount that may be deducted shall not exceed one hundred thousand ringgit;

(h) an amount equal to the expenditure incurred by the relevant person in the relevant period on the provision of services, public amenities and contributions to a charity or community project pertaining to education, health, housing, conservation or preservation of environment, enhancement of income of the poor, infrastructure, information and communication technology or maintenance of a building designated as a heritage site by the Commissioner of Heritage under the National Heritage Act 2005 [*Act 645*], approved by the Minister:

Provided that where a deduction has been made under this paragraph, no further deduction of the same amount shall be allowed under subsection 44(6);

(ha) an amount equal to the expenditure incurred by a company on the provision of infrastructure in relation to its business which is available for public use, subject to the prior approval of the Minister:

Provided that where a deduction has been made under this paragraph, no further deduction of the same amount shall be allowed under subsection 44(6);

(i) an amount equal to the expenditure incurred, not being capital expenditure on land, premises, buildings, structures or works of a permanent nature or on alterations, additions or extensions thereof or in the acquisition of any rights in or over any property, by the relevant person in the relevant period on the provision and maintenance of a child care centre for the benefit of persons employed by him in his business;

(j) an amount equal to the expenditure incurred by the relevant person in the relevant period in establishing and managing a musical or cultural group approved by the Minister;

(k) an amount equal to the expenditure incurred by the relevant person in the relevant period for sponsoring any arts, cultural or heritage activity approved by the Minister charged with the responsibility for arts, culture or heritage:

Provided that the amount deducted in respect of expenditure incurred for sponsoring those activities shall not in aggregate exceed one million ringgit of which the amount deducted in respect of expenditure incurred in sponsoring foreign arts, cultural or heritage activity shall not exceed three hundred thousand ringgit;

(l) an amount equal to the expenditure incurred by the company in the relevant period on the provision of a scholarship to a student for any course of study leading to an award of a diploma, or degree (including a degree at a Masters or Doctorate level) or the equivalent of a diploma or degree undertaken at a higher educational institution established or registered under the laws regulating such establishment or registration in Malaysia or authorized by any order made under section 5A of the Universities and University Colleges Act 1971 [*Act 30*]:

Provided that the scholarship—

(a) shall only be given to a student—

(i) who is receiving full-time instruction at such higher educational institution;

(ii) who has no means of his own; and

(iii) the total monthly income of whose parents or guardian, as the case may be, does not exceed five thousand ringgit; and

(b) shall not include payments other than payments required by such higher educational institution relating to the course of study, and educational aids and reasonable cost of living expenses during the student's period of study at such higher educational institution;

(m) an amount equal to the expenditure, not being capital expenditure, incurred by a company in the relevant period for the purpose of obtaining accreditation for a laboratory or a certification body, as evidenced by a certificate issued by the Department of Standards Malaysia:

Provided that the expenditure incurred in the relevant period shall be deemed to be incurred by that company in

the basis period for the year of assessment in which the certificate is issued;

(ma) an amount twice the amount of the expenditure, not being capital expenditure, incurred by a company in the relevant period for the purpose of obtaining certification for recognized quality systems and standards, and *halal* certification, evidence by a certificate issued by a certification body as determined by the Minister:

Provided that the expenditure incurred in the relevant period shall be deemed to be incurred by that company in the basis period for the year of assessment in which the certificate is issued;

(n) an amount equal to the expenditure incurred by a person in the relevant period on the provision of practical training in Malaysia, in relation to his business, to an individual who is—

(i) resident in the basis year for a year of assessment; and

(ii) not an employee of that person; and

(o) an amount equal to the expenditure incurred by a company in a relevant period for participating in international standardization activities approved by the department of Standards Malaysia.

(7) There may be deducted from the relevant gross income any expenditure, not being capital expenditure incurred on plant, machinery, fixtures, land, premises, buildings, structures or works of a permanent nature or on alterations, additions or extensions thereof or in the acquisition of any rights in or over any property, incurred by the relevant person during the relevant period on research and development related to the business and directly undertaken by him or on his behalf.

(7A) Where in the basis period for a year of assessment an amount in respect of any sum received by the relevant person which is treated as part of the gross income of the relevant person in accordance with subsection 24(1A) is refunded, such amount shall be deducted from the relevant gross income of the relevant person for the basis period for that year of assessment.

(8) Where any deduction in respect of any matter is capable of being made under this section, no deduction or allowance in respect of that matter shall be made under section 33 or Schedule 3, as the case may be.

Special deduction for research and development expenditure

34A. (1) Subject to this section, in ascertaining the adjusted income of a person from a business for the basis period for a year of assessment, a deduction shall be made, as specified in subsection (4), from the gross income from the business for that period in respect of expenditure, not being capital expenditure incurred on plant, machinery, fixtures, land, premises, buildings, structures or works of a permanent nature or on alterations, additions or extensions thereof or in the acquisition of any rights in or over any property, incurred by that person during that period on research and development approved by the Minister —

(a) (*Deleted by Act 693*);

(b) (*Deleted by Act 693*).

(2) The Minister in approving the research and development pursuant to subsection (1) may impose such conditions as he thinks fit or may specify the period or periods for the purpose of deduction under this section.

(3) (*Deleted by Act 693*).

(4) The amount of deduction to be made under subsection (1) shall be twice the amount of expenditure, not being capital expenditure, referred to in that subsection:

Provided that where subsection (4A) applies, the amount of deduction to be made shall be the amount of expenditure incurred.

(4A) A pioneer company may, in a return of income for the year of assessment in which the expenditure referred to in subsection (1) had been incurred, elect that the amount of that expenditure be deducted in the first basis period in respect of its post-pioneer business for a year of assessment.

(5) Where any deduction in respect of expenditure on research and development is made under this section, no deduction in respect of that expenditure shall be made under section 33 or 34.

(6) For the purposes of this section, the words "pioneer company" and "post-pioneer business" have the respective meanings assigned to them under the Promotion of Investments Act 1986 [*Act 327*].

Special deduction for contribution to an approved research institute or payment for use of services of an approved research institute or company

34B. (1) Subject to this section, in ascertaining the adjusted income of a person from a business for the basis period for a year of assessment, a deduction shall be made, as specified in subsection (2), from the gross income from the business for that period in respect of expenditure, not being capital expenditure, incurred by that person during that period in respect of—

(a) contribution in cash to an approved research institute;

(b) payment for the use of the services of an approved research institute or an approved research company; or

(c) a "contract research and development company" and a "research and development company" have the same meaning assigned thereto in section 2 of the Promotion of Investments Act 1986 and fulfills the conditions specified by the relevant Ministry;

(d) a "related company" has the meaning assigned to it in section 2 of the Promotion of Investments Act 1986.

(2) The amount of deduction to be made under subsection (1) shall be twice the amount of expenditure, not being capital expenditure, referred to in that subsection:

Provided that no deduction in respect of that expenditure shall be made under this section to a person being a related company of a research and development company which has been given approval under subsection 27D(1) of the Promotion of Investments Act 1986 and whose period as prescribed under paragraph 29E(2)*(b)* of that Act has not ended.

(3) Where any deduction in respect of expenditure referred to in subsection (1) is made under this section, no deduction in respect of that expenditure shall be made under section 33, 34 or 34A.

(4) In this section—

(a) an "approved research institute" means an institute, including a company licensed under section 24 of the *Companies Act 1965, approved by the Minister to mainly carry on research in an industry specified in the approval and to commercially exploit the benefit of such research thereof;

(b) an "approved research company" means a company, other than a company licensed under section 24 of the *Companies Act 1965, approved by the Minister to mainly carry on research in an industry specified in the approval and to commercially exploit the benefit of such research thereof;

(c) a "contract research and development company", a "related company" and a "research and development

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**NOTE*—The Companies Act 1965 [*Act 125*] has since been repealed by the Companies Act 2016 [*Act 777*] which comes into operation on 31 January 2017–*see* subsection 620(1) of Act 777.

company" have the meaning assigned thereto in section 2 of the Promotion of Investments Act 1986.

Special provision applicable to adjusted income from a discount or premium

34C. (1) Notwithstanding section 33 but subject to this section, in ascertaining the adjusted income of a company from a source consisting of discount or premium, any expenses in respect of the discount or premium incurred on bond issued or subscribed, as the case may be, by that company is deemed to accrue to the company over the whole period of the bond and the amount to be deducted from the gross income from that source for the basis period for a year of assessment that relates to the period of the bond shall be a sum to be determined in accordance with the following formula:

$$\frac{A}{B} \times C$$

where A is the number of days in the basis period for the year of assessment that falls within the period of the bond;

B is the total number of days of the whole period of the bond; and

C is the total amount of discount or premium incurred in respect of the bond:

Provided that the Director General may allow the company to consistently apply any other formula which is in accordance with the generally accepted accounting principles applicable during that basis period.

(1A) For the purpose of subsection (1), where by reason of an insufficiency or absence of gross income of a company from a source consisting of discount or premium for the basis period for a year of assessment, effect cannot be given or cannot be given in full to any

amount of discount falling to be deducted to that company for that basis period in relation to that source, that amount which has not been so deducted shall be allowed as a deduction in arriving at the adjusted income of that company from any source or sources consisting of a business for that basis period:

Provided that the proceeds from the issuance of the bond that relates to that amount are utilized wholly by that company for the production of gross income from any source or sources consisting of that business.

(1B) This section shall not apply if in the basis period for a year of assessment the bond issued or subscribed forms part of the stock in trade of a business of a company.

(2) Where any deduction in respect of expenditure referred to in subsection (1) or (1A) is made under this section, no deduction in respect of that expenditure shall be made under section 33, 34, 34A or 34B.

Special deduction for expenditure on treasury shares

34D. (1) Notwithstanding section 33 but subject to this section, in ascertaining the adjusted income of a company from a business for the basis period for a year of assessment, a deduction shall be made from the gross income for that period any expenses incurred by that company in acquiring treasury shares.

(2) The amount of deduction referred to in subsection (1) —

(a) shall be the cost of acquiring the treasury shares which are transferred to its employee less any amount payable by that employee for such treasury shares; and

(b) shall be allowed in the basis period for a year of assessment where the employee exercised his rights to acquire such treasury shares.

(3) For the purpose of subsection (2), the cost of acquiring treasury shares which are transferred to its employee shall be determined on the basis that the treasury shares acquired by the company at an earlier point in time are deemed to be transferred first.

(4) Where any amount payable by an employee for any treasury shares transferred to him exceeds the cost to the company of acquiring the treasury shares transferred as provided under subsection (3), the amount of the excess shall be credited to an account to be kept by the company for the purpose of this section.

(5) Where there is any balance in the account kept by the company under subsection (4) and any treasury shares are subsequently transferred by the company to any employee under subsection (1), the cost to the company of acquiring the treasury shares as determined under subsection (3) shall be reduced —

(a) where the amount of the balance is equal to or exceeds the amount of the cost, to zero; or

(b) where the amount of the balance is less than the amount of the cost, by the amount of the balance,

and the amount of the reduction shall be debited to the account.

(6) For the purpose of this section, a company transfers treasury shares held by it to an employee when the employee acquires the legal and beneficial interest in the treasury shares.

(7) Where a holding company transfers treasury shares held by it to any employee employed at any time by a subsidiary company of the holding company who has the right to acquire such shares —

(a) no deduction shall be allowed to the holding company under subsection (1);

(b) if any amount is paid or payable by the subsidiary company to the holding company for the transfer of the treasury shares, there shall be allowed to the subsidiary

company, on the date of the transfer of the shares or of the payment to the holding company for the shares, whichever is the later, a deduction under subsection (1) for the amount, or an amount equal to the cost to the holding company of acquiring the treasury shares transferred to the employee of the subsidiary less any amount payable by that employee for the treasury shares, whichever is less.

Stock in trade

35. (1) Notwithstanding any other provision of this Part, in ascertaining the adjusted income of a person from a business for the basis period for a year of assessment, the value of the stock in trade of the business at the beginning and at the end of that period shall be taken into account in accordance with the following subsections (that person, business, period and stock in trade being referred to in those subsections as the relevant person, the business, the relevant period and the stock respectively).

(2) Where the value of the stock at the end of the relevant period exceeds the value of the stock at the beginning of the relevant period, the total of all amounts otherwise deductible under this Act in ascertaining the adjusted income of the relevant person from the business for the relevant period shall be reduced by the amount of the excess; and, where the value of the stock at the beginning of the relevant period exceeds the value of the stock at the end of the relevant period, the total of all amounts otherwise so deductible shall be increased by the amount of the excess.

(3) Subject to subsections (4) and (5)—

(a) the value of any particular item of the stock at the end of the relevant period shall be taken to be—

(i) an amount equal to its market value at that time; or

(ii) if the relevant person so elects and that item is physically tangible, an amount equal to the total

cost to him of acquiring that item (or any materials used in its manufacture, preparation or construction) and bringing it to its condition and location at that time:

Provided that in the case of any item of the stock consisting of immovable properties, stocks, shares or marketable securities, the value thereof at the end of the relevant period shall be taken to be an amount equal to its cost price to that relevant person or its market value at that time, whichever is the lower;

(b) the value of any particular item of the stock at the beginning of the relevant period (except where the business was commenced by the relevant person in the relevant period) shall be taken to be an amount equal to its value as ascertained under paragraph *(a)* at the end of the basis period for the year of assessment immediately preceding the year of assessment to which the relevant period relates.

(4) Where—

(a) by virtue of section 41 this Chapter applies in relation to the business as if an accounting period were the relevant period; and

(b) a previous period for which the accounts of the business were made up ended immediately prior to that accounting period,

the reference in paragraph (3)*(b)* to the basis period for the year of assessment immediately preceding the year of assessment to which the relevant period relates shall be construed as a reference to that previous period.

(5) Where during the relevant period the relevant person permanently ceases to carry on the business, then—

(a) if—

(i) at or about the time he so ceases any of what was the stock in trade of the business is sold or transferred for valuable consideration by that person to another person and that other person intends to use that transferred stock in the business or in another business of his; and

(ii) the cost of that transferred stock to that other person is deductible as an expense in computing that other person's adjusted income for the basis period for a year of assessment from the business or from that other business of his,

the value of that transferred stock at the time he so ceases shall be taken to be an amount equal to the price paid on the sale or to the value of the consideration, as the case may be, and shall be taken to be the value of that stock at the end of the relevant period;

(b) the value of any of what was at the time he so ceases the stock in trade of the business to which paragraph *(a)* does not apply shall be taken to be an amount equal to its market value at the time he so ceases and shall be taken to be the value thereof at the end of the relevant period;

(c) for the purposes of paragraph *(a)*—

(i) where any of the stock in trade is sold or transferred for a consideration in cash or its equivalent with other assets of the business, the total consideration given for that transferred stock in trade and those assets shall be apportioned in such manner as is just and reasonable;

(ii) where any of the stock in trade is transferred (with or without other assets) for a consideration other than cash or its equivalent, the value of the consideration shall be taken to be an amount equal to the market value of the consideration at the date

of the transfer and, if that stock in trade is transferred with other assets, that amount shall be apportioned in such manner as is just and reasonable; and

(iii) where any of the stock in trade is transferred (with or without other assets) for a consideration which partly does and partly does not consist of cash or its equivalent, the value of the consideration shall be taken to be an amount equal to that cash or its equivalent together with the market value of the rest of the consideration and, if that stock in trade is transferred with other assets, that amount shall be apportioned in such manner as is just and reasonable; and

(d) where any stock in trade is sold or transferred to another person in a case to which paragraph *(a)* applies, the cost to that other person of that stock in trade shall in computing the adjusted income of that person from the business (or from any other business of his in which he uses or intends to use any of that stock in trade) be taken to be an amount equal to its value as ascertained under that paragraph.

Power to direct special treatment in the computation of business income in certain cases

36. (1) Notwithstanding any other provision of this Part, where the Director General is satisfied that there is a need for some treatment in computing—

(a) the gross income from a business with respect to—

(i) a hire-purchase transaction;

(ii) a transaction under which a debt is payable by instalments;

(iii) a lease transaction in respect of moveable property;

(iv) any other transaction involving a debt or stock in trade; or

(v) such other transaction as may be prescribed; and

(b) the adjusted income and statutory income from the business,

he may give directions and formulate regulations to be published in the *Gazette* for special treatment with respect to any such transaction, either in relation to a particular business or in relation to any business having any such transaction:

Provided that no such directions and regulations shall have effect in relation to a business for any year of assessment with respect to which an assessment wholly or partly relating to income from that business has become final and conclusive or is the subject of an appeal which has been sent forward to the Special Commissioners.

(2) Any direction given under subsection (1) with respect to the gross income, adjusted income and statutory income from a business or businesses may—

(a) provide that the gross income to which it relates (or any part thereof) shall be taken to be gross income for such basis period or periods for such year or years of assessment with respect to that business or those businesses as may be specified in the direction;

(b) provide for special treatment with respect to the ascertainment of the adjusted income and statutory income from that business or those businesses for the basis period or periods for any year or years of assessment.

37. (*Deleted by Act 624*).

Special provisions applicable to adjusted income from an employment

38. (1) Subject to this section—

(a) where an employee's gross income from an employment includes for the basis period for a year of assessment any amount ascertained in accordance with subsection 32(1) in respect of any benefit or amenity consisting of furniture provided by or on behalf of his employer in conjunction with living accommodation, there may be deducted from that gross income the amount of any rent payable by that employee for that period for that accommodation and furniture, less the amount of any deduction made in respect of that rent under paragraph *(b)*; and

(b) where an employee's gross income from an employment includes for the basis period for a year of assessment any amount ascertained in accordance with subsection 32(2) or (3) in respect of living accommodation provided by or on behalf of his employer, there may be deducted from that gross income expenses of the following kind:

(i) the amount of any public rates or insurance premiums payable by the employee in respect of that accommodation for that period;

(ii) any expenses incurred for the repair or maintenance of the premises (excluding expenses of a capital nature and expenses incurred in connection with the upkeep of land attached to the premises for use by way of amenity as garden or grounds) which the employee, pursuant to the terms on which that accommodation is so provided, is legally bound to meet in respect of that accommodation during that period;

(iii) where the accommodation is provided unfurnished, any rent payable by the employee for that accommodation for that period;

(iv) where the accommodation is provided furnished and is held by or on behalf of the employer on lease at what would be an economic rent if so much of the rent as relates to the furniture were to be disregarded, so much of any rent payable by the employee for that period as bears to the whole of the rent so payable the same proportion as the economic rent of the accommodation bears to the rent payable by or on behalf of the employer for that period; and

(v) where the accommodation is provided furnished and subparagraph (iv) does not apply, so much of any rent payable by the employee for that period as bears to the whole rent so payable the same proportion as the defined value of the accommodation bears to the aggregate of the economic rent for that period and the rent for that period appropriate to the market value of the furniture provided in conjunction with that accommodation.

(2) Where living accommodation is provided for only part of a basis period, the expenses referred to in paragraph (1)*(b)* shall be restricted to such of those expenses as are payable for that part under that subsection or as are bound to be met during that part under that subsection, as the case may be.

(3) The total amount deducted under this section from an employee's gross income from an employment for the basis period for a year of assessment shall not exceed the total of the amounts included in that gross income—

(a) by virtue of subsection 32(1) in respect of any benefit or amenity consisting of furniture provided by or on behalf of an employer in conjunction with living accommodation; and

(b) by virtue of subsection 32(2) or (3).

(4) Where an employee's gross income from an employment includes for the basis period for a year of assessment any amount ascertained in accordance with subsection 32(2) or (3) in respect of living accommodation provided by or on behalf of his employer, any expense to which subparagraph (1)*(b)*(ii) applies in relation to that basis period (or a part of that basis period) shall, if it is payable for a period which overlaps that basis period or that part, be apportioned in the manner provided by subsection (6); and for the purposes of this section regard shall be had only to so much of that expense as is so apportioned to that basis period or that part.

(5) Where any amount is included in gross income—

(a) by virtue of subsection 32(1) in respect of any benefit or amenity consisting of furniture provided by or on behalf of an employer in conjunction with living accommodation; or

(b) by virtue of subsection 32(2) or (3),

no deduction shall be made under section 33 in respect of any outgoings and expenses incurred or which might be included as incurred in the production of that part of the gross income consisting of that amount.

(6) In the application of subsection (4) in relation to a person's gross income from his employment where the expenses, to which subparagraph (1)*(b)*(ii) applies is payable for a period (in this subsection referred to as the "overlapping period") which overlaps the basis period or part of the basis period, the amount of the expense to be deducted from that gross income shall be determined in accordance with the following formula:

$$\frac{A}{B} \times C$$

where A is the number of days living accommodation is provided in the basis period or part of the basis period that falls in the overlapping period;

B is the total number of days in the overlapping period; and

C is the amount of expenses to which subparagraph (1)*(b)*(ii) applies.

Limitation on deduction of entertainment expenses

38A. Where an employee's gross income from an employment under subsection 13(1) includes for the basis period for a year of assessment any entertainment allowance, the amount of expenses deductible under subsection 33(1) in respect of entertainment by the employee, shall not exceed the amount of such entertainment allowance included in that gross income.

Deductions not allowed

39. (1) Subject to any express provision of this Act, in ascertaining the adjusted income of any person from any source for the basis period for a year of assessment no deduction from the gross income from that source for that period shall be allowed in respect of—

(a) domestic or private expenses;

(b) any disbursements or expenses not being money wholly and exclusively laid out or expended for the purpose of producing the gross income;

(c) any capital withdrawn or any sum employed or intended to be employed as capital;

(d) any amount in respect of any payment to any pension, provident, savings, widows, widowers and orphans or other similar fund or society which is not an approved scheme;

(e) any expenditure incurred in relation to a business, being expenditure which is—

(i) qualifying mining expenditure for the purposes of Schedule 2;

(ii) qualifying expenditure, qualifying agriculture expenditure or qualifying forest expenditure for the purposes of Schedule 3; or

(iii) qualifying prospecting expenditure for the purposes of Schedule 4,

and which but for this paragraph would be deductible in ascertaining the adjusted income from the business;

(f) interest or royalty derived from Malaysia from which tax is deductible under section 109, if tax has not been deducted therefrom and paid to the Director General in accordance with subsection (1) of that section:

Provided that—

(i) this paragraph shall not apply if the payer has paid the amount referred to in subsection (2) of that section; and

(ii) where such tax is deducted or such amount is paid after the due date for the furnishing of a return for a year of assessment that relates to such payment, the tax or amount so paid shall not prejudice the imposition of penalty under subsection 113(2) if a deduction on such payment is made in such return or is claimed in the information given to the

Director General in arriving at the adjusted income of the payer;

(g) any sum, by whatever name called, payable (otherwise than to a State Government or with the approval of the Minister, a statutory authority, or other body the capital or fund of which is wholly or substantially owned by a State Government or a statutory authority) for the use of a licence or permit to extract timber from a forest in Malaysia;

(h) (*Deleted by Act 619*);

(i) any contract payment from which tax is deductible under section 107A, if tax has not been deducted therefrom and paid to the Director General in accordance with subsection (1) of that section:

Provided that—

(i) this paragraph shall not apply if the payer has paid the amount referred to in subsection (2) of that section; and

(ii) where such tax is deducted or such amount is paid after the due date for the furnishing of a return for a year of assessment that relates to such payment, the tax or amount so paid shall not prejudice the imposition of penalty under subsection 113(2) if a deduction on such payment is made in such return or is claimed in the information given to the Director General in arriving at the adjusted income of the payer;

(j) any payments from which tax is deductible under section 109B, or 109F if tax has not been deducted therefrom and paid to the Director General in accordance with subsection (1) of that section:

Provided that—

(i) this paragraph shall not apply if the payer has paid the amount referred to in subsection (2) of that section; and

(ii) where such tax is deducted or such amount is paid after the due date for the furnishing of a return for a year of assessment that relates to such payment, the tax or amount so paid shall not prejudice the imposition of penalty under subsection 113(2) if a deduction on such payment is made in such return or is claimed in the information given to the Director General in arriving at the adjusted income of the payer;

(k) any sum paid by way of rentals in respect of a motor vehicle, other than a motor vehicle licensed by the appropriate authority for commercial transportation of goods or passengers, in excess of fifty thousand ringgit:

Provided that if the motor vehicle has not been used by any person for any purpose prior to the rental and the total cost of the motor vehicle does not exceed one hundred and fifty thousand ringgit, any sum paid by way of rental in excess of one hundred thousand ringgit:

Provided further that the maximum amount of deduction in respect of the rentals of such motor vehicle in the year of assessment and subsequent years of assessment shall not in the aggregate exceed fifty thousand ringgit or one hundred thousand ringgit, as the case may be, in respect of that motor vehicle;

(l) a sum equal to fifty percent of any expenses incurred in the provision of entertainment including any sums paid to an employee of that person for the purpose of defraying expenses incurred by that employee in the provision of entertainment:

Provided that this paragraph shall not apply to the following expenses:

(i) the provision of entertainment to his employees except where such provision is incidental to the provision of entertainment for others;

(ii) the provision of entertainment by a person who carries on a business which consists of or includes the provision for payment of entertainment to clients or customers of that business and that entertainment is provided for payment by the clients or customers in the ordinary course of that business;

(iii) the provision of promotional gifts at trade fairs or trade or industrial exhibitions held outside Malaysia for the promotion of exports from Malaysia;

(iv) the provision of promotional samples of products of the business of that person;

(v) the provision of entertainment for cultural or sporting events open to members of the public, wholly to promote the business of that person;

(vi) the provision of promotional gifts within Malaysia consisting of articles incorporating a conspicuous advertisement or logo of the business; or

(vii) the provision of entertainment which is related wholly to sales arising from the business of that person;

(viii) the provision of a benefit or amenity to an employee consisting of a leave passage to facilitate a yearly event within Malaysia which involves the employer, the employee and the immediate family members of that employee; or

(m) notwithstanding subparagraph *(l)*(i), and subject to subparagraph *(l)*(viii) any expenditure incurred in the provision of a benefit or amenity to an employee consisting of a leave passage within or outside Malaysia;

(n) any remuneration or any similar payment paid to a partner of a limited liability partnership where such remuneration or payment is not specified or provided in the limited liability partnership agreement made in accordance with section 9 of the Limited Liability Partnerships Act 2012;

(o) any amount paid or to be paid in respect of goods and services tax as input tax by the person if he is liable to be registered under the Goods and Services Tax Act 2014 and has failed to do so, or if he is entitled under that Act to credit that amount as input tax;

(p) any amount of output tax paid or to be paid under the Goods and Services Tax Act 2014 which is borne by the person if he is registered or liable to be registered under that Act;

(q) any remuneration or other income in respect of services performed or rendered in Malaysia by a public entertainer from which tax is deductible under section 109A, if tax has not been deducted therefrom and paid to the Director General in accordance with that section:

Provided that—

(i) this paragraph shall not apply if the payer has paid the amount of tax and the increased sum due from him to the Government in accordance with subsection 109(2); and

(ii) where such amount of tax and the increased sum are paid after the due date for the furnishing of a return for a year of assessment that relates to such tax and the increased sum, the amount of

tax and the increased sum so paid shall not prejudice the imposition of penalty under subsection 113(2) if a deduction on such payment is made in such return or is claimed in the information given to the Director General in arriving at the adjusted income of the payer; or

(r) subject to any rules as may be prescribed by the Minister, any amount in respect of a payment made by a person, who is a resident, to any Labuan company.

(1A) Notwithstanding any provision of this Act, where a person is required under section 81 to furnish to the Director General any information within the time specified in a notice or such other time as may be allowed by the Director General, and that information concerns wholly or in part a deduction claimed by that person in arriving at the adjusted income of that person from any source for the basis period for a year of assessment, no deduction from the gross income from that source for that period shall be allowed in respect of such claim if the person fails to provide such information within the time specified in that notice or such extended time as allowed by the Director General.

(2) It is hereby declared that section 33, except in so far as it relates to expenses of the kind specified in paragraphs (1)*(a)* to *(d)* thereof, is not an express provision of this Act within the meaning of this section.

(3) Paragraphs (1)*(f)*, *(i)* and *(j)* shall not apply if for a year of assessment a person is exempt under paragraph 127(3)*(b)* or subsection 127(3A) or the Promotion of Investments Act 1986, in respect of all income of that person from all sources not being exemption on income equal to capital expenditure incurred.

Adjusted loss

40. Subject to this Act, where but for an insufficiency of gross income of a person from a business for the basis period for a year of assessment there would have been an amount of adjusted income of that person from the business for that period, the amount by which the total of all

such deductions as would then have been allowed under the foregoing provisions of this Chapter in ascertaining that adjusted income exceeds his gross income from the business for that period shall be taken to be the amount of his adjusted loss from the business for that period.

Ascertainment of adjusted income or adjusted loss from a business for an accounting period

41. (1) Subject to this section, where for the purposes of this Act it is necessary to ascertain the adjusted income or adjusted loss of a person from a business for the basis period for a year of assessment (that basis period being in this section referred to as the relevant period) and accounts of the business have not been made up for the relevant period—

(a) that person's adjusted income or adjusted loss from the business shall be ascertained for any accounting period for which accounts of the business have been made up (being a period which either falls into or overlaps the relevant period) by applying Chapters 3 and 4, whenever and as often as may be necessary, as if that accounting period were the basis period for that year of assessment;

(b) such apportionment of the adjusted income or adjusted loss for any such accounting period, and such aggregation of the adjusted income or adjusted loss for any such accounting period (or of any apportioned part thereof) with the adjusted income or adjusted loss (or any apportioned part thereof) for any other such accounting period, shall be made as is necessary to arrive at the adjusted income or the adjusted loss for the relevant period; and

(c) the adjusted income or the adjusted loss so arrived at shall constitute the adjusted income or the adjusted loss, as the case may be, from the business for the relevant period.

(2) The apportionment referred to in paragraph (1)*(b)* shall be made in relation to any accounting period which overlaps the relevant period,

the apportionment being made, unless the Director General having regard to the circumstances of any particular case otherwise directs, in the proportion that the number of days of the overlapping period that fall into the relevant period bears to the total number of days of the overlapping period.

(3) This section shall not apply if there is any part of the relevant period for which no accounts of the business have been made up.

Chapter 5—Statutory income

Statutory income

42. (1) Subject to this Act, the statutory income (if any) of a person from a source for a year of assessment (that year of assessment being in this section referred to as the relevant year) shall consist of—

(a) the amount of his adjusted income (if any) from that source for the basis period for the relevant year; and

(b) the amount of —

(i) any balancing charge or the aggregate amount of the balancing charges;

(ii) any agriculture charge or the aggregate amount of the agriculture charges; and

(iii) any forest charge or the aggregate amount of the forest charges,

falling to be made for the relevant year under Schedule 3 in relation to that source,

reduced by the amount of any allowance or the aggregate amount of the allowances falling to be made for the relevant year under that Schedule in relation to that source.

(2) Where the basis period for the relevant year overlaps the basis period for the immediately preceding year of assessment, the amount of adjusted income for the basis period for the relevant year shall be taken to be reduced by a sum determined in accordance with the formula—

$$A \times \frac{B}{C}$$

where A is the amount of the adjusted income for the basis period for the relevant year;

B is the length of the period of the overlap; and

C is the length of the basis period for the relevant year.

Chapter 6 - Aggregate income and total income

Aggregate income

***43.** (1) Subject to this Act, the aggregate income of a person for a year of assessment (that person and year of assessment being in this section referred to as the relevant person and the relevant year respectively) shall consist of—

(a) the aggregate of his statutory income, if any, for the relevant year from each of his sources consisting of a business, reduced by any deduction falling to be made for the relevant year pursuant to subsection (2);

(b) the aggregate of his statutory income, if any, for the relevant year from each of his other sources; and

(c) any additions falling to be made for the relevant year pursuant to Schedule 4.

(2) Subject to subsections (3) and (5), there shall be deducted under paragraph (1)*(a)* pursuant to this subsection from the aggregate of the

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**NOTE —See* section 11 of Act 812 for explanations.

relevant person's statutory income from each of his sources consisting of a business for the relevant year the amount ascertained under subsection 44(4) or (5) for any particular year of assessment preceding the relevant year or, where that amount exceeds that aggregate, so much of that amount as is equal to that aggregate:

Provided that, where a deduction has been made or may be made pursuant to this subsection from the aggregate of the relevant person's statutory income from each of his sources consisting of a business for a year of assessment following the particular year in question or for more than one year of assessment following that particular year and in either such case ending prior to the relevant year, then, for the purposes of the application of this subsection for the relevant year, there shall be substituted in place of the amount ascertained under subsection 44(4) or (5) for that particular year so much, if any, of that amount as has not been deducted for the year of assessment following that particular year or, as the case may be, for those years of assessment following that particular year and ending prior to the relevant year.

(3) For the purposes of subsection (2), the reference to the amount ascertained under subsection 44(4) or (5) for a particular year shall, whenever necessary, be taken to be a reference to the aggregate of—

(a) that amount for the particular year; and

(b) so much of any such amount for a year of assessment preceding the particular year as has not been deducted pursuant to subsection (2) from the aggregate of the relevant person's statutory income from each of his sources consisting of a business for the particular year or for a year of assessment preceding the particular year.

(4) For the purposes of subsection (1), a person who for a year of assessment has no statutory income from a source of his or no aggregate statutory income of the kinds referred to in paragraphs (1)*(a)* and *(b)* shall be regarded as having for that year a statutory income of zero from that source or, as the case may be, an aggregate statutory income of the kind referred to in paragraph (1)*(a)* or the kind referred to in paragraph (1)*(b)*, as the case may be, of zero.

(5) (*Deleted by Act 661*).

(6) A reference in this section to the aggregate of the relevant person's statutory income from each of his sources consisting of a business or from each of his other sources shall where he has only one source consisting of a business or only one other source, be construed as a reference to his statutory income from that one source consisting of a business or from that one other source, as the case may be.

Total income

∗**44.** (1) The total income of a person for a year of assessment (that person and year of assessment being in this section referred to as the relevant person and the relevant year respectively) shall consist of the amount of his aggregate income for the relevant year reduced—

(a) first, by any deduction falling to be made for the relevant year pursuant to subsection (2);

(b) next, by any deduction falling to be so made pursuant to Schedule 4 or 4B;

(c) next, by any deduction falling to be so made pursuant to subsection (6) or (6A);

(d) next, by any deduction falling to be so made pursuant to subsection (8), (9), (10), (11), (11A), (11B), (11C) or (11D);

(e) next, by any deduction falling to be so made pursuant to section 44A; and

(f) thereafter, by any deduction falling to be so made pursuant to section 44B.

(2) Subject to subsections (3) and (5), there shall be deducted pursuant to this subsection from the aggregate income of the relevant person for the relevant year the amount of any adjusted loss from a

∗*NOTE —See* section 10 of Act 644 and section 11 of Act 812 for explanations.

source of his for the basis period for the relevant year or, where there is an adjusted loss from each of two or more sources of his for the appropriate basis period for each source for the relevant year, the aggregate of the adjusted loss from each of those sources for its appropriate basis period for the relevant year.

(3) For the purposes of subsection (2), where in relation to a source the basis period for the relevant year overlaps the basis period for the immediately preceding year of assessment, the amount of the adjusted loss from that source for the basis period for the relevant year shall be taken to be reduced by a sum which bears the same proportion to that amount as the length of the period of the overlap bears to the length of the basis period for the relevant year and the amount of that loss as so reduced shall be taken to be the amount of the adjusted loss from that source for the basis period for the relevant year.

(4) Where the relevant person has no aggregate income for the relevant year, there shall be ascertained for the purposes of section 43 the amount of any adjusted loss from a source of his for the basis period for the relevant year or the aggregate of any adjusted loss from each of his sources for its appropriate basis period for the relevant year, as the case may be, which would have fallen to have been deducted pursuant to subsection (2) but for the absence of aggregate income.

(5) Where the amount referred to in subsection (4) exceeds the relevant person's aggregate income for the relevant year, so much of that amount as is equal to that aggregate income shall be deducted pursuant to subsection (2) and there shall be ascertained for the purposes of section 43 the amount of that excess.

(5A) The amount ascertained under subsection (4) or (5) for any relevant year in respect of a company shall be disregarded for the purposes of section 43 unless the Director General is satisfied that the shareholders of that company on the last day of the basis period for that relevant year in which such amount is ascertained were substantially the same as the shareholders of that company on the first day of the basis period for the year of assessment in which such amount would otherwise be deductible under that section and such amount

disregarded shall not be allowed as a deduction in subsequent years of assessment.

(5B) For the purpose of subsection (5A)—

(a) the shareholders of the company at any date shall be substantially the same as the shareholders at any other date if on both those dates—

(i) more than fifty per cent of the paid-up capital in respect of the ordinary share of the company is held by or on behalf of the same persons; and

(ii) more than fifty per cent of the nominal value of the alloted shares in respect of ordinary share in the company is held by or on behalf of the same persons; and

(b) shares in the company held by or on behalf of another company shall be deemed to be held by the shareholders of the last mentioned company.

(5C) In subsection (5B), "ordinary share" means any share other than a share which carries only a right to any dividend which is of—

(a) a fixed amount or at a fixed rate per cent of the nominal value of the shares; or

(b) a fixed rate per cent of the profits of the company.

(5D) Where there is a substantial change in the shareholders of a company referred to in subsection (5A), the Minister may under special circumstances exempt that company from the provisions of that subsection.

(5E) Where a partnership or a company is converted into a limited liability partnership in accordance with section 29 or 30 of the Limited Liability Partnerships Act 2012, the amount ascertained under subsection 44(4) or (5) for any relevant year in respect of that

partnership or company shall be allowed for the purposes of ascertaining the aggregate income of that limited liability partnership for a year of assessment following the relevant year.

(5F) Notwithstanding subsection (4) or (5), the amount ascertained under either of those subsections for any relevant year shall only be deductible in accordance with subsection 43(2) for a period of seven consecutive years of assessment and that period commences immediately following the relevant year of assessment and any amount or balance of the amount which is not deductible at the end of that period shall be disregarded for the purposes of this Act.

(6) Subject to subsection (12), there shall be deducted pursuant to this subsection from the aggregate income of a person for the relevant year reduced by any deduction falling to be made for that year in accordance with subsection (1) an amount equal to any gift of money made by him in the basis year for that year to the Government, a State Government, a local authority or an institution or organization or a fund, approved for the purposes of this section by the Director General on the application of the institution or organization concerned:

Provided that the amount to be deducted from the aggregate income for the relevant year in respect of any gift of money made to any institution, organization or fund approved for the purposes of this section by the Director General shall not exceed ten per cent of the aggregate income of that person in the relevant year.

(6A) Subject to subsection (12), there shall be deducted pursuant to this subsection from the aggregate income of a person for the relevant year reduced by any deduction falling to be made for that year in accordance with subsection (1) an amount equal to the value, as determined by the Department of Museums Malaysia or the National Archives of any gift of artefact, manuscript or painting made by him in the basis year for that year to the Government or State Government.

(6B) Where any institution, organization, appropriate religious authority, body or public university is aggrieved by the decision of the Director General in respect of an application made under subsection (6) or (11D), the institution, organization, appropriate

religious authority, body or public university may, within thirty days after being informed of the decision, appeal to the Minister and the Minister may make any decision as he considers fit.

(7) In subsection (6)—

"fund" means a fund administered and augmented by an institution or organization in Malaysia for the sole purpose of carrying out the objectives for which the fund is established or held and that fund is not established or held primarily for profit;

"institution" means an institution in Malaysia which is not operated or conducted primarily for profit and which is—

(a) a hospital;

(b) a public or benevolent institution;

(c) a university or other educational institution;

(d) a public authority or society engaged solely in research or other work connected with the causes, prevention or cure of disease in human beings;

(e) a Government-assisted institution engaged in socio-economic research; or

(f) a technical or vocational training institution;

"organization" means an organization in Malaysia which is not operated or conducted primarily for profit and which is—

(a) an organization established and maintained exclusively to administer and augment a public or private fund established or held for the sole purpose of the establishment, enlargement or improvement of an institution or solely for the provision of a scholarship, exhibition or prize for an individual for educational work,

research work or other similar work in an institution or in what would be an institution if it were in Malaysia;

(aa) an organization established and maintained exclusively to administer and augment a public or private fund established or held for the sole purpose of carrying out the objective in which the institution is operated or conducted;

(b) an organization established and maintained exclusively to administer and augment a public fund established or held solely for the relief of distress among members of the public;

(c) an organization established and maintained exclusively to administer and augment a public fund established and held solely for the purposes of religious worship or the advancement of religion and such fund is to be used—

(i) for the construction, improvement, purchase or maintenance of a building in Malaysia which is—

(A) intended to be used (and, when constructed or purchased, is used) exclusively for those purposes; and

(B) intended to be open (and, when constructed or purchased, is open) to any member of the public for those purposes; or

(ii) to provide facilities to carry on the activity related to those purposes; or

(iii) to provide for the management of the activity related to those purposes;

(d) an organization which maintains or assists in maintaining a zoo, museum, art gallery or similar undertaking or is engaged in or in connection with the promotion of culture or the arts;

(e) an organization engaged in or in connection with the conservation or protection of animals;

(f) a Government-assisted organization engaged solely in addressing problems relating to industrial and commercial development and promoting and enhancing the relationship between the public sector and the private sector;

(g) a Government-assisted organization established and maintained exclusively to administer and augment a fund established or held solely for promoting national unity;

(h) an organization established exclusively for the conservation or protection of the environment;

(i) an international organization as defined under the International Organization (Privileges and Immunities) Act 1992 [*Act 485*] carrying out such charitable activities as determined by the Minister;

(j) an organization established and maintained exclusively to administer or augment a fund established or held for the purpose of carrying out projects towards the acculturation of the community in information and communication technology, approved by the Minister; or

(k) a benevolent fund or trust account established or held for the sole purpose of providing relief or aid to an individual who has no, or insufficient means, or in the case of a dependent individual whose parents or guardian has no, or insufficient means, to pay for the cost of the medical treatment required by such individual to treat a serious disease as defined in subsection 46(2).

(7A) An institution or organization referred to in subsection (7)—

(a) may apply not more than twenty-five per cent of its accumulated funds or that of the fund approved under

subsection (6) as at the beginning of the basis period for the year of assessment for the carrying on of, or participation in, a business:

Provided that the profits or income derived therefrom shall be used solely for charitable purposes or for the primary purpose for which the institution, organization or fund was established; or

(b) may carry out charitable activities outside Malaysia with the prior consent of the Minister.

(7B) The reference to the carrying on of, or participation in, a business in paragraph (7A)*(a)* shall not include the carrying on of a business by an institution or organization where—

(a) the business is carried on in the course of the actual carrying out of the primary purpose of the institution, organization or fund; or

(b) the work in connection with the business is mainly carried on by persons for whose benefit the institution, organization or fund was established.

(8) Subject to subsection (12), there shall be deducted pursuant to this subsection from the aggregate income of a person to whom paragraph 34(6)*(g)* does not apply, for the relevant year reduced by any deduction for that year in accordance with subsection (1) an amount equal to any gift of money made by him in the basis year for that year, for the provision of library facilities which are accessible to the public, to public libraries and libraries of schools and institutions of higher education, not exceeding twenty thousand ringgit.

(9) There shall be deducted pursuant to this subsection from the aggregate income of a relevant person who is an individual for the relevant year reduced by any deduction for that year in accordance with subsection (1) an amount equal to any gift of money or contribution in kind (the value to be determined by the relevant local authority) made

by him in the basis year for that year for the provision of facilities in public places for the benefit of disabled persons.

(10) There shall be deducted pursuant to this subsection from the aggregate income of a relevant person who is an individual for the relevant year reduced by any deduction for that year in accordance with subsection (1) an amount equal to any gift of money or the cost or value (as certified by the Ministry of Health) of any gift of medical equipment made by him in the basis year for that year to any healthcare facility approved by that Ministry, and that amount shall not exceed twenty thousand ringgit.

(11) Subject to subsection (12), there shall be deducted pursuant to this subsection from the aggregate income of a relevant person for the relevant year reduced by any deduction for that year in accordance with subsection (1) an amount equal to the value of any gift of painting (to be determined by the National Art Gallery or any state art gallery) made by him in the basis year for that year to the National Art Gallery or any state art gallery.

(11A) There shall be deducted pursuant to this subsection from the aggregate income of a person other than an offshore company excluding chargeable offshore company and individual for the relevant year reduced by any deduction for that year in accordance with subsection (1) an amount equal to the payment of *zakat perniagaan* which is paid in the basis period for that relevant year to an appropriate religious authority established under any written law or any person authorized by such religious authority:

Provided that the amount to be deducted pursuant to this subsection shall not exceed one-fortieth of the aggregate income of that person in the relevant year.

(11B) There shall be deducted from the aggregate income of a relevant person for the relevant year reduced by any deduction for that year in accordance with subsection (1) an amount equal to any gift of money made by the relevant person in the basis period for that year for any sports activity approved by the Minister:

Provided that the amount to be deducted pursuant to this subsection shall not exceed the difference between the amount of ten per cent of the aggregate income of that person in the relevant year and the total amount that has been deducted pursuant to the proviso to subsections (6), (11C) and (11D) for that relevant year.

(11C) There shall be deducted from the aggregate income of a relevant person for the relevant year reduced by any deduction for that year in accordance with subsection (1) an amount equal to any gift of money or cost of contribution in kind made by the relevant person in the basis period for that year for any project of national interest approved by the Minister:

Provided that the amount to be deducted pursuant to this subsection shall not exceed the difference between the amount of ten per cent of the aggregate income of that person in the relevant year and the total amount that has been deducted pursuant to the proviso to subsections (6), (11B) and (11D) for that relevant year.

(11D) There shall be deducted pursuant to this subsection from the aggregate income of a relevant person for the relevant year reduced by any deduction falling to be made for that year in accordance with subsection (1) an amount equal to any gift of money in the form of—

(a) *wakaf* made by him in the basis period for that year to any appropriate religious authority established under any written law, body established by that appropriate religious authority or public university allowed by that appropriate religious authority to receive *wakaf*; or

(b) endowment made by him in the basis period for that year to a public university:

Provided that—

(a) the *wakaf* or endowment is made for the purpose of achieving the objective of establishment of the appropriate religious authority, body or public university;

(b) the appropriate religious authority, body or public university is approved by the Director General for the purposes of this section on the application of the appropriate religious authority, body or public university concerned; and

(c) the amount to be deducted pursuant to this subsection shall not exceed the difference between the amount of ten per cent of the aggregate income of that person in the relevant year and the total amount that has been deducted pursuant to the proviso to subsections (6), (11B) and (11C).

(11E) For the purpose of subsection (11D), "public university" means a higher educational institution having the status of a University established under the Universities and University Colleges Act 1971 [*Act 30*] and the Universiti Teknologi MARA established under the Universiti Teknologi MARA Act 1976 [*Act 173*].

(12) In subsections (6), (6A), (8) and (11), references to basis year in relation to a company, limited liability partnership, trust body or co-operative society shall be construed as references to the basis period for the year of assessment of that company, limited liability partnership, trust body or co-operative society.

Group relief for companies

***44A.** (1) Subject to this section, a company (referred to in this section as a "surrendering company") may, for the basis period for three consecutive years of assessment, surrender not more than seventy per cent of its adjusted loss in the basis period of a year of assessment to one or more related companies (referred to in this section as a "claimant company"):

Provided that the surrendering company and the claimant company shall be resident in the basis year for that year of assessment and incorporated in Malaysia.

**NOTE* —*See* section 13 of Act 812 for explanations.

(1A) For the purpose of subsection (1), the basis period for three consecutive years of assessment commences—

(a) immediately following the basis period for a year of assessment the surrendering company first commences operation, provided that the basis period consists of a period of twelve months; or

(b) immediately following the second basis period the surrendering company first commences operation (in this paragraph referred to as the "second basis period"), if the basis period for a year of assessment the surrendering company first commences operation is less or more than twelve months and the second basis period consists of a period of twelve months.

(2) Subsection (1) shall apply if for any year of assessment—

(a) the surrendering company and the claimant company—

(i) are related companies throughout the basis period for that year of assessment and the twelve months period immediately preceding that basis period;

(ii) have paid-up capital in respect of ordinary share of more than two million five hundred thousand ringgit at the beginning of the basis period for that year of assessment;

(iii) have twelve months basis period ending on the same day;

(iv) make an irrevocable election to surrender or claim an amount of adjusted loss in the return furnished for that year of assessment under section 77A; and

(v) are subject to tax at the appropriate rate as specified in paragraph 2 of Part I of Schedule 1; and

(b) the claimant company has a defined aggregate income for that year of assessment.

(3) For the purpose of this section, a surrendering company and claimant company are related companies if at least—

(a) seventy per cent of the paid-up capital in respect of ordinary shares of the surrendering company is directly or indirectly (through the medium of other companies resident and incorporated in Malaysia) owned by the claimant company;

(b) seventy per cent of the paid-up capital in respect of ordinary shares of the claimant company is directly or indirectly (through the medium of other companies resident and incorporated in Malaysia) owned by the surrendering company; or

(c) seventy per cent of the paid-up capital in respect of ordinary shares of the surrendering company and claimant company are directly or indirectly owned by another company resident and incorporated in Malaysia.

(4) Subject to subsection (5), any amount of adjusted loss surrendered under this section for any year of assessment—

(a) shall be the amount or aggregate amount of the adjusted loss or the excess of that amount of the surrendering company for that year of assessment as ascertained under subsection 44(4) or (5);

(b) shall be allowed to a claimant company as a deduction in ascertaining the total income of the claimant company in accordance with subsection 44(1); and

(c) shall not exceed the defined aggregate income of the claimant company for that year of assessment.

(5) Where the amount of adjusted loss is—

(a) surrendered to more than one claimant company, the adjusted loss shall be fully deducted in accordance with subsection (4) to the first claimant company before any excess of the adjusted loss is surrendered and deducted in accordance with that subsection to the second claimant company and so on; or

(b) claimed by a claimant company from more than one surrendering company, the adjusted loss surrendered from the first surrendering company shall be deducted in accordance with subsection (4) to that claimant company before the adjusted loss is surrendered from the second surrendering company be deducted in accordance with that subsection to that claimant company and so on.

(6) For the purpose of subsection (5), the surrendering company and the claimant company shall ascertain the order of priority in respect of the adjusted loss surrendered or claimed but if that loss cannot be effected in accordance with the order of priority specified by any surrendering company or claimant company the amount of adjusted loss surrendered or claimed shall be dealt with in such manner as the Director General thinks reasonable and proper.

(7) Notwithstanding that a company to which subsection (3) applies, owns at least seventy per cent of the paid-up capital in the other company, it shall not be treated to have satisfied that subsection unless additionally in the year of assessment the first-mentioned company is beneficially entitled to at least seventy per cent of—

(a) any residual profits of the other company, available for distribution to that other company's equity holders; and

(b) any residual assets of the other company, available for distribution to that other company's equity holders on a winding up.

(8) Notwithstanding any other provision of this section, where—

(a) a claimant company has made an election under subsection (2), that company shall not in that year elect to surrender its adjusted loss to any other claimant company; or

(b) a surrendering company has made an election under subsection (2), that company shall not in that year elect to claim any adjusted loss from any other surrendering company.

(9) Where—

(a) in the basis year for a year of assessment the Director General discovers that the adjusted loss as mentioned in subsection (4) ought not to have been deducted in arriving at the total income of the claimant company, the Director General may in that year or within five years after its expiration make an assessment or additional assessment in respect of that company in order to make good any loss of tax; or

(b) the surrendering company gives an incorrect information in the return furnished under section 77A in respect of the amount of adjusted loss surrendered, the Director General may, by a notice in writing, require the surrendering company to pay a penalty equal to the amount of tax which had or would have been undercharged by the claimant company in consequence of the incorrect information and where the surrendering company is dissatisfied with the penalty, the surrendering company may within thirty days of being notified appeal to the Special Commissioners as if the notice were a notice of assessment and the provision of this Act relating to appeals shall apply accordingly with any necessary modifications.

(10) The provisions of this section shall not apply to a company for a basis period for a year of assessment where the period during which that company—

(a) is a pioneer company or has been granted approval for investment tax allowance under the Promotion of Investments Act 1986;

(aa) has unutilized investment tax allowance or adjusted loss from a pioneer business under the Promotion of Investments Act 1986;

(b) is exempt from tax on its income under section 54A, paragraph 127(3)*(b)* or subsection 127(3A);

(c) has made a claim for a reinvestment allowance under Schedule 7A;

(d) has made a claim for deduction in respect of an approved food production project under the Income Tax (Deduction for Investment in an Approved Food Production Project) Rules 2006;

(e) has made a claim for deduction under the Income Tax (Deduction for Cost of Acquisition of Proprietary Rights) Rules 2002;

(f) has been granted a deduction under the Income Tax (Deduction for Cost of Acquisition of a Foreign Owned Company) Rules 2003; or

(g) has made a claim for deduction under any rules made under section 154 and those rules provide that this section shall not apply to that company.

(11) For the avoidance of doubt—

(a) the amount of adjusted loss surrendered under this section shall be disregarded for the purpose of ascertaining the aggregate income of the surrendering company under section 43; and

(b) the provisions of this Act shall apply to any adjusted loss of the surrendering company which is not surrendered under this section.

(12) In this section—

"commercial loan" means any borrowing which entitles the creditor to any return which is of only—

(a) a fixed amount or at a fixed rate per cent of the amount of the borrowing; or

(b) of a fixed rate per cent of the profits of the company;

"defined aggregate income", in relation to a year of assessment, means the aggregate income of a claimant company for that year reduced by a deduction made pursuant to paragraphs 44(1)*(a)*, *(b)*, *(c)* and *(d)*;

"equity holder" means any holder of ordinary share in the claimant or surrendering company or any creditor of that company in respect of any non-commercial loan;

"non-commercial loan" means any borrowing other than a commercial loan;

"ordinary shares" means any share other than a share which carries only a right to any dividend which is of—

(a) a fixed amount or at a fixed rate per cent of the value of the shares; or

(b) a fixed rate per cent of the profits of the company;

"residual assets" means net assets of the claimant surrendering company after distribution made to—

(a) creditors of that company in respect of commercial loans; and

(b) holders of shares other than ordinary share,

and where that company has no residual asset, a notional amount of one hundred ringgit is deemed to be the residual assets of the company;

"residual profits" means profits of the claimant or surrendering company after deducting any dividend which is of—

(a) a fixed amount or at a fixed rate per cent of the value of the shares of that company; or

(b) a fixed rate per cent of the profits of that company,

but before deducting any return due to any non-commercial loan creditor which is not of—

(i) a fixed amount or at a fixed rate per cent of the amount of the borrowing; or

(ii) a fixed rate per cent of the profits of that company,

and where that company has no residual profit, a notional amount of one hundred ringgit is deemed to be the residual profits of that company.

Carry-back losses

***44B.** (1) In this section—

"adjusted loss" means the amount or aggregate amount of the adjusted loss of a person from a source of his or the excess of that amount for the basis period for a year of assessment as ascertained under subsection 44(4) or 44(5);

**NOTE*—Notwithstanding the provisions of section 46 of the Finance Act 2007 [*Act 683*], any amount of tax refunded in respect of any tax discharged for the year of assessment preceding the year of assessment 2009 as a consequence of any deduction allowed in accordance with section 44B of the principal Act, shall not reduce the 108 balance or revised 108 balance of a company under section 46 of the Finance Act 2007–*see* section 4 of Income Tax (Amendment) Act 2009 [*Act A1349*].

"defined aggregate income", in relation to a year of assessment, means the aggregate income of the person for that year reduced by any deduction made pursuant to paragraphs *(a)*, *(b)*, *(c)*, *(d)*, and *(e)* of subsection 44(1);

"immediately preceding", in relation to a year of assessment, means—

(a) for the year of assessment 2009, the year of assessment 2008; and

(b) for the year of assessment 2010, the year of assessment 2009

(2) Subject to subsection (6), this section shall apply if—

(a) the basis period of a person for the year of assessment 2009 or 2010 and the basis period for the year of assessment immediately preceding the year of assessment 2009 or 2010 ends on the same day; and

(b) that person is subject to tax at the appropriate rate as specified in paragraph 1, 1A, 2 or 2A of Part I of Schedule 1.

(3) Subject to this section, where a person has made an irrevocable election under subsection (4), the amount of the adjusted loss of that person from a source of his for the basis period for a year of assessment 2009 or 2010, other than the adjusted loss surrendered by that person pursuant to section 44A, shall be allowed as a deduction in ascertaining the total income of that person for a year of assessment immediately preceding the year of assessment 2009 or 2010, in accordance with subsection 44(1).

(4) For the purpose of subsection (3), a person shall make an irrevocable election, either for the year of assessment 2009 or 2010, in the return furnished for the year of assessment 2009 or 2010 to deduct an amount of the adjusted loss from a source of his for the basis period for that year of assessment in ascertaining the total income of that

person for the year of assessment immediately preceding the year of assessment 2009 or 2010.

(5) The amount of adjusted loss of a person from a source of his for the basis period for a year of assessment 2009 or 2010 to be deducted pursuant to subsection (3)—

(a) shall not exceed one hundred thousand ringgit; or

(b) where the amount of the defined aggregate income for the year of assessment immediately preceding the year of assessment 2009 or 2010 is less than one hundred thousand ringgit, shall not exceed the amount of the defined aggregate income.

(6) The provisions of this section shall not apply to a person if during the basis period for a year of assessment 2009 or 2010 and the basis period for a year of assessment immediately preceding the year of assessment 2009 or 2010, that person—

(a) is a pioneer company or has been granted approval for investment tax allowance under the Promotion of Investments Act 1986;

(b) is exempt from tax on its income under section 54A, paragraph 127(3)*(b)* or subsection 127(3A), or tax paid or payable by that person for that year of assessment is remitted under section 129;

(c) has made a claim for a reinvestment allowance under Schedule 7A;

(d) has made a claim for deduction in respect of an approved food production project under the Income Tax (Deduction for Investment in an Approved Food Production Project) Rules 2006 [*P.U. (A) 55/2006*];

(e) has made a claim for deduction under the Income Tax (Deduction for Cost of Acquisition of Proprietary Rights) Rules 2002 [*P.U. (A) 63/2002*];

(f) has made a claim for deduction under the Income Tax (Deduction for Cost of Acquisition of a Foreign Owned Company) Rules 2003 [*P.U. (A) 310/2003*];

(g) has made a claim for deduction under any rules made under section 154, other than the rules specified in paragraphs *(d)*, *(e)* and *(f)*, and those rules made under section 154 provide that this section shall not apply to that person;

(h) is an investment holding company under section 60FA;

(i) carries on insurance business under section 60, inward reinsurance business under section 60A or offshore insurance business under section 60B;

(j) carries on takaful business under section 60AA; or

(k) in the case of an individual, has no source consisting of a business.

(7) Where in the basis year for a year of assessment the Director General discovers that the adjusted loss referred to in subsection (3) ought not to have been deducted in arriving at the total income of a person for the year of assessment immediately preceding the year of assessment 2009 or 2010, the Director General may in the first-mentioned year or within six years after its expiration—

(a) make an assessment or additional assessment in respect of that person in order to make good any loss of tax; and

(b) require that person to pay a penalty equal to the amount of tax, which had or would have been undercharged by that person, pursuant to an assessment made under paragraph *(a)*.

(8) For the avoidance of doubt—

(a) the amount of adjusted loss which has been allowed as a deduction pursuant to this section shall be disregarded for the purpose of ascertaining the aggregate income of a person for a year of assessment immediately following the year of assessment 2009 or 2010 under subsection 43(2); and

(b) the provisions of this Act shall apply to the balance of the adjusted loss (if any) of a person which has not been allowed as a deduction pursuant to this section.

Chapter 7 - Chargeable Income

Chargeable income and aggregation of husband's and wife's income

45. (1) Subject to this section, the chargeable income of a person for a year of assessment shall be his total income for that year less any deductions allowed by this Chapter for that year.

(2) Subject to this section, where an individual and his wife were living together in the basis year for a year of assessment and did not in that basis year cease to live together or to be husband and wife of each other—

(a) the wife may elect in writing (wife who elects) that her total income shall be aggregated with the total income of her husband and assessed in his name for that year of assessment; or

(b) the husband may elect in writing (husband who elects) that his total income shall be aggregated with the total income of his wife and assessed in her name for that year of assessment:

Provided that where the wife who elects or the husband who elects is not resident for the basis year for a year of assessment, such wife or

husband, as the case may be, may elect under this subsection only if she or he is a citizen.

(3) For the purposes of paragraph (2)*(b)*—

(a) for any year of assessment, that paragraph shall only apply if there is no election made by a wife or wives under paragraph (2)*(a)* for that year of assessment; and

(b) the election shall only be made with one wife.

(4) Where under subsection (2) the total income of the wife who elects falls to be aggregated with that of her husband or the total income of the husband who elects falls to be aggregated with that of his wife, for a year of assessment, the wife who elects or the husband who elects, as the case may be, shall be treated as having no chargeable income for that year.

(5) The election referred to in subsection (2) shall be made in a return furnished in accordance with subsection 77(1).

Deduction for husband

45A. (1) Where—

(a) the husband has no source of income;

(b) the husband has no total income which can be aggregated with that of his wife; or

(c) an election has been made by the husband under paragraph 45(2)*(b)*,

there shall be allowed to the wife, for a year of assessment, in addition to the allowances or deduction (if any) to that wife under sections 46, 48 and 49, a deduction of four thousand ringgit for the husband and a further three thousand five hundred ringgit if he is a disabled person:

Provided that this section shall only apply to one wife.

(2) This section shall not apply where, in relation to paragraph (1)*(b)*, the husband, other than a husband who is a disabled person, has an income which is derived from sources outside Malaysia and his gross income from those sources for a year of assessment is more than the amount of deduction allowed for a husband.

Deduction for individual and Hindu joint family

46. (1) In the case of an individual or a Hindu joint family resident for the basis year for a year of assessment, there shall be allowed for that year of assessment personal deductions of—

(a) nine thousand ringgit for that individual in respect of himself and his dependent relatives (if any), or for that Hindu joint family;

(b) (*Deleted by Act 600*);

(c) an amount limited to a maximum of five thousand ringgit in respect of medical treatment, special needs or carer expenses expended in that basis year by that individual for his parents and the claim is evidenced by certification of a medical practitioner that the medical conditions of the parents require medical treatment or special needs or carer and—

(i) in the case of medical treatment or special needs, a receipt on the amount expended; or

(ii) in the case of carer, a written certification or receipt from, or work permit of, the carer:

Provided that for the purpose of this paragraph—

(a) "carer" shall not include that individual, his wife or her husband or the child of the individual;

(b) "parents" shall be individuals resident in Malaysia;

(c) the medical treatment and care services are provided in Malaysia; and

(d) the medical practitioner is registered with the Malaysian Medical Council.

(d) an amount limited to a maximum of six thousand ringgit expended or deemed expended under subsection (3) in that basis year by that individual for the purchase of any necessary basic supporting equipment for his own use, if he is a disabled person or for the use of his wife, child or parent, who is a disabled person, or in the case of a wife, for her own use, if she is a disable person, or for the use of her husband, child or parent, who is a disabled person;

(e) a further six thousand ringgit for that individual if he is a disabled person;

(f) fees expended in that basis year by that individual on himself for—

(i) any course of study up to tertiary level, other than a degree at Masters or Doctorate level, undertaken for the purpose of acquiring law, accounting, Islamic financing, technical, vocational, industrial, scientific or technological skills or qualifications; or

(ii) any course of study for a degree at Masters or Doctorate level undertaken for the purpose of acquiring any skill or qualification,

in any institution or professional body in Malaysia recognized by the Government or approved by the Minister, as the case may be, and the total deduction under this paragraph is subject to a maximum amount of seven thousand ringgit;

(g) medical expenses expended or deemed expended under subsection (3) in that basis year by that individual—

(i) on himself if he is undergoing treatment for a serious disease or on his wife or child who is undergoing treatment for a serious disease, or in the case of a wife, on herself if she is undergoing treatment for a serious disease or on her husband or child who is undergoing treatment for a serious disease; or

(ii) on himself if he is undergoing fertility treatment or on his wife who is undergoing fertility treatment, or in the case of a wife, on herself if she is undergoing fertility treatment or on her husband who is undergoing fertility treatment:

Provided that—

(a) the claim is evidenced by a receipt and certification issued by a medical practitioner registered with the Malaysian Medical Council that the serious disease treatment was provided to that individual, spouse or child, or that fertility treatment was provided to that individual or the spouse;

(b) the total amount of deduction under this paragraph is subject to a maximum amount of six thousand ringgit; and

(c) for the purpose of subparagraph (ii)—

(A) the individual is married; and

(B) "fertility treatment" means intrauterine insemination or in vitro fertilization treatment or any other fertility treatment;

(h) an amount limited to a maximum of five hundred ringgit in respect of complete medical examination expenses expended or deemed expended under subsection (3) in that basis year by that individual on himself or on his wife or on his child, or in the case of a wife, on herself or on her husband or on her child, as evidenced by receipts issued by a hospital or a medical practitioner:

Provided that the deduction under this paragraph shall be part of the amount limited to a maximum of six thousand ringgit in paragraph *(g)*;

(i) (*Deleted by Act 785*);

(j) (*Deleted by Act 785*);

(k) an amount limited to a maximum of eight thousand ringgit deposited in that basis year by that individual for his child into the Skim Simpanan Pendidikan Nasional account established under the Perbadanan Tabung Pendidikan Tinggi Nasional Act 1997 [*Act 566*]:

Provided that if any withdrawal is made from the account by that individual in that basis year, the amount deposited during that year shall be reduced by that withdrawal and regard shall be had only to the reduced amount subject to a maximum amount of eight thousand ringgit;

(l) (*Deleted by Act 785*);

(m) (*Deleted by Act 785*);

(n) an amount limited to a maximum of two hundred and fifty ringgit in respect of a contribution made or suffered in that

basis year by that individual to the Social Security Organization pursuant to the Employees' Social Security Act 1969;

**(o)* an amount of one thousand five hundred ringgit for each of the parent of that individual—

(i) who is a resident and, at any time in that basis year, aged sixty years and above; and

(ii) whose annual income does not exceed twenty-four thousand ringgit for that year of assessment:

Provided that—

(a) the deduction under this paragraph shall be allowed for a maximum of two parents;

(b) the deduction under this paragraph shall not be allowed for an individual who has made a claim under paragraph 46(1)*(c)* for the same basis year; and

(c) where two or more individuals are each entitled to claim a deduction for a year of assessment under this paragraph in respect of the same parent, there shall be allowed to each of those individuals, in place of the whole deduction which would otherwise be allowed under this paragraph, an amount of the whole deduction equally apportioned according to the number of the individuals making the claim;

(p) an amount expended or deemed expended under subsection (3) in that basis year by that individual—

**NOTE* —This provision has effect for the year of assessment 2016 until the year of assessment 2020–*see* section 3 and paragraph 12*(d)* of the Finance Act 2015 [*Act 773*].

(i) for the purchase of books, journals, magazines, printed newspapers and other similar publications for the purpose of enhancing knowledge for his own use or for the use of his wife or child, or in the case of a wife, for her own use or for the use of her husband or child;

(ii) for the purchase of a personal computer, smartphone or tablet (not being used for the purpose of his own business) for his own use or for the use of his wife or child, or in the case of a wife, for her own use or for the use of her husband or child;

(iii) for the purchase of sports equipment for any sports activity as defined under the Sports Development Act 1997 (excluding motorized two-wheel bicycles) and gym memberships for his own use or for the use of his wife or child, or in the case of a wife, for her own use or for the use of her husband or child; and

(iv) for the payment of monthly bill for internet subscription under that individual's name for his own use or for the use of his wife or child, or in the case of a wife, for her own use or for the use of her husband or child,

as evidenced by receipts issued in respect of the purchase or payment, as the case may be, and the total deduction under this paragraph is subject to a maximum amount of two thousand five hundred ringgit;

(q) an amount limited to a maximum of one thousand ringgit expended in that basis year for that year of assessment by that individual for the purchase of breastfeeding equipment for that individual's own use for a child of that individual aged two years old and below, as evidenced by receipts issued in respect of the purchase:

Provided that—

(a) for the purpose of this paragraph, breastfeeding equipment refers to a breast pump kit and an ice pack, a breast milk collection and storage equipment, and a cooler set or bag;

(b) the deduction under this paragraph shall not be allowed for a year of assessment immediately following that year of assessment; and

(c) the maximum amount of deduction under this paragraph shall apply notwithstanding that that individual may have more than one child; and

(r) an amount limited to a maximum of two thousand ringgit expended or deemed expended under subsection (3) in respect of the payment of child care fees to a child care centre registered with the Director General of Social Welfare under the Child Care Centre Act 1984 [*Act 308*] or a kindergarten registered under the Education Act 1996 [*Act 550*] in that basis year by that individual for a child of that individual aged six years and below as evidenced by receipts issued by such child care centre or kindergarten:

Provided that—

(a) where a wife living together with her husband is assessed separately for that year, the deduction under this paragraph shall only be allowed either to the husband or to the wife; and

(b) the maximum amount of deduction under this paragraph shall apply notwithstanding that that individual may have more than one child.

(2) In this section—

"child" shall be construed as referring to a child as defined in subsection 48(9);

(3) For the purposes of paragraphs (1)*(d)*, *(g)*, *(h)*, *(k)*, *(p)* and *(r)* any amount expended by the wife or the husband in the year of assessment—

(a) where subsection 45(2) applies, shall be deemed to have been expended by the husband of the wife who elects or by the wife of the husband who elects, as the case may be; or

(b) where the wife or the husband has no total income, shall be deemed to have been expended by the husband of that wife who has no total income or the wife of that husband who has no total income, as the case may be:

Provided that where paragraph 45(2)*(b)* applies or the husband has no total income, any amount expended by the husband shall be deemed to have been expended by the wife who has been allowed a deduction under section 45A.

46A. (*Deleted by Act 683*).

Deduction for individual on interest expended

46B. (1) Subject to this section, in the case of an individual who is a citizen and resident for the basis year for the relevant year, there shall be allowed for that relevant year personal deduction in respect of interest expended in that basis year by the individual to finance the purchase of a residential property:

Provided that—

(a) the purchase of the residential property is limited to only one unit;

(b) the Sale and Purchase Agreement for the purchase has been executed on or after 10 March 2009 but not later than 31 December 2010; and

(c) the individual has not derived any income in respect of that residential property.

(2) Subject to subsection (3), there shall be allowed to that individual a deduction for a maximum amount of ten thousand ringgit for each basis year for a year of assessment for a period of three consecutive basis years beginning from the basis year in which the interest referred to in subsection (1) is first expended by that individual.

(3) Where—

(a) two or more individuals are each entitled to claim deduction for the relevant year under this section for interest expended in respect of the same residential property; and

(b) the total amount of interest expended by those individuals in the basis year for that relevant year exceed the amount of deduction allowable for that relevant year under subsection (2),

there shall be allowed to each of those individuals for that relevant year an amount to be determined in accordance with the following formula:

$$A \times \frac{B}{C}$$

where A is the total amount of deduction allowed under subsection (2) for that relevant year;

B is the total interest expended in the basis year for that relevant year by that individual; and

C is the total interest expended in the basis year for that relevant year by all such individuals.

(4) For the purposes of subsection (1), any amount expended by the wife or the husband in the relevant year—

(a) where subsection 45(2) applies, shall be deemed to have been expended by the husband of the wife who elects or by the wife of the husband who elects, as the case may be; or

(b) where the wife or the husband has no total income, shall be deemed to have been expended by the husband of that wife or the wife of that husband, as the case may be:

Provided that where paragraph 45(2)*(b)* applies or where the husband has no total income, any amount expended by the husband shall be deemed to have been expended by the wife who has been allowed a deduction under section 45A.

(5) For the purposes of this section, "residential property" means a house, condominium unit, apartment or flat which is built as a dwelling house.

Deduction for wife or former wife

47. (1) In the case of an individual resident for the basis year for a year of assessment who in that basis year had a wife living together with him, there shall, subject to subsections (3) and (4), be allowed for that year of assessment a deduction of—

(a) four thousand ringgit for the wife; and

(b) a further three thousand five hundred ringgit for the wife if she is a disabled person.

(2) In the case of an individual resident for the basis year for a year of assessment who in that basis year—

(a) made payments to a wife of his by way or in the nature of alimony pendente lite;

(b) made payments by way of alimony or maintenance (in pursuance of an order of a court or otherwise) to a former wife whose marriage with him was dissolved or annulled (by a court or otherwise) in accordance with any law or customs applicable to him; or

(c) made payments in pursuance of an order of a court, a deed or a written agreement to a wife from whom he was separated by an order of a court, a deed of separation or a written agreement for separation,

then, subject to subsection (3), there shall be allowed for that year of assessment a deduction of the aggregate amount of those payments.

(3) The total of the deductions allowed for a year of assessment to an individual under paragraph (1)*(a)* and subsection (2) shall not exceed four thousand ringgit.

(4) Where an individual's wife is assessed separately in her name for any year of assessment on her income no allowance or deduction shall be made to him in respect of that wife under subsection (1).

(5) Notwithstanding subsection 45(2) but subject to subsection (4), where an individual's wife has no total income which can be aggregated with that of her husband for a year of assessment, an allowance or deduction shall be made to him in respect of that wife under subsection (1).

(6) Subsection (5) shall not apply if the wife, other than a wife who is a disabled person, has an income which is derived from sources outside Malaysia and her gross income from those sources for a year of assessment is more than the amount of deduction allowed for a wife.

Deduction for children

48. (1) Subject to this section, where an individual who is resident for the basis year for a year of assessment—

(a) pays (wholly or in part) in that basis year for the maintenance at any time in that basis year of an unmarried child who at any time in that basis year is under the age of eighteen years;

(b) pays (wholly or in part) in that basis year—

(i) for the maintenance at any time in that basis year of an unmarried child who at any time in that basis year is receiving full-time instruction at any university, college, school or other similar educational establishment; or

(ii) for that instruction;

(c) pays (wholly or in part) in that basis year for the maintenance at any time in that basis year of an unmarried child (in subparagraphs (i) to (ii) referred to as the child) who at any time in that basis year is serving under articles or indentures with a view to qualifying in a trade or profession or—

(i) pays (wholly or in part) in that basis year for any part-time education which is received by the child at any time in that basis year and relates to that trade or profession;

(ii) pays (wholly or in part) in that basis year on behalf of the child any premium payable under or in connection with those articles or indentures; or

(iii) makes in that basis year on behalf of the child any other payment payable under or in connection with those articles or indentures; or

(d) pays (wholly or in part) in that basis year for the maintenance at any time in that basis year of an unmarried child if it is proved to the satisfaction of the Director General that the child is physically or mentally disabled,

there shall be allowed for that year of assessment in respect of that child the appropriate deduction, if any, specified in subsection (2):

Provided that where a wife living together with her husband is assessed separately for any year of assessment on her income, she may elect in writing that the appropriate deduction be wholly allowed to her for that year of assessment.

(2) The appropriate deduction referred to in subsection (1) is—

(a) in respect of children falling under paragraphs (1)*(a)* to *(c)*, two thousand ringgit for each child;

(b) in respect of children falling under paragraph (1)*(d)*, six thousand ringgit for each child.

(3) *(a)* Where for a year of assessment any individual is entitled under paragraph (1)*(b)*, *(c)* or *(d)* to a deduction specified under paragraph (2)*(a)* or *(b)*, as the case may be, in respect of a child over the age of eighteen years and the child is receiving full-time instruction at a university, college or other establishment (similar to a university or college) of higher education, or is serving under articles or indentures with a view to qualifying in a trade or profession, then there shall be allowed—

(i) in the case where that individual is entitled under paragraph (1)*(b)* or *(c)* to a deduction, in substitution for deduction specified under paragraph (2)*(a)*, a deduction of four times of the amount of deduction specified under that paragraph (2)*(a)*; or

(ii) in the case where that individual is entitled under paragraph (1)*(d)* to a deduction, in addition to a deduction specified under paragraph (2)*(b)*, a further deduction of eight thousand ringgit:

Provided that in the case of a child who is receiving full-time instruction outside Malaysia, it shall be in respect of an award of degree (including a degree at Master or Doctorate level) or the equivalent of a degree.

(b) for the purpose of paragraph *(a)*, the instruction and educational establishment referred to in that paragraph shall be approved by the relevant government authority.

(4) Where two or more individuals are each entitled to claim a deduction for a year of assessment under this section for a payment made in respect of the same child, there shall be allowed to each of those individuals, in place of the whole deduction which would otherwise be allowed under this section, a reduced deduction of fifty per cent of that whole deduction.

(5) A deduction shall not be allowed to an individual under this section for a year of assessment in respect of any child whose total income, wherever derived or accruing, for that year exceeds the amount of the deduction that would otherwise be allowed under this section to that individual in respect of that child.

(6) (*Deleted by Act 644*).

(7) (*Deleted by Act 531*).

(8) (*Deleted by Act A226*).

(9) In this section "child", in relation to an individual or his wife, means a legitimate child or step-child of his or his wife, or a child proved to the satisfaction of the Director General to have been adopted by the individual or his wife in accordance with any law.

Deduction for insurance premiums

49. (1) Subject to this section, in the case of an individual resident for the basis year for a year of assessment, there shall be allowed for that year of assessment a deduction—

(a) not exceeding three thousand ringgit, in respect of premium paid by that individual for any insurance;

(b) not exceeding four thousand ringgit, in respect of contribution to approved scheme (other than a private retirement scheme) made or suffered by that individual who is an employee or a self-employed person within the meaning of the Employees Provident Fund Act 1991 [*Act 452*]; or

(c) not exceeding four thousand ringgit, in respect of any amount made or suffered by that individual on any contribution under any written law relating to widow, widower and orphan's pension or under any approved scheme within the meaning of any such law.

(1A) For the purpose of subsection (1)—

(a) the total amount of deduction under subsection (1) shall not exceed seven thousand ringgit;

(b) where subsection 50(2) or 50(3) applies, the amount of deduction to be allowed shall be in accordance with paragraphs (1)*(a)*, *(b)* and *(c)* and the total deduction under subsection 50(2) or (3) shall not exceed seven thousand ringgit;

(c) in the case of an individual who is a pensionable officer within the meaning of section 2 of the Pensions Act 1980 [*Act 227*] and no deduction is made under paragraph (1)*(b)* or *(c)* to that individual, the amount of deduction under paragraph (1)*(a)* shall not exceed seven thousand ringgit.

(1B) *(a)* Subject to this section, in the case of an individual resident for the basis year for a year of assessment who has paid any premium for insurance on education or for medical benefits, there shall be allowed for that year of assessment in addition to the deduction allowed under subsection (1), a deduction of the aggregate amount of the payments or a deduction of three thousand ringgit, whichever is the less;

(b) for the purposes of paragraph *(a)*, where subsection 50(2) applies, the total deduction under the paragraph shall not exceed three thousand ringgit.

(1C) (*Deleted by Act 719*).

(1D) In the case of an individual resident for the basis year for a year of assessment who has—

(a) paid premium for deferred annuity; or

(b) made or suffered the making of a contribution to a private retirement scheme,

there shall be allowed for that year of assessment a deduction of the aggregate amount of the payments or contribution or both or a deduction of three thousand ringgit whichever is the less.

(1E) For the purposes of subsection (1D), where subsection 50(2) or (3) applies, the total deduction under that subsection shall not exceed three thousand ringgit.

(2) For the purposes of subsection (1), no regard shall be had to any contribution to an approved scheme unless the contribution was obligatory by reason of—

(a) any contract of employment of the individual claiming a deduction in respect of the contribution; or

(b) any provision in the rules, regulations, by-laws or constitution of the scheme,

and, where the contribution was partly obligatory by reason of such a contract or provision and partly not so obligatory, regard shall be had only to the part which was so obligatory.

(3) In relation to an individual claiming a deduction under subsection (1) and (1D), "insurance" and "deferred annuity", mean an insurance or deferred annuity contracted for by the individual—

(a) on the individual's life;

(b) on the life of a wife of the individual or, where the individual is a female, on the life of the individual's husband; or

(c) on the joint lives of the individual and a wife or wives of his or on the joint lives of two or more wives of his or, where the individual is a female, on the joint lives of—

(i) the individual and her husband;

(ii) the individual, her husband and any other wife or wives of his;

(iii) the individual and any other wife or wives of her husband; or

(iv) her husband and any other wife or wives of his,

being an insurance or deferred annuity contracted for with an insurance company for securing on death either a capital sum or a deferred annuity or both (whether in conjunction with any other benefit or not) or an insurance or deferred annuity contracted for with a government, a public body or the controlling authority of any nationalized insurance business.

(4) For the purposes of subsection (1B) reference to an insurance means an insurance contracted for by an individual for himself, his wife or child, or in the case of a wife, for herself, her husband or child.

Application of section 49 where husband and wife are living together

50. (1) Where an individual who is resident for the basis year for a year of assessment has a wife living together with him at any time in that basis year, and they did not in that basis year—

(a) cease to live together; or

(b) cease to be husband and wife of each other,

the application of section 49 to that individual shall be subject to this section.

(2) Any premium for any insurance or deferred annuity within the meaning of subsection 49(3), or for any insurance on education or medical benefits within the meaning of subsection 49(4), which has been paid by the wife or the husband in the year of assessment—

(a) where subsection 45(2) applies, shall be deemed to have been paid by the husband of the wife who elects or by the wife of the husband who elects, as the case may be; or

(b) where the wife or the husband has no total income, shall be deemed to have been paid by the husband of that wife who has no total income or the wife of that husband who has no total income, as the case may be:

Provided that where paragraph 45(2)*(b)* applies, or the husband has no total income, any amount paid by the husband shall be deemed to have been paid by the wife who has been allowed a deduction under section 45A.

(3) Where subsection 45(2) applies for the year of assessment, and in that year the wife who elects or the husband who elects has made or suffered the making of a contribution as an employee to an approved scheme or as a self-employed person within the meaning of the Employees Provident Fund Act 1991 to the Employees Provident Fund—

(a) the contribution shall be deemed to have been made by the husband or the wife in whose name the assessment was made, as the case may be, in that year; and

(b) the reference to a contract of employment in paragraph 49(2)*(a)* shall be deemed to include a reference to a contract of employment of the wife who elects or the husband who elects, as the case may be.

(4) (*Deleted by Act 451*).

Deduction must be claimed

51. Notwithstanding sections 47 to 50, no deduction shall be allowed under those sections in ascertaining the chargeable income of an individual for a year of assessment unless a claim has been made for that year for the deduction or for a deduction of a larger or smaller amount in respect of the same subject matter.

Chapter 8 - Special cases

Modification of Part III in certain special cases

52. In a case where any provision of this Chapter applies, the foregoing Chapters shall also apply but shall be modified in their application to the extent necessary to conform with that provision; and, if in that case there is any inconsistency between that provision and any provision of the foregoing Chapters, that provision of those Chapters shall be void to the extent of the inconsistency.

Trade associations

53. (1) Where a trade association is resident for the basis year for a year of assessment—

(a) the total of the sums (other than sums forming part of any gross income of the association from any source other than the source created by this subsection) receivable on revenue account by the association for that basis year (including entrance fees and subscriptions) shall be deemed to be gross income for that basis year from a business of the association deemed to be carried on by the association; and

(b) that basis year shall be deemed to be the basis period for that year of assessment for that business.

(2) For the purposes of subsection (1)—

(a) the gross income, adjusted income or adjusted loss and statutory income of a trade association relating to its transactions with its members shall be ascertained on the same principles as those on which its gross income, adjusted income or adjusted loss and statutory income relating to its transactions with non-members, if any, would be ascertained; and

(b) any outgoings or expenses connected with the a sums receivable on revenue account referred to in subsection (1) shall be deemed to have been incurred in the production of its gross income relating to its transactions with its members if they would have been so incurred if the sums deemed by that subsection to be gross income had in fact been gross income of the association.

(3) In this section, "trade association" means any association of persons, of partnerships or of persons and partnerships formed with the main object of—

(a) safeguarding or promoting the business of its members; or

(b) developing and advancing the profession of its members.

(4) Notwithstanding any other provisions of this Act, a trade association shall, for the purposes of this section, be deemed to be a body of persons and not a partnership.

Club, association or similar institution

53A. (1) This section shall apply to a body of persons which carry on a club, association or similar institution other than a trade association to which section 53 applies.

(2) Any income of the body of persons from transaction with members and any outgoing or expenses or capital allowances attributable to such income shall be disregarded for the purpose of this Act.

(3) The gross income of a body of persons for the basis period for the year of assessment shall include the amount of gross income for that period from the investment made out of any of the fund of the body of persons.

(4) The body of persons shall maintain a separate account in respect of income derived from its members and non-members.

(5) Where the amount of outgoing or expenses to be allowed or capital allowances to be made to the body of persons are common to income from transaction with members and non-members, the amount of outgoing or expenses that shall be allowed or capital allowances that shall be made to that body of persons in respect of income relating to transaction with non-members shall be an amount as determined by applying the method as may be prescribed under this Act.

(6) In this section, "members", in relation to a body of persons, means those persons who are entitled to vote at a general meeting of the body at which effective control is exercised over its affairs.

Sea and air transport undertakings

54. (1) Where the business of a person consists partly of transporting passengers or cargo by sea or air and partly of other activities—

(a) the transport activities of that kind shall be deemed to constitute one business and source of that person and the other activities shall be deemed to constitute a separate and distinct business and source of that person; and

(b) the gross income and adjusted income or adjusted loss for the basis period for a year of assessment from the business consisting of those other activities, and the statutory income for that year of assessment from the business so consisting shall be ascertained in accordance with the provisions of the foregoing Chapters without modification by this section.

(2) *(a)* Subject to section 54A, where that person is resident for the basis year for a year of assessment, his gross income and adjusted income or adjusted loss for the basis period for that year of assessment from the business of transporting passengers or cargo by sea or air his statutory income for that year of assessment from that business shall be ascertained by reference to his income therefrom wherever accruing or derived;

(b) Where that person is not resident for the basis year for a year of assessment, his gross income derived from Malaysia from the business of transporting passengers or cargo by sea or air for the basis period for that year of assessment and his statutory income from that business for that year of assessment shall be ascertained in accordance with the following subsections (that business, person, basis period and year of assessment being referred to in those subsections as the business, the operator, the relevant period and the relevant year respectively).

(3) Subject to subsection (4), the statutory income of the operator from the business for the relevant year shall be deemed to be five per cent of the gross income derived from Malaysia for the relevant period.

(4) Where within three years (or such further period as the Director General may allow) after the commencement of the relevant year the operator produces a certificate which is an acceptable certificate, then—

(a) if there is world income, the operator's statutory income from the business for the relevant year shall be deemed to be a sum bearing the same proportion to the world income as the gross income derived from Malaysia for the relevant period bears to the gross income shown by the certificate, less the amount of any loss from the business computed in accordance with paragraph *(b)* for a year of assessment preceding the relevant year (to the extent that the loss has not been allowed as a deduction in computing the statutory income from the business for any year of assessment following that preceding year of assessment and ending prior to the relevant year);

(b) if there is a world loss, the operator's net statutory loss from the business for the relevant year shall be deemed to be a sum bearing the same proportion to the world loss as the gross income derived from Malaysia for the relevant period bears to the gross income shown by the certificate;

(c) if by the time the certificate becomes an acceptable certificate no assessment for the relevant year has been made on the operator by reference to subsection (3), that subsection shall cease to have effect in relation to the business for the relevant year; and

(d) if by that time an assessment for the relevant year has been made on the operator by reference to subsection (3), the Director General shall make such additional assessment or such repayment of tax as may be necessary in consequence of the application of this subsection for the relevant year.

(5) In this section, in relation to the business, the operator, the relevant period and the relevant year—

"acceptable certificate" means a certificate produced to the Director General with respect to which he is satisfied that the amounts specified in the certificate have been computed by methods not substantially different from those provided by this Act for the computation of analogous figures for a similar business carried on by a person who is resident;

"certificate" means a certificate which—

(a) is issued by the authority responsible for the administration of the tax laws of any country (other than Malaysia) in which the operator is resident for the purposes of those laws; and

(b) specifies in respect of the business for the relevant period the amount of—

(i) the gross income from wherever derived;

(ii) the income or the loss computed for the purpose of foreign tax by that authority without making any allowance for depreciation; and

(iii) the total depreciation allowances given by that authority (excluding any allowance or part thereof brought forward from a previous period);

"gross income derived from Malaysia for the relevant period" means the total of all sums first receivable by the operator in the relevant period in respect of transporting by sea or air (whether before, in or after the relevant period) passengers or cargo embarked or loaded in Malaysia into ships or aircraft owned or chartered by the operator, except sums so receivable in respect of passengers or cargo—

(a) brought to Malaysia, whether by the operator or otherwise, solely for transfer—

(i) from one ship or aircraft to another;

(ii) from a ship to an aircraft; or

(iii) from an aircraft to a ship; or

(b) so embarked or loaded into such a ship or aircraft if the call of that ship or aircraft at a port, aerodrome or airport in Malaysia for that embarkation or loading was a casual call within the meaning of subsection (6),

less any sums received in the relevant period or prior thereto which are refunded in the relevant period and any sums first receivable in the relevant period or prior thereto which in the relevant period cease, otherwise than on the receipt thereof, to be receivable;

"gross income from wherever derived" means the total of all sums first receivable by the operator in the relevant period in respect of transporting by sea or air (whether before, in or after the relevant period) passengers or cargo in ships or aircraft owned or chartered by the operator;

"world income", in relation to a certificate which is an acceptable certificate, means the amount of any income specified in that certificate in accordance with subparagraph *(b)*(ii) of the definition of "certificate" in this subsection, as reduced by the amount of the depreciation allowances specified in that certificate, less any sums received in the relevant period or prior thereto which are refunded in the relevant period and any sums first receivable in the relevant period or prior thereto which in the relevant period cease, otherwise than on the receipt thereof, to be receivable;

"world loss", in relation to a certificate which is an acceptable certificate, means—

(a) the amount of any loss specified in that certificate together with the amount of the depreciation allowances specified in that certificate; or

(b) where the amount of those allowances exceeds the amount of the income specified in that certificate in accordance with subparagraph *(b)*(ii) of the definition of "certificate" in this subsection, the amount of the excess.

(6) A call at a port, aerodrome or airport in Malaysia (in this subsection referred to as a Malaysian call) by a ship or aircraft owned or chartered by the operator (in this subsection referred to as a relevant craft) is a casual call for the purposes of subsection (5) only if—

(a) apart from that particular Malaysian call there were no other Malaysian calls by that or any other relevant craft in the period of twenty-four consecutive months immediately prior to that particular Malaysian call; and

(b) the Director General is satisfied that the intention of the operator is that for the period of twenty-four consecutive months immediately following that particular Malaysian call—

(i) that relevant craft will not be making another Malaysian call (except a call made in the course of the voyage or flight from the place where that particular Malaysian call was made); and

(ii) no other relevant craft will be making a Malaysian call:

Provided that, if within the period mentioned in paragraph *(b)* that or any other relevant craft makes another Malaysian call (except, in the case of that relevant craft, a call made in the course of the voyage or flight from the place where that particular Malaysian call was made), that particular Malaysian call shall be treated as never having been a casual call.

Exemption of shipping profits

***54A.** (1) Subject to the following subsections, where a person who is resident for the basis year for a year of assessment carries on the business of—

**NOTE—See* section 25 of the Finance Act 2012 [*Act 742*] for explanations.

(a) transporting passengers or cargo by sea on a Malaysian ship; or

(b) letting out on charter a Malaysian ship owned by him on a voyage or time charter basis,

seventy per cent of the statutory income of that person for that year of assessment from that business shall be exempt from tax.

(1A) Where subsection (1) applies, a person who is entitled to an allowance under Schedule 3 and who has not made any claim under paragraph 77 of that Schedule in respect of such allowance, the amount of such allowance shall be deemed to have been made to him for the purpose of ascertaining his statutory income under subsection (1).

(2) Notwithstanding the provisions of this Act—

(a) the income derived from each Malaysian ship referred to under subsection (1) shall be treated as income from a separate and distinct business source of that person;

(b) the adjusted loss (if any) of the person for any year of assessment in respect of a source consisting of a Malaysian ship shall not be available as a deduction in arriving at the total income of that person for that year of assessment;

(c) an amount of statutory income of a person form a source consisting of a Malaysian ship referred to in paragraph *(b)* which is exempt under this section for the following year of assessment shall be reduced by the adjusted loss referred to in that paragraph, and if by reason of insufficiency or absence of that statutory income, the amount of adjusted loss which has not been so utilized shall further reduce the amount of statutory income of that person from that source which is exempt under this section for any subsequent years of assessment until the amount of adjusted loss is fully utilized; and

(d) an amount of statutory income of a person for a year of assessment from a source consisting of a Malaysian ship which is not exempt under this section shall be deemed to be the total income of that person.

(3) The following provisions shall apply to a person carrying on a business in respect of which his income is exempt under subsection (1)—

(a) he shall maintain a separate account for the income derived or deemed to be derived from each Malaysian ship from that business for the purpose of this section:

Provided that where expenses have been incurred by that person which are not directly attributable to a Malaysian ship, the Director General may allocate as expenses such amounts as might reasonably and properly have been incurred in the normal course of his business in respect of such ship;

(b) as soon as any amount of income of the Malaysian ship is exempted under this section, such amount shall be credited to an exempt account;

(c) where such exempt account is in credit at the date on which any dividends are paid by that person (out of income which has been exempted), an amount equal to such dividends or to such credit whichever is the lesser, shall be debited to such account;

(d) any dividend paid, credited or distributed in a basis period out of such exempt account shall be exempt from tax; and

(e) where such dividend is received by a shareholder and that shareholder is a company, any dividend paid by that shareholding company to its shareholders shall, to the extent that the Director General is satisfied that the dividend so paid is paid out of such exempt dividend, be exempt from tax in the hands of the shareholders.

(f) (*Deleted by Act 683*).

(4) That person shall deliver to the Director General a copy of the accounts referred to in subsection (3) made up to any date specified by him whenever called upon to do so by notice in writing.

(5) Notwithstanding the foregoing provisions of this section, where it appears to the Director General that—

(a) any income of that person which has been exempt; or

(b) any dividend (including a dividend paid by a holding company to which paragraph (3)*(e)* applies) exempted in the hands of any shareholder,

ought not to have been so exempt, the Director General may at any time—

(i) make such assessment or additional assessment upon that person or any shareholder as may appear to be necessary in order to make good any loss of tax; or

(ii) direct that person to debit his account kept in accordance with subsection (3) with such amount as the circumstances may require:

Provided that the direction given under this paragraph shall be deemed to be a notice of assessment for the purposes of section 99.

(6) For the purposes of this section—

"Malaysian ship" means a sea-going ship registered as such under the Merchant Shipping Ordinance 1952 [*Ord. 70 of 1952*], other than a ferry, barge, tug-boat, supply vessel, crew boat, lighter, dredger, fishing boat or other similar vessel;

"person" includes a partnership.

54B. (*Deleted by Act 293*).

Partnerships generally

55. (1) Subject to this section and sections 56 to 59, in the case of a business of a partnership (in this section referred to as the relevant partnership) and in relation to a person who is a partner in the relevant partnership throughout the period during which he was such a partner it shall for the purposes of this Act be postulated that—

(a) there has been a transfer to that person (in this section referred to as the sole proprietor) of the business and assets of the relevant partnership together with all rights and liabilities of the partners in relation thereto;

(b) the subject matter of the transfer constitutes a business (in this section and section 56 referred to as the proprietorship business) of the sole proprietor carried on by him in a manner similar to the way in which the relevant partnership business was carried on and in particular that the accounts of the relevant partnership business, made up for any period, are the accounts of the proprietorship business made up for that period.

(2) There shall be ascertained in accordance with the foregoing provisions of this section and of this Part what would be, but for any provisions of any of the following subsections, the adjusted income in this section referred to as the provisional adjusted income of the sole proprietor from his proprietorship business for the basis period for a year of assessment.

(3) The divisible income of the proprietorship business for the basis period for a year of assessment shall be taken to be an amount found by the deduction from the provisional adjusted income of the sole proprietor from that business for that period of the total amount of—

(a) any remuneration payable by virtue of any partnership arrangement of the relevant partnership to any partner therein for that period or for any part thereof;

(b) any interest payable to any partner in the relevant partnership for that period or any part thereof in connection with all capital moneys paid or advanced by him (otherwise than in a fiduciary capacity, unless in that capacity he is a partner in the relevant partnership) to the relevant partnership; and

(c) any expenses incurred during that period in relation to any partner in the relevant partnership and charged in the relevant partnership accounts (whether or not for that period) which—

(i) would have been private or domestic expenses if incurred by that partner; or

(ii) are reimbursements of private or domestic expenses incurred by that partner.

(4) The amount of the divisible income of the proprietorship business for the basis period for a year of assessment ascertained under subsection (3) shall be treated as having accrued evenly over that period and shall be divided between those who were partners of the relevant partnership in that period in accordance with the sharing arrangements (subsisting from time to time during that period) of those partners in like manner as that amount would have been divisible between those partners if that amount had been divisible profits from the business of the relevant partnership accruing evenly over that period; and so much of that divisible income as is thus found to be attributable to the sole proprietor shall be taken to be his share of that divisible income for that period.

(5) The adjusted income of the sole proprietor from the proprietorship business for the basis period for a year of assessment shall be taken to be the aggregate of—

(a) so much of the total amount deducted under subsection (3) in ascertaining the divisible income of that business for that period as relates to any remuneration, interest or expenses payable to or incurred in relation to the sole proprietor; and

(b) his share, ascertained under subsection (4), of the divisible income of that business for that period.

(6) For the purposes of subsection (3) of this section, the amount of any remuneration or interest shall be ascertained whenever necessary by applying subsection 19(3) as if references therein to Chapter 4 were references to subsection (3) of this section.

(7) In subsection (4) divisible profits shall not be taken to include any items of the kind referred to in paragraphs (3)*(a)*, *(b)* and *(c)*.

Successive partnerships

56. (1) Where, apart from this section, the circumstances are such that—

(a) section 55 applies to a business of a partnership (in this section referred to as the old partnership), to a person (in this section referred to as the continuing partner) who is a partner therein and to the period during which he was such a partner;

(b) at some time after the commencement of that application, section 55 applies to a business of another partnership (in this section referred to as the new partnership) to a partner therein who is the continuing partner and to the period during which he was such a partner;

(c) those periods are successive periods;

(d) those businesses are substantially similar and to all intents and purposes (in so far as the continuing partner is

concerned) are carried on successively as if they were one continuing business (apart from the assets of each of those partnerships and the rights and liabilities of the respective partners in relation to each of those businesses, partnerships and assets),

section 55 in its application to the business of the old partnership, to the business of the new partnership and to the continuing partner as the sole proprietor of each of the proprietorship businesses constituted under that section in relation to the old and new partnerships shall be subject to such modifications provided for by this section for such period of time (being a period, in this section referred to as the material period, some part of which will comprise the whole or part of the period during which the continuing partner was a partner in the old partnership and some part of which will comprise the whole or part of the period during which the continuing partner was a partner in the new partnership) as may be requisite in all the circumstances for the purposes of the application of this section, in conjunction with section 55 as so modified, to the continuing partner in relation to the businesses of the old and new partnerships and to such other matters as are provided for by this section.

(2) Notwithstanding subsection (1)—

(a) this section shall not apply if accounts of the business of the old partnership have been made up for a period of twelve months ending on the day prior to the day on which the new partnership was formed and accounts of the business of the new partnership have been made up for a period of twelve months commencing on the day the new partnership was formed; and

(b) where, prior to the application of this section to the continuing partner, section 55 has been applied to him in relation to the old partnership and any assessment has been made wholly or partly in consequence of that application of section 55, the subsequent application of this section shall not invalidate the assessment.

(3) Notwithstanding that, but for this section, upon the formation of the new partnership during the material period the proprietorship business of the continuing partner in relation to the old partnership would have ceased and the proprietorship business of the continuing partner in relation to the new partnership would have commenced, those two proprietorship businesses shall throughout the material period be treated as one continuing proprietorship business (in this section referred to as the continuing proprietorship business) of the continuing partner, carried on by him in a manner similar to the way in which the businesses of the old and new partnerships were carried on and, without prejudice to the generality of the foregoing, the accounts of those businesses made up for any period shall be taken to be the accounts of the continuing proprietorship business made up for that period.

(4) There shall be ascertained in accordance with the foregoing provisions of this section and of this Part what would be, but for any provisions of any of the following subsections, the adjusted income (in this section referred to as the provisional adjusted income) of the continuing partner from his continuing proprietorship business for the basis period for a year of assessment.

(5) The divisible income of the continuing proprietorship business for the basis period for a year of assessment shall be taken to be an amount found by the deduction from the provisional adjusted income of the continuing partner from that business for that period of the total amount of—

(a) any remuneration payable by virtue of any partnership arrangement of the old or new partnership to any partner in the old or new partnership for that period or for any part thereof;

(b) any interest payable to any partner in the old or new partnership for that period or any part thereof in connection with all capital moneys paid or advanced by him (otherwise than in a fiduciary capacity, unless in that capacity he is a partner in the old or new partnership) to the old or new partnership; and

(c) any expenses incurred during that period in relation to any partner in the old or new partnership and charged in the accounts of the old or new partnership (whether or not for that period) which—

(i) would have been private or domestic expenses if incurred by that partner; or

(ii) are reimbursements of private or domestic expenses incurred by that partner.

(6) The amount of the divisible income of the continuing proprietorship business for the basis period for a year of assessment ascertained under subsection (5)—

(a) if the formation date of the new partnership falls after that period, shall be treated as having accrued evenly over that period and shall be divided between those who were partners of the old partnership in that period in accordance with the sharing arrangements (subsisting from time to time during that period) of those partners in like manner as that amount would have been divisible between those partners if that amount had been divisible profits from the business of the old partnership accruing evenly over that period; and so much of that divisible income as is thus found to be attributable to the continuing partner shall be taken to be his share of that divisible income for that period;

(b) if the formation date of the new partnership falls within that period, shall be treated as having accrued evenly over that period and shall be divided in the proportion that the respective lengths of the two parts hereinafter mentioned bear to the length of that period, namely the part (in this subsection referred to as the first part) of that period which falls before that date and the part (in this subsection referred to as the second part) of that period which falls on or after that date and—

(i) a sum being so much of that amount as is thus found to have been apportioned to the first part shall be treated as having accrued evenly over the length of the first part and divided between those who were partners of the old partnership in the first part in accordance with the sharing arrangements (subsisting from time to time during the first part) of those partners in like manner as that sum would have been divisible between those partners if that sum had been divisible profits from the business of the old partnership accruing evenly over the first part; and so much of that sum as is thus found to be attributable to the continuing partner shall be taken to be part of his share of that divisible income;

(ii) a sum being so much of that amount as is thus found to have been apportioned to the second part shall be treated as having accrued evenly over the length of the second part and shall be divided between those who were partners of the new partnership in the second part in accordance with the sharing arrangements (subsisting from time to time during the second part) of those partners in like manner as that sum would have been divisible between those partners if that sum had been divisible profits from the business of the new partnership accruing evenly over the second part; and so much of that sum as is thus found to be attributable to the continuing partner shall be taken to be part of his share of that divisible income; and

(iii) the amount of the part of the continuing partner's share ascertained under subparagraph (i) and the amount of the part of his share ascertained under subparagraph (ii) shall be aggregated; and the amount of the aggregate shall be taken to be his share of that divisible income for that period; and

(c) if the formation date of the new partnership falls before that period, shall be treated as having accrued evenly over that period and shall be divided between those who were partners of the new partnership in that period in accordance with the sharing arrangements (subsisting from time to time during that period) of those partners in like manner as that amount would have been divisible between those partners if that amount had been divisible profits from the business of the new partnership accruing evenly over that period; and so much of that divisible income as is thus found to be attributable to the continuing partner shall be taken to be his share of that divisible income for that period.

(7) For the purposes of subsection (5) of this section, the amount of any remuneration or interest shall be ascertained whenever necessary by applying subsection 19(3) as if references therein to Chapter 4 were references to subsection (5) of this section.

(8) The adjusted income of the continuing partner from the continuing proprietorship business for the basis period for a year of assessment shall be taken to be the aggregate of—

(a) so much of the total amount deducted under subsection (5) in ascertaining the divisible income of that business for that period as relates to any remuneration, interest or expenses payable to or incurred in relation to the continuing partner; and

(b) his share, ascertained under paragraph (6)*(a)*, *(b)*or *(c)*, as the case may be, of the divisible income of that business for that period.

(9) In subsection (6) "divisible profits" does not include any items of the kind referred to in paragraphs (5)*(a)*, *(b)* and *(c)*.

Provisions applicable where partnership is a partner in another partnership

57. Where a partnership (in this section referred to as the subsidiary partnership) is a partner in another partnership (in this section referred to as the main partnership), then, in relation to a business of the main partnership—

(a) throughout any period that a person is a partner in the subsidiary partnership and the subsidiary partnership is a partner in the main partnership it shall be postulated that the person in question was a partner in the main partnership in place of the subsidiary partnership, and the adjusted income under subsection 55(5) or 56(8) (in this section referred to as the computed adjusted income) of that person for the basis period for a year of assessment as the sole proprietor from his proprietorship business or as continuing partner from his continuing proprietorship business, as the case may be, in relation to the main partnership shall be ascertained under section 55 or under section 55 in conjunction with section 56, as the case may be; and

(b) the computed adjusted income for that basis period shall be divided between the partners of the subsidiary partnership in like manner as divisible income is divided under subsection 55(4) or 56(6), as the case may be, and the amount of the share thereof so ascertained of any such partner as the sole proprietor or as the continuing partner as mentioned in subsection 55(4) or 56(6), as the case may be, shall be taken to be his adjusted income for the basis period for that year of assessment from the proprietorship business or continuing proprietorship business, as the case may be, which he is treated as having in relation to the main partnership by virtue of paragraph *(a)*.

Income receivable by partnership otherwise than from partnership business

58. (1) Where a partnership carries on or shares in the profits of a business and income is receivable by the partnership (not being income forming part of the gross income for the basis period for any year of assessment from any proprietorship business or continuing proprietorship business in relation to any partner in the partnership) from a source, then, whether or not the income has been distributed to the partners, sections 55, 56 and 57 shall apply (with any necessary modifications) for ascertaining the gross income and adjusted income for the basis period for a year of assessment from that source of each partner who is a partner in the partnership as they apply for ascertaining his gross income and adjusted income for the basis period for that year from the business.

(2) For the purposes of subsection (1), in the application of section 55 or section 55 in conjunction with section 56, as the case may be, the provisional adjusted income shall be taken to be the divisible income.

Partnership losses

59. (1) In the case of a sole proprietor of a proprietorship business or of a continuing partner of a continuing proprietorship business referred to in sections 55 and 56 respectively—

(a) the adjusted loss (in this section referred to as the provisional adjusted loss) of that proprietor or partner from that proprietorship or continuing proprietorship business for the basis period for a year of assessment shall be ascertained on the same principles as those on which his provisional adjusted income from the respective business would, but for that loss, have been ascertained under section 55 or under section 55 in conjunction with section 56, as the case may be;

(b) the divisible loss of that proprietorship or continuing proprietorship business, for the basis period for a year of assessment shall be found by the addition to the provisional adjusted loss of that sole proprietor or of that continuing partner, as the case may be, from that proprietorship business or continuing proprietorship business of his for that period of the total amount as mentioned in and as ascertained under subsections 55(3) and (5) or subsections 56(5) and (7), as the case may be;

(c) the divisible loss so found with respect to that proprietorship business or continuing proprietorship business shall be divided in like manner as divisible income from that business would have been divided if there had been divisible income for that period, and so much of that divisible loss as is thus found to be attributable to that sole proprietor or continuing partner shall be taken to be his share of that divisible loss for that period; and

(d) the adjusted loss of that sole proprietor or continuing partner from that proprietorship business or continuing proprietorship business for that basis period shall be taken to be the difference between—

(i) his share, ascertained pursuant to paragraph *(c)*, of the divisible loss of that proprietorship business or continuing proprietorship business for that period; and

(ii) so much of the total amount added pursuant to paragraph *(b)* as relates to any remuneration, interest or expenses payable to or incurred in relation to him as a partner in the partnership in relation to which he is taken to be a sole proprietor or a continuing partner, as the case may be:

Provided that, if in relation to any person the sum found under subparagraph *(d)*(ii) exceeds the share referred to in subparagraph *(d)*(i), the difference between that sum and that share

shall be treated as the amount of that person's adjusted income for that period from that proprietorship business or from that continuing proprietorship business, as the case may be.

(2) For the purposes of section 55 or section 55 in conjunction with section 56, where the total amount as mentioned in and ascertained under subsections 55(3) and (5) or subsections 56(5) and (7), as the case may be, exceeds the provisional adjusted income of the sole proprietor from his proprietorship business or the continuing partner from his continuing proprietorship business, as the case may be, for the basis period for a year of assessment, the excess shall be taken to be the divisible loss for that period from that proprietorship business or continuing proprietorship business, as the case may be, and paragraphs (1)*(c)* and *(d)* shall apply accordingly.

(3) In a case where section 57 would apply but for the absence of any adjusted income, the foregoing subsections shall apply with the following additional provisions:

(a) the adjusted loss (in this subsection referred to as the computed adjusted loss) of the sole proprietor from his proprietorship business or of the continuing partner from his continuing proprietorship business, as the case may be, in relation to the main partnership for the basis period for a year of assessment shall be ascertained under subsection (1); and

(b) the computed adjusted loss for that basis period shall be divided between the partners of the subsidiary partnership in like manner as it would have been divided under paragraph 57*(b)* if the computed adjusted loss had been computed adjusted income within the meaning of that section; and the amount of the share thereof so ascertained of any such partner as the sole proprietor or as the continuing partner, as the case may be, shall be taken to be his adjusted loss for the basis period for that year of assessment from the proprietorship business or continuing proprietorship business, as the case may be, which he is

treated as having in relation to the main partnership by virtue of paragraph 57*(a)*.

Insurance business

60. (1) This section shall apply for ascertaining the adjusted income for the basis period for a year of assessment from the insurance business of an insurer.

(2) For the purposes of this section—

(a) subject to paragraph *(b)*, where an insurer carries on life business in conjunction with general business, the life business and the general business shall be treated as separate insurance businesses;

(b) where an insurer carries on reinsurance business, the reinsurance business and the general business (excluding the reinsurance business) shall be treated as separate general businesses;

(c) where an insurer carries on life business, the income of the life fund shall be treated as a separate source of income from the income of the shareholders' fund in respect of the life business:

Provided that where the insurer also carries on life reinsurance business, the life reinsurance business shall be a separate source from life business and shall be treated as a general business;

(d) where an insurer carries on only life reinsurance business, the life reinsurance business shall be treated as a general business.

(3) The adjusted income of the life fund, other than income arising from life reinsurance business, for the basis period for a year of

assessment of an insurer resident for the basis year for that year of assessment shall be ascertained by—

(a) taking the aggregate of—

(i) the amount of gross income for that period from the investments made out of any of the insurer's life funds; and

(ii) the amount of any gross proceeds (whether or not of an income nature) which are not gross income to which subparagraph (i) applies and which are first receivable in that period in connection with the realization of those investments or any rights arising from them; and

(b) deducting from that aggregate where subparagraph *(a)*(ii) is applicable for that period to gross proceeds receivable in connection with any investments or rights, the cost of acquiring and realizing those investments or rights.

(3A) The adjusted income of the shareholders' fund for the basis period for a year of assessment of an insurer resident for the basis year for that year of assessment shall be ascertained by—

(a) taking the aggregate of—

(i) the amount of gross income for that period from the investments made out of any of the shareholders' funds;

(ii) the amount of any gross proceeds (whether or not of an income nature) which are not gross income to which subparagraph (i) applies and which are first receivable in that period in connection with the realization of those investments or any rights arising from them; and

(iii) the amount of the actuarial surplus from the life fund that is transferred to the shareholders' fund; and

(b) deducting from that aggregate—

(i) where subparagraph *(a)*(ii) is applicable for that period to gross proceeds receivable in connection with any investments or rights, the cost of acquiring and realizing those investments or rights; and

(ii) so much of the amount transferred from the shareholders' fund as is equal to the actuarial deficit for that period arising from the life fund, other than the deficit from life reinsurance business.

(4) The adjusted income of the life fund, other than income arising from life reinsurance business, of an insurer not resident for the basis year for that year of assessment shall where that business is wholly or partly carried on in Malaysia as ascertained by—

(a) taking the aggregate of—

(i) the amount of gross income for that period from investments made (in Malaysia or elsewhere) out of the insurer's Malaysian life fund; and

(ii) the amount of any gross proceeds (whether or not of an income nature) which are not gross income to which subparagraph (i) applies and which are first receivable in that period in connection with the realization of those investments or any rights arising from them; and

(b) deducting from that aggregate where subparagraph *(a)*(ii) is applicable for that period to gross proceeds receivable in connection with any investments or rights, the cost of acquiring and realizing those investments or rights.

(4A) The adjusted income of the shareholders' fund for the basis period for a year of assessment of an insurer not resident for the basis year for that year of assessment shall, where that business is wholly or partly carried on in Malaysia, be ascertained by—

(a) taking the aggregate of—

(i) the amount of gross income for that period from the investments made out of any of the shareholders' funds;

(ii) the amount of any gross proceeds (whether or not of an income nature) which are not gross income to which subparagraph (i) applies and which are first receivable in that period in connection with the realization of those investments or any rights arising from them; and

(iii) the amount of the actuarial surplus from the life fund that is transferred to the shareholders' fund; and

(b) deducting from that aggregate—

(i) where subparagraph *(a)*(ii) is applicable for that period to gross proceeds receivable in connection with any investments or rights, the cost of acquiring and realizing those investments or rights; and

(ii) so much of the amount transferred from the shareholders' fund as is equal to the actuarial deficit for that period arising from the life fund, other than the deficit from life reinsurance business.

(4B) The adjusted income as ascertained under subsections (3A) and (4A) shall be deemed to be the statutory income from that source.

(4C) For the purposes of ascertaining the adjusted income of the life fund, shareholders' fund or general business referred to in

subsection (3), (3A), (4), (4A), (5) or (6), as the case may be, the cost of acquiring and realizing any investments or rights for the basis period for a year of assessment shall include expenses incurred in managing those investments or rights, and such expenses incurred shall be determined in accordance with the following formula:

$$\frac{A}{B} \times C$$

where A is the cost of acquiring any investments or rights which is realized in that period in respect of such fund or general business;

B is the total cost of acquiring all investments or rights held during that period in respect of such fund or general business; and

C is the total expenses incurred in that period for managing all investments or rights held during that period in respect of such fund or general business.

(5) The adjusted income for the basis period for a year of assessment from the general business of an insurer resident for the basis year for that year of assessment shall consist of an amount arrived at by—

(a) taking the aggregate of—

(i) the amount of the gross premiums first receivable in that period in respect of general policies issued by him (less the amount of any premiums received at any time in respect of any such general policies and returned by him during that period);

(ii) the amount of any other gross income for that period from the general business of the insurer (including any commissions and any interest or

other income from investments held in connection with that business);

(iii) the amount of any gross proceeds (whether or not of an income nature) which are not gross income to which subparagraph (ii) applies and which are first receivable in that period in connection with the realization of those investments or any rights arising from them;

(iv) any amounts recovered or recoverable by him in that period under reinsurance contracts made in connection with that business; and

(v) the amount of his reserve fund for unexpired risks at the end of the immediately preceding basis period; and

(b) subject to subsection (7), deducting from that aggregate the amount of—

(i) claims incurred in that period in connection with his general policies;

(ii) reinsurance premiums payable by him in that period in connection with that business;

(iii) commissions payable and discounts allowed by him in that period in connection with that business;

(iv) management expenses incurred by him in that period in connection with that business;

(v) his reserve fund for unexpired risks at the end of that period; and

(vi) where subparagraph *(a)*(iii) is applicable for that period to gross proceeds receivable in connection

with any investments or rights, the cost of acquiring and realizing those investments or rights.

(5A) The adjusted income for the basis period for a year of assessment from the reinsurance business of an insurer resident for the basis year for that year of assessment shall consist of an amount arrived at by applying subsection (5) as if references therein to "general business" and "general policies" were references to "reinsurance business" and "reinsurance contracts" respectively.

(5B) (*Deleted by Act 812*).

(5C) The adjusted income for the basis period for a year of assessment from the life reinsurance business of a life insurer resident for that basis year for that year of assessment shall consist of an amount arrived at by applying subsection (5) as if references therein to—

(a) "general business of an insurer" were references to "life reinsurance business of a life insurer";

(b) "general policies" were references to "life reinsurance policies"; and

(c) "reserve fund for unexpired risks" were references to "actuarial valuation reserve".

(6) The adjusted income for the basis period for a year of assessment from the general business of an insurer not resident for the basis year for that year of assessment shall where that business is wholly or partly carried on in Malaysia consist of an amount arrived at by—

(a) taking the aggregate of—

(i) the amount of the gross premiums first receivable in that period in respect of Malaysian general policies issued by him (less any premiums received at any time on account of any such Malaysian general policies returned by him in that period);

(ii) the amount of any other gross income for that period derived from Malaysia from that business (including gross income consisting of commissions and gross income from investments, wherever made, held in connection with that business);

(iii) the amount of any gross proceeds (whether or not of an income nature) which are not gross income to which subparagraph (ii) applies and which are first receivable in that period in connection with the realization of those investments or any rights arising from them;

(iv) any amounts recovered or recoverable by him in that period under reinsurance contracts made in connection with Malaysian general policies of that business; and

(v) the amount of his reserve fund for unexpired risks relating to any such Malaysian general policies at the end of the immediately preceding basis period; and

(b) subject to subsection (7), deducting from that aggregate the amount of—

(i) claims incurred in that period in connection with his Malaysian general policies;

(ii) reinsurance premiums payable by him in that period in connection with any such Malaysian general policies;

(iii) commissions payable and discounts given by him in that period in connection with any such Malaysian general policies;

(iv) management expenses incurred by him in Malaysia in that period in connection with that business;

(v) his reserve fund for unexpired risks relating to any such Malaysian general policies at the end of that period;

(vi) a portion of the insurer's head office expenses incurred by him in that period which is fair and reasonable if, in relation to that period, regard is had to the gross premiums receivable by him in respect of Malaysian general policies issued by him in that period as compared with the total gross premiums receivable by him in respect of all general policies issued by him in that period; and

(vii) where subparagraph *(a)*(iii) is applicable for that period to gross proceeds receivable in connection with any investments or rights, the cost of acquiring and realizing those investments or rights.

(6A) The adjusted income for the basis period for a year of assessment from the reinsurance business of an insurer not resident for the basis year for that year of assessment shall, where that business is wholly or partly carried on in Malaysia, consist of an amount arrived at by applying subsection (6) as if references therein to "general business" and "Malaysian general policies" were references to "reinsurance business" and "reinsurance contracts" respectively.

(6B) (*Deleted by Act 812*).

(6C) The adjusted income for the basis period for a year of assessment from the life reinsurance business of a life insurer not resident for the basis year for that year of assessment shall, where that business is wholly or partly carried on in Malaysia, consist of an amount arrived at by applying subsection (6) as if references therein to—

(a) "general business of an insurer" were references to "life reinsurance business of a life insurer";

(b) "Malaysian general policies" were references to "Malaysian life reinsurance policies"; and

(c) "reserve fund for unexpired risks" were references to "actuarial valuation reserve".

(7) Where an insurer carrying on general business has reinsured the risk or part of the risk with a reinsurer who either does not carry on the business of insuring risks of that kind in Malaysia or does not reinsure the risk through a branch in Malaysia, there may be deducted under subparagraph (5)*(b)*(ii) or (6)*(b)*(ii) in respect of such risks which are reinsured only ninety-five per cent of the amount which would otherwise be deductible:

Provided that in a case to which subsection (6) or (6A) applies—

(a) the insurer may elect that no deductions shall be made under subparagraph (6)*(b)*(ii); and

(b) where he does so—

(i) the election shall be irrevocable and shall apply in relation to the basis period for the year of assessment for which it is made and for the basis periods for all subsequent years of assessment; and

(ii) amounts recoverable under reinsurance contracts shall be disregarded for the purposes of subparagraph (6)*(a)*(iv).

(8) Where an insurer in connection with his life business or his general business receives any incidental gross income (not being a premium on a policy issued in the course of carrying on that life or general business) for which subsections (3) to (7) do not provide, that income shall be treated as income of the insurer falling under paragraph 4*(f)* and he shall be deemed to have a separate source in respect of it.

(9) For the purposes of this section an insurer's reserve fund for unexpired risks at the end of a basis period shall consist of—

(a) twenty-five per cent of the difference between the gross premiums first receivable by him in that period in respect of marine, aviation or transit policies issued by him and the amount deducted under subparagraph (5)*(b)*(ii) or (6)*(b)*(ii); and

(b) an amount calculated based on the method of computation as determined by the relevant authority regulating the insurance industry and which is consistently applied to premiums first receivable by him in that period in respect of other general policies issued by him (less the amount deducted under subparagraph (5)*(b)*(ii) or 6*(b)*(ii)).

(10) Where under this section all such deductions as would be made in computing what would have been the adjusted income for the basis period for a year of assessment from the insurance business of an insurer if any such adjustment income had been ascertainable exceed the aggregate of the amounts from which those deductions would otherwise have been made, the amount of the excess shall be taken to be the amount of his adjusted loss from that business for that period.

(10A) Notwithstanding subsections (10), 43(2) and 44(2), any adjusted loss of the life fund of the basis period for a year of assessment of an insurer shall only be available as a deduction against the statutory income of the life fund of the insurer for subsequent years of assessment until fully utilized.

(10B) Notwithstanding paragraph 75 of Schedule 3, any unabsorbed allowances of the life business shall only be available for deduction against the adjusted income for the basis period for a year of assessment and subsequent years of assessment in respect of the life fund of the insurer.

(10C) Allowances under Schedule 3 shall only be available for deduction against the adjusted income of the life fund and the balance of such allowances shall not be available as a deduction against the adjusted income of the shareholders' fund.

(10D) In arriving at the total income of an insurer for a year of assessment, the adjusted loss from a source or sources of an insurer for that year of assessment other than from a source consisting of a life fund, shall be available as deduction against the aggregate statutory income (excluding the statutory income from a source consisting of a life fund) of an insurer, and any unabsorbed loss ascertained under subsection 44(4) or (5) for that year of assessment shall not be deducted against the statutory income of the life fund of the insurer for the subsequent years of assessment.

(11) In this section and section 60A —

"general business" means all insurance business which is not life business;

"general policy" means a policy other than a life policy;

"insurer" means a person who carries on insurance business and includes a professional reinsurer;

"investments" includes any accretions thereto;

"life business" has the same meaning assigned thereto under section 2 of the *Insurance Act 1996 [*Act 553*];

"life policy" has the same meaning assigned thereto under section 2 of the *Insurance Act 1996;

"Malaysian life fund" means the fund established pursuant to section 38 of the *Insurance Act 1996;

"Malaysian policy" has the same meaning assigned there to under section 2 of the *Insurance Act 1996;

"policy" has the same meaning assigned thereto under section 2 of the *Insurance Act 1996;

**NOTE*—The Insurance Act 1996 [*Act 553*] has since been repealed by the Financial Services Act 2013 [*Act 758*] which comes into operation on. 30 June 2013–*see* section 271 of Act 758.

"premium" has the same meaning assigned thereto under section 2 of the *Insurance Act 1996;

"reinsurance" has the same meaning assigned thereto under section 2 of the *Insurance Act 1996;

Reinsurance: chargeable income, reduced rate and exempt dividend

60A. (1) *(a)* Where an insurer carries on reinsurance business in conjunction with other insurance businesses, the part of the chargeable income for a year of assessment which is attributable to that reinsurance business shall consist of an amount which bears the same proportion to the chargeable income for that year of assessment of the insurer as the part of the aggregate income which relates to the reinsurance business bears to the whole of the aggregate income for that year of assessment from all sources of the insurer; and

(b) the amount arrived at under paragraph *(a)* shall be treated as his chargeable income for a year of assessment of an insurer from reinsurance business for the purposes of paragraph 3 of Part I of Schedule 1.

(2) As soon as any amount of chargeable income from the reinsurance business of an insurer (being a company) resident for the basis year for a year of assessment has been subject to income tax at the rate of 8 per cent—

(a) the net amount of that income (after deduction of such tax) shall be credited to an account (that account and company being referred to as the exempt account and the relevant company respectively); and

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**NOTE*—The Insurance Act 1996 [*Act 553*] has since been repealed by the Financial Services Act 2013 [*Act 758*] which comes into operation on. 30 June 2013–*see* section 271 of Act 758.

(b) paragraph 5 (except subparagraph (1) thereof) and paragraph 6 of Schedule 7A shall apply as if any reference in those paragraphs to any income exempted or which has become exempt under paragraph 3 were a reference to income credited to the exempt account.

(3) This section shall apply to an insurer who has an adequate number of full time employees and has incurred an adequate amount of annual operating expenditure in Malaysia as prescribed by the Minister.

Takaful business

60AA. (1) This section shall apply—

(a) for ascertaining the adjusted income for the basis period for a year of assessment from the takaful business of a takaful operator; and

(b) to a takaful operator who has an adequate number of full time employees and has incurred an adequate amount of annual operating expenditure in Malaysia as prescribed by the Minister.

(2) For the purposes of this section—

(a) subject to paragraph *(b)*, where a takaful operator carries on family takaful business (in this section referred to as "family business") in conjunction with general takaful business, the family business and the general takaful business shall be treated as separate takaful businesses;

(b) where the takaful operator carries on a retakaful business, the retakaful business and the general takaful business (excluding the retakaful business) shall be treated as separate general takaful businesses;

(c) where a takaful operator carries on family business, the income of the fund established in respect of that business (in this section referred to as "family fund") shall be treated as a separate source of income from the income of the shareholders' fund in respect of the family business:

Provided that where the takaful operator also carries on family retakaful business, the family retakaful business shall be a separate source from the family business and shall be treated as a general takaful business;

(d) where a takaful operator carries on only family retakaful business, that business shall be treated as a general takaful business; and

(e) where a takaful operator carries on retakaful business which includes family retakaful business and general takaful business (excluding those businesses), the income of the fund established in respect of each of the businesses (in this section referred to as "retakaful fund", "family retakaful fund" and "general fund" respectively) shall be treated as a separate source of income from the income of the shareholders' fund in respect of those businesses.

(3) The adjusted income of the family fund, other than income arising from family retakaful business, for the basis period for a year of assessment of a takaful operator resident for the basis year for that year of assessment shall be ascertained by—

(a) taking the aggregate of—

(i) the amount of gross income for that period from the investments made out of any of the takaful operator's family funds; and

(ii) the amount of any gross proceeds (whether or not of an income nature) which are not gross income to which subparagraph (i) applies and which are first receivable in that period in connection with the

realization of the investments or any right arising from them; and

(b) deducting from that aggregate—

(i) where subparagraph *(a)*(ii) is applicable for that period to gross proceeds receivable in connection with any investment or right, the cost of acquiring and realizing the investments or rights; and

(ii) the proportion of profits from investments distributed or credited to the takaful participant or to the shareholders' fund for that period out of any of the takaful operator's family funds.

(4) The adjusted income of the family fund, other than income arising from family retakaful business, for the basis period for a year of assessment of a takaful operator not resident for the basis year for that year of assessment shall, where that business is wholly or partly carried on in Malaysia, be ascertained by—

(a) taking the aggregate of—

(i) the amount of gross income for that period from the investments made (in Malaysia or elsewhere) out of the takaful operator's Malaysian family funds; and

(ii) the amount of any gross proceeds (whether or not of an income nature) which are not gross income to which subparagraph (i) applies and which are first receivable in that period in connection with the realization of the investments or any right arising from them; and

(b) deducting from that aggregate—

(i) where subparagraph *(a)*(ii) is applicable for that period to gross proceeds receivable in connection

with any investment or right, the cost of acquiring and realizing the investments or rights; and

(ii) the proportion of profits from investments distributed or credited to the takaful participant or to the shareholders' fund for that period out of any of the takaful operator's Malaysian family funds.

(5) The adjusted income of the general fund in respect of general takaful business for the basis period for a year of assessment of a takaful operator resident for the basis year for that year of assessment shall be ascertained by—

(a) taking the aggregate of—

(i) the amount of the gross takaful contributions first receivable in that period in respect of general takaful certificate, issued by him (less the amount of any takaful contribution or contract received at any time in respect of such certificate or contract and returned by him during the period and the amount of *wakalah* fee which is attributable to the shareholders' fund);

(ii) the amount of any other gross income for that period from that business (including any commission and any profit from investment held in connection with that business);

(iii) the amount of any gross proceeds (whether or not of an income nature) which are not gross income to which subparagraph (ii) applies and which are first receivable in that period in connection with the realization of the investments or any right arising from them;

(iv) any amount recovered or recoverable by him in that period under retakaful contracts made in connection with that business; and

(v) the amount of his reserve fund for unexpired risks at the end of the immediately preceding basis period; and

(b) subject to subsection (12), by deducting from that aggregate the amount of—

(i) claims incurred in that period in connection with his general takaful certificate;

(ii) takaful contributions payable by the takaful operator in that period under retakaful contracts in connection with that business;

(iii) commissions payable and discounts allowed by him in that period in connection with that business carried out in accordance with the principle of *mudharabah*;

(iv) his reserve fund for unexpired risks at the end of that period;

(v) where subparagraph *(a)*(iii) is applicable for that period to gross proceeds receivable in connection with any investment or right, the cost of acquiring and realizing the investments or rights;

(vi) any fee other than *wakalah* fee attributable to the shareholders' fund;

(vii) any share of profits distributed or credited to the takaful participant or shareholders' fund for that period out of any of the takaful operator's general fund; and

(viii) management expenses incurred by him in that period in connection with his general takaful business carried out in accordance with the principle of *mudharabah*.

(6) The adjusted income of the retakaful fund or family retakaful fund for the basis period for a year of assessment in respect of retakaful business, or family retakaful business respectively of a takaful operator resident for the basis year for that year of assessment shall consist of an amount arrived at by applying subsection (5) and references in that subsection to—

(a) "general takaful certificate" shall be construed as references to "retakaful contract" or "takaful certificate in relation to its family retakaful business", as the case may be;

(b) "general takaful business" shall be construed as references to "retakaful business" or "family retakaful business", as the case may be; and

(c) "reserve fund for unexpired risks" and "takaful operator" shall, in the case of family retakaful business, be construed as references to "actuarial valuation reserve" and "family takaful operator" respectively:

Provided that in the case of retakaful business, no deduction shall be allowed on any share of profits distributed or credited to the takaful participant or shareholders' fund for that period out of any of the takaful operator's fund, as the case may be.

(7) The adjusted income of the general fund in respect of general takaful business for the basis period for a year of assessment of a takaful operator not resident for the basis year for that year of assessment shall, where that business is wholly or partly carried on in Malaysia be ascertained by—

(a) taking the aggregate of—

(i) the amount of the gross takaful contribution first receivable in that period in respect of Malaysian general takaful certificate or contract, issued by him (less the amount of any takaful contribution received at any time in respect of such certificate or

contract and returned by him during the period and the amount of *wakalah* fee which is attributable to the shareholders' fund);

(ii) the amount of any other gross income for that period derived from Malaysia from that business (including any commission and any profit from investment, wherever made, held in connection with that business);

(iii) the amount of any gross proceeds (whether or not of an income nature) which are not gross income to which subparagraph (ii) applies and which are first receivable in that period in connection with the realization of the investments or any right arising from them;

(iv) any amount recovered or recoverable by him in that period under retakaful contracts made in connection with Malaysian general takaful certificate of that business; and

(v) the amount of his reserve fund for unexpired risks relating to any such Malaysian general takaful certificate at the end of the immediately preceding basis period; and

(b) subject to subsection (12), by deducting from that aggregate the amount of—

(i) claims incurred in that period in connection with his Malaysian general takaful certificate;

(ii) takaful contributions payable by the takaful operator in that period under retakaful contracts in connection with any such Malaysian general takaful certificate;

(iii) commissions payable and discounts allowed by him in that period in connection with any such Malaysian general takaful certificate of that business carried out in accordance with the principle of *mudharabah*;

(iv) his reserve fund for unexpired risks relating to any such Malaysian general takaful certificate at the end of that period;

(v) where subparagraph *(a)*(iii) is applicable for that period to gross proceeds receivable in connection with any investment or right, the cost of acquiring and realizing the investment or right;

(vi) any fee other than *wakalah* fee attributable to the shareholders' fund;

(vii) any share of profits distributed or credited to the takaful participant or to the shareholders' fund for that period out of any of the takaful operator's Malaysian general fund ; and

(viii) management expenses incurred by him in that period in connection with his general takaful business carried out in accordance with the principle of *mudharabah*.

(8) The adjusted income of the retakaful fund, or family retakaful fund for the basis period for a year of assessment in respect of retakaful business or family retakaful business respectively of a takaful operator not resident for the basis year for that year of assessment shall, where that business is wholly or partly carried on in Malaysia, consist of an amount arrived at by applying subsection (7) and references in that subsection to—

(a) "Malaysian general takaful certificate" shall be construed as references to "retakaful contract" or "Malaysian

takaful certificate in relation to its family retakaful business", as the case may be;

(b) "general takaful business" shall be construed as references to "retakaful business" or "family retakaful business", as the case may be; and

(c) "reserve fund for unexpired risks" and "takaful operator" shall, in the case of family retakaful business, be construed as references to "actuarial valuation reserve" and "family takaful operator" respectively:

Provided that in the case of retakaful business, no deduction shall be allowed on any share of profits distributed or credited to the takaful participant or shareholders' fund for that period out of any of the takaful operator's retakaful fund, as the case may be.

(9) The adjusted income of the shareholders' fund, for the basis period for a year of assessment of a takaful operator resident for the basis year for that year of assessment shall be ascertained by—

(a) taking the aggregate of—

(i) the amount of gross income for that period from the investments made by the takaful operator out of any of the shareholders' funds;

(ii) the amount of any gross proceeds (whether or not of an income nature) which are not gross income to which subparagraph (i) applies and which are first receivable in that period in connection with the realization of the investments or any right arising from them;

(iii) the amount of gross income for that period in respect of *wakalah* fee or any other fee receivable in connection with the general fund, retakaful fund, or family retakaful fund, or any other fee

receivable in respect of an investment fund from the family fund;

(iv) any amount of *qard* recovered by him in that period in connection with the family fund;

(v) the amount of gross income for that period in respect of profits from investments distributed or credited from family fund, or in respect of profits distributed or credited from general fund or family retakaful fund; and

(vi) the amount of actuarial surplus from the family fund that is transferred to the shareholders' fund; and

(b) deducting from that aggregate—

(i) where subparagraph *(a)*(ii) is applicable for that period to gross proceeds receivable in connection with any investment or right, the cost of acquiring and realizing the investments or rights;

(ii) so much of the amount of *qard* incurred in that period in connection with the family fund;

(iii) the amount of management expenses incurred by him in that period in connection with—

(A) *wakalah* fee receivable in relation to the general fund, inward retakaful fund, offshore fund or family retakaful fund;

(B) any other fee receivable in relation to the general fund, inward retakaful fund, offshore fund or family retakaful fund; or

(C) any other fee receivable in relation to an investment fund from the family fund; and

(iv) commission payable and discounts allowed by him in that period in connection with his general takaful business carried out in accordance with the principle of *wakalah*.

(10) The adjusted income of the shareholders' fund, for the basis period for a year of assessment of a takaful operator not resident for the basis year for that year of assessment shall, where that business is wholly or partly carried on in Malaysia be ascertained by—

(a) taking the aggregate of—

(i) the amount of gross income for that period from the investments made by the takaful operator out of any of the shareholders' funds;

(ii) the amount of any gross proceeds (whether or not of an income nature) which are not gross income to which subparagraph (i) applies and which are first receivable in that period in connection with the realization of the investments or any right arising from them;

(iii) the amount of gross income for that period in respect of *wakalah* fee or any other fee receivable in connection with the general fund, retakaful fund, or family retakaful fund, or any other fee receivable in respect of an investment fund from the family fund;

(iv) any amount of *qard* recovered by him in that period in connection with the family fund;

(v) the amount of gross income for that period in respect of profits from investments distributed or credited from family fund, or in respect of profits distributed or credited from general fund or family retakaful fund; and

(vi) the amount of actuarial surplus from the family fund that is transferred to the shareholders' fund; and

(b) deducting from that aggregate—

(i) where subparagraph *(a)*(ii) is applicable for that period to gross proceeds receivable in connection with any investment or right, the cost of acquiring and realizing the investments or rights;

(ii) so much of the amount of *qard* incurred in that period in connection with the family fund;

(iii) the amount of management expenses incurred by him in that period in connection with—

(A) *wakalah* fee receivable in relation to the general fund, inward retakaful fund, offshore fund or family retakaful;

(B) any other fee receivable in relation to the general fund, inward retakaful fund, offshore fund or family retakaful fund; or

(C) any other fee receivable in relation to an investment fund from the family fund; and

(iv) commission payable and discounts allowed by him in that period in connection with his general takaful business carried out in accordance with the principle of *wakalah*.

(10A) For the purposes of ascertaining the adjusted income of the family fund, general fund or shareholders' fund referred to in subsection (3), (4), (5), (7), (9) or (10), as the case may be, the cost of acquiring and realizing any investments or rights for the basis period for a year of assessment shall include expenses incurred in managing

those investments or rights, and such expenses incurred shall be determined in accordance with the following formula:

$$\frac{A}{B} \times C$$

where A is the cost of acquiring any investments or rights which is realized in that period in respect of such fund;

B is the total cost of acquiring all investments or rights held during that period in respect of such fund; and

C is the total expenses incurred in that period for managing all investments or rights held during that period in respect of such fund.

(10B) The management expenses incurred for the basis period for a year of assessment under—

(a) subsubparagraph (9)*(b)*(iii)(B) or (C) shall be determined in accordance with the following formula:

$$\frac{A}{B} \times C$$

where A is the total amount of gross income for that period referred to in subparagraph (9)*(a)*(iii) excluding the amount of gross income in respect of *wakalah* fee;

B is the total amount of gross income for that period referred to in subparagraph (9)*(a)*(iii) excluding the amount of gross income in respect of *wakalah* fee for commission; and

C is the total management expenses incurred under subparagraph (9)*(b)*(iii); or

(b) subsubparagraph (10)*(b)*(iii)(B) or (C) shall be determined in accordance with the following formula:

$$\frac{A}{B} \times C$$

where A is the total amount of gross income for that period referred to in subparagraph (10)*(a)*(iii), excluding the amount of gross income in respect of *wakalah* fee;

B is the total amount of gross income for that period referred to in subparagraph (10)*(a)*(iii), excluding the amount of gross income in respect of *wakalah* fee for commission; and

C is the total management expenses incurred under subparagraph (10)*(b)*(iii).

(11) The adjusted income as ascertained under subsections (9) and (10) shall be deemed to be the statutory income from that source.

(12) Where a takaful operator carrying on general takaful business has retakaful the risks or part of the risks with a retakaful operator who either does not carry on the business of takaful of that kind in Malaysia or does not retakaful the risks through a branch in Malaysia, there may be deducted under subparagraph (5)*(b)*(ii) or (7)*(b)*(ii) in respect of such risks which are retakaful only ninety-five per cent of the amount which would otherwise be deductible:

Provided that in the case where subsection (7) or (8) apply (other than in the case of family retakaful business), the takaful operator may elect

that no deductions shall be made under subparagraph (7)*(b)*(ii) and if he does so—

(a) the election shall be irrevocable and shall apply in relation to the basis period for the year of assessment for which it is made and for the basis periods for all subsequent years of assessment; and

(b) amounts recoverable under retakaful contracts shall be disregarded for the purposes of subparagraph (7)*(a)*(iv).

(13) Where a takaful operator in connection with his family business or his general takaful business receives any incidental gross income (not being a takaful contribution on a certificate issued in the course of carrying on that family or general takaful business) for which subsections (3) to (10) and subsection (12) do not provide, that income shall be treated as income of the takaful operator falling under paragraph 4*(f)* and he shall be deemed to have a separate source in respect of it.

(14) Where under this section all such deductions as would be made in computing what would have been the adjusted income for the basis period for a year of assessment from takaful business of a takaful operator if any such adjustment income had been ascertainable exceed the aggregate of the amounts from which those deductions would otherwise have been made, the amount of the excess shall be taken to be the amount of his adjusted loss from that business for that period.

(15) Notwithstanding subsection (14) and subsection 43(2), any unabsorbed losses of the family fund shall only be available for deduction against the statutory income for the basis period for a year of assessment and subsequent years of assessment in respect of the family fund of the takaful operator.

(15A) In arriving at the total income of a takaful operator for a year of assessment —

(a) the adjusted loss from a source or sources of a takaful operator for that year of assessment other than from a

source consisting of a family fund, shall be available as deduction against the aggregate statutory income (excluding the statutory income from a source consisting of a family fund) of a takaful operator; and

(b) any unabsorbed loss ascertained under subsection 44(4) or (5) for that year of assessment shall not be deducted against the statutory income of the family fund of the takaful operator for the subsequent years of assessment.

(16) Notwithstanding paragraph 75 of Schedule 3, any unabsorbed allowances of the family fund shall only be available for deduction against the adjusted income for the basis period for a year of assessment and subsequent years of assessment in respect of the family fund of the takaful operator.

(17) Allowances under Schedule 3 shall only be available for deduction against the adjusted income of the family fund and the balance of such allowances shall not be available as a deduction against the adjusted income of the shareholders' fund.

(18) Any income which is distributed or credited to a takaful participant under this section shall be deemed to be derived from Malaysia.

(19) The chargeable income in respect of the family fund as determined under subsections (3) and (4) is subject to tax as specified under Part XII of Schedule 1.

(20) Where a takaful operator carries on retakaful business in conjunction with other takaful businesses, the part of the chargeable income for a year of assessment which is attributable to that retakaful business shall consist of an amount which bears the same proportion to the chargeable income for that year of assessment of the takaful operator as the part of the aggregate income which relates to the retakaful business bears to the whole of the aggregate income for that year of assessment from all sources of the takaful operator.

(21) The amount arrived at under subsection (20) shall be treated as his chargeable income for a year of assessment of a takaful operator from retakaful business for the purposes of paragraph 4 of Part I of Schedule 1.

(22) As soon as any amount of chargeable income from the retakaful business of a takaful operator, being a company resident for the basis year for a year of assessment, has been subject to income tax at the rate of eight per cent—

(a) the net amount of that income (after deduction of such tax) shall be credited to an account (that account and company being referred to as the exempt account and the relevant company respectively); and

(b) paragraph 5 (except subparagraph (1) thereof) and paragraph 6 of Schedule 7A shall apply as if any reference in those paragraphs to any income exempted or which has become exempt under paragraph 3 were a reference to income credited to the exempt account.

(23) In this section—

"family takaful business" has the same meaning assigned to it under subsection 2(1) of the Islamic Financial Services Act 2013;

"general takaful business" means all takaful business which is not family takaful business;

"general takaful certificate" means a certificate other than a family takaful certificate;

"investment" includes any accretions thereto;

"Malaysian family takaful fund" means the takaful fund in respect of Malaysian family takaful certificate;

"Malaysian takaful certificate" has the same meaning assigned to it under subsection 2(1) of the Islamic Financial Services Act 2013;

"qard" means a benevolent loan or other forms of financial support to the takaful fund from the shareholders' fund made pursuant to section 95 of the Islamic Financial Services Act 2013;

"retakaful" has the same meaning assigned to it under subsection 2(1) of the Islamic Financial Services Act 2013;

"takaful" has the same meaning assigned to it under section 2 of the *Takaful Act 1984;

"takaful business" has the same meaning assigned to it under section 2 of the *Takaful Act 1984;

"takaful certificate" has the same meaning assigned to it under subsection 2(1) of the Islamic Financial Services Act 2013;

"takaful contribution" has the same meaning assigned to it under subsection 2(1) of the Islamic Financial Services Act 2013;

"takaful operator" has the same meaning assigned to it under subsection 2(1) of the Islamic Financial Services Act 2013;

"takaful participant" has the same meaning assigned to it under subsection 2(1) of the Islamic Financial Services Act 2013;

"*wakalah* fee" means a fee in respect of a contract which gives the power to a person to nominate another person to act on his behalf based on agreed terms and conditions.

(24) For the purpose of this section, a takaful operator's reserve fund for unexpired risks at the end of a basis period shall consist of—

(a) twenty-five per cent of the difference between the gross takaful contributions first receivable by him in that period in respect of marine, aviation or transit certificates issued by him and the amount deducted under subparagraph

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**NOTE*—The Takaful Act 1984 [*Act 312*] has since been repealed by the Islamic Financial Finance Act 2013 [*Act 759*] which comes into operation on 30 June 2013–*see* section 282 of Act 759.

(5)*(b)*(ii) or (7)*(b)*(ii); and

(b) an amount calculated based on the method of computation as determined by the relevant authority regulating the takaful industry and which is consistently applied to takaful contributions first receivable by him in that period in respect of other general takaful certificates issued by him less the amount deducted under subparagraph (5)*(b)*(ii) or (7)*(b)*(ii).

Chargeable income of life fund subject to tax

60AB. The chargeable income in respect of the life fund as determined under subsections 60(3) and 60(4) is subject to tax as specified under Part VIII of Schedule 1.

60B. (*Deleted by Act 812*).

Banking business

60C. Where a person who is resident for the basis year for a year of assessment carries on a business of banking in Malaysia and elsewhere, his gross income and adjusted income or adjusted loss for the basis period for that year of assessment from that business and his statutory income for that year of assessment from that business shall be ascertained by reference to his income there from wherever accruing or derived excluding the gross income, adjusted income or adjusted loss and statutory income attributable to an offshore business activity of a licensed Malaysian offshore bank.

60D. (*Deleted by Act 600*).

60E. (*Deleted by Act 624*).

Investment holding company

60F. (1) Where an investment holding company is resident for the basis year for a year of assessment there shall be deducted in arriving at the total income before any deduction falling to be made under paragraph 44(1)*(c)* an amount in respect of expenses incurred by that company in the basis period for that year of assessment, which amount shall be determined in accordance with the formula—

$$A \times \frac{B}{4C}$$

where A is the total of the permitted expenses incurred for that basis period reduced by any receipt of a similar kind;

B is the gross income consisting of dividend, interest and rent chargeable to tax for that basis period; and

C is the aggregate of the gross income consisting of dividend and interest (whether such dividend or interest is exempt or not) and rent, and gains made from the realization of investments for that basis period:

Provided that—

(a) the amount of deduction to be made shall not exceed five per cent of the gross income consisting of dividend, interest and rent for that basis period; and

(b) where, by reason of an absence or insufficiency of aggregate income for that year of assessment, effect cannot be given or cannot be given in full to any deduction falling to be made to the investment holding company under this section for that year, that deduction which has not been so made shall not be made to the investment holding company for any subsequent year of assessment.

(1A) Notwithstanding any other provision of this Act, where in any year of assessment income of an investment holding company consists of—

(a) income from the holding of investment, it shall not be treated as income from a source consisting of a business; or

(b) income other than income from the holding of investment, it shall be treated as gains or profits under paragraph 4*(f)*.

(1B) If it is shown that it has been established as between the Director General and the company for any tax purposes that the company is an investment holding company for the basis period for any year of assessment it shall be presumed until the contrary is proved that the company is an investment holding company for the purpose of this Act for the basis period for every subsequent year of assessment.

(1C) This section shall not apply to an investment holding company referred to in section 60FA.

(2) In this section—

"business of holding of an investment" means business of letting of property where a company in any year of assessment provides any maintenance or support services in respect of the property;

"dividend" is deemed to include income distributed by a unit trust;

"investment holding company" means a company whose activities consist mainly in the holding of investments and not less than eighty per cent of its gross income other than gross income from a source consisting of a business of holding of an investment (whether exempt or not) is derived there from;

"permitted expenses" means expenses incurred by an investment holding company in respect of—

(a) directors' fees;

(b) wages, salaries and allowances;

(c) management fees;

(d) secretarial, audit and accounting fees, telephone charges, printing and stationary costs and postage; and

(e) rent and other expenses incidental to the maintenance of an office,

which are not deductible under subsection 33(1).

Investment holding company listed on Bursa Malaysia

60FA. (1) The provisions of this section shall apply notwithstanding any other provisions of this Act.

(2) Where an investment holding company is a company resident for the basis year for a year of assessment and listed on the Bursa Malaysia in the basis period for that year of assessment, income of that investment holding company from the holding of investment in that basis period shall be treated as gross income of that investment holding company from a source consisting of a business for that year of assessment.

(3) For the purpose of subsection (2)—

(a) in ascertaining for a year of assessment the adjusted income of an investment holding company from a source referred to in that subsection, any amount of deduction to be made under this Act in arriving at that income shall only be allowed against the gross income from that source but—

(i) where in that year of assessment that source does not produce any income, any deduction in respect of that source shall be disregarded for the purposes of this Act; or

(ii) where that amount of deduction exceeds the gross income from that source for that year of assessment, the excess shall be disregarded for the purposes of this Act; and

(b) in ascertaining for a year of assessment the statutory income of an investment holding company from a source referred to in that subsection, any allowance for that year of assessment falling to be made to that company under Schedule 3 in respect of that source shall only be available against the adjusted income of that person from that source and if by reason of an absence or insufficiency of adjusted income from that source for the basis period for that year of assessment, effect cannot be given or be given in full to any allowance for that year of assessment in relation to that source, that allowance which has not been so made shall not be made to that company for subsequent years of assessment.

(4) If it is shown that it has been established between the Director General and the company for any tax purposes that the company is an investment holding company for the basis period for any year of assessment it shall be presumed until the contrary is proved that the company is an investment holding company for the purpose of this Act for the basis period for every subsequent year of assessment.

(5) In this section, "investment holding company" has the same meaning assigned to it under section 60F.

Foreign fund management company

60G. (1) Where a foreign fund management company carries on business in Malaysia of providing fund management services to foreign and local investors, the income derived from the provision of fund management services to foreign investors shall be treated as a separate and distinct business source from that source of income derived from the provision of fund management services to local investors.

(2) The chargeable income in relation to the source consisting of the provision of fund management services to foreign investors for a year of assessment shall be the statutory income from that source reduced by any deduction falling to be made pursuant to subsection 43(2) relating to that source.

(3) The chargeable income in relation to the source or sources other than the source consisting of the provision of fund management services to foreign investors for a year of assessment shall be the statutory income from that source or the aggregate of the statutory income from each of those sources, as the case may be, reduced by any deductions falling to be made pursuant to subsections 43(2) and 44(1):

Provided that in so making the deductions under subsections 43(2) and 44(1), no regard shall be had to the adjusted loss, if any, from the source consisting of the provision of fund management services to foreign investors.

(4) The chargeable income of a foreign fund management company, resident in Malaysia for the basis year for a year of assessment in relation to the source consisting of the provision of fund management services to foreign investors, after deduction of the tax thereon, shall be credited to an account to be kept by that company (that account and that company being referred to as the "exempt account" and the "relevant company" respectively).

(5) Paragraphs 5 and 6 of Schedule 7A shall apply as if any reference in those paragraphs to any income exempted or which has become exempt under paragraph 3 of that Schedule were a reference to income credited to the exempt account of the relevant company under subsection (4).

(6) For the purposes of this section—

"foreign fund management company" means a company incorporated in Malaysia and licensed under the Capital Markets and Services Act 2007 [*Act 671*];

"foreign investors"—

(a) in relation to an individual means individuals who are not resident and not citizens of Malaysia;

(b) in relation to a company means companies where the entire issued share capital is beneficially owned, directly or indirectly by persons who are not resident and not citizens of Malaysia; and

(c) in relation to a trust fund means trust funds where the entire interest in the fund is beneficially held, directly or indirectly by foreign investors, where—

(i) the fund is created outside Malaysia; and

(ii) the trustees of the fund are not resident and not citizens of Malaysia;

"local investors" are individuals, companies or trust funds that are not foreign investors.

Closed-end fund company

60H. (1) This section shall apply to a closed-end fund company resident in Malaysia for the basis year for a year of assessment.

(2) Where a closed-end fund company receives an amount in respect of gains from the realization of investments in the basis period for a year of assessment such amount shall be exempt from tax for that year of assessment.

(3) Paragraphs 5 and 6 of Schedule 7A shall apply, *mutatis mutandis*, to the amount exempted under subsection (2) and paragraph 35 of Schedule 6 (where applicable).

(4) In ascertaining the total income of a closed-end fund company for the basis period for a year of assessment there shall be deducted

before any deduction falling to be made under paragraph 44(1)*(c)* an amount in respect of expenses incurred by that closed-end fund company during that period, which amount shall be determined in accordance with the formula—

$$A \times \frac{B}{4C}$$

where A is the total of the permitted expenses incurred for that basis period;

B is the gross income consisting of dividend and interest chargeable to tax for that basis period; and

C is the aggregate of the gross income consisting of dividend and interest (whether such dividend or interest is exempt or not) and gains made from the realization of investments (whether chargeable to tax or not) for that basis period:

Provided that—

(a) the amount of deduction to be made shall not be less than ten per cent of the total permitted expenses incurred for that basis period; and

(b) where, by reason of an absence or insufficiency of aggregate income for that year of assessment, effect cannot be given or cannot be given in full to any deduction falling to be made to the closed-end fund company under this section for that year, that deduction which has not been so made shall not be made to the closed-end fund company for any subsequent year of assessment.

(5) For the purposes of this section —

"closed-end fund company" means a public limited company incorporated in Malaysia and approved by the Securities Commission to engage wholly in the investment of funds in securities;

"dividend" is deemed to include income distributed by a unit trust;

"permitted expenses" means expenses incurred by a closed-end fund company in respect of —

(a) manager's remuneration;

(b) maintenance of register of shareholders;

(c) share registration expenses;

(d) secretarial, audit and accounting fees, telephone charges, printing and stationery costs and postage;

"securities" means debentures, stocks and shares in a public company or corporation, or bonds of any government or any body corporate or unincorporate and includes any right or option in respect thereof and any interest in unit trust schemes.

(6) Sections 33 and 34 shall not apply to a closed-end fund company.

Company that establishes special purpose vehicle

60I. (1) For the purpose of this Act, where a company establishes a special purpose vehicle solely for the issuance of sukuk, any source of the special purpose vehicle and any income from that source shall be treated as a source and income of that company and such company shall have the right to receive and utilize any proceeds derived from the issuance of such sukuk.

(2) The special purpose vehicle is exempt from the responsibility of doing all acts and things required to be done under this Act.

(3) The company that establishes the special purpose vehicle shall keep and retain in safe custody records and documents in accordance with sections 82 and 82A for the purpose of ascertaining the chargeable income of the company from the source referred to in subsection (1).

(3A) For the purposes of subsections (1) and (3), the company referred to in those sections shall include a unit trust which is approved by the Securities Commission as Real Estate Investment Trust or Property Trust Fund.

(4) In this section—

"special purpose vehicle" means a company incorporated under the *Companies Act 1965 or a company incorporated under the Offshore Companies Act 1990 which has made an election under section 3A of the Labuan Offshore Business Activity Tax Act 1990 and established solely for the purpose of complying with the principles of *syariah* in the issuance of sukuk but excludes a company which issues asset-backed securities in a securitization transaction lodged with the Securities Commission or approved by the Labuan Financial Services Authority.

Trusts generally

61. (1) So long as a trust subsists—

(a) the trustees for the time being shall be known as the trust body and the trust body shall be treated as a person for the purposes of all the provisions of this Act except Part VIII (other than section 122);

(b) for the purposes of this Act—

(i) any source forming part of the property of the trust;

(ii) any source of a trustee of the trust, being a source of his by virtue of sections 55 to 58; and

(iii) any income from any such source, shall be treated as the source and income of the trust body of the trust:

**NOTE*—The Companies Act 1965 [*Act 125*] has since been repealed by the Companies Act 2016 [*Act 777*] which comes into operation on 31 January 2017–*see* subsection 620(1) of Act 777.

Provided that in the case of a unit trust, gains arising from the realization of investments shall not be treated as income of the trust body of the trust;

(c) subject to subsections (4) and (5), the entitlement of a beneficiary at any time and from time to time to any income from the trust shall be deemed to be a source (in this section and section 62 referred to as his ordinary source) of his in relation to the trust, and the amount, ascertained under this section, of any share of his of any total income of the trust body of the trust for a year of assessment shall be deemed to be his statutory income from his ordinary source for that year; and

(d) a beneficiary of the trust shall be assessed and charged to tax in respect of any income of his from his ordinary source or from his further source within the meaning of subsection (5) in relation to the trust:

Provided that paragraphs *(c)* and *(d)* and subsection (5) shall not apply to a person in respect of any amount which by virtue of paragraph 13(1)*(d)* falls to be included in the gross income of that person in respect of gains or profits from an employment.

(1A) Notwithstanding paragraphs (1)*(c)* and *(d)*, a unit holder of a unit trust shall be assessed and charged to tax in respect of income equivalent to an amount ascertained by reference to his share of the total income of the unit trust for a year of assessment, distributed to him by the unit trust in the basis year for that year of assessment:

Provided that the unit holder shall not be assessed and charged to tax in respect of any amount distributed by the unit trust out of income exempt from tax, other than income exempt under section 61A, or the gains referred to in the proviso to paragraph 61(1)*(b)*.

(1B) Any income which is distributed by a unit trust to a unit holder under subsection (1A) shall be deemed to be derived from Malaysia.

(2) The income of the trust body of a trust shall be assessed and charged to tax separately from the income of a beneficiary from any source of his in relation to the trust, whether or not that beneficiary is also a trustee member of that body, and in so assessing and charging that body by reference to its chargeable income for a year of assessment regard shall be had to the whole of its total income for that year, notwithstanding that the amount of a share thereof may be deemed under this section or section 62 to be statutory income of a beneficiary:

Provided that, where—

(a) the trust body of a trust is resident for the basis year for a year of assessment; and

(b) a beneficiary who has a share of the total income of the trust body for that year of assessment is resident for the basis year for that year of assessment,

the Director General may, in ascertaining the chargeable income of the trust body for that year of assessment, deduct from that total income that share of that beneficiary.

(3) Notwithstanding any other provision of this Act, a trust body shall be regarded as resident for the basis year for a year of assessment if, but only if, any trustee member of that body is resident for that basis year:

Provided that where—

(a) the trust was created outside Malaysia by a person or persons who were not citizens;

(b) the income of that trust body for that basis year is wholly derived from outside Malaysia;

(c) the trust is administered for the whole of that basis year outside Malaysia; and

(d) at least one-half of the number of the member trustees are not resident in Malaysia for that basis year,

that trust body shall not be regarded as resident in Malaysia for that basis year.

(4) Subject to sections 62 and 63, and whether or not the trust body of a trust is resident for the basis year for a year of assessment—

(a) where throughout the basis year a beneficiary of the trust was entitled to the whole of the distributable income from the trust for that basis year, the amount of the total income of the trust body for that year of assessment shall be deemed to be the amount of the beneficiary's share of that total income;

(b) where throughout that basis year a beneficiary of the trust was entitled to a particular fraction of that distributable income, an amount found by applying that fraction to that total income shall be deemed to be the amount of his share of that total income;

(c) where the trust subsists throughout that basis year and during that basis year a beneficiary of the trust is entitled to the whole or a fraction of the distributable income from the trust for any part or parts of that basis year—

(i) that total income, treated as if it had accrued evenly from day to day over that basis year, shall with respect to any such part be divided in the proportion which the length of that part bears to the length of that basis year and so much of the amount of that total income as is thus found to be apportioned to that part is referred to in this paragraph in relation to that part as the apportioned sum;

(ii) if the beneficiary was entitled to the whole of the distributable income from the trust for such a part, the apportioned sum, in relation to that part, shall be

deemed to be the amount of his share (or the amount of part of his share, as the case may require) of that total income;

(iii) if the beneficiary was entitled to a particular fraction of the distributable income from the trust for such a part, an amount found by applying that fraction to the apportioned sum, in relation to that part, shall be deemed to be the amount of his share (or the amount of part of his share, as the case may require) of that total income; and

(iv) where two or more parts of his share of that total income have been so ascertained, the aggregate of the amounts of those parts shall be deemed to be the amount of his share of that total income;

(d) where the trust was not subsisting throughout that basis year, paragraphs *(a)*, *(b)* and *(c)* (and subsection (7)) shall have effect as if references therein to that basis year were references to a period consisting of the whole of the time during which the trust was subsisting in that basis year; and

(e) any amount deemed by virtue of this subsection to be a beneficiary's share of that total income shall be deemed to be derived from Malaysia.

(5) Subject to sections 62 and 63, if the total of—

(a) all sums received in Malaysia from the trust body of a trust by a beneficiary (being sums of an income nature in his hands) in the basis year for a year of assessment; and

(b) all sums received by him outside Malaysia from the trust body of the trust in any year (being sums of an income nature in his hands) and remitted to Malaysia in the basis year for a year of assessment,

exceeds the amount of his statutory income from his ordinary source in relation to the trust for that year of assessment—

(i) he shall, in respect of that excess, be deemed to have a source (in this subsection referred to as his further source) in relation to the trust; and

(ii) the amount of that excess shall be deemed to be his statutory income from his further source for that particular year of assessment:

Provided that, if the Director General is satisfied that a sum equal to any part of that excess may, to the best of his judgment be regarded as an ingredient of the beneficiary's statutory income from his ordinary source in relation to the trust for any preceding year of assessment, the beneficiary's statutory income from his further source for that particular year of assessment shall be reduced by the amount of that sum.

(6) (*Deleted by Act A226*).

(7) Where any part of the income from a trust for the basis year for a year of assessment is subject to a trust for accumulation, any reference in this section to the total income of the trust body of that trust for that year of assessment (being a reference made in connection with a reference to the distributable income from the trust for that basis year) shall be construed as a reference to a sum which bears the same proportion to that total income as that distributable income bears to the aggregate of—

(a) that distributable income; and

(b) that part of the income from the trust which is subject to the trust for accumulation.

(8) Paragraph (1)*(a)* and subsection (3) shall apply where there is only one trustee as they apply where there are two or more trustees, and references to a trust body in this Act shall be construed accordingly.

(9) In this Act—

(a) a reference to income from a source of a trust includes a reference to any income subject to the trust; and

(b) a reference to sums received or to income received by a beneficiary of a trust includes a reference to sums or income disbursed by the trust body of the trust on his behalf or for his benefit.

Exemption of Real Estate Investment Trust or Property Trust Fund

61A. (1) Where in the basis period for a year of assessment ninety per cent or more of the total income of the unit trust is distributed to the unit holder, the total income of the unit trust for that year of assessment shall be exempt from tax.

(2) In this section, "unit trust" means a unit trust which is approved by the Securities Commission as Real Estate Investment Trust or Property Trust Fund, and listed on Bursa Malaysia.

Discretionary trusts

62. (1) Where there is a discretionary trust, section 61 shall apply to the trust but shall be modified in its application by the following subsections.

(2) Subject to the following subsections, whether or not the trust body of discretionary trust is resident for the basis year for a year of assessment:

(a) subject to paragraph *(b)*, the total of all sums received in Malaysia by a particular beneficiary of the trust (being sums of an income nature in his hands) in that basis year from the trust body of the trust or the total income of that body for that year of assessment, whichever is the less,

shall be deemed to be the amount of that particular beneficiary's share of that total income; and

(b) where—

(i) that particular beneficiary is one of a class of beneficiaries of the trust;

(ii) that particular beneficiary has received in Malaysia and any other beneficiary or beneficiaries of that class has or have received in Malaysia any sum or sums of that nature in that basis year from the trust body of the trust; and

(iii) the aggregate of all sums so received exceeds the total income of that body for that year of assessment,

paragraph *(a)* shall not apply to that particular beneficiary in relation to that discretionary trust for that year of assessment and a sum bearing the same proportion to that total income as the total of all sums so received by that particular beneficiary bears to that aggregate shall be deemed to be the amount of that particular beneficiary's share of that total income.

(3) Where a trust is such that with respect to some of the distributable income from the trust for the basis year for a year of assessment (in this subsection referred to as the discretionary portion) a discretionary power of the trustees applies and with respect to some of the distributable income from that trust for that basis year (in this subsection referred to as the non-discretionary portion) either a beneficiary is entitled to the whole thereof or there are beneficiaries entitled to particular fractions thereof—

(a) the total income of the trust body of the trust for that year of assessment shall be divided into a discretionary part and a non-discretionary part, the amount of the discretionary part being a sum which bears the same proportion to that

total income as the discretionary portion bears to the distributable income from the trust for that basis year and the amount of the non-discretionary part being a sum which bears the same proportion to that total income as the non-discretionary portion bears to the distributable income from the trust for that basis year;

(b) subject to paragraph *(c)*—

(i) subsection (2) shall apply in relation to the trust body and that part of the trust relating to the discretionary portion as if the amount of the discretionary part were the total income of the trust body for that year of assessment;

(ii) in the application of subsection 61(5) in relation to the trust body and that part of the trust relating to the discretionary portion, the amount of the discretionary part shall be treated as the total income of the trust body for that year of assessment; and

(iii) in the application of subsections 61(4) and (5) in relation to the trust body and that part of the trust relating to the non-discretionary portion, the amount of the non-discretionary part shall be treated as the total income of the trust body for that year of assessment;

(c) where in consequence of the application of paragraph *(b)* a beneficiary of the trust has a share of the discretionary part and a share of the non-discretionary part, the aggregate of the amounts of those shares shall be deemed to be the amount of his statutory income from his ordinary source in relation to the trust for that year of assessment, and if the total of—

(i) all sums received in Malaysia from the trust body of the trust by him (being sums of an income nature

in his hands) in the basis year for a year of assessment; and

(ii) all sums received by him outside Malaysia from the trust body of the trust in any year (being sums of an income nature in his hands) and remitted to Malaysia in the basis year for a year of assessment,

exceeds that aggregate, that excess shall be deemed to be his further source within the meaning of subsection 61(5).

(4) Where subsection (2) or (3) applies in relation to a trust (in this subsection referred to as the principal trust) and a year of assessment, then, if any part of the income from the principal trust for the basis year for that year of assessment is subject to a trust for accumulation, the reference in subsection (2) or paragraph (3)*(a)* to total income shall be construed as a reference to a sum which bears the same proportion to that total income as the part of the income from the principal trust not so subject to that trust for accumulation bears to the income from the principal trust.

(5) (*Deleted by Act A226*).

Trust annuities

63. (1) This section shall apply where a person is entitled to an annuity payable under the terms of a trust (that annuity, that trust and the trust body of that trust being in this section referred to as the annuity, the trust and the trust body respectively).

(2) The amount of the annuity payable for the basis year (or for a part of the basis year) for a year of assessment shall be ascertained whenever necessary by applying subsection 19(3) as if references therein to Chapter 4 were references to this section and references to the basis period (or to a part thereof) for a year of assessment were references to the basis year (or to a part thereof) for a year of assessment; and, where two or more amounts are payable in respect of

the annuity for the basis year (or for a part of the basis year) for a year of assessment, then, in the application of this section to that annuity, any reference to an amount payable in respect of that annuity shall be construed as a reference to the aggregate of those amounts.

(3) Where the whole of the gross income of the trust body from each of its sources for the basis period for a year of assessment is derived from Malaysia or the trust body is resident for the basis year for that year of assessment—

(a) the amount payable in respect of the annuity for that basis year shall be deemed to be derived from Malaysia whether or not the trust body has any total income for that year of assessment; and

(b) in ascertaining the total income (if any) of the trust body for that year of assessment that amount shall be deducted after any deduction falling to be made under paragraph 44(1)*(a)* or *(b)* and before any deduction falling to be made under paragraph 44(1)*(c)*.

(4) Where—

(a) the trust body is not resident for the basis year for a year of assessment; and

(b) either—

(i) in ascertaining the trust body's total income for that year of assessment regard is to be had only to one source, and the gross income for the basis period for that year of assessment from that source is derived partly from Malaysia and partly from outside Malaysia; or

(ii) the trust body's gross income for the basis period for that year of assessment is derived as to one of its sources wholly or partly from Malaysia and as to

another of its sources wholly or partly from outside Malaysia,

subsection (5) shall apply for ascertaining the total income (if any) of the trust body for that year of assessment.

(5) Where this subsection applies in relation to a year of assessment, the amount payable in respect of the annuity for the basis year for that year of assessment shall be deducted after any deduction falling to be made under paragraph 44(1)*(a)* or *(b)* and before any deduction falling to be made under paragraph 44(1)*(c)* and—

(a) if the whole of that amount is so deducted, that amount shall be deemed to be derived from Malaysia;

(b) if that amount exceeds what would be the total income (if any) of the trust body for that year of assessment ascertained without any deduction being made in respect of that amount, so much of that amount as equals what would be that total income as so ascertained shall be deemed to be derived from Malaysia.

(6) Where any amount is payable in respect of a joint annuity under the terms of the trust, there shall for the purposes of this section be deemed to be payable to each of the joint annuitants with respect to that amount a sum arrived at by dividing that amount by the number of joint annuitants.

(7) Where two or more annuities are payable under the terms of the trust and there is insufficient income to allow, in ascertaining the total income (if any) of the trust body of the trust, a full deduction of all amounts payable in respect of all those annuities, the Director General shall give such directions as are necessary for ascertaining how much of the amount payable in respect of each of those annuities shall be deemed to be derived from Malaysia for the purposes of paragraph 5*(b)*.

(8) In this section "annuity" includes any pension or other periodical payment to which paragraph 4*(e)* applies.

Special deduction for qualifying capital expenditure

63A. (1) In ascertaining the statutory income of a unit trust from a source consisting of the derivation of rent from the letting of real property for a year of assessment, there shall be deducted from the adjusted income from that source for that year of assessment an allowance made under subsection (2) in respect of qualifying capital expenditure.

(2) Where a unit trust has, for the purposes of deriving rent from the letting of real property, incurred qualifying capital expenditure in relation to an asset and at the end of the basis period for a year of assessment the unit trust was the owner of the asset and the asset was in use for that purpose, there shall be made to the unit trust in relation to that source for that year an allowance equal to one tenth of that expenditure:

Provided that where, by reason of an absence or insufficiency of adjusted income from that source for the basis period for that year of assessment, effect cannot be given or cannot be given in full to any allowance falling to be made for that year in relation to that source, that allowance which has not been so made shall not be made to the unit trust for any subsequent year of assessment.

(3) Where at the end of the basis period for any year of assessment the residual expenditure in relation to an asset in respect of which qualifying capital expenditure has been incurred is zero, or the asset is no longer owned or in use by the unit trust, no allowance shall be made to the unit trust for that year of assessment and subsequent years of assessment.

(4) For the purposes of subsection (2), qualifying capital expenditure shall be deemed to have been incurred on the day on which the machinery or plant is capable of being used for the purposes of deriving rent from the letting of real property.

(5) For the purposes of this section—

"qualifying capital expenditure" in relation to an asset is capital expenditure incurred on the provision of machinery or plant used for the purposes of deriving rent from the letting of real property, including—

(a) expenditure incurred on the alteration of an existing building for the purpose of installing that machinery or plant and other expenditure incurred incidentally to the installation thereof provided that such expenditure does not exceed seventy-five per cent of the aggregate of itself and any other expenditure (being qualifying capital expenditure); and

(b) expenditure incurred on preparing or levelling land in order to prepare a site for the installation of that machinery or plant provided that such expenditure does not exceed ten per cent of the aggregate of itself and any other expenditure (being qualifying capital expenditure);

"residual expenditure" at any date in relation to an asset in respect of which qualifying capital expenditure has been incurred by a unit trust shall be the total qualifying capital expenditure incurred on the provision of the asset before that date reduced by the allowance falling to be made in relation to that asset for any year of assessment before that date.

(6) This section shall not apply to a unit trust referred to in subsection 63C(5).

Special deduction for expenses

63B. (1) In ascertaining the total income of a unit trust for the basis period for a year of assessment, there shall be deducted before any deduction falling to be made under paragraph 44(1)*(c)* an amount in respect of expenses incurred by that unit trust during that period, which amount shall be determined in accordance with the formula—

$$A \times \frac{B}{4C}$$

where A is the total of the permitted expenses incurred for that basis period;

B is the gross income consisting of dividend, interest and rent chargeable to tax for that basis period; and

C is the aggregate of the gross income consisting of dividend and interest (whether such dividend or interest is exempt or not) and rent, and gains made from the realization of investments (whether chargeable to tax or not) for that basis period:

Provided that—

(a) the amount of deduction to be made shall not be less than ten per cent of the total permitted expenses incurred for that basis period; and

(b) where, by reason of an absence or insufficiency of aggregate income for that year of assessment, effect cannot be given or cannot be given in full to any deduction falling to be made to the unit trust under this section for that year that deduction which has not been so made shall not be made to the unit trust for any subsequent year of assessment.

(2) For the purposes of this section—

"dividend" is deemed to include income distributed by a unit trust;

"permitted expenses" means expenses incurred by the unit trust in respect of—

(a) manager's remuneration;

(b) maintenance of register of unit holders;

(c) share registration expenses;

(d) secretarial, audit and accounting fees, telephone charges, printing and stationery costs and postage,

which are not deductible under subsection 33(1).

(3) This section shall not apply to a unit trust referred to in subsection 63C(5).

Special treatment on rent from the letting of real property of a Real Estate Investment Trust or Property Trust Fund

63C. (1) This section shall apply notwithstanding any other provisions of this Act.

(2) Where in the year of assessment, income of a unit trust consists of a rent from the letting of real property, the amount of the rent shall be treated as gross income of a unit trust from a source consisting of a business for that year of assessment.

(3) In ascertaining, for a year of assessment, the adjusted income of a unit trust from a source referred to in subsection (2), any deductions to be made under this Act in arriving to that income, in respect of that source for the basis period for that year of assessment shall only be allowed against the gross income from that source but—

(a) where the amount of the deduction exceeds the gross income from that source for that year of assessment, the excess shall be disregarded for the purposes of this Act; and

(b) where that source does not produce any income, the deduction from the gross income of that unit trust from that source of income shall not be allowed.

(4) In ascertaining, for a year of assessment, the statutory income of a unit trust from a source referred to in subsection (2), any allowances for that year of assessment under Schedule 3 in respect of that source shall only be available against the adjusted income of that source and if by reason of an absence or insufficiency of adjusted income from that source for the basis period for that year of assessment, effect cannot be given or be given in full to any allowance for that year of assessment in relation to that source, that allowance

which has not been so made shall not be made to the unit trust for any subsequent years of assessment.

(5) For the purposes of this section, "unit trust" means a unit trust which is approved by the Securities Commission Malaysia as Real Estate Investment Trust or Property Trust Fund.

Income of a unit trust from the letting of real property is not income from a business

63D. Subject to section 63C but notwithstanding any other provisions of this Act, income of a unit trust which consists of rent from the letting of real property shall not be treated as income from a source consisting of a business.

Estates under administration

64. (1) For the purposes of this Act, any source forming part of the estate of a deceased individual and any income from that source arising after the day of the death of that individual shall be treated as the source and income of the executor of that individual.

(2) The chargeable income of the executor of the estate of a deceased individual for a year of assessment shall be ascertained by reference to the gross income from those sources for the appropriate basis period determined in accordance with the provisions of sections 3 and 4.

(3) Where an annuity is payable for the basis year for a year of assessment by an executor of a deceased individual, then—

(a) in ascertaining the total income of the executor for that year of assessment the amount of the annuity so payable shall be deducted after any deduction falling to be made under paragraph 44(1)*(a)* or *(b)* and before any deduction falling to be made under paragraph 44(1)*(c)*;

(b) the annuity so payable shall be regarded as income within the meaning of paragraph 4*(e)* in the hands of the annuitant; and

(c) the annuity shall be deemed to be derived from Malaysia.

(4) In the case of an estate of an individual who was domiciled in Malaysia at the time of his death, the deduction allowed for any year of assessment by section 46 (but no other deduction under Chapter 7) shall be made from the total income of the executor for that year whether or not the executor is an individual and whether or not the executor is resident for the basis year for that year.

(5) Subject to subsection (3), payments made by the executor of a deceased individual to a beneficiary of the estate of that individual and received by him as a beneficiary shall not be regarded in his hands as income for the purposes of this Act.

(6) For the purposes of subsection (3), subsection 63(2) shall apply to annuities affected by this section as it applies to annuities affected by the said section 63.

Settlements

65. (1) Subject to this section, where—

(a) by virtue or in consequence (whether directly or indirectly) of any settlement and during the life of the settlor, any income from a source or assets representing income from a source will or may become payable or applicable in the basis period for a year of assessment to or for the benefit of any relative of the settlor; and

(b) at the commencement of that year of assessment that relative is unmarried and has not attained the age of twenty-one years,

the income or assets shall be deemed to be income of the settlor and not income of any other person.

(2) Subject to this section, if and so long as the terms of any settlement are such that—

(a) any person has or may have power, whether immediately or in the future, and whether with or without the consent of any other person, to revoke or otherwise determine the settlement or any provision thereof; and

(b) in the event of the exercise of the power, the settlor or a wife or husband of the settlor will or may become beneficially entitled to the whole or any part of the property then comprised in the settlement, or of the income arising from the whole or any part of the property so comprised,

all income arising under the settlement from the property comprised in the settlement shall be deemed to be income of the settlor and, subject to subsection 45(2), not income of any other person:

Provided that this subsection shall not apply by reason only of the fact that the settlor or a wife or husband of the settlor will or may become beneficially entitled to any income or property relating to the interest of any beneficiary under the settlement in the event of that beneficiary predeceasing him or her, as the case may be.

(3) Subject to this section, where in the basis year for any year of assessment the settlor in relation to a settlement or any relative of the settlor or any company with respect to which the settlor or any of his relatives has control makes use for his or its own purposes, whether by borrowing or otherwise, of any income arising or of any accumulated income which has arisen under the settlement (being income to which he or it is not entitled thereunder), the amount of that income or accumulated income so made use of shall be deemed to be income of the settlor for that basis year and not the income of any other person; and, where any other person is or was beneficially entitled to that income, there shall be made to that other person such repayments of

any tax paid by him in respect of that income as are made necessary by the operation of this subsection.

(4) Where, in relation to any settlement to which this section applies, in consequence of any provision of this section (and, where applicable, any other provision of this Act) any tax is charged on or paid by the settlor, he shall be entitled to recover from any trustee of the settlement in receipt of income arising whether directly or indirectly by virtue or in consequence of the settlement (or from any person in receipt of any such income which is deemed to be income of the settlor under this section) the amount of the tax so paid by him, and for that purpose to require the Director General to furnish a certificate specifying the amount of tax so paid; and any certificate so furnished shall be conclusive evidence of the facts appearing therein.

(5) Where any income or assets representing income are deemed to be income of the settlor and not income of any other person under the foregoing subsections, then, subject to subsection (6)—

(a) in a case where the terms of the settlement are such that there is a trust so that the income or assets in question are income or assets of a person having a beneficial interest in that trust, the amount of the income so deemed to be income of the settlor shall be taken to be—

(i) the amount of what would have been, but for this section, the statutory income of that other person from any property comprised in the settlement or, where that other person is not resident, what would have been his statutory income from any such property if he had been resident for all relevant basis years; or

(ii) where subsection (3) is applicable, such an amount as the Director General having regard to all the circumstances may direct;

(b) in any other case, the amount of the income so deemed to be income of the settlor shall be taken to be—

(i) the amount of what would have been, but for this section, the statutory income of that other person from any property comprised in the settlement or, where that other person is not resident, what would have been his statutory income from any such property if he had been resident for all relevant basis years; or

(ii) where subsection (3) is applicable, such an amount as the Director General having regard to all the circumstances may direct,

and in any case, the income so deemed to be that of the settlor shall be deemed to be derived from such place and source as the Director General having regard to all the circumstances may direct and to be statutory income of the settlor.

(6) Notwithstanding subsection (5), in any case to which subsection (2) applies in relation to a settlement, the statutory income from each source of the trust body of the trust the subject of the settlement shall be deemed to be statutory income of the settlor and to be derived from such place and source of the settlor as the Director General having regard to all the circumstances may direct.

(7) If any question arises as to the amount of any payment of income or as to any apportionment of income or of statutory income under this section, that question shall be determined by the Director General and no appeal shall lie from his decision.

(8) This section shall apply to every settlement wherever it was made or entered into and whether it was made or entered into before or after the commencement of this Act.

(9) In the case of any settlement where there are two or more settlors, this section shall have effect in relation to each settlor as if he were the only settlor and in any such case—

(a) references in this section to the property comprised in the settlement include, in relation to any settlor, only property originating from that settlor, and references in this section to income in relation to any settlement or arising under the settlement include, in relation to any settlor, only income originating from that settlor;

(b) references in this subsection to property originating from a settlor are references to—

(i) property which that settlor has provided directly or indirectly for the purposes of the settlement;

(ii) property representing property so provided; and

(iii) so much of any property representing both property so provided and other property as on a just apportionment represents the property so provided; and

(c) references in this subsection to income originating from a settlor are references to—

(i) income from property originating from that settlor; and

(ii) income provided directly or indirectly by that settlor.

(10) In this section any reference to property comprised in a settlement includes a reference to property representing property so comprised and any reference to property representing other property includes a reference to property representing accumulated income from that other property.

(11) In this section—

"relative" means a child of the settlor (including a stepchild of the settlor and a child of whom the settlor has the custody or whom he maintains wholly or partly at his own expense), a child adopted by the settlor or the husband or wife of the settlor in accordance with any law,

and any person who is a wife, grandchild, brother, sister, uncle, aunt, nephew, niece or cousin of the settlor;

"settlement" includes any disposition, trust, covenant, arrangement or agreement and any transfer of assets or income, but does not include—

(a) a settlement which in the opinion of the Director General is made for valuable and adequate consideration;

(b) a settlement resulting from an order of a court; or

(c) any agreement made by an employer to pay to an employee or to the widow or widower or any relative or dependant of an employee after his death such remuneration, pension or lump sum as in the opinion of the Director General is fair and reasonable;

"settlor", in relation to a settlement, includes any person by whom the settlement was made or entered into directly or indirectly, and any person who was provided or undertaken to provide funds or credit directly or indirectly for the purpose of the settlement or has made with any other person a reciprocal arrangement for that other person to make or enter into the settlement.

Co-operative Societies

65A. In arriving at the chargeable income of a co-operative society for a year of assessment, there shall be deducted from the total income for that year—

(a) such sum as has been transferred or paid during the basis period for that year to a statutory reserve fund or to any educational institution or co-operative organization established for the furtherance of cooperative principles, or to both, or to a Co-operative Education Trust Fund or to a Co-operative Development Trust Fund, as may be

required under the provisions of any written law relating to the registration of co-operative societies in Malaysia:

Provided that the maximum sum to be deducted shall not exceed one-fourth of the audited net profits for that basis period of such co-operative society; and

(b) an amount equal to eight per cent (or such percentage as may be prescribed) of the members' funds (as defined in subparagraph 12(2) of Part I of Schedule 6) as at the first day of the basis period for the year of assessment.

(2) (*Deleted by Act 451*).

PART IV

PERSONS CHARGEABLE

Personal chargeability: general principle

66. Where under this Act the income of any person is assessable and chargeable to tax, that person shall, subject to this Part, be the person assessable and chargeable to tax in respect of that income.

Vicarious responsibility and chargeability

67. (1) Subject to this Part, the following subsections shall apply where by or under any of the following sections of this Part a person (in this section referred to as the representative)—

(a) is appointed to be the agent of any other person;

(b) is assessable and chargeable to tax on behalf of any other person; or

(c) is a person in whose name another person is assessable and chargeable to tax,

any such other person being in this section referred to as the principal.

(2) The representative may require any person (including the principal, in so far as he is capable of complying with the requisition) who is in receipt or control of any income of the principal, and any person by whom any income is paid or payable to the principal, to supply to the representative full particulars of the income and any expenses connected therewith.

(3) Where the representative is assessable and chargeable to tax on behalf of the principal, the representative shall be assessable and chargeable to tax in like manner and to the like amount as the principal would be assessed and charged to tax; and, where the principal is assessable and chargeable in the name of the representative, the principal shall be so assessable and chargeable in like manner and to the like amount as he would be assessed and charged to tax if he were assessable and chargeable in his own name.

(4) The representative shall be responsible for doing all such acts and things as are required by or by virtue of this Act to be done by him as representative or by the principal for the purposes of this Act, and in particular for the payment of any tax due from him as representative or from the principal and for the payment of any debt so due to the Government under section 107A, 109, 109A or 109B; and, in default of payment, any such tax or debt (together with any penalty to which he as representative or the principal is or would be liable in respect of the default) shall be recoverable from the representative either as such or as if he were the principal, as the case may be:

Provided that the representative shall not be required to pay any such tax, debt or penalty (or any other penalty incurred by the principal) otherwise than from the accessible moneys.

(4A) For the purposes of subsection (4), where a representative is a person appointed as an agent under section 68, the Director General may, by way of a notice in writing, require the representative to remit to him any accessible moneys for the purpose of payment of any tax due from the principal or for any debt so due referred to in that

subsection, notwithstanding that no assessment in respect of such tax has been made in the name of the representative:

Provided that the accessible moneys shall not include any moneys held by the representative in his custody and control on behalf of the principal.

(5) Where by or by virtue of this Act anything is to be made or served on or given or done to the principal for the purposes of this Act, in lieu thereof the same may be made or served on or given or done to the representative:

Provided that nothing in this subsection shall make the representative liable to be convicted of an offence committed by the principal in which the representative had no part.

(6) The representative—

(a) may retain out of the accessible moneys so much as is necessary to pay any tax or penalty, or any debt of the kind referred to in subsection (4) due from him as representative or from the principal; and

(b) shall be and is hereby indemnified against all persons whatsoever for any payments made by him as representative in pursuance of this Act.

(7) In this section "the accessible moneys", in relation to the representative and the principal, means any moneys (including any pension and any salary, wages or other remuneration) which—

(a) from time to time are due from the representative to the principal or are held by the representative in his custody and control on behalf of the principal; or

(b) being then moneys of or due to the principal, are obtainable on demand by the representative.

Power to appoint agent

68. (1) The Director General may, if he thinks fit, by notice in writing appoint any person to be the agent of any other person for all or any of the purposes of this Act; and, where any person is so appointed for all those purposes, he shall be assessable and chargeable to tax on behalf of that other person.

(2) An appointment made under subsection (l) may be revoked by the Director General at any time.

(3) Where a person appointed under subsection (l) to be the agent of another person is aggrieved by the appointment, he may within thirty days after the service on him of the notice of appointment appeal under section 99 as if the notice of appointment served upon him were a notice of assessment and the provisions of this Act relating to appeals shall apply accordingly with any necessary modifications.

(4) Where any income on which tax is chargeable (or the source of any such income) is under the direction and control of a court in Malaysia and the court appoints a receiver therefor—

(a) the receiver so long as his appointment subsists shall be deemed to have been appointed under subsection (1) (without the right of appeal conferred by subsection (3)) to be the agent of the court as regards that income or source for all the purposes of this Act; and

(b) if the source of that income is vested in the court, the registrar or other appropriate officer of the court shall be treated for the purposes of this Act as the person entitled to that income.

(5) The following sections of this Part shall be without prejudice to the generality of subsection (1).

Incapacitated persons

69. (1) Where a person lawfully having the direction, control or management of any property or concern on behalf of an incapacitated person receives the gross income of that incapacitated person from all sources for the appropriate basis periods for a year of assessment, that first-mentioned person shall be assessable and chargeable to tax in respect of that income on behalf of that incapacitated person.

(2) Where there is no person assessable and chargeable to tax by virtue of subsection (1) in respect of the income of an incapacitated person, the Director General may appoint any person under subsection 68(1) to be the agent of that incapacitated person for all the purposes of this Act.

(3) Without prejudice to subsection (1) or (2), if an incapacitated person assessable and chargeable to tax is a minor, the minor's parent or guardian (or any person standing as regards the minor in a relationship corresponding to that of parent of guardian) shall be assessable and chargeable to tax on behalf of the minor.

(4) Nothing in this section shall prevent a minor being directly assessable and chargeable to tax.

(5) Paragraph 23*(c)* shall apply whenever appropriate in relation to the reference to gross income in this section.

Non-residents

70. (1) A person who is not resident for the basis year for a year of assessment shall be assessable and chargeable to tax for that year of assessment either directly or in the name of any attorney, factor, agent, receiver or manager of his (whether or not the attorney, factor, agent, receiver or manager has the receipt of any income of that non-resident person):

Provided that nothing in this subsection shall render any person assessable or chargeable in the name of a broker, a general commission agent or any other agent where the broker or agent is not either—

(a) carrying on with the authority of that person the regular agency of that person; or

(b) a person assessable and chargeable as if he were an agent by virtue of section 141 on income in respect of gains or profits arising from sales or transactions carried out through himself as broker or agent.

(2) Where a partner in a partnership is not resident for the basis year for a year of assessment, his income ascertained under the appropriate provisions of sections 55 to 59 in relation to the partnership shall be assessable and chargeable to tax for that year of assessment in the name of—

(a) the partnership (which shall be regarded as a person to the extent necessary to give effect to this subsection);

(b) any partner who is resident for that basis year; or

(c) any agent of the partnership in Malaysia,

and the tax charged thereon shall be recoverable by all the means provided by this Act out of the assets of the partnership.

Masters of ships and captains of aircraft

71. The master of any ship and the captain of any aircraft owned or chartered by a person who is assessable and chargeable to tax in consequence of the application of section 54 shall (though not to the exclusion of any other agent) be deemed to be the agent of that person and shall be assessable and chargeable to tax on behalf of that person.

Hindu joint families

72. The income of a Hindu joint family (and any income of the family's manager or *karta* in his capacity as such, being income by virtue of sections 55 to 59) shall be assessable and chargeable on the family's manager or *karta*, who shall accordingly be assessable and chargeable to tax on behalf of the family.

Trustees

73. (1) The income of the trust body of a trust shall be assessable and chargeable to tax on the trust body (which may be given by the Director General a suitable designation for the purpose) and, so long as the trustees for the time being remain members of the trust body they shall (whether or not, in the case of each trustee, he was a member of the trust body when any particular responsibility or obligation under this Act first arose) jointly and severally be subject to all the liabilities to which they would be subject under section 67 if the trust body were the principal within the meaning of that section and each trustee were the representative within that meaning.

(2) A trustee who vacates his office shall cease to have responsibility under subsection (1):

Provided that nothing in this subsection shall relieve any person from responsibility for a criminal or negligent act, whenever committed.

Executors

74. (1) Where an individual dies in the basis year for a year of assessment, his executors shall be assessable and chargeable to tax for that year of assessment, for the following year of assessment and, whenever necessary, for any previous year of assessment in respect of the chargeable income of that individual for any such year of assessment; and, where they are so assessable and chargeable, they shall be assessable and chargeable to tax in like manner and to the like

amount as the individual would be assessed and charged to tax if he had not died.

(2) For the purposes of subsection (1)—

(a) the reference therein to the chargeable income of any individual for any year of assessment shall be taken to be such chargeable income for that year as he would have had if he had not died in respect of any income of his arising before his death and in respect of any income received by his executors which if he had not died and if it had been received by him (at the time it was received by his executors) would have been taken into account in arriving at that last-mentioned chargeable income; and

(b) all rights and duties which would have attached to him with respect to that last-mentioned chargeable income as he would have so had shall pass to his executors.

(3) Any assessment or additional assessment to be made in consequence of the foregoing subsections shall be made not later than the end of the third year of assessment following the year of assessment in the basis year for which—

(a) the Director General is informed of the death of the individual by the executor referred to under subsection (1) in the form prescribed under this Act;

(b) the estate duty affidavit (if any) was filed in Malaysia with respect to any part of the estate of that individual; or

(c) where such an estate duty affidavit has been filed, the last of any corrective affidavits relating to that estate duty affidavit was filed,

being the basis year in which the last of those events took place.

(4) The amount of any tax payable by the executors of a deceased individual by virtue of this section (together with any penalty which

may be incurred under subsection 103(3), (5) or (7)) shall be debt due from and payable out of the estate of that deceased individual.

(5) The executors of a deceased individual shall not distribute any of the assets of his estate unless they have made provision (in so far as they are able to do so out of those assets) for the payment in full of any tax which they know or might reasonably expect to be payable by them under this section.

(6) Any executors who fail to comply with subsection (5) shall be jointly and severally liable to pay a penalty equal to the amount of the tax to which the failure relates.

(7) Subsection 125(2) shall apply to a penalty imposed by subsection (6) of this section as it applies to a penalty imposed by subsection 112(3) or 113(2).

Companies and bodies of persons

75. (1) The responsibility for doing all acts and things required to be done by or on behalf of a company or body of persons for the purposes of this Act shall lie jointly and severally—

(a) in the case of a company, with—

(i) the manager or other principal officer in Malaysia;

(ii) the directors;

(iii) the secretary; and

(iv) any person (however styled) exercising the functions of any of the persons mentioned in the foregoing subparagraphs; and

(b) in the case of a body of persons, with—

(i) the manager;

(ii) the treasurer;

(iii) the secretary; and

(iv) the members of its controlling authority.

(2) The liquidator of a company which is being wound up shall not distribute any of the assets of the company to its shareholders unless he has made provision (in so far as he is able to do so out of the assets of the company) for the payment in full of any tax which he knows or might reasonably expect to be payable by the company under this Act or to be deductible by the company under section 107.

(3) Any liquidator who fails to comply with subsection (2) shall be liable to pay a penalty equal to the amount of the tax to which the failure relates.

(4) Subsection 125(2) shall apply to a penalty imposed by subsection (3) of this section as it applies to a penalty imposed by subsection 112(3) or 113(2).

Director's liability

75A. (1) Notwithstanding anything contrary to this Act or any other written law—

(a) where any tax is due and payable under this Act by a company, any person who is a director of that company during the period in which that tax is liable to be paid by that company; or

(b) where any debt is due and payable from an employer under any rules made pursuant to section 107 and the employer is a company, any person who is a director of that company during the period in which the debt is liable to be paid by that company,

shall be jointly and severally liable for such tax or debt, as the case may be, that is due and payable and shall be recoverable under section 106 from that person.

(2) In this section, "director" means any person who—

(a) is occupying the position of director (by whatever name called), including any person who is concerned in the management of the company's business; and

(b) is, either on his own or with one or more associates within the meaning of subsection 139(7), the owner of, or able directly or through the medium of other companies or by any other indirect means to control, not less than twenty per cent of the ordinary share capital of the company ("ordinary share capital" here having the same meaning as in the definition of "director" in section 2).

Limited liability partnership and business trust

75B. (1) The responsibility for doing all acts and things required to be done —

(a) by or on behalf of a limited liability partnership for the purposes of this Act shall lie jointly and severally—

(i) with the compliance officer who is appointed amongst the partners of the limited liability partnership or persons qualified to act as secretaries under the Companies Act 2016 who is a citizen or permanent resident of Malaysia and ordinarily resides in Malaysia; or

(ii) if no compliance officer is appointed as such, any one or all of the partners thereof; and

(b) by or on behalf of a business trust for the purposes of this Act shall lie jointly and severally with the trustee manager of such business trust.

(2) For the purpose of this section, "compliance officer " has the meaning assigned to it in section 27 of the Limited Liability Partnerships Act 2012.

(3) Where in a year of assessment, a partnership or a company has converted into a limited liability partnership in accordance with the Limited Liability Partnerships Act 2012—

(a) every partner of the partnership shall continue to be personally assessable and chargeable to tax for that year of assessment and for any previous year of assessment before the conversion in respect of his chargeable income for any such year of assessment; and

(b) the limited liability partnership shall be assessable and chargeable to tax for that year of assessment and for any previous year of assessment before the conversion in respect of the chargeable income of the company for any such year of assessment.

(4) Where the limited liability partnership is so assessable and chargeable under paragraph (3)*(b)*, it shall be assessable and chargeable to tax in like manner and to the like amount as the company would have been assessed and charged to tax prior to the conversion.

Rulers and Ruling Chiefs

76. (1) The income of a Ruler or Ruling Chief shall be assessable and chargeable to tax in the name of the person nominated by the Ruler or Ruling Chief for the purposes of this Act as the person executing the function of administrator of the private property of the Ruler or Ruling Chief:

Provided that where no such nomination has been made by a Ruler or Ruling Chief, section 66 shall apply to such Ruler or Ruling Chief.

(2) Where a person is responsible for the payment of tax on behalf of a Ruler or Ruling Chief—

(a) that person may pay the tax out of any private property in his hands or under his control belonging to the Ruler or Ruling Chief and may, to the extent that he pays any such tax out of his own property, indemnify himself out of any such private property;

(b) that person shall not be personally liable in respect of the tax except to the extent that he—

(i) has in his possession, custody or control any private property belonging to the Ruler or Ruling Chief; or

(ii) had any such private property in his possession, custody or control at any time after receiving notice of the tax having become due;

(c) unless the sanction of the Attorney General is first obtained, no prosecution, suit or other legal proceedings shall be instituted against that person in respect of any act or thing or which he is responsible under this section; and

(d) the provisions of section 67 shall be modified accordingly when applicable with this section.

(3) In this section "Ruler or Ruling Chief" means—

(a) the Yang di-Pertuan Agong;

(b) the Raja Permaisuri Agong;

(c) the Timbalan Yang di-Pertuan Agong or other Ruler exercising the functions of the Yang di-Pertuan Agong;

(d) a State Authority or any person exercising the functions of a State Authority; or

(e) the Undang of Sungei Ujong, the Undang of Jelebu, the Undang of Johol, the Undang of Rembau or the Tunku Besar of Tampin.

PART V

RETURNS

Return of income by a person other than a company, limited liability partnership, trust body or co-operative society

77. (1) Every person, other than a company, limited liability partnership, trust body or co-operative society to which section 77A applies, shall for each year of assessment furnish to the Director General a return in the prescribed form—

(a) in the case of that person who is carrying on a business, not later than 30 June in the year following that year of assessment; or

(b) in any other case than the case in paragraph *(a)*, not later than 30 April in the year following the year of assessment:

Provided that that person has—

(a) chargeable income for that year of assessment; or

(b) no chargeable income for that year of assessment, but has chargeable income or has furnished a return or has been required under this Act to furnish a return, for the year of assessment immediately preceding that year of assessment.

(1A) Where subsection 45(2) applies, a reference to a person under paragraph 1*(a)* includes a reference to an individual where his wife or her husband who elects, as the case may be, is carrying on a business.

(2) Where a person is required to furnish a return under paragraph *(b)* of the proviso to subsection (1), the Director General may by way of notification waive that requirement for any year of assessment.

(3) An individual who arrives in Malaysia during a particular year of assessment and—

(a) is chargeable to tax for that particular year; or

(b) is not chargeable to tax for that particular year but is chargeable to tax for the year of assessment following that particular year,

shall, within two months of his arrival give notice to the Director General that he will be so chargeable.

(4) For the purposes of this section, a return for a year of assessment shall—

(a) specify the chargeable income and the amount of tax payable (if any) on that chargeable income for that year; and

(b) contain such particulars as may be required by the Director General.

Return of income by every company, limited liability partnership, trust body or co-operative society

77A. (1) Every company, limited liability partnership, trust body or co-operative society shall for each year of assessment furnish to the Director General a return in the prescribed form within seven months from the date following the close of the accounting period which constitutes the basis period for the year of assessment.

(1A) For the purposes of this section, a company shall furnish to the Director General a return in the prescribed form on an electronic medium or by way of electronic transmission in accordance with section 152A.

(2) Notwithstanding subsection (1), where there is a change in the accounting period of a company, limited liability partnership, trust body or co-operative society such that the accounts are not closed on any date in a year, that company, limited liability partnership, trust body or co-operative society shall furnish to the Director General a return in the prescribed form for that year and the year of assessment in which the accounts are closed within seven months from the date following the close of the accounting period.

(3) For the purposes of this section, a return for a year of assessment shall—

(a) specify the chargeable income and the amount of tax payable (if any) on that chargeable income for that year; and

(b) contain such particulars as may be required by the Director General.

(4) The return furnished by a company under this section shall be based on financial statements made in accordance with the requirements of the Companies Act 2016.

Amendment of return

77B. (1) Where for a year of assessment a person has furnished a return in accordance with subsection 77(1) or 77A(1), that person may make amendment to such return in an amended return as prescribed by the Director General in respect of the amount of tax or additional tax payable by that person on the chargeable income or on the amount of tax which has been or would have been wrongly repaid to him.

(2) An amended return under subsection (1) shall only be made after the due date for the furnishing of the return in accordance with subsection 77(1) or 77A(1), but not later than six months from that date.

(3) For the purposes of this section, the amended return shall—

(a) specify the amount or additional amount of chargeable income and the amount of tax or additional tax payable on that chargeable income;

(b) specify the amount of tax payable on the tax which has or would have been wrongly repaid to him;

(c) specify the increased sum ascertained in accordance with subsection (4); or

(d) contain such particulars as may be required by the Director General.

(4) The tax or additional tax payable under subsection (1) shall be increased by a sum equal to ten per cent of the amount of such tax or additional tax.

(5) The amendment under subsection (1) shall only be made once.

(6) Where—

(a) a return for a year of assessment has been furnished in accordance with subsection 77(1) or 77A(1); and

(b) the Director General has made an assessment for that year of assessment under section 91,

no amendment shall be allowed under this section.

Deduction of tax as final tax

77c. (1) Notwithstanding section 77, where for a year of assessment an individual —

(a) has income only in respect of gains or profits from an employment;

(b) deductions have been made by his employer in accordance with subsection 107(2) in respect of such gains or profits;

(c) the individual is employed by the same employer in that year of assessment;

(d) such deductions are not borne by his employer for that year of assessment; and

(e) that individual whose husband or wife has not made an election pursuant to section 45,

the individual may elect not to furnish a return for a year of assessment to the Director General in accordance with section 77.

(2) Where subsection (1) applies and no return for a year of assessment has been furnished by an individual in accordance with section 77 —

(a) an individual is deemed to have made an election under that subsection;

(b) the total amount of tax deducted referred to under paragraph (1)*(b)* shall be deemed to be the amount of tax payable of that individual for that year of assessment; and

(c) no assessment shall be made by the Director General in respect of that individual for that year of assessment.

(3) Notwithstanding subsections (1) and (2), the Director General shall have the power to make an assessment under subsection 90(3) or section 91 for any year of assessment and where an assessment is made

by the Director General, the amount which is deemed to be the tax payable under paragraph (2)*(b)* shall be disregarded.

Power to call for specific returns and production of books

78. For the purpose of obtaining full information for ascertaining whether or not a person is chargeable to tax or for determining his liability the Director General may by notice under his hand require that or any other person—

(a) to complete and deliver to the Director General within a time specified in the notice (not being less than thirty days from the date of service of the notice) any return specified in the notice;

(b) to attend personally before the Director General and produce for examination all books, accounts, returns and other documents which the Director General deems necessary;

(c) to make a return in accordance with paragraph *(a)* and also to attend in accordance with paragraph *(b)*; or

(d) to provide in writing such information or particulars which the Director General deems necessary.

Power to call for statement of bank accounts, etc.

79. The Director General may by notice under his hand require any person to furnish within a time specified in the notice (not being less than thirty days from the date of service of the notice) a statement containing particulars of—

(a) all banking accounts—

(i) in his own name or in the name of a wife or dependent child of his or jointly in any such names;

(ii) in which he is or has been interested jointly or solely; or

(iii) on which he has or has had power to operate jointly or solely,

being accounts which are in existence or have been in existence at any time during a period to be specified in the notice;

(b) all savings and loan accounts, deposits, building society accounts and co-operative society accounts in regard to which he has or has had any interest or power to operate solely or jointly during that period;

(c) all assets which he and any wife or dependent child of his possess or have possessed during that period;

(d) all sources of his and the gross income from those sources; and

(e) all facts bearing upon his present or past chargeability to tax.

Power of access to buildings and documents, etc.

80. (1) For the purposes of this Act the Director General shall at all times have full and free access to all lands, buildings and places and to all books, documents, objects, articles, materials and things and may search such lands, buildings and places and may inspect, copy or make extracts from any such books, documents, objects, articles, materials and things without making any payment by way of fee or reward.

(1A) Where the Director General exercises his powers under subsection (1), the occupiers of such lands, buildings and places shall provide the Director General or an authorized officer with all reasonable facilities and assistance for the exercise of his powers under this section.

(2) The Director General may take possession of any books, documents, objects, articles, materials and things to which he has access under subsection (1) where in his opinion—

(a) the inspection of them, the copying of them or the making of extracts from them cannot reasonably be undertaken without taking possession of them;

(b) they may be interfered with or destroyed unless he takes possession of them; or

(c) they may be needed as evidence in any legal proceedings instituted under or in connection with this Act.

(3) Where in the opinion of the Director General it is necessary for the purpose of ascertaining income in respect of the gains or profits from a business for any period to examine any books, accounts or records kept otherwise than in the national language, he may by notice under his hand require any person carrying on the business during that period to furnish within a time specified in the notice (not being less than thirty days from the date of service of the notice) a translation in the national language of the books, accounts or records in question:

Provided that in East Malaysia this subsection shall have effect as if the words "or English" were inserted after the words "national language" wherever they occur.

Power to call for information

81. The Director General may require any person to give orally or may by notice under his hand require any person to give in writing within a time specified in the notice all such information or particulars as may be demanded of him by the Director General for the purposes of this Act and which may be in the possession or control of that person:

Provided that, where that person is a public officer or an officer in the employment of a local authority or statutory authority, he shall not

by virtue of this section be obliged to disclose any particulars as to which he is under a statutory obligation to observe secrecy.

Duty to keep records and give receipts

82. (1) Notwithstanding section 82A and subject to this section, every person carrying on a business—

(a) shall keep and retain in safe custody sufficient records for a period of seven years from the end of the year to which any income from that business relates to enable that income from that business for each year of assessment or the adjusted loss from that business for the basis period for any year of assessment to be readily ascertained by the Director General or an authorized officer; and

(b) if the gross takings from the business for the basis year for any year of assessment exceeded one hundred and fifty thousand ringgit from the sale of goods or one hundred thousand ringgit from the performance of services, shall issue a printed receipt serially numbered for every sum received in that year of assessment in respect of goods sold or services performed in the course of or in connection with the business and shall retain a duplicate of every receipt so issued.

(1A) Where a person carrying on a business has not furnished a return under subsection 77(1), 77A(1) or (2) for a year of assessment, that person shall keep and retain the records referred to in subsection (1) that relate to that year of assessment for a period of seven years after the end of the year in which the return is furnished.

(2) Where in the carrying on of a business a machine is used for recording sales, the issue of receipts pursuant to paragraph (1)*(b)* may be dispensed with except where the Director General is not satisfied—

(a) that the machine automatically records all sales made; or

(b) that the total of all sales made in a day is transferred at the end of the day to a record of sales.

(3) The Director General may specify by statutory order in respect of any class or description of business (or by notice under his hand in respect of the business of any particular person)—

(a) the form of records to be kept under paragraph (1)*(a)* and the manner in which they shall be kept and retained; and

(b) the form of receipts to be issued and duplicate receipts to be retained under paragraph (1)*(b)* and the manner in which they shall be issued or retained.

(4) The Director General may waive all or any of the provisions of subsection (1) in respect of any business or records or any class or description of business or records.

(5) The Director General, if he is of the opinion that any accounts or records produced by any person to the Director General for the purpose of ascertaining the income of a person are insufficient or inadequate for that purpose, may by notice under his hand require that person to produce, in respect of any period or periods specified in the notice and within a time so specified (that time not being less than thirty days from the service of the notice), financial statements made in accordance with the requirements of the Companies Act 2016.

(6) Any person who under subsection (1) is required to keep records shall cause appropriate entries to be made in those records in respect of transactions within sixty days of each transaction.

(7) Any person who is required by this section to keep records and—

(a) does so electronically shall retain them in an electronically readable form and shall keep the records in such a manner as to enable the records to be readily accessible and convertible into writing; or

(b) has originally kept records in a manual form and subsequently converts those records into an electronic form shall retain those records prior to the conversion in their original form.

(8) All records that relate to any business in Malaysia shall be kept and retained in Malaysia.

(9) For the purposes of this section, "records" include—

(a) books of account recording receipts and payments or income and expenditure;

(b) invoices, vouchers, receipts and such other documents as in the opinion of the Director General are necessary to verify the entries in any books of account; and

(c) any other records as may be specified by the Director General under subsection (3).

Duty to keep documents for ascertaining chargeable income and tax payable

82A. (1) Subject to this section, every person who is required to furnish a return of his income for a year of assessment under this Act shall keep and retain in safe custody sufficient documents for a period of seven years from the end of that year of assessment for the purposes of ascertaining his chargeable income and tax payable.

(2) Where a person referred to in subsection (1) has not furnished a return as required under this Act for a year of assessment, that person shall keep and retain the documents referred to in subsection (1) that relate to that year of assessment for a period of seven years after the end of the year in which the return is furnished.

(3) The Director General may waive all or any of the provisions of subsection (1) in respect of any income or deductions.

(4) Any person who is required by this section to keep documents and—

(a) does so electronically shall retain them in an electronically readable form and shall keep the documents in such a manner as to enable the documents to be readily accessible and convertible into writing; or

(b) has originally kept documents in a manual form and subsequently converts those documents into an electronic form shall retain those documents prior to the conversion in their original form.

(5) All documents that relate to any income in Malaysia shall be kept and retained in Malaysia.

(6) For the purposes of this section, "documents" means—

(a) statement of income and expenditure; and

(b) invoices, vouchers, receipts and such other documents as are necessary to verify the particulars in a return.

Return by employer

83. (1) Every employer shall, for each year, furnish to the Director General a return in the prescribed form not later than 31 March in the year immediately following the first-mentioned year containing—

(a) the number of employees employed in the first-mentioned year;

(b) the number of employees subject to deductions under the Income Tax (Deduction From Remuneration) Rules 1994 [*P.U. (A) 507/1994*] for the first-mentioned year;

(c) the number of new employees employed in the first-mentioned year;

(d) the number of employees who have resigned in the first-mentioned year;

(e) the number of employees who have resigned and left Malaysia in the first-mentioned year; and

(f) such other particulars as may be required by the Director General.

(1A) For the purpose of subsection (1), every employer shall, for each year, prepare and render to his employee a statement of remuneration of that employee on or before the last day of February in the year immediately following the first-mentioned year containing the following information:

(a) the relevant particulars of the employee;

(b) the full amount of the gross income falling within section 13 paid, payable or provided by or on behalf of the employer to that employee in respect of the employment;

(c) pension, annuity or periodical payment falling under paragraph (4)*(e)*;

(d) total deductions under the Income Tax (Deduction From Remuneration) Rules 1994 paid to the Director General in the first-mentioned year;

(e) the compulsory contributions made by the employees to the Pension Fund or Employees' Provident Fund, or any approved fund pursuant to section 150;

(f) details relating to the payment of arrears and others for the years prior to the first-mentioned year;

(g) tax exempt allowances, perquisites, gifts and benefits for the first-mentioned year; and

(h) such other particulars as may be required by the Director General.

(1B) Where the employer is a company, the return referred to in subsection (1) shall be furnished on an electronic medium or by way of electronic transmission in accordance with section 152A.

(2) Where an employer commences to employ an individual who is or is likely to be chargeable to tax in respect of income in respect of gains or profits from the employment, the employer shall not later than one month thereafter give written notice to the Director General stating the full name and address of the individual and the terms and date of commencement of the employment.

(3) Where an employer is about to cease to employ an individual who is or is likely to be chargeable to tax in respect of income in respect of gains or profits from the employment, the employer shall not less than one month before the cessation give written notice thereof to the Director General stating the full name and address of the individual and the expected date of cessation:

Provided that, where he is satisfied that it is reasonable to do so in the circumstances, the Director General may accept for the purposes of this subsection a notice given less than one month before the cessation or a notice given on or after the cessation:

Provided further that an employer shall not be required to give the written notice under this subsection in respect of an individual—

(a) where the income from the employment of that individual is subject to deduction under any rules made pursuant to paragraph 154(1)*(a)*; or

(b) where the total monthly remuneration from the employment of that individual is below the minimum amount of income that is subject to deduction under any rules made pursuant to paragraph 154(1)*(a)*,

and where it is known to him that the individual is not retiring from any employment.

(4) Where an individual chargeable to tax in respect of income in respect of gains or profits from an employment is to the knowledge of his employer about to leave or intending to leave Malaysia for a period exceeding three months, the employer shall not less than one month before the expected date of departure give written notice of the individual's departure to the Director General:

Provided that—

(a) where he is satisfied that it is reasonable to do so in the circumstances, the Director General may accept for the purposes of this subsection a notice given less than one month before the departure or a notice given on or after the departure; and

(b) where he is satisfied that an individual is required to leave Malaysia at frequent intervals in the course of his employment, the Director General may waive the application of this subsection as regards that individual.

(5) Notwithstanding the provisions of any written law to the contrary, where an employer has in his possession any moneys whatsoever which are or may be payable to or for the benefit of an employee who has ceased or is about to cease to be employed by him or who is about to leave Malaysia for a period of more than three months with no intention of returning, he shall not, without the permission of the Director General, pay any part of those moneys to or for the benefit of the employee until ninety days after the receipt by the Director General of the notice required to be given under subsection (3) or (4), as the case may be, and if at any time the Director General directs him to pay the full amount or a portion of those moneys towards payment of the tax payable by the employee, he shall pay as directed.

(6) For the purposes of this section and subsection 107(4), any person to whom or for whose benefit a service is rendered or performed

by another person shall be deemed to be an employer whether or not he employs that other person or is responsible for paying remuneration to that other person.

Duty to furnish particulars of payment made to an agent, etc.

83A. (1) Every company shall for each year prepare and provide to each of its agent, dealer or distributor a copy of the form prescribed by the Director General containing—

(a) particulars of payment (whether in monetary form or otherwise) made during that year of assessment to that agent, dealer or distributor;

(b) name and address of that agent, dealer or distributor; and

(c) such other particulars as may be required by the Director General.

(2) For the purpose of subsection (1), the prescribed form shall be provided to the agent, dealer or distributor not later than 31 March in the year immediately following the year mentioned in that subsection.

(3) The company shall keep and retain the prescribed form in safe custody and shall make it readily accessible to the Director General.

(4) In this section, "agent", "dealer" or "distributor" means any person who is authorized by a company to act as its agent, dealer or distributor, and who receives payment (whether in monetary form or otherwise) from the company arising from sales, transactions or schemes carried out by him as an agent, dealer or distributor.

Return concerning persons other than the maker of the return

84. (1) Every person who in whatever capacity is in receipt or has control of any money or property (being income of the kind mentioned in section 4) of or belonging to any other person who is chargeable to

tax in respect thereof shall, if required to do so by a notice under the hand of the Director General, deliver to the Director General within a period to be specified in the notice (not being less than thirty days from the date of service of the notice) a return in the prescribed form containing particulars of the income and a statement of the name and address of the person to whom it belongs.

(2) Every person who sells any goods in Malaysia on behalf of a person who is not resident for the basis year for a year of assessment shall, if those goods are sold in the course of carrying on a business of that second mentioned person, deliver to the Director General within thirty days after the end of each quarter of that year of assessment a return showing the gross proceeds from any such sales made during that quarter.

(3) In subsection (2) "quarter", in relation to a year of assessment, means any period of three months ending on the last day of March, June, September or December.

Return by occupiers

85. The Director General may by notice under his hand require the occupier of any land or premises situated in Malaysia to furnish within a time to be specified in the notice (not being less than thirty days from the date of service of the notice) a return containing—

(a) the name and address of the person registered (under any law relating to the registration of title to land) as the proprietor of the land or premises, or the name and address of the person to whom he pays rent therefor; and

(b) a statement of any rent or other consideration payable in respect of the occupation or in respect of furniture enjoyed in connection with the occupation.

Return by partnership

86. (1) Where a business is carried on by a partnership—

(a) the precedent partner, that is to say, the partner who, being an acting partner present in Malaysia—

(i) is first named in the partnership agreement; or

(ii) if there is no partnership agreement, is specified by name or initial singly or with precedence to the other partners in the usual name of the firm; or

(b) if no acting partner is present in Malaysia, any attorney, agent, manager or factor of the partnership in Malaysia,

shall for each year of assessment furnish to the Director General a return in the prescribed form not later than 30 June in the year following that year of assessment.

(2) For the purposes of subsection (1), a return for a year of assessment shall—

(a) specify the divisible income or the divisible loss as ascertained under the appropriate provisions of sections 55, 56, 57, 58 and 59 in relation to the partnership for that year;

(b) contain such information as is necessary to determine the statutory income from all sources of the partners of the partnership; and

(c) contain such other information as may be required by the Director General.

(3) If a partnership has been dissolved as to all its partners, this section shall continue to apply in relation to the dissolved partnership, and those persons who were partners of the partnership immediately

before the dissolution shall be deemed to continue to be partners for the purposes of this section.

Power to call for further return

87. The Director General may give notice in writing to any person whenever he thinks fit requiring that person to furnish within a reasonable time (to be specified in the notice) fuller or further returns respecting any matter as to which a return is required by or under this Act.

Returns deemed to be made with due authority

88. A return purporting to be made pursuant to this Act by or on behalf of any person shall be presumed to have been made by that person or on his authority, as the case may be, until contrary is proved; and any person signing such a return shall be deemed to be cognizant of its contents.

Change of address

89. Every person chargeable to tax who changes his address in Malaysia (being an address furnished by him to the Director General) for another address in Malaysia shall within three months inform the Director General of the change by notice in writing.

PART VI

ASSESSMENTS AND APPEALS

Chapter 1 - Assessments

Assessments generally

90. (1) Where a person has furnished a return in accordance with section 77 or 77A to the Director General for a year of assessment, the Director General shall be deemed to have made, on the day on which

the return is furnished, an assessment in respect of that person in the amount of tax on the chargeable income, the tax and the chargeable income being the respective amounts as specified in the return.

(2) For the purposes of this Act, where the Director General is deemed to have made an assessment under subsection (1)—

(a) the return referred to in that subsection shall be deemed to be a notice of assessment; and

(b) the deemed notice of assessment shall be deemed to have been served on the person on the day on which the Director General is deemed to have made the assessment.

(3) Where a person for a year of assessment has not furnished a return in accordance with section 77 or 77A, the Director General may according to the best of his judgment determine the amount of the chargeable income of that person for that year and make an assessment accordingly:

Provided that the making of an assessment in respect of a person under this subsection shall not affect any liability otherwise incurred by that person by reason of his failure to deliver the return.

Assessments and additional assessments in certain cases

91. (1) The Director General, where for any year of assessment it appears to him that no or no sufficient assessment has been made on a person chargeable to tax, may in that year or within five years after its expiration make an assessment or additional assessment, as the case may be, in respect of that person in the amount or additional amount of chargeable income and tax or in the additional amount of tax in which, according to the best of the Director General's judgment, the assessment with respect to that person ought to have been made for that year.

(2) Where the Director General discovers that the whole or part of any tax repaid to a person (otherwise than in consequence of an

agreement come to with respect to an assessment pursuant to subsection 101(2) or in consequence of an assessment having been determined on appeal) has been repaid by mistake whether of fact or law, the Director General may make an assessment in respect of that person in the amount of that tax or that part of that tax, as the case may be:

Provided that no such assessment shall be made—

(a) if the repayment was in fact made on the basis of, or in accordance with, the practice of the Director General generally prevailing at the time when the repayment was made; or

(b) in respect of any tax, more than five years after the tax has been repaid.

(3) The Director General where it appears to him that—

(a) any form of fraud or wilful default has been committed by or on behalf of any person; or

(b) any person has been negligent,

in connection with or in relation to tax, may at any time make an assessment in respect of that person for any year of assessment for the purpose of making good any loss of tax attributable to the fraud, wilful default or negligence in question.

(4) Where in a year of assessment—

(a) any assessment made under this Act or the Real Property Gains Tax Act 1976 [*Act 169*] in respect of a person for any year of assessment has been determined by the court on appeal or review; or

(b) any exemption, relief, remission or allowance granted to a person for any year of assessment pursuant to any provision of this Act or any other written law in respect of

income of that person which is subject to tax under this Act has been withdrawn, revoked or cancelled for failing to comply with any condition imposed in granting such exemption, relief, remission or allowance,

the Director General may in the first-mentioned year of assessment or within five years after its expiration make an assessment in respect of that person for any year of assessment for the purpose of giving effect to the determination, revocation, withdrawal or cancellation, as the case may be.

(5) The Director General, where for any year of assessment it appears to him that no or no sufficient assessment has been made on a person chargeable to tax in consequence of the Director General's determination pursuant to subsection 140A(3), may in that year or within seven years after its expiration make an assessment or additional assessment, as the case may be, in respect of that person in the amount or additional amount of chargeable income and tax or in the additional amount of tax in which, according to the best of the Director General's judgment, the assessment with respect to that person ought to have been made for that year.

(6) Notwithstanding the provisions of this Act, where in a basis period for a year of assessment, an adjustment is made in respect of the input tax paid or to be paid under the Goods and Services Tax Act 2014, the Director General may at any time, as may be necessary to give effect to such adjustment, make an assessment or a reduced assessment for the year of assessment to which the adjustment relates, or if the year of assessment to which the adjustment relates cannot be ascertained, for the year of assessment in which the Director General discovers the adjustment.

(7) Notwithstanding subsections (1) and (5), the Director General may at any time make an assessment or additional assessment, as the case may be, for a year of assessment in respect of a person, in the amount or additional amount of chargeable income and tax, in consequence of a mutual agreement procedure in the double taxation arrangement effected under section 132.

Deemed assessment on the amended return

91A. (1) Where a person has furnished an amended return in accordance with section 77B for a year of assessment, the Director General shall be deemed to have made, on the day on which the amended return is furnished, an assessment or additional assessment in respect of that person—

(a) in the amount of tax or additional tax payable on the chargeable income; or

(b) in the amount of tax which has been or would have been wrongly repaid,

the tax or additional tax and the chargeable income being the respective amounts as specified in the amended return.

(2) For the purpose of this Act, where the Director General is deemed to have made an assessment or additional assessment under subsection (1)—

(a) the amended return referred to in that subsection shall be deemed to be a notice of assessment or additional assessment; and

(b) the deemed notice of assessment or additional assessment shall be deemed to have been served on the person on the day on which the Director General is deemed to have made the assessment or additional assessment.

Advance assessments

92. (1) Subject to this section—

(a) where in a year of assessment a person ceases to possess a source consisting of a business the Director General may in that year make an assessment in respect of that person

and income from that source for that year of assessment and the following year of assessment;

(b) where in a year of assessment a person commences to receive income in respect of income from an employment or in respect of any pension, annuity, or other periodical payments falling under paragraph 4*(e)*, the Director General may in that year make an assessment in respect of that person and income from that source for that year of assessment and each of the subsequent years of assessment;

(c) where in a year of assessment the Director General is satisfied that a person who possesses a source is about to leave Malaysia and—

(i) that person is likely to cease to possess that source in that year of assessment or the following year of assessment; or

(ii) it is desirable for other reasons that an assessment be made in respect of that person,

he may in that year make an assessment in respect of that person and income from that source or from any source for that year of assessment and the following year of assessment;

(d) where a person who has ceased to possess a source in a year of assessment receives income from that source after the end of that year (being income which has not been or does not fall to be included in the gross income of that person from that source for any preceding basis period) the Director General may in the year of assessment in which that income is received make an assessment in respect of that person and that income for that year of assessment;

(e) where in a year of assessment a person is chargeable to tax in consequence of the application of subsection 54(2) to a

business, the Director General may at any time in that year make an assessment in respect of that person and any income from that business for that year of assessment; and

(f) where the basis period for a year of assessment in respect of a source or sources of a person is a period of twelve months ending on a day other than 31 December in a basis year the Director General, if he thinks fit, may in that year make an assessment in respect of that person and income from that source or those sources, as case may be, for that year of assessment.

(2) Where an assessment is made under subsection (1) in respect of a person, it shall be made on the assumption that—

(a) all the provisions of this Act in force for the year of assessment in which the assessment is made will continue in force for the year of assessment for which the assessment is made; and

(b) if that person is an individual, the personal circumstances of that person will be the same in the basis year for the year of assessment for which the assessment is made as they were in the basis year for the year of assessment in which the assessment is made,

and, if in the year of assessment for which the assessment is made it appears to the Director General that by reason of that assumption the assessment is more favourable or less favourable to that person than it would have been if it had been made under section 90, he may take such action under section 91 or make such repayments of tax as the justice of the case appears to him to require.

(3) Where—

(a) this section confers powers to make an assessment in respect of a person;

(b) an assessment has been made in respect of that person in a particular year of assessment; and

(c) the Director General is of the opinion that an additional assessment ought to be made under subsection 91(1) in respect of that person in that particular year,

subsection 91(1) shall apply as if the year of assessment referred to therein were that particular year.

(4) For the avoidance of doubt it is hereby declared that—

(a) the fact that an assessment has been made by virtue of subsection (1) in respect of a person and a source of his shall not prevent the Director General from making an assessment under this Act in respect of that person and any other source of his; and

(b) the fact that an assessment which would otherwise have been made by virtue of subsection (1) in respect of a person for a year of assessment has not been made because of an insufficiency of total income to produce chargeable income for that year shall not prevent the Director General from making an assessment under any other provision of this Act in respect of that person for that year of assessment or from taking an amount equal to that total income into account when doing so.

Form and making of assessments

93. An assessment, other than an assessment under subsections 90(1) and 91A(1), in respect of a person shall—

(a) be made in the appropriate prescribed form;

(b) indicate, in addition to any other material included therein, the appropriate year of assessment and the amount or additional amount of chargeable income and the tax

charged thereon or the amount of tax or additional tax, as the case may be; and

(c) specify in the appropriate space in that form the date on which that form was duly completed,

and, where that form appears to have been duly completed the assessment shall, until the contrary is proved, be presumed to have been made on the date so specified.

Record of assessments

94. The Director General shall cause to be maintained in such manner as he thinks fit a record of all assessments made for each year of assessment.

Discharge of double assessments

95. Where two or more assessments have been made with respect to a person on the same income for the same year of assessment, the Director General may discharge such of those assessments as need to be discharged in order to ensure that the income is charged to tax only once for that year.

Notice of assessment

96. (1) As soon as may be after an assessment, other than an assessment under subsections 90(1) and 91A(1), has been made, the Director General shall cause a notice of assessment to be served on the person in respect of whom the assessment was made.

(2) Where the tax charged under an assessment is increased on appeal to the Special Commissioners or a court, then, so soon as may be after the appeal has been decided there shall be served on the person in respect of whom the assessment was made a notice of increased assessment.

(3) Where subsection 99(2) applies as regards an agent and another person, any notice to be served under subsection (1) or (2) shall be served both on the agent and on the other person.

(4) A notice served under subsection (1) or (2) shall be in the prescribed form and shall indicate, in addition to any other material included therein—

(a) in the case of a notice served under subsection (1), the year of assessment, the amount or additional amount of chargeable income and the tax charged thereon or the amount of the tax or additional tax, as the case may be;

(b) in the case of a notice served under subsection (2), the year of assessment and the amount of the increase in the tax charged; and

(c) in either case—

(i) the place at which payment is to be made;

(ii) the increase for late payment imposed by subsection 103(5) or (7); and

(iii) any right of appeal which may exist under this Act.

Composite assessment

96A. (1) Without prejudice to section 91, where a person—

(a) makes default in furnishing a return in accordance with subsection 77(1) or 77A(1);

(b) fails to give notice of chargeability in accordance with subsection 77(3);

(c) makes an incorrect return by omitting or understating any income of which he is required by this Act to make a return on behalf of himself or another person; or

(d) gives any incorrect information in relation to any matter affecting his own chargeability to tax or the chargeability to tax of any other person,

for any year or years of assessment (that year or those years being referred to in this section as the relevant year or relevant years), the Director General and that person may come to an agreement in writing as to the payment by that person of a sum of money (in this section referred to as the total amount) being—

(i) the amount of tax which has been undercharged or not charged for that relevant year or those relevant years in consequence of such default in furnishing a return or failure to give notice of chargeability or making an incorrect return or giving any incorrect information; and

(ii) the amount of any penalty or penalties which that person may be required to pay for that relevant year or those relevant years pursuant to subsection 112(3) or 113(2) or both (or where such penalty is abated or remitted under subsection 124(3) so much, if any, of the penalty which has not been abated or remitted).

(2) Where the Director General and a person have come to an agreement pursuant to subsection (1), the Director General may make a composite assessment in respect of that person in the total amount.

(3) As soon as may be after a composite assessment has been made, the Director General shall cause a notice of composite assessment to be served on the person in respect of whom the composite assessment was made.

(4) A notice served under subsection (3) shall be in the prescribed form and shall indicate in addition to any other material included therein—

(a) the relevant year or relevant years;

(b) the amount or aggregate amount of tax undercharged or not charged in the relevant year or relevant years;

(c) the amount or aggregate amount of any penalty imposed by virtue of subsection 112(3) or 113(2) or both (or where such penalty is abated or remitted under subsection 124(3) so much, if any, of the penalty which has not been abated or remitted); and

(d) the place at which payment of the total amount is to be made.

(5) The total amount shall be collected as if it were part of the tax payable by the person in respect of whom the composite assessment has been made but shall not be treated as tax so payable for the purposes of the provisions of this Act other than sections 103 to 106.

(6) Notwithstanding any other provision of this Act—

(a) a composite assessment made under this section shall be final and conclusive for the purposes of this Act; and

(b) no appeal shall lie against a composite assessment.

(7) For the purposes of this section, references to sections of this Act in subsections (1), (4) and (5) shall be deemed to include references to the corresponding sections of the repealed laws, and references to year of assessment in subsection (1) shall be deemed to include a reference to pre-year of assessment; the repealed laws and pre-year of assessment having the same meaning as in subparagraph 1(1) of Part I of Schedule 9.

Finality of assessment

97. (1) Where—

(a) no valid notice of appeal against an assessment has been given under section 99 within the time specified by that section (or any extension thereof);

(b) an agreement has been come to with respect to an assessment pursuant to subsection 101(2);

(c) an assessment has been determined on appeal and there is no right of further appeal; or

(d) a valid notice of appeal against an assessment has been given but the appellant dies before the hearing of the appeal by the Special Commissioners is commenced or completed and no personal representatives of the estate of the deceased appellant applies to the Special Commissioners within two years after his death to proceed with or complete the hearing,

the assessment as made, agreed to or determined shall be final and conclusive for the purposes of this Act.

(2) Nothing in subsection (1) shall prejudice the exercise of any power conferred on the Director General by section 91, 95 or subsection 143(3).

Notification of non-chargeability

97A. (1) Where in ascertaining the chargeable income of a person, it appears to the Director General that—

(a) no assessment shall be made in respect of that person for any year of assessment by reason of—

(i) absence of adjusted income, statutory income, aggregate income or total income of a person from any of his sources of income; or

(ii) exemption granted to that person under this Act or the Promotion of Investments Act 1986; or

(b) assessment has been made in respect of that person, but that person has no statutory income from a source consisting of a business,

the Director General may notify that person in writing—

(i) in respect of paragraph *(a)*, that no assessment shall be made for that year of assessment and provide a computation with regard to it; or

(ii) in respect of paragraph *(b)*, the adjustment, if any, made in respect of that source consisting of a business and provide a computation with regard to it.

(1A) Where a person has furnished to the Director General a return for a year of assessment in accordance with subsection 77(1) or 77A(1) and there is no chargeable income for that year of assessment, then if the person in respect of such return is aggrieved by the public ruling made under section 138A or any practice of the Director General generally prevailing at the time when the return is made—

(a) the return shall be deemed to be a notification made by the Director General under subsection (1) on the day the return is furnished; and

(b) the notification deemed to have been made under paragraph *(a)* shall be deemed to have been notified to the person on the day on which the Director General is deemed to have made the notification.

(2) Where a person is dissatisfied with the notification made by the Director General under subsection (1) or the return which is deemed under subsection (1A) to be a notification made by the Director General, he may within thirty days from the date of being so notified, appeal to the Special Commissioners as if the notification were a notice of assessment and the provisions of this Act relating to appeals shall apply accordingly with such necessary modifications.

(3) If no notice of appeal against a notification made by the Director General under subsection (1) or the return which is deemed under subsection (1A) to be a notification made by the Director General has been given within the time specified under that subsection or any extended period thereof, the notification shall be final and conclusive for the purposes of this Act.

(4) Nothing in this section shall prejudice the exercise of any power conferred on the Director General by section 91.

(5) Where a person has furnished to the Director General a return for a year of assessment in accordance with subsection 77(1) or 77A(1) and there is no chargeable income for that year of assessment, then if the person in respect of such return alleges that—

(a) there is an error or a mistake made by the person in that return, the person may make an application in writing to the Director General for an amendment to be made in respect of such return; or

(b) the amount that has been computed in the return is inaccurate by reason of—

(i) any exemption, relief, remission, allowance or deduction granted for that year of assessment under this Act or any other written law published in the *Gazette* after the year of assessment in which the return is furnished;

(ii) the approval for any exemption, relief, remission, allowance or deduction is granted after the year of assessment in which the return is furnished; or

(iii) a deduction not allowed in respect of payment not due to be paid under subsection 107A(2) or 109(2), section 109A, or subsection 109B(2) or 109F(2) on the day a return is furnished,

the person may make an application in writing to the Director General for relief.

(6) The application under subsection (5) shall be made—

(a) in respect of paragraph (5)*(a)*, within six months from the date the return is furnished;

(b) in respect of subparagraphs (5)*(b)*(i) and (ii), within five years after the end of the year the exemption, relief, remission, allowance or deduction is published in the *Gazette* or the approval is granted, whichever is the later; or

(c) in respect of subparagraph (5)*(b)*(iii), within one year after the end of the year the payment is made.

(7) On receiving an application under subsection (5), the Director General shall inquire into the matter and may make amendment in respect of the amount that has been computed as appears to the Director General to be just and reasonable.

(8) No amendment shall be allowed under subsection (7) in respect of an error or a mistake as to the basis on which the non-chargeability of the applicant ought to have been computed if the return or statement containing the error or mistake was in fact made on the basis of or in accordance with the public ruling made under section 138A or any practice of the Director General generally prevailing at the time when the return is made.

(9) An application under subsection (5) shall be as nearly as may be in the same form as a notice of appeal under section 99.

(10) Where the applicant is aggrieved by the Director General's decision on the application under subsection (5), the following provisions shall apply:

(a) the applicant may within six month's after being informed of the decision request, in writing, the Director General to send the application forward to the Special Commissioners;

(b) the Director General shall within three months after receiving the request send the application forward as if he were sending an appeal forward pursuant to section 102; and

(c) the application shall thereupon be deemed to be an appeal and shall be disposed of accordingly.

Chapter 2 – Appeals

The Special Commissioners and the Secretary

98. (1) For the purposes of this Act there shall be three or more Special Commissioners of Income Tax and a Secretary to the Special Commissioners.

(2) The Special Commissioners shall be appointed by the Yang di-Pertuan Agong.

(3) The Special Commissioners shall include such number of persons with judicial or other legal experience (that is to say, experience as an advocate, as a member of the judicial and legal service or as the holder of an office to which the Judges Remuneration Act 1971 [*Act 45*], applies) as may be necessary for the purposes of paragraph 1 of Schedule 5; and, if the Yang di-Pertuan Agong considers it expedient to do so, he may appoint from amongst those

persons a Chairman and such number of Deputy Chairman of the Special Commissioners.

(4) Each Special Commissioner—

(a) shall hold office for such period and on such terms (including terms as to remuneration and allowances) as may be specified by the Minister; and

(b) shall be deemed to be a public servant within the meaning of section 21 of the Penal Code [*Act 574*].

(5) The office of the Secretary shall be a federal public office.

Right of appeal

99. (1) Subject to subsection (1A), a person aggrieved by an assessment made in respect of him may appeal to the Special Commissioners against the assessment by giving to the Director General within thirty days after the service of the notice of assessment or, in the case of an appeal against an assessment made under section 92, within the first three months of the year of assessment following the year of assessment for which the assessment was made (or within such extended period as regards those days or months as may be allowed under section 100) a written notice of appeal in the prescribed form stating the grounds of appeal and containing such other particulars as may be required by that form.

(1A) A person who has failed to furnish a return for a basis period for a year of assessment in accordance with subsection 77A(1) may appeal against the assessment made by the Director General under subsection 90(3) by furnishing a return for that basis period for that year of assessment together with the written notice of appeal referred to in subsection (1) within the time stipulated for giving of the notice.

(2) Where an assessment has been made in respect of a person appointed under section 68 to be the agent of another person, the agent and that other person shall for the purposes of this section and the other

provisions of this Act relating to appeals each be treated as the person in respect of whom the assessment was made and, if they both appeal against the assessment, their appeals shall if possible be dealt with together:

Provided that, in the case of a receiver deemed by subsection 68(4) to have been appointed under subsection 68(1) to be the agent of a court, this subsection shall not apply.

(3) Where in a case to which section 67 applies the principal has appealed against an assessment, the representative, whether or not he himself has appealed or is entitled to appeal against the assessment and without prejudice to any power conferred on him by subparagraph 14*(c)* of Schedule 5, may represent and act generally on behalf of the principal for the purposes of the provisions of this Act relating to appeals ("the principal" and "the representative" here having the same meaning as in section 67).

(4) This section shall not apply to an assessment made under subsection 90(1) or section 91A, except where a person in respect of such assessment is aggrieved by the public ruling made under section 138A or any practice of the Director General generally prevailing at the time when the assessment is made.

Extension of time for appeal

100. (1) A person seeking to appeal against an assessment after the expiration of the period to make an appeal under subsection 99(1), may within seven years after the end of that period, make to the Director General a written application in the prescribed form for an extension of that period within which a notice of appeal against that assessment may be given under that subsection.

(2) On receipt of an application under subsection (1), the Director General—

(a) if he is satisfied that for any reasonable cause the applicant was prevented from giving notice of appeal within the appropriate period provided by subsection 99(1), shall

extend that period as he thinks proper in the circumstances and give written notice of the extension to the applicant; and

(b) if he is not so satisfied, shall forward the application to the Secretary, together with a statement of the reasons for his dissatisfaction and his address for the purposes of the application.

(3) Where the Director General forwards an application and statement pursuant to paragraph (2)*(b)*, he shall inform the applicant in writing that he has done so and shall furnish the applicant with a copy of the statement; and the applicant may, within twenty-one days of receiving the information and the copy, forward to the Secretary written representations as to the application and the statement.

(4) Any application and statement forwarded pursuant to paragraph (2)*(b)* and any representations forwarded pursuant to subsection (3) shall be brought by the Secretary to the attention of one of the Special Commissioners, who shall decide whether or not to extend as he thinks proper in the circumstances the period within which the notice of appeal may be given.

(5) The decision of one of the Special Commissioners refusing an application or granting an extension under subsection (4) shall be notified in writing by the Secretary to the applicant and the Director General and shall be final.

Review by Director General

101. (1) On receipt of a notice of appeal under subsection 99(1), the Director General shall, within twelve months from the date of receipt of the notice of appeal, review the assessment against which the appeal is made and for that purpose may—

(a) require the appellant to furnish such particulars as the Director General may think necessary with respect to the income to which the assessment relates and any other

matter relevant to the assessment in the Director General's opinion;

(b) require the appellant to produce all books or other documents in the appellant's custody or under the appellant's control relating to any source to which the assessment relates or any other matter relevant to the assessment in the Director General's opinion;

(c) summon any person who in the Director General's opinion is able to give evidence respecting the assessment to attend before the Director General; and

(d) examine any person so attending on oath or otherwise.

(1A) Where the Director General requires a period longer than twelve months to carry out the review under subsection (1), the Director General may apply to the Minister for an extension of that period not later than thirty days before the expiry of the twelve-month period.

(1B) On receipt of an application under subsection (1A), the Minister may grant such extension as he thinks proper and reasonable in the circumstances provided that such extension shall not exceed a period of six months from the date of expiry of the twelve-month period.

(1C) The decision of the Minister under subsection (1B) shall be notified in writing to the Director General and shall be final.

(2) Where as the result of a review under subsection (1) the Director General and the appellant come to an agreement in writing either—

(a) as to the amount of the chargeable income and the tax chargeable thereon or the amount of tax or additional tax; or

(b) that there is no chargeable income or tax,

the assessment against which the appeal is made shall be treated as having been confirmed, reduced, increased or discharged in accordance with the agreement.

(3) Subject to subsection (5), where as the result of a review under subsection (1) the Director General and the appellant come to an oral agreement as to the matters mentioned in paragraph (2)*(a)* or *(b)* and the Director General serves a written confirmation of the agreement on the appellant, then, unless the appellant within a period of twenty-one days of being so served gives notice in writing to the Director General repudiating the agreement, the oral agreement as confirmed by the Director General shall be deemed to be an agreement in writing within the meaning of subsection (2) come to upon the expiration of that period between the Director General and the appellant.

(4) Subject to subsection (5), where as the result of a review under subsection (1) the Director General makes to the appellant proposals in writing that the assessment should be confirmed, reduced, increased or discharged and the appellant neither accepts nor rejects the proposals, unless the appellant within a period of thirty days of being served with such proposals (or within such further period as the Director General on the appellant's application may allow) gives notice in writing to the Director General rejecting the proposals, the proposals shall be deemed to have been accepted and to be an agreement in writing within the meaning of subsection (2) come to upon the expiration of that period or further period, as the case may be, between the Director General and the appellant.

(5) Where by the operation of subsection (3) or (4) there is deemed to be an agreement within the meaning of subsection (2) between the Director General and the appellant, one of the Special Commissioners on the application of the appellant made to the Special Commissioners within a period of thirty days after the agreement is deemed to be come to may, after giving the Director General an opportunity to make oral or written representations, set the agreement aside if he thinks it just and equitable to do so in the circumstances.

(6) The decision of one of the Special Commissioners on an application under subsection (5) shall be notified by the Secretary in writing to the applicant and the Director General and shall be final.

(7) References in this section to agreements come to between the Director General and the appellant and to confirmations and requests being served on the appellant include references to agreements come to between the Director General and a duly authorized person conducting correspondence or otherwise acting on behalf of the appellant in relation to the appeal and to confirmations and requests served on such a person.

(8) Where on an appeal against an assessment the tax chargeable under the assessment is increased by an agreement come to under subsection (2) or by an agreement deemed to be come to under subsection (3) or (4) and not set aside under subsection (5), the Director General shall serve on the appellant a notice in the prescribed form which shall—

(a) indicate, in addition to any other material included therein, the amount of the increase in the tax charged and the place of payment; and

(b) have the same effect for the purposes of Part VII as a notice of increased assessment.

(9) The notice mentioned in subsection (8) shall be served—

(a) where an agreement is come to under subsection (2), as soon as may be; and

(b) where an agreement is come to under subsection (3) or (4) and is not set aside under subsection (5), as soon as may be after the expiry of the period mentioned in subsection (5) or, if there is an unsuccessful application to the Special Commissioners under subsection (5), as soon as may be after the application has been refused.

Disposal of appeals

102. (1) Subject to subsection (1A) or (3), the Director General may send an appeal forward to the Special Commissioners at any time within the twelve-month period from the date of receipt of the notice of appeal or, if an extension under subsection 101(1B) has been granted, within the extended period if he is of the opinion that there is no reasonable prospect of coming to an agreement with the appellant in accordance with subsection 101(2) in respect of the appeal and if subsections 101(3) and (4) are not applicable; and, where he sends an appeal forward under this subsection, he shall give the appellant written notice that he has done so.

(1A) Where a person has made an application to invoke a mutual agreement procedure pursuant to an arrangement made under section 132 and the ground in which the application is made is similar with the appeal filed under this Act —

(a) no appeal shall be sent forward to the Special Commissioners until the determination of the mutual agreement procedure;

(b) the person may within thirty days from the determination of the mutual agreement procedure request to the Director General in writing to forward such appeal to the Special Commissioners; and

(c) the Director General shall within three months after receiving the request send the appeal forward to the Special Commissioners.

(2) (*Deleted by Act 600*).

(3) No appeal shall be sent forward to the Special Commissioners if the Director General and the appellant have or are deemed to have come to an agreement in respect of it in accordance with subsection 101(2), (3) or (4).

(4) Where an appeal is sent forward to the Special Commissioners pursuant to this section, the appeal shall be sent forward in the manner provided by Schedule 5 and that Schedule shall have effect for regulating the hearing and determination of the appeal and otherwise as provided therein.

(5) Where an appeal has been sent forward to the Special Commissioners pursuant to this section—

(a) the Director General and the appellant at any time before the hearing of the appeal by the Special Commissioners is completed may come to an agreement of the kind mentioned in subsection 101(2) with regard to the assessment to which the appeal relates; or

(b) the appellant may at any time withdraw the appeal.

(6) Where the Director General and the appellant come to an agreement under paragraph (5)*(a)*, the Director General shall and the appellant may, send a true copy of the agreement to the Special Commissioners.

(7) Where the Special Commissioners are satisfied that the Director General and the appellant have come to an agreement under paragraph (5)*(a)* with regard to the assessment to which an appeal relates—

(a) the proceedings before the Special Commissioners relating to the appeal shall abate;

(b) the agreement shall have effect as if it had been come to under subsection 101(2); and

(c) subsections 101(8) and (9) shall apply accordingly.

(8) Where the Special Commissioners are satisfied that the appellant has withdrawn his appeal under paragraph (5)*(b)*—

(a) the proceedings before the Special Commissioners relating to the appeal shall abate; and

(b) the assessment to which the appeal relates shall be final and conclusive for the purposes of this Act, the Income Tax Ordinance 1956 of Sabah [*Sabah Ord. 29 of 1956*], the Inland Revenue Ordinance 1960 of Sarawak [*Sarawak Ord. 13 of 1960*] or the Income Tax Ordinance 1947 of West Malaysia [*Ord. 48 of 1947*], as the case may be.

(9) In this section "appeal" means an appeal against an assessment.

PART VII

COLLECTION AND RECOVERY OF TAX

Payment of tax

103. (1) Except as provided in subsection (2), tax payable under an assessment for a year of assessment shall be due and payable on the due date whether or not that person appeals against the assessment.

(1A) Where an assessment or additional assessment has been made under section 91A, the tax or additional tax payable under the assessment shall be due and payable on the day the amended return is furnished whether or not that person appeals against the assessment or additional assessment.

(2) Where an assessment is made under section 90(3), 91, 92 or 96A, or where an assessment is increased under section 101(2), the tax payable under the assessment or increased assessment shall, on the service of the notice of assessment or composite assessment or increased assessment, as the case may be, be due and payable on the person assessed at the place specified in that notice whether or not that person appeals against the assessment or increased assessment.

(3) Where any tax due and payable under subsection (1) has not been paid by the due date, so much of the tax as is unpaid upon the expiration of that date shall without any further notice being served be increased by a sum equal to ten per cent of the tax so unpaid, and that

sum shall be recoverable as if it were tax due and payable under this Act.

(4) (*Deleted by Act 823*).

(5) Subject to subsection (7), where any tax due and payable under subsection (2) has not been paid within thirty days after the service of the notice, so much of the tax as is unpaid upon the expiration of that period shall without any further notice being served be increased by a sum equal to ten per cent of the tax so unpaid, and that sum shall be recoverable as if it were tax due and payable under this Act.

(6) (*Deleted by Act 823*).

(7) Where any tax is payable in accordance with subsection (2), the Director General may allow the tax to be paid by instalments in such amounts and on such dates as he may determine and in the event of default in payment of any one instalment on the date specified for payment the balance of the tax then outstanding shall be due and payable on that date and shall without any further notice being served be increased by a sum equal to ten per cent of that balance, and that sum shall be recoverable as if it were tax due and payable under this Act.

(8) (*Deleted by Act 823*).

(9) Notwithstanding the foregoing subsections, where tax due and payable is increased by a sum under subsection (1A), (3), (5) or (7), the Director General may in his discretion for any good cause shown remit the whole or any part of that sum and, where the amount remitted has been paid, the Director General shall repay that amount.

(10) Where section 45(2) applies for a year of assessment, the portion of the tax charged for that year upon the husband or the wife in whose name the assessment was made which is attributable to the total income for that year of the wife who elects or the husband who elects, as the case may be, may, if necessary, be collected from the wife who elects or the husband who elects; and this Part shall apply (with any necessary modifications) as if, on the day on which a notice of

assessment or a notice of increased assessment for that year is served on the husband or the wife that notice of assessment or notice of increased assessment had been served on the wife who elects or the husband who elects, as the case may be:

Provided that nothing in this subsection shall be construed as conferring on the wife who elects or the husband who elects, as the case may be, any right of appeal under section 99.

(11) For the purposes of subsection (10), the part of the tax charged for a year of assessment upon the husband or the wife which is attributable to the total income for that year of the wife who elects or the husband who elects, as the case may be, shall be determined in accordance with the formula—

$$\frac{A}{B} \times C$$

where—

(a) in the case of the wife who elects—

A is that wife's total income for a year of assessment;

B is the aggregate of the husband's and that wife's or wives' total income; and

C is the tax charged for the year of assessment where paragraph 45(2)*(a)* applies; or

(b) in the case of the husband who elects—

A is that husband's total income for a year of assessment;

B is the aggregate of the wife's and that husband's total income; and

C is the tax charged for the year of assessment where paragraph 45(2)*(b)* applies.

(12) For the purposes of this section, "due date" means—

(a) in the case of a company, trust body, co-operative society or limited liability partnership the last day of the seventh month from the date following the close of the accounting period;

(b) in the case of a person referred to under paragraph 77(1)*(a)*, 30 June in the year following the year of assessment; and

(c) in any other case other than the cases referred to in paragraphs *(a)* and *(b)*, 30 April in the year following the year of assessment.

103A. (*Deleted by Act A1151*).

Recovery from persons leaving Malaysia

104. (1) The Director General, where he is of the opinion that any person is about or likely to leave Malaysia without paying—

(a) all tax payable by him (whether or not due or due and payable);

(b) all sums payable by him under subsection 103(1A), (3), (5) or (7) or subsection 107B(3) or (4) or subsection 107C(9), (10) or (10A); and

(c) all debts payable by him under subsection 107A(2) or 109(2), 109B(2) or 109F(2),

may issue to any Commissioner of Police or Director of Immigration a certificate containing particulars of the tax, sums and debts so payable with a request for that person to be prevented from leaving

Malaysia unless and until he pays all the tax, sums and debts so payable or furnishes security to the satisfaction of the Director General for their payment.

(2) Subject to any order issued or made under any written law relating to banishment or immigration, any Commissioner of Police or Director of Immigration who receives a request under subsection (1) in respect of any person shall take or cause to be taken all such measures (including the use of reasonable force and the seizure, removal or retention of any certificate of identity and any passport, exit permit or other travel document relating to that person) as may be necessary to give effect to it.

(3) The Director General shall cause notice of the issue of a certificate under subsection (1) to be served personally or by registered post on the person to whom the certificate relates:

Provided that the non-receipt of the notice by that person shall not invalidate anything done under this section.

(4) Where a person in respect of whom a certificate has been issued under subsection (1)—

(a) produces a written statement signed on or after the date of the certificate by the Director General or an authorized officer to the effect that all the tax, sums and debts specified in the certificate have been paid or that security has been furnished for their payment; or

(b) pays all the tax, sums and debts specified in the certificate to the officer in charge of a police station or to an immigration officer,

the statement or the payment, as the case may be, shall be sufficient authority for allowing that person to leave Malaysia.

(5) No legal proceedings shall be instituted or maintained against the Government, a State Government, a police officer or any other public officer in respect of anything lawfully done under this section or subsection 115(2).

(6) In this section—

"Commissioner of Police" includes a Chief Police Officer;

"Director of Immigration" means the Director of Immigration in Sabah, Sarawak or West Malaysia;

"immigration officer" means a public officer having official duties in connection with the control of immigration into Malaysia or any part of Malaysia;

"person" includes any person who is a director within the meaning of section 75A.

Refusal of customs clearance in certain cases

105. (1) Where tax payable by a person who carries on the business of transporting passengers or cargo by air or sea (or tax payable by an agent of that person) has remained unpaid for more than three months (whether that person has been assessed directly or the agent has been assessed on his behalf) the Director General may with the approval of the Minister issue to the customs authority a certificate containing the name of that person or the agent, as the case may be, and particulars of the tax in default; and the customs authority shall thereupon refuse clearance from any port, aerodrome or airport in Malaysia to any ship or aircraft wholly or partly owned or chartered by that person until the tax is paid.

(2) No legal proceedings shall be instituted or maintained against the Government, the customs authority or any public officer in respect of a refusal of clearance under this section, nor shall the fact that a ship or aircraft is detained under this section affect the liability of the owner, charterer or agent to pay harbour or other dues and charges for the period of detention.

(3) In this section "customs authority" means the Director General of Customs and Excise, and includes the Regional Directors of

Customs in Sabah, Sarawak and West Malaysia and any other authority by whom customs clearance may be granted.

Recovery by suit

106. (1) Tax due and payable may be recovered by the Government by civil proceedings as a debt due to the Government.

(2) The Director General and all authorized officers shall be deemed to be public officers authorized by the Minister under subsection 25(1) of the Government Proceedings Act 1956 [*Act 359*], in respect of all proceedings under this section.

(3) In any proceedings under this section the court shall not entertain any plea that the amount of tax sought to be recovered is excessive, incorrectly assessed, under appeal or incorrectly increased under subsection 103(1A), (3), (5) or (7).

Deduction of tax from emoluments and pensions

107. (1) Where any income in respect of gains or profits from an employment or in respect of any pension, annuity or periodical payment falling under paragraph 4*(e)* is payable to an individual, then, if the Director General so directs, the person by whom the income is payable shall make deductions out of the income on account of tax which is or may be payable by that individual for any year of assessment.

(2) Subject to any rules made under section 154, deductions under this section on account of tax shall be made at such times and in such amounts as the Director General may direct, whether or not the tax has been assessed.

(3) In relation to any case, nothing in this section shall prevent the collection of any tax (not being tax deducted in accordance with this section) in accordance with section 103 or the payment of that tax

being enforced in accordance with section 106:

Provided that in any such case for the purposes of section 103 the Director General shall determine the period within which that tax shall be payable.

(4) An employer who fails to comply with subsection 83(2), (3), (4) or (5) or this section with respect to an employee of his shall be liable, in the case of a failure to comply with subsection 83(2), (3), (4) or (5), to pay the full amount of tax due from the employee and, in the case of a failure to comply with this section, to pay the amount of tax which he has failed to deduct, and such amount of tax shall be a debt due from that employer to the Government and shall be payable forthwith to the Director General:

Provided that—

(a) the Director General shall apply any amount paid to or recovered by him in pursuance of this subsection towards payment of the tax payable by the employee; and

(b) the employer may recover from the employee as a debt due to the employer any amount which has been paid to the Director General by the employer or recovered by the Director General from the employer in pursuance of this subsection.

(5) Where a person by whom any income of the kind mentioned in paragraph 4*(e)* is payable fails to comply with this section with respect to a recipient of that income, that person shall be liable to pay the amount of tax which he has failed to deduct:

Provided that—

(a) the Director General shall apply any amount paid to or recovered by him in pursuance of this subsection towards payment of the tax payable by the recipient; and

(b) the person may recover from the recipient as a debt due to that person any amount which has been paid to the

Director General by that person or recovered by the Director General from that person in pursuance of this subsection.

Deduction of tax from contract payment

107A. (1) Where any person (in this section referred to as "the payer") is liable to make contract payment to a non-resident contractor in respect of services under a contract, he shall upon paying or crediting such contract payment deduct therefrom tax at the rate of—

(a) ten per cent of the contract payment on account of tax which is or may be payable by that non-resident contractor for any year of assessment; and

(b) three per cent of the contract payment on account of tax which is or may be payable by employees of that non-resident contractor for any year of assessment,

and (whether or not that tax is so deducted) shall within one month after paying or crediting such contract payment render an account and pay the amount of that tax to the Director General:

Provided that the Director General may—

(i) give notice in writing to the payer requiring him to deduct and pay tax at some other rates or to pay or credit the contract payment without deduction of tax; or

(ii) under special circumstances, allow extension of time for tax deducted to be paid over.

(2) Where the payer fails to pay any amount due from him under subsection (1), that amount which he fails to pay shall be increased by a sum equal to ten per cent of the amount which he fails to pay, and that amount and the increased sum shall be a debt due from him to the Government and shall be payable forthwith to the Director General.

(3) Where in pursuance of this section any amount is paid to the Director General by the payer or recovered by the Director General from the payer—

(a) the Director General shall apply the amount paid or recovered under paragraph (1)*(a)* towards payment of the tax payable for any year of assessment by the non-resident contractor to whom the payer was liable to pay the contract payment to which that amount relates;

(b) the Director General shall refund the amount paid or recovered under paragraph (1)*(b)* to the non-resident contractor to whom the payer was liable to pay the contract payment to which that amount relates as and when the Director General deems appropriate; and

(c) if the payer has not deducted any amount in paying the contract payment with respect to which the amount relates, he may recover the amount from the non-resident contractor as a debt due to the payer.

(4) In relation to any case, nothing in paragraph (1)*(b)* shall prevent the deduction of any tax (not being tax deducted in accordance with this subsection) in accordance with section 107.

(4A) Notwithstanding the foregoing subsections, where the amount due from the payer under subsection (1) is increased by a sum under subsection (2), the Director General may in his discretion for any good cause shown remit the whole or any part of that sum and, where the amount remitted has been paid, the Director General shall repay the same.

(5) In this section—

"contract payment" means any payment made for services under a contract to the non-resident contractor or his agent or any other person acting on his behalf;

"contract project", in relation to any non-resident contractor, includes any undertaking, project or scheme, being an undertaking, project or scheme carried on, carried out or performed in Malaysia;

"non-resident contractor" means any person who is not resident in Malaysia within the meaning of section 7 or 8 and who, under a contract or a subsidiary contract (not being a contract of service or apprenticeship) or an agreement or arrangement undertakes (otherwise than as an employee) any services under a contract;

"person" includes a partnership;

"professional service", in relation to any non-resident contractor, includes any advisory, consultancy, technical, industrial, commercial or scientific service;

"services under a contract", in relation to any non-resident contractor, means the performing or rendering of any work or professional service in Malaysia, being work or professional service in connection with, or in relation to, any contract project.

Payment by instalments

107B. (1) Subject to this section, every person chargeable to tax for a year of assessment, other than a company, trust body, co-operative society or limited liability partnership to which section 107C applies shall make payment by instalments on account of tax, excluding tax in respect of gains or profits from an employment, which is or may be payable by that person for that year of assessment, at such times and in such amounts as the Director General may direct, whether or not the tax has been assessed.

(2) In determining the amount to be paid under subsection (1), the Director General may take into consideration the tax assessed, if any, in respect of the person for the year of assessment preceding that year of assessment:

Provided that the Director General may, upon an application made by the person not later than the thirtieth day of June in that year of assessment, vary the amount to be paid by instalments on account of tax and the number of instalments.

(3) Where any instalment amount due and payable on the date specified by the Director General pursuant to subsection (1) or (2) has not been paid within thirty days of the due date, the amount unpaid shall, without any further notice being served, be increased by a sum equal to ten per cent of the amount unpaid, and that sum shall be recoverable as if it were tax due and payable under this Act:

Provided that, where the amount unpaid is subsequently paid, the Director General may treat it as having been paid on its due date.

(4) In any case to which the proviso to subsection (2) applies, where the tax payable under an assessment for that year of assessment exceeds the total of the instalments payable and the difference is more than thirty per cent of the tax payable under the assessment, then, without any further notice being served, the amount of the difference which exceeds thirty per cent of the tax payable under the assessment shall be increased by a sum equal to ten per cent of that amount of the difference, and that sum shall be recoverable as if it were tax due and payable under this Act:

Provided that in the case of an individual whose income includes gains or profits from an employment, the tax payable under an assessment for that year of assessment shall be reduced by the amount of tax which is attributable to those gains or profits.

(4A) For the purposes of subsection (4), the amount of tax which is attributable to the income in respect of gains or profits from an employment of an individual shall be determined in accordance with the formula—

$$\frac{A}{B} \times C$$

where A is his statutory income in respect of gains or profits from employment for a year of assessment;

B is his total income for that year of assessment; and

C is his tax payable for that year of assessment.

(5) Nothing in this section shall prevent the collection of any tax from a person to whom this section applies in accordance with section 103 or the payment of that tax being enforced in accordance with section 106:

Provided that in any such case for the purposes of section 103 the Director General shall determine the period within which that tax shall be payable.

(6) Notwithstanding the foregoing subsections, where the amount of instalments unpaid or the amount of the difference in tax is increased by a sum under subsection (3) or (4), as the case may be, the Director General may in his discretion for any good cause shown remit the whole or any part of that sum and, where the amount remitted has been paid, the Director General shall repay the same.

Estimate of tax payable and payment by instalments for companies

107C. (1) Every company, limited liability partnership, trust body or co-operative society shall for each year of assessment furnish to the Director General an estimate of its tax payable.

(2) Except as provided in paragraph (4)*(a)* and subsection (4A), the estimate of tax payable for a year of assessment shall be made in the prescribed form and furnished to the Director General not later than thirty days before the beginning of the basis period for that year of assessment.

(3) The estimate of tax payable for a year of assessment shall not be less than eighty-five per cent of the revised estimate of tax payable for the immediately preceding year of assessment or if no revised estimate is furnished, shall not be less than eighty-five per cent of the estimate of tax payable for the immediately preceding year of assessment.

(4) Where a company, other than a company to which subsection (4A) applies, limited liability partnership, trust body or co-operative society first commences operation in a year of assessment and the basis period for that year is not less than six months—

(a) the estimate of its tax payable for that year of assessment shall be made in the prescribed form and furnished to the Director General within three months from the date of commencement of operations; and

(b) subsections (2) and (3) shall apply to the company, other than a company to which subsection (4A) applies, limited liability partnership, trust body or co-operative society beginning from the second year of assessment.

(4A) Subject to subsections (4B) and (4C), where a company resident and incorporated in Malaysia first commences operation in a year of assessment, subsections (1), (2) and (3) shall not apply to the company—

(a) for that year of assessment and the immediate following year of assessment;

(b) where the company has no basis period for that year of assessment, for the immediate two following years of assessment:

Provided that at the beginning of the basis period for the years of assessment referred to in paragraph *(a)* or for the two following years of assessment referred to in paragraph *(b)*, the paid-up capital of that company in respect of ordinary shares is two million five hundred thousand ringgit and less; or

(c) where the company has no basis period for that year of assessment and for the immediate following year of assessment, for that year of assessment and the immediate two following years of assessment:

Provided that at the commencement of the operation and at the beginning of the immediate two following years of assessment the paid up capital of the company in respect of ordinary shares is two million five hundred thousand ringgit and less.

(4B) The provision of subsection (4A) shall not apply to a company referred to in that subsection if more than—

(a) fifty per cent of the paid up capital in respect of ordinary shares of the company is directly or indirectly owned by a related company;

(b) fifty per cent of the paid up capital in respect of ordinary shares of the related company is directly or indirectly owned by the first mentioned company; or

(c) fifty per cent of the paid up capital in respect of ordinary shares of the first mentioned company and the related company is directly or indirectly owned by another company.

(4C) For the purpose of subsection (4B), "related company" means a company which has a paid up capital in respect of ordinary shares of more than two million and five hundred thousand ringgit at the beginning of the basis period for a year of assessment.

(5) Where an estimate of tax payable for a year of assessment has been furnished in accordance with subsection (2), that amount shall be paid to the Director General in equal monthly instalments determined according to the number of months in the basis period and each instalment shall be paid by the due date beginning from the second month of the basis period for the year of assessment in respect of which that estimate has been furnished.

(6) Where an estimate of tax payable for a year of assessment has been furnished in accordance with paragraph (4)*(a)*, that amount shall be paid to the Director General in equal monthly instalments determined according to the number of months in the basis period and each instalment shall be paid by the due date beginning from the sixth month of the basis period for the year of assessment in respect of which that estimate has been furnished.

(7) A company, limited liability partnership, trust body or co-operative society may in the sixth month or the ninth month, or in both months of the basis period for a year of assessment furnish to the Director General a revised estimate of its tax payable for that year in the prescribed form and—

(a) where the revised estimate exceeds the amount of instalments which is payable in that year prior to that revised estimate, the difference shall be payable in the remaining instalments in equal proportion; or

(b) where the amount of instalments which is payable in that year prior to that revised estimate exceeds the revised estimate, the remaining instalments shall cease immediately.

(7A) For the purposes of subsections (1) and (7), a company, *limited liability partnership, trust body or co-operative society shall furnish the estimate or revised estimate of its tax payable on an electronic medium or by way of electronic transmission in accordance with section 152A.

(8) Notwithstanding subsections (1), (3), (4), (5), (6) and (7), the Director General may direct such company, limited liability partnership, trust body or co-operative society to make payment by instalments on account of tax which is or may be payable by that company, limited liability partnership, trust body or co-operative society for a year of assessment at such times and of such amounts as the Director General may direct and such account of tax shall be

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**NOTE*—The words "limited liability partnership, trust body or co-operative body" which were inserted by Act 785 have effect for the year of assessment 2019 and subsequent years of assessment.

deemed for the purpose of subsection (10) to be the revised estimate of tax payable by that company, limited liability partnership, trust body or co-operative society for that year of assessment:

Provided that, where the direction is made before the ninth month of the basis period for that year of assessment, that company, limited liability partnership, trust body or co-operative society may furnish a revised estimate of its tax payable for that year of assessment in accordance with subsection (7).

(8A) (*Deleted by Act 719*).

(8B) (*Deleted by Act 719*).

(9) Where any instalment amount due and payable has not been paid by the due date or on the date specified by the Director General, the amount unpaid shall, without any further notice being served, be increased by a sum equal to ten per cent of the amount unpaid, and the amount unpaid and the increase on the amount unpaid shall be recoverable as if it were tax due and payable under this Act.

(10) Where the tax payable under an assessment for a year of assessment exceeds the revised estimate under subsection (7) or deemed revised estimate under subsection (8), whichever is later, or if no such revised estimate is furnished or there is no such deemed revised estimate, the estimate of tax payable for that year of assessment, by an amount of more than thirty per cent of the tax payable under the assessment, then, without any further notice being served, the difference between that amount and thirty per cent of the tax payable under the assessment shall be increased by a sum equal to ten per cent of the amount of that difference, and that sum shall be recoverable as if it were tax due and payable under this Act.

(10A) Where for a year of assessment—

(a) no estimate is furnished by a company, trust body or co-operative society and no direction is given by the Director General to make payment by instalment under subsection (8);

(b) no prosecution under section 120 has been instituted in relation to failure to furnish such estimate; and

(c) tax is payable by that company, trust body or co-operative society pursuant to an assessment for that year of assessment,

such tax payable shall without any further notice be increased by a sum equal to ten per cent of the tax payable and that sum shall be recoverable as if it were tax due and payable under this Act:

Provided that if that company, trust body or co-operative society pays that sum or, where the sum is remitted under subsection (11), that company, trust body or cooperative society shall not be liable to be charged on the same facts with an offence under section 120.

(11) Notwithstanding the foregoing subsections, where the estimate of tax payable for a year of assessment is increased by a sum under subsection (9), (10) or (10A), the Director General may in his discretion for any good cause shown remit the whole or any part of that sum and, where the amount remitted has been paid, the Director General shall repay the same.

(11A) Nothing in this section shall prevent the collection of any tax from a person to whom this section applies in accordance with section 103 or the payment of that tax being enforced in accordance with section 106.

(11B) Where there is a failure by a company, limited liability partnership, trust body or co-operative society to make up its accounts ending on the corresponding day in the following basis year pursuant to subsection 21A(3) and the company, limited liability partnership, trust body or co-operative society fails to give a notification in accordance with subsection 21A(3A), any amount of increase or sum that had been imposed under this section based on the accounting period prior to the new accounts as mentioned in subsection 21A(3A) shall continue to be recoverable as if it were tax due and payable from the company, limited liability partnership, trust body or co-operative society to the Government.

(12) For the purposes of this section—

"due date" means the fifteenth day of a calendar month;

"revised estimate" means a revised estimate made in the ninth month of the basis period or if there is no revised estimate made in the ninth month of the basis period, the revised estimate made in the sixth month of the basis period.

Non-deduction of tax from dividend

***108.** Where a dividend is paid or credited by a company to any of its shareholders in the basis period for a year of assessment, the company shall not be entitled to deduct tax from such dividend paid or credited.

Deduction of tax from interest or royalty in certain cases

109. (1) Where any person (in this section referred to as the payer) is liable to pay interest or royalty derived from Malaysia to any other person not known to him to be resident in Malaysia, other than interest or royalty attributable to a business carried on by such other person in Malaysia, he shall upon paying or crediting the interest (other than interest on an approved loan or interest of the kind referred to in paragraph 33, 33A, 33B, 35 or 35A of Part I, Schedule 6) or royalty deduct therefrom tax at the rate applicable to such interest or royalty, and (whether or not that tax is so deducted) shall within one month after paying or crediting the interest or royalty render an account and pay the amount of that tax to the Director General:

Provided that the Director General may under special circumstances allow extension of time for tax deducted to be paid over.

(2) Where the payer fails to pay any amount due from him under subsection (1), that amount which he fails to pay shall be increased by

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**NOTE–see* sections 30-32 of Act 773 for explanations on saving and transitional provisions relating to the 108 balance.

a sum equal to ten per cent of the amount which he fails to pay, and that amount and the increased sum shall be a debt due from him to the Government and shall be payable forthwith to the Director General.

(3) Where in pursuance of this section any amount is paid to the Director General by the payer or recovered by the Director General from the payer—

(a) the Director General shall, in the manner provided by section 110, apply that amount towards payment of the tax charged on the person to whom the payer was liable to pay the interest or royalty to which that amount relates; and

(b) if the payer has not deducted that amount in paying the interest or royalty with respect to which that amount relates, he may recover that amount from that person as a debt due to the payer.

(3A) Notwithstanding the foregoing subsections, where the amount due from the payer under subsection (1) is increased by a sum under subsection (2), the Director General may in his discretion for any good cause shown remit the whole or any part of that sum and, where the amount remitted has been paid, the Director General shall repay the same.

(4) In this section, "person" includes a partnership.

Application of sections 109 and 110 to income derived by a public entertainer

109A. The provisions of sections 109 and 110 shall apply *mutatis mutandis* to remuneration or other income in respect of services performed or rendered in Malaysia by a public entertainer.

Deduction of tax from special classes of income in certain cases derived from Malaysia

109B. (1) Where any person (in this section referred to as "the payer") is liable to make payments to a non-resident—

(a) for services rendered by the non-resident person or his employee in connection with the use of property or rights belonging to, or the installation or operation of any plant, machinery or other apparatus purchased from, such non-resident;

(b) for any advice given, or assistance or services rendered in connection with the management or administration of any scientific, industrial or commercial undertaking, venture, project or scheme;

(c) for rent or other payments made under any agreement or arrangement for the use of any moveable property,

which is deemed to be derived from Malaysia, he shall, upon paying or crediting the payments, deduct therefrom tax at the rate applicable to such payments, and (whether or not that tax is so deducted) shall within one month after paying or crediting such payment, render an account and pay the amount of that tax to the Director General:

Provided that the Director General may under special circumstances allow extension of time for tax deducted to be paid over.

(2) Where the payer fails to pay any amount due from him under subsection (1), that amount which he fails to pay shall be increased by a sum equal to ten per cent of the amount which he fails to pay, and that amount and the increased sum shall be a debt due from him to the Government and shall be payable forthwith to the Director General.

(3) Where in pursuance of this section any amount is paid to the Director General by the payer or recovered by the Director General from the payer—

(a) the Director General shall, in the manner provided by section 110, apply that amount towards payment of the tax charged on the person to whom the payer was liable to pay the payments to which the amount relates; and

(b) if the payer has not deducted that amount in paying the payment under subsection (1) with respect to which the amount relates, he may recover that amount from that person as a debt due to the payer.

(3A) Notwithstanding the foregoing subsections, where the amount due from the payer under subsection (1) is increased by a sum under subsection (2), the Director General may in his discretion for any good cause shown remit the whole or any part of that sum and, where the amount remitted has been paid, the Director General shall repay the same.

(4) In this section, "person" includes a partnership.

Deduction of tax from interest paid to a resident

109C. (1) Where any person (in this section referred to as "the payer") is liable to pay interest (other than interest exempt from tax under this Act or any order made thereto) accruing in or derived from Malaysia to an individual resident in Malaysia, he shall upon paying or crediting such interest deduct therefrom tax at the rate applicable to such interest, and (whether or not that tax is so deducted) shall within one month after paying or crediting the interest render an account and pay the amount of that tax to the Director General:

Provided that the Director General may under special circumstances, allow extension of time for tax deducted to be paid over.

(2) Where the payer fails to pay any amount due from him under subsection (1), the amount which he fails to pay shall be a debt due from him to the Government and shall be payable forthwith to the Director General.

(3) Where in pursuance of this section any amount is paid to the Director General by the payer and if the payer has not deducted that amount in paying the payment under subsection (1) with respect to which the amount relates, he may recover that amount from that individual as a debt due to the payer.

(4) In this section "person" refers to a bank or Islamic bank licensed under the Financial Services Act 2013 or the Islamic Financial Services Act 2013, as the case may be, a registered co-operative society, Bank Simpanan Nasional, Bank Pertanian Malaysia, *Lembaga Urusan Tabung Haji, Malaysia Building Society Berhad, or any other institution that may be approved by the Minister.

Deduction of tax on the distribution of income of a unit trust

109D. (1) This section shall only apply to income of a unit trust which is exempt under section 61A.

(2) Where a unit trust (in this section referred to as the payer) distributes income to a unit holder other than a unit holder which is a resident company which is deemed to be derived from Malaysia, the payer shall upon distributing the income, deduct therefrom tax at the rate applicable to such income and shall within one month after distributing such income, render an account and pay the amount of that tax to the Director General:

Provided that the Director General may under special circumstances allow extension of time for tax deducted to be paid over.

(3) Where the payer fails to pay any amount due from him under subsection (2), that amount which he fails to pay shall be increased by a sum equal to ten per cent of that amount, and the amount which he fails to pay and the increased sum shall be a debt due from him to the Government and shall be payable forthwith to the Director General.

**NOTE*—Previously known as the "Lembaga Urusan dan Tabung Haji"–*see* subsection 3(1) and paragraph 47*(b)* of the Tabung Haji Act 1995 [*Act 535*].

(4) Where in pursuance of this section any amount is paid to the Director General by the payer or recovered by the Director General from the payer—

(a) the Director General shall, in the manner provided by section 110, apply that amount towards payment of the tax charged on the unit holder to whom the payer distributes income to which that amount relates; and

(b) if the payer has not deducted that amount in distributing the income under subsection (2) with respect to which that amount relates, he may recover that amount from that unit holder as a debt due to the payer.

(4A) Notwithstanding the foregoing subsections, where the amount due from the payer under subsection (2) is increased by a sum under subsection (3), the Director General may in his discretion for any good cause shown remit the whole or any part of that sum and, where the amount remitted has been paid, the Director General shall repay the same.

(5) Section 110 shall apply *mutatis mutandis* to tax deducted under this section.

Deduction of tax on the distribution of income of a family fund, etc.

109E. (1) This section shall only apply to profits distributed or credited out of family fund, family retakaful fund or general fund under section 60AA where such profits have been claimed as a deduction under subparagraph (3)*(b)*(ii), (4)*(b)*(ii), (5)*(b)*(vii) or (7)*(b)*(vii) of that section.

(2) Where a takaful operator (in this section referred to as "the payer") distributes or credits any amount of income to a participant other than participant which is a resident company which is deemed to be derived from Malaysia, the payer shall upon distributing or crediting the amount—

(a) deduct from the proportion of that amount, tax at the rate applicable to that proportion; and

(b) whether or not that tax is so deducted, within one month after distributing or crediting such amount, render an account and pay the amount of tax to the Director General.

(3) The Director General may in relation to subsection (2) under special circumstances allow extension of time for the amount of tax deducted to be paid over.

(4) Where the payer fails to pay any amount due from him under subsection (2), that amount which he fails to pay shall be increased by a sum equal to ten per cent of the amount which he fails to pay, and that amount and the increased sum shall be a debt due from him to the Government and shall be payable forthwith to the Director General.

(5) Where in pursuance of this section any amount is paid to the Director General by the payer or recovered by the Director General from the payer and if the payer has not deducted that amount in distributing the income under subsection (2) with respect to which that amount relates, the payer may recover that amount from that participant as a debt due to the payer.

(6) The proportion of amount referred to in subsection (2) shall be ascertained in accordance with the formula prescribed by the Minister.

(7) Notwithstanding the foregoing subsections, where the amount due from the payer under subsection (2) is increased by a sum under subsection (4), the Director General may in his discretion for any good cause shown remit the whole or any part of that sum and, where the amount remitted has been paid, the Director General shall repay the same.

Deduction of tax from gains or profits in certain cases derived from Malaysia

109F. (1) Where any person (in this section referred to as "the payer") is liable to make payments to a non-resident in relation to any gains or

profits falling under paragraph 4*(f)* which is derived from Malaysia, he shall upon paying or crediting such payments deduct therefrom tax at the rate applicable to such payments, and (whether or not that tax is so deducted) shall within one month after paying or crediting such payments render an account and pay the amount of that tax to the Director General:

Provided that the Director General may under special circumstances allow extension of time for the amount of tax deducted to be paid over.

(2) Where the payer fails to pay any amount due from him under subsection (1), the amount which he fails to pay shall be increased by a sum equal to ten per cent of the amount which he fails to pay, and that amount and the increased sum shall be a debt due from him to the Government and shall be payable forthwith to the Director General.

(3) Where in pursuance of this section any amount is paid to the Director General by the payer or recovered by the Director General from the payer—

(a) the Director General shall, in the manner provided by section 110, apply that amount towards payment of the tax charged on the person to whom the payer was liable to pay the payments to which the amount relates; and

(b) if the payer has not deducted that amount in paying the payment under subsection (1) with respect to which the amount relates, he may recover that amount from that person as a debt due to the payer.

(4) Notwithstanding the foregoing subsections, where the amount due from the payer under subsection (1) is increased by a sum under subsection (2), the Director General may in his discretion for any good cause shown remit the whole or any part of that sum and, where the amount remitted has been paid, the Director General shall repay the same.

(5) Section 110 shall apply *mutatis mutandis* to tax deducted under this section.

Deduction of tax from income derived from withdrawal of a deferred annuity or a private retirement scheme

109G. (1) Where a person (in this section referred to as "the payer") makes payment to an individual (in this section referred to as "the recipient") in relation to a withdrawal from a deferred annuity or a private retirement scheme before reaching the age of fifty-five (other than by reason of permanent total disablement, serious disease, mental disability, death, permanently leaving Malaysia, healthcare or housing, for which such withdrawal shall be in compliance with the criteria as set out in the relevant guidelines of the Securities Commission from a fund administered by that payer under a deferred annuity scheme or a private retirement scheme, the payer shall upon paying the amount, deduct from that amount, tax at a rate applicable to such payment, and (whether or not tax is so deducted) shall within one month after paying the amount render an account and pay the amount of that tax to the Director General:

Provided that the Director General may under special circumstances allow extension of time for the amount of tax deducted to be paid over.

(2) Where the payer fails to pay any amount due from him under subsection (1), the amount which he fails to pay shall be increased by a sum equal to ten per cent of the amount which he fails to pay, and that amount and the increased sum shall be a debt due from him to the Government and shall be payable forthwith to the Director General.

(3) Where in pursuance of this section any amount is paid to the Director General by the payer or recovered by the Director General from the payer and if the payer has not deducted that amount in paying the amount under subsection (1) with respect to which that amount relates, the payer may recover that amount from the recipient as a debt due to the payer.

(4) Notwithstanding the foregoing subsections, where the amount due from the payer under subsection (1) is increased by a sum under subsection (2), the Director General may in his discretion for any good cause shown remit the whole or any part of that sum and, where the

amount remitted has been paid, the Director General shall repay the same.

(5) In this section, "payer" refers to —

(a) in the case of a deferred annuity, a life insurer or takaful operator licensed under the Financial Services Act 2013 or the Islamic Financial Services Act 2013; or

(b) in the case of a private retirement scheme, a private retirement scheme provider as approved under section 139Q of the Capital Markets and Services Act 2007 to provide and manage a private retirement scheme.

Appeal by the payer

109H. (1) A payer referred to in sections 109, 109B or 109F may, within thirty days (or any period extended by the Director General) from the date an amount is due to be made to the Director General under that section, appeal to the Special Commissioners by reason that such amount is not liable to be paid under this Act and the provision of this Act relating to appeals shall apply accordingly with any necessary modification.

(2) Where an amount is due from the payer to a non-resident person, this section shall not apply or cease to apply if —

(a) an appeal has been filed to the Special Commissioners by the non-resident person to whom the payer was liable to pay the amount of interest or royalty, or payment under section 4A or paragraph 4*(f)*, of which the amount due under subsection (1) relates;

(b) such payment to the non-resident made by the payer is disallowed as deduction under section 39 in arriving at the adjusted income of the payer; or

(c) the amount due under subsection (1) has not been made to the Director General by the payer.

Set off for tax deducted

110. (1) Any tax which is deducted from any interest or royalty under section 109 or from any payment for services, technical advice, assistance, or rental or other income under section 109B (including any amount recovered by the Director General pursuant to subsection 109(2) or 109B(2) but excluding any increase thereof) shall, when the interest, royalty, or payment for services, technical advice, assistance, or rental or other income is gross income of a person from a source of his for the basis period for a year of assessment, be set off against the tax charged on his chargeable income, if any, for that year.

(1A) (*Deleted by Act 683*).

(1B) (*Deleted by Act A1093*).

(1C) (*Deleted by Act A1093*).

(1D) (*Deleted by Act A1093*).

(1E) (*Deleted by Act A1093*).

(2) Subject to this section, where in relation to a year of assessment Chapter 3 of Part III has by virtue of section 41 applied to an accounting period as if it were the basis period for that year of assessment and any interest, royalty, services, technical advice, assistance, rental or other income has been included in the gross income of a person from a business of his for that accounting period, then—

(a) if that accounting period falls wholly within the basis period for that year of assessment, for the purposes of subsection (1), the interest, royalty, services, technical advice, assistance, rental or other income shall be treated as having been included in that person's gross income

from that business for that basis period for that year and regard shall be had to the tax deducted from that interest, royalty, services, technical advice, assistance, rental or other income;

(b) if that accounting period overlaps the basis period for that year of assessment—

(i) the interest, royalty, services, technical advice, assistance, rental or other income and the tax deducted therefrom shall be apportioned in the manner provided by subsection 41(2);

(ii) the part of the dividend, interest, royalty, services, technical advice, assistance, rental or other income so apportioned to the overlapping part of that accounting period shall be treated for the purposes of subsection (1) as interest, royalty, services, technical advice, assistance, rental or other income included in that person's gross income from that business for the basis period for that year; and

(iii) in relation to that part of the interest, royalty, services, technical advice, assistance, rental or other income so included regard shall be had for the purposes of subsection (1) to the part of that tax so apportioned to the overlapping part of that accounting period.

(3) Notwithstanding subsections (1) and (2), where any interest, royalty, services, technical advice, assistance, rental or other income is included in the gross income of a person from a business for the basis period for a year of assessment or, by virtue of section 41, for an accounting period as if it were the basis period for that year, then, if that interest, royalty, services, technical advice, assistance, rental or other income or a portion thereof is paid to that person after the end of that basis period or accounting period, as the case may be, that tax deducted therefrom shall be set off against any tax charged on his chargeable income for the year of assessment following that in which

the interest, royalty, services, technical advice, assistance, rental or other income or the portion thereof was paid or, where there is no tax so payable, the tax so deducted shall be repaid to him.

(4) For the purposes of subsection (1), where by reason of any provisions of sections 55 to 59 any interest, royalty, services, technical advice, assistance, rental or other income is gross income of a person from a proprietorship or continuing proprietorship business of his for the basis period for a year of assessment, there shall be set off under subsection (1) only so much of the tax so deducted from that interest, royalty, services, technical advice, assistance, rental or other income as bears the same proportion to the amount of that tax as his share of the divisible income from that business for that period bears to the divisible income from that business for that period.

(5) For the purposes of subsections (1) and (2), where by reason of any provisions of sections 55 to 59 any interest, royalty, services, technical advice, assistance, rental or other income in gross income of a person from a proprietorship or continuing proprietorship business of his for an accounting period, then, with respect to the amount of the tax to which regard would be had under those subsections in relation to that person but for this subsection, regard shall be had only to the same proportion of that amount as his share of the divisible income from that business for that period bears to the divisible income from that business for that period.

(6) In any case to which subsection (4) or (5) applies, subsection (3) if applicable shall be modified accordingly.

(7) For the purposes of the foregoing subsections, where only a portion of any interest, royalty, services, technical advice, assistance, rental or other income is gross income of a person from a source of his for the basis period for a year of assessment or for an accounting period treated as if it were the basis period for that year, regard shall be had to that portion and to so much of any tax deducted from that interest, royalty, services, technical advice, assistance, rental or other income as bears the same proportion to that tax as the amount of that portion of the interest, royalty, services, technical advice, assistance, rental or other income bears to the whole of the interest, royalty, services,

technical advice, assistance, rental or other income, as the case may be; and accordingly, where this subsection applies—

(a) the reference in subparagraph (2*)(b)*(i) to the interest, royalty, services, technical advice, assistance, rental or other income shall be taken to be a reference to that portion thereof;

(b) the reference in subparagraph (2)*(b)*(i) to the tax shall be taken to be a reference to so much thereof as aforesaid; and

(c) the reference in subparagraph (2)*(b)*(ii) to the part of the interest, royalty, services, technical advice, assistance, rental or other income shall be taken to be to the part of that portion of the interest, royalty, services, technical advice, assistance, rental or other income.

(8) Any tax which is applicable to the statutory income of a person from his ordinary source in relation to a trust for a year of assessment (not being a share of the total income of the trust body for that year which has been deducted from that total income in ascertaining the chargeable income of the trust body for that year) shall, where the statutory income is included in the aggregate income of a person for a year of assessment, be set off against the tax charged on the chargeable income, if any, of that person for that year of assessment.

(9) For the purposes of subsection (8), the tax applicable to the statutory income for a year of assessment of a person from his ordinary source in relation to a trust shall be taken for that year to be a sum which bears the same proportion to the amount of tax chargeable on the chargeable income of the trust body of the trust for that year (or, where the trust body is entitled to any relief under section 132 or 133 for that year, to that amount less the amount of that relief) as that person's statutory income from his ordinary source for that year bears to the total income of the trust body for that year.

(9A) Notwithstanding subsections (8) and (9), where income distributed by a unit trust is included in the aggregate income of a person for a year of assessment, the tax chargeable on the unit trust and

attributable to the income included in the aggregate income of that person (or, where the trust is entitled to any relief under section 132 or 133, that tax less the amount of that relief) shall be set off against the tax charged on the chargeable income, if any, of that person for that year of assessment.

(10) Where in any case to which subsection 68(4) applies any income received by a receiver is distributed to any person entitled thereto, and that income is gross income of that person from a source of his for the basis period for a year of assessment, any tax paid by the receiver and attributable to that gross income shall be set off against the tax charged on that person's chargeable income for that year (the amount of any such tax which is so attributable being determined by the Director General).

(11) Where tax is set off under this section against the tax charged for any year of assessment or would have been so set off if there had been tax so charged, the tax so set off or which would have been so set off shall not be set off against the tax charged for any other year of assessment.

(12) Where paragraph 45(2)*(a)* applies to an individual and to a wife of his for a year of assessment, any reference in the foregoing subsections to a person shall, in the application of those subsections for that year to that individual and that wife, be taken to be a reference to that individual including that wife as if she were that individual and where paragraph 45(2)*(b)* applies, this subsection shall be applied accordingly.

(13) (*Deleted by Act 683*).

110A. (*Deleted by Act 683*).

Set-off for tax charged on actuarial surplus

110B. (1) Notwithstanding section 110, where for a basis period for a year of assessment an amount of actuarial surplus from the life fund of

an insurer is transferred to the shareholders' fund pursuant to subsection 60(3A) or (4A), any amount of tax charged on the portion of that surplus shall be set-off against the tax charged on the chargeable income from the shareholders' fund of that insurer in respect of the life business.

(2) Where—

(a) tax is set off under this section against the tax charged on the chargeable income of an insurer from its shareholders' fund in respect of life business for a year of assessment and the amount of the tax set-off exceeds the tax charged for that year, the excess shall be disregarded; or

(b) there is no tax charged for that year, so much of the amount of tax that would otherwise be set-off but for the absence of such tax charged shall be disregarded.

(3) For the purposes of this section, tax charged on the chargeable income of an insurer from its shareholders' fund in respect of life business shall consist of an amount of tax before taking into account the tax set-off under section 110.

(4) The portion of the surplus referred to in subsection (1) shall be ascertained in accordance with the formula prescribed by the Minister.

Set-off for tax charged on actuarial surplus under takaful business

110C. (1) Notwithstanding section 110, where for a basis period for a year of assessment an amount of actuarial surplus from the family fund of a takaful operator is transferred to the shareholders' fund pursuant to subparagraph 60AA(9)*(a)*(vi) or 60AA(10)*(a)*(vi), any amount of tax charged on the portion of that surplus shall be set off against the tax charged on the chargeable income from the shareholders' fund of that operator in respect of the family business.

(2) Where—

(a) tax is set off under this section against the tax charged on the chargeable income of an operator from its shareholders' fund in respect of family business for a year of assessment and the amount of the tax set-off exceeds the tax charged for that year, the excess shall be disregarded; or

(b) there is no tax charged for that year, so much of the amount of tax that would otherwise be set off but for the absence of such tax charged shall be disregarded.

(3) For the purposes of this section, tax charged on the chargeable income of an operator from its shareholders' fund in respect of family business shall consist of an amount of tax before taking into account the tax set-off under section 110.

(4) The portion of the surplus referred to in subsection (1) shall be ascertained in accordance with the formula prescribed by the Minister.

Refund of over-payments

111. (1) Subject to this section, where it is proved to the satisfaction of the Director General that any person has paid tax for any year of assessment (by deduction or otherwise) in excess of the amount payable under this Act, that person shall be entitled to have the excess refunded by the Government and, where that person is dissatisfied with the amount to be refunded to him, he may within thirty days of being notified of that amount appeal to the Special Commissioners as if the notification were a notice of assessment, the provisions of this Act relating to appeals applying accordingly within any necessary modifications.

(1A) Where a person has furnished a return in accordance with subsection 77(1) or section 77A to the Director General for a year of assessment and that person has paid tax in excess of the amount payable—

(a) that return shall be deemed to be a notification under subsection (1); and

(b) that person is deemed to have been notified of the excess amount on the day that return is furnished.

(1B) Where subsection (1A) applies—

(a) the reference to tax shall be taken to be a reference to an amount of tax set-off under section 110; and

(b) the reference to amount payable shall be taken to be a reference to the amount of tax payable before taking into account the tax set-off under section 110.

(2) No claim for repayment under this section shall be valid unless it is made within five years after the end of the year of assessment to which the claim relates or, where the claim relates to repayment of tax charged by an assessment, within five years after the end of the year of assessment within which that assessment was made.

(3) Nothing in this section shall operate—

(a) to extend any time limit for appeal, validate any appeal which is otherwise invalid or authorize the revision of any assessment or other matter which has become final and conclusive; or

(b) to compel the Government to refund the excess amount of tax paid (by deduction or otherwise) in respect of an assessment unless the assessment has been finally determined.

(4) The representative of a disabled or deceased person shall be entitled to a refund under subsection (1) for the benefit of that person or his estate of any excess within the meaning of that subsection, and for the purposes of this subsection a payment of tax by the representative of such a person shall be deemed to have been made by that person.

(4A) Any amount of excess in respect of tax payable for a year of assessment which is to be refunded to a person under subsection (1) may be utilized by the Director General for the payment of any other amount of tax which is due and payable (including any amount of

instalments which are due and payable) by that person under this Act, or under the Petroleum (Income Tax) Act 1967 or the Real Property Gains Tax Act 1976.

(4B) Where amount of excess in respect of a person is ascertained in accordance with subsection 50(4) of the Petroleum (Income Tax) Act 1967 or subsection 24(7A) of the Real Property Gains Tax Act 1976 such excess shall be applied for the payment of tax which is due and payable (including any amount of instalments which are due and payable) by that person under this Act.

(5) (*Deleted by Act 683*).

(6) In this section—

"disabled person" means a person who through incapacity, bankruptcy or liquidation or for any other reason is unable to manage his own affairs;

"representative" means in the case of a deceased person, his executor, and, in the case of a disabled person, the guardian, committee, assignee in bankruptcy, liquidator or other person who manages or controls his estate, property, assets or affairs.

111A. (*Deleted by Act 683*).

PART VIIA

FUND FOR TAX REFUND

Establishment of Fund for Tax Refund

111B. (1) There is hereby established a fund, to be known as the Fund for Tax Refund (in this section referred to as "the Fund") which shall be specified in and incorporated into the Second Schedule to the Financial Procedure Act 1957 [*Act 61*].

(2) There shall be paid from time to time into the Fund such amount of tax collected under this Act as may be authorized by the Minister.

(3) The moneys of the Fund shall be applied for the making of a refund of an amount of tax paid in excess of the amount payable as ascertained in section 111 of this Act or any other refund or payment required to be paid out of the Fund as provided by any other written law.

(4) The Fund shall be administered by the Accountant General of Malaysia.

(5) Notwithstanding the provisions of subsection (2) and the Financial Procedure Act 1957, the Minister may from time to time authorize the payment into the Consolidated Revenue Account in the Federal Consolidated Fund of all or any part of the moneys of the Fund.

Non applicability of section 14A of the Financial Procedure Act 1957

111C. Section 14A of the Financial Procedure Act 1957 shall not apply to any refund in excess of the amount payable as ascertained in section 111.

Compensation for over-payment of tax

111D. (1) Subject to this section and subsection 111(4A), an amount of compensation may be payable to a person if the amount refunded to that person for a year of assessment under section 111 is made after—

(a) ninety days from the date a return for that year of assessment is required to be furnished under this Act, in the case of return furnished by way of electronic transmission; or

(b) one hundred and twenty days from the date a return for that year of assessment is required to be furnished under this Act, in any other case.

(2) For the purposes of this section—

(a) the "amount refunded" refers to tax paid in accordance with section 107, 107B or 107C for a year of assessment in excess of tax payable, if any, for that year of assessment as specified in a return furnished under section 77 or 77A; and

(b) the amount of compensation shall be determined in accordance with the following formula:

$$A \times \frac{B}{C} \times 2\%$$

where A is the amount refunded under section 111 for a year of assessment;

B is the number of days beginning from the first day after the period specified under paragraph (1)*(a)* or *(b)*, as the case may be, until the day that amount is made to a person; and

C is the number of days in a year.

(3) Without prejudice to sections 91 and 113, where the Director General discovers that the whole or part of the compensation—

(a) is wrongly paid to a person, the Director General may require from that person a return of such amount already paid; or

(b) ought not to have been paid to that person by reason of an incorrect return or incorrect information furnished by that person, the Director General may require from that person a return of such amount already paid and that amount shall without any further notice be increased by a sum equal to ten per cent of that amount which ought not to have been paid,

and the amount of compensation wrongly paid or ought not to have been paid and the sum increased shall be recoverable as if it were tax due and payable under this Act.

(4) This section shall not apply—

(a) if a person fails to furnish return for a year of assessment in accordance with section 77 or 77A;

(b) in respect of excess of amount payable referred to in subsections 111(1A) and (1B); or

(c) if a person appeals against an assessment under section 99.

PART VIII

OFFENCES AND PENALTIES

Failure to furnish return or give notice of chargeability

112. (1) Any person who makes default in furnishing a return in accordance with subsection 77(1) or 77A(1) in respect of any one year of assessment or in giving a notice in accordance with subsection 77(3) shall, if he does so without reasonable excuse, be guilty of an offence and shall, on conviction, be liable to a fine of not less than two hundred ringgit and not more than twenty thousand ringgit or to imprisonment for a term not exceeding six months or to both.

(1A) Any person who makes default in furnishing a return in accordance with subsection 77(1) or 77A(1) in respect of any year of assessment for two years or more shall, if he does so without reasonable excuse, be guilty of an offence and shall, on conviction, be liable to —

(a) a fine of not less than one thousand ringgit and not more than twenty thousand ringgit or to imprisonment for a term not exceeding six months or to both; and

(b) a special penalty equal to treble the amount which the Director General may, according to the best of his judgment, determine as the tax charged on the chargeable income of that person for those years of assessment.

(2) In any prosecution under subsections (1) and (1A) the burden of proving that a return has been made or a notice given shall be upon the accused person.

(2A) Where a person has been convicted of an offence under subsection (1), the court may make a further order that the person shall comply with the relevant provision of this Act under which the offence has been committed within thirty days, or such other period as the court deems fit, from the date the order is made.

(3) Where in relation to a year of assessment a person makes default in furnishing a return in accordance with subsection 77(1) or 77A(1) or in giving a notice in accordance with subsection 77(3) and no prosecution under subsection (1) or (1A) has been instituted in relation to that default—

(a) the Director General may require that person to pay a penalty equal to treble the amount of that tax which, before any set-off, repayment or relief under this Act, is payable for that year; and

(b) if that person pays that penalty (or, where the penalty is abated or remitted under subsection 124(3), so much, if any, of the penalty as has not been abated or remitted), he shall not be liable to be charged on the same facts with an offence under subsection (1) or (1A).

(3A) Where there is a failure by a company, limited liability partnership, trust body or co-operative society to make up its accounts ending on the corresponding day in the following basis year pursuant to subsection 21A(3) and the company, limited liability partnership, trust body or co-operative society fails to give a notification in accordance with subsection 21A(3A), any penalty that had been imposed under subsection (3) based on the accounting period prior to

the new accounts as mentioned in subsection 21A(3A) shall continue to be recoverable under this Act.

(4) The Director General may require any person to pay an additional amount of penalty in accordance with subsection (3) in respect of any additional tax which is payable by that person for a year of assessment.

Failure to furnish country-by-country report

112A. (1) Any person who makes default in furnishing a country-by-country report in accordance with the relevant rules made under paragraph 154(1)*(c)* to implement or facilitate the operation of an arrangement having effect under section 132, 132A and 132B, where such arrangement relates to the furnishing of a country-by-country report, shall be guilty of an offence and shall, on conviction, be liable to a fine of not less than twenty thousand ringgit and not more than one hundred thousand ringgit or to imprisonment for a term not exceeding six months or to both.

(2) In any prosecution under subsection (1) the burden of proving that a country-by-country report has been furnished shall be upon the accused person.

(3) Where a person has been convicted of an offence under subsection (1), the court may make a further order that the person shall comply with the relevant provision of the rules under which the offence has been committed within thirty days, or such other period as the court deems fit, from the date the order is made.

Incorrect returns

113. (1) Any person who—

(a) makes an incorrect return by omitting or understating any income of which he is required by this Act to make a return on behalf of himself or another person; or

(b) gives any incorrect information in relation to any matter affecting his own chargeability to tax or the chargeability to tax of any other person,

shall, unless he satisfies the court that the incorrect return or incorrect information was made or given in good faith, be guilty of an offence and shall, on conviction, be liable to a fine of not less than one thousand ringgit and not more than ten thousand ringgit and shall pay a special penalty of double the amount of tax which has been undercharged in consequence of the incorrect return or incorrect information or which would have been undercharged if the return or information had been accepted as correct.

(2) Where a person—

(a) makes an incorrect return by omitting or understating any income of which he is required by this Act to make a return on behalf of himself or another person; or

(b) gives any incorrect information in relation to any matter affecting his own chargeability to tax or the chargeability to tax of any other person,

then, if no prosecution under subsection (1) has been instituted in respect of the incorrect return or incorrect information, the Director General may require that person to pay a penalty equal to the amount of tax which has been undercharged in consequence of the incorrect return or incorrect information or which would have been undercharged if the return or information had been accepted as correct; and, if that person pays that penalty (or, where the penalty is abated or remitted under subsection 124(3), so much, if any, of the penalty as has not been abated or remitted), he shall not be liable to be charged on the same facts with an offence under subsection (1).

Incorrect returns, information returns or reports

113A. Any person who—

(a) makes an incorrect return, information return or report by omitting the information required to be provided in accordance with any rules made under paragraph 154(1)*(c)* to implement or facilitate the operation of an arrangement having effect under section 132, 132A and 132B, where such arrangement relates to the automatic exchange of information or the furnishing of a country-by-country report, on behalf of himself or another person; or

(b) gives any incorrect information in relation to any information required to be provided in accordance with any rules made under paragraph 154(1)*(c)* to implement or facilitate the operation of an arrangement having effect under section 132, 132A and 132B, where such arrangement relates to the automatic exchange of information or the furnishing of a country-by-country report, on behalf of himself or another person,

shall, unless he satisfies the court that the incorrect return, information return or report, or incorrect information was made or given in good faith, be guilty of an offence and shall, on conviction be liable to a fine of not less than twenty thousand ringgit and not more than one hundred thousand ringgit or to imprisonment for a term not exceeding six months or to both.

Wilful evasion

114. (1) Any person who wilfully and with intent to evade or assist any other person to evade tax—

(a) omits from a return made under this Act any income which should be included;

(b) makes a false statement or entry in a return made under this Act;

(c) gives a false answer (orally or in writing) to a question asked or request for information made in pursuance of this Act;

(d) prepares or maintains or authorizes the preparation or maintenance of false books of account or other false records;

(e) falsifies or authorizes the falsification of books of account or other records; or

(f) makes use or authorizes the use of any fraud, art or contrivance,

shall be guilty of an offence and shall, on conviction, be liable to a fine of not less than one thousand ringgit and not more than twenty thousand ringgit or to imprisonment for a term not exceeding three years or to both, and shall pay a special penalty of treble the amount of tax which has been undercharged in consequence of the offence or which would have been undercharged if the offence had not been detected.

(1A) Any person who assists in, or advises with respect to, the preparation of any return where the return results in an understatement of the liability for tax of another person shall, unless he satisfies the court that the assistance or advice was given with reasonable care, be guilty of an offence and shall, on conviction, be liable to a fine of not less than two thousand ringgit and not more than twenty thousand ringgit or to imprisonment for a term not exceeding three years or to both.

(2) Where in any proceedings under this section it is proved that a false statement or false entry (whether by omission or otherwise) has been made in a return furnished under this Act by or on behalf of any person or in any books of account or other records maintained by or on behalf of any person, that person shall be presumed until the contrary is proved to have made that false statement or entry with intent to evade tax.

Leaving Malaysia without payment of tax

115. (1) Any person who, knowing that a certificate has been issued in respect of him under section 104, voluntarily leaves or attempts to leave Malaysia without paying all the tax, sums and debts specified in the certificate or furnishing security to the satisfaction of the Director General for the payment thereof shall be guilty of an offence and shall, on conviction, be liable to a fine of not less than two hundred ringgit and not more than twenty thousand ringgit or to imprisonment for a term not exceeding six months or to both.

(2) A police officer or immigration officer may arrest without warrant any person whom he reasonably suspects to be committing or about to commit an offence under this section.

(3) In this section "immigration officer" has the same meaning as in section 104.

Obstruction of officers

116. Any person who—

(a) obstructs or refuses to permit the entry of the Director General or an authorized officer into any land, building or place in pursuance of section 80;

(b) obstructs the Director General or an authorized officer in the exercise of his functions under this Act;

(c) refuses to produce any book or other document in his custody or under his control on being required to do so by the Director General or an authorized officer for the purposes of this Act;

(d) fails to provide reasonable facilities or assistance or both to the Director General or an authorized officer in the exercise of his powers under this Act; or

(e) refuses to answer any question relating to any of those purposes lawfully asked of him by the Director General or an authorized officer,

shall be guilty of an offence and shall, on conviction, be liable to a fine of not less than one thousand ringgit and not more than ten thousand ringgit or to imprisonment for a term not exceeding one year or to both.

Breach of confidence

117. (1) Any classified person who in contravention of section 138—

(a) communicates classified material to another person; or

(b) allows another person to have access to classified material,

shall be guilty of an offence and shall, on conviction, be liable to a fine not exceeding four thousand ringgit or to imprisonment for a term not exceeding one year or to both.

(1A) Any person who receives any classified material, knowing or having reasonable ground to believe at the time when he receives it that such classified material is communicated or disclosed to him in contravention of this Act, shall not use the classified material, or produce or disclose the classified material to any other person.

(1B) Any person who contravenes subsection (1A), shall be guilty of an offence and shall, on conviction, be liable to a fine not exceeding four thousand ringgit or to imprisonment for a term not exceeding one year or to both.

(2) In this section "classified material" and "classified person" have the same meaning as in section 138.

Offences by officials

118. Any person having an official function under this Act who—

(a) otherwise than in good faith, demands from any person an amount in excess of the tax or penalties due under this Act;

(b) withholds for his own use or otherwise any portion of any such tax or penalty collected or received by him;

(c) otherwise than in good faith, makes a false report or return (orally or in writing) of the amount of any such tax or penalty collected or received by him;

(d) defrauds any person, embezzles any money or otherwise uses his position to deal wrongfully with the Director General or any other person,

shall be guilty of an offence and shall, on conviction, be liable to a fine not exceeding twenty thousand ringgit or to imprisonment for a term not exceeding three years or to both.

Unauthorized collection

119. Any person who, not being authorized under this Act to do so, collects or attempts to collect tax or a penalty under this Act shall be guilty of an offence and shall, on conviction, be liable to a fine not exceeding twenty thousand ringgit or to imprisonment for a term not exceeding three years or to both.

Failure to keep records

119A. Any person who, without reasonable excuse —

(a) fails to comply with an order or a notice given under subsection 82(3) or (5); or

(b) contravenes subsection 82(1), (1A), (6), (7) or (8),

shall be guilty of an offence and shall, on conviction, be liable to a fine of not less than three hundred ringgit and not more than ten thousand ringgit or to imprisonment for a term not exceeding one year or to both.

Failure to comply with rules made under paragraph 154(1)*(c)* on mutual administrative assistance

119B. (1) Except as provided in section 112A, any person who fails to comply with any rules made under paragraph 154(1)*(c)* to implement or facilitate the operation of an arrangement having effect under section 132, 132A and 132B, where such arrangement relates to the automatic exchange of information or the furnishing of a country-by-country report, shall be guilty of an offence and shall, on conviction, be liable to a fine of not less than twenty thousand ringgit and not more than one hundred thousand ringgit or to imprisonment for a term not exceeding six months or to both.

(2) In any prosecution under subsection (1), the burden of proving that any rules made under paragraph 154(1)*(c)* to implement or facilitate the operation of an arrangement having effect under section 132, 132A and 132B, where such arrangement relates to the automatic exchange of information or the furnishing of a country-by-country report, has been complied with shall be upon the accused person.

(3) Where a person has been convicted of an offence under subsection (1), the court may make a further order that the person shall comply with the relevant provision of the rules under which the offence has been committed within thirty days or such other period as the court deems fit, from the date the order is made.

Other offences

120. (1) Any person who without reasonable excuse—

(a) fails to comply with a notice given under section 78, 79, subsection 80(3), section 81, subsection 84(1), section 85 or 87;

(b) fails to furnish a return in accordance with subsection 83(1) or to prepare and render a statement in accordance with subsection 83(1A) or 83A(1);

(c) fails to give the notice required by subsection 83(2), (3) or (4);

(d) contravenes subsection 84(2), 86(1), section 89 or subsection 153(1);

(e) fails to comply with a direction given under subsection 83(5) or section 107;

(f) fails to furnish an estimate in accordance with subsection 107C(2), 107C(3) or paragraph 107C(4)*(a)*;

(g) (*Deleted by Act 683*);

(h) fails to furnish the correct particulars as required by the Director General under paragraph 77(4)*(b)* or 77A(3)*(b)*; or

(i) fails to notify the Director General as required by subsection 21A(3A),

shall be guilty of an offence and shall, on conviction, be liable to a fine of not less than two hundred ringgit and not more than twenty thousand ringgit or to imprisonment for a term not exceeding six months or to both.

(2) Where a person has been convicted of an offence under subsection (1), the court may make a further order that the person shall comply with the relevant provision of this Act under which the offence has been committed within thirty days, or such other period as the court deems fit, from the date the order is made.

Additional provisions as to offences under sections 113, 115, 116, 118 and 120

121. (1) No proceedings for an offence under section 113, 115, 116, 118 or 120 shall be instituted more than twelve years after the offence was committed.

(2) Any person who aids, abets or incites another person to commit an offence under section 113, 115, 116 or 118 shall be deemed to have committed the same offence and shall be liable to the same penalty.

Tax, etc., payable notwithstanding institution of proceedings

122. The institution of proceedings or the imposition of a penalty, special penalty, fine or term of imprisonment under this Part shall not relieve any person from liability for the payment of any tax (or any penalty deemed under any other Part to be tax payable under this Act) or any debt or other sum for which he is or may be liable or from liability to make any return which he is required by this Act to make.

123. (*Deleted by Act A1028*).

Power to compound offences and abate or remit penalties

124. (1) Where any person has committed any offence under this Act, the Director General may at any time before conviction compound the offence and order that person to pay such sum of money, not exceeding the amount of the maximum fine and any special penalty to which that person would have been liable if he had been convicted of the offence, as he thinks fit:

Provided that the Director General shall not exercise his powers under this section unless that person in writing admits that he has committed the offence and requests the Director General to deal with the offence under this section.

(2) Where under this section the Director General compounds an offence committed by any person and makes an order accordingly—

(a) the order shall be made in writing under the hand of the Director General and there shall be attached to it the written admission and request referred to in subsection (1);

(b) the order shall specify—

(i) the offence committed;

(ii) the sum of money ordered to be paid; and

(iii) the date on which payment is to be made or the dates on which instalments of that sum are to be paid, as the case may be,

and, where the order provides for payment by instalments and there is default in payment of any instalments, the whole of the balance then outstanding shall become due and payable forthwith;

(c) a copy of the order shall be given, if he so requests, to the person who committed the offence;

(d) that person shall not be liable to any prosecution or, as the case may be, any further prosecution in respect of the offence and, if any such prosecution or further prosecution is brought, it shall be a good defence for that person to prove that the offence has been compounded under this section;

(e) the order shall be final and shall not be subject to any appeal;

(f) the order may be enforced in the same way as the judgment of a subordinate court (as defined in Schedule 5) for the payment of the amount stated in the order or the amount outstanding, as the case may be; and

(g) the order shall, on production to any court, be treated as proof of the commission of the offence by that person and of the other matters set out therein.

(3) The Director General may abate or remit any penalty imposed under this Act except a penalty imposed on conviction.

Recovery of penalties imposed under Part VIII

125. (1) Special penalties imposed under subsection 112(1A), 113(1) or 114(1) shall be recoverable in the same way as fines imposed on conviction.

(2) Any penalty imposed on any person under subsection 44A(9), 112(3) or 113(2) shall be collected as if it were part of the tax payable by that person, but shall not be treated as tax so payable for the purposes of any provision of this Act other than sections 103 to 106.

Jurisdiction of subordinate court

126. Notwithstanding any other written law, a subordinate court (as defined in Schedule 5) shall have power to try any offence under this Act and on conviction to impose the full penalty therefor.

PART IX

EXEMPTIONS, REMISSION AND OTHER RELIEF

Exemptions from tax:general

127. (1) Notwithstanding any other provision of this Act but subject to section 127A, any income specified in Part I of Schedule 6 shall, subject to this section, be exempt from tax.

(2) The Dewan Rakyat may by resolution delete any paragraph or item in Schedule 6 or add further paragraphs or items thereto.

(3) The Minister may by statutory order—

(a) provide that the interest payable on any loan charged on the Consolidated Fund or on a State Consolidated Fund shall be exempt from tax, either generally or in respect of interest payable to persons of a particular class;

(b) exempt any class of persons from all or any of the provisions of this Act, either generally or in respect of any income of a particular kind or any class of income of a particular kind;

(c) declare any part of the armed forces to be a reserve force for the purposes of paragraph 9 of Part I of Schedule 6 in addition to the forces mentioned in that paragraph; or

(d) vary paragraph 18 of Part I of Schedule 6 by adding other commodities to those mentioned in that paragraph or deleting any of the commodities so mentioned.

(3A) The Minister may, in any particular case exempt any person from all or any of the provision of this Act, either generally or in respect of any income of a particular kind or any class of income of a particular kind.

(4) Any orders made under subsection (3) shall be laid before the Dewan Rakyat.

(5) Any income which is exempt from tax by virtue of this section shall be disregarded for the purposes of this Act:

Provided that—

(a) this subsection shall not apply as respects section 107A, 109, 109B or 109D; and

(b) any tax deducted under section 107A, 109, 109B or 109D, from any such income shall be refunded under section 111.

(6) Nothing in this section shall be so construed as to exempt in the hands of a recipient any income in respect of dividend, interest, bonus, salary or wages paid wholly or in part out of income exempt from tax by virtue of this section, unless that first-mentioned income is itself so exempt.

Cessation of exemption

127A. (1) Notwithstanding any other provision of this Act or any other written law, where any income of a person is exempt by virtue of a repealed law, and the exemption is deemed to have been made by an order under section 127, that exemption shall cease.

(2) In this section, "repealed law" has the same meaning assigned to it under Schedule 9.

128. (*Deleted by Act 624*).

Remission of tax

129. (1) The tax paid or payable by any person may be remitted wholly or in part—

(a) on grounds of poverty, by the Director General; or

(b) on grounds of justice and equity, by the Minister,

and any tax so remitted shall not be regarded as tax payable for the purposes of any other provision of this Act.

(2) Where a person granted remission under subsection (1) has paid any of the tax to which the remission relates, he shall be entitled to have the amount which he has paid refunded to him as if it were an overpayment to which section 111 applies.

Other relief

129A. Notwithstanding any other provision of this Act, the Minister may for the purposes of section 127 provide any relief, in relation to the treatment of expenses, losses and capital allowances in arriving at the chargeable income of a person, as he thinks fit, which is not otherwise provided for in this Act.

130. (*Deleted by Act 693*).

Relief in respect of error or mistake

131. (1) If any person who has paid tax for any year of assessment alleges that an assessment relating to that year is excessive by reason of some error or mistake in a return or statement made by him for the purposes of this Act and furnished by him to the Director General prior to the assessment becoming final and conclusive, he may within five years after the end of the year of assessment within which the assessment was made make an application in writing to the Director General for relief.

(2) On receiving an application under subsection (1) the Director General shall inquire into the matter and, subject to this section, shall give by way of repayment of tax such relief in respect of the alleged error or mistake as appears to him to be just and reasonable.

(3) In determining any application under this section the Director General shall have regard to all the relevant circumstances of the case and in particular—

(a) shall consider whether the granting of relief would result in the exclusion from charge to tax of income of the applicant; and

(b) for that purpose may take into consideration the chargeability of the applicant for years of assessment other

than the year to which the application relates and assessment made upon him for those years.

(4) No relief shall be given under this section in respect of an error or mistake as to the basis on which the chargeability of the applicant ought to have been computed if the return or statement containing the error or mistake was in fact made on the basis of, or in accordance with, the practice of the Director General generally prevailing at the time when the return or statement was made.

(5) An application under subsection (1) shall be as nearly as may be in the same form as a notice of appeal under section 99; and, where the applicant is aggrieved by the Director General's decision on the application—

(a) the applicant may within six months after being informed of the decision request the Director General in writing to send the application forward to the Special Commissioners;

(b) the Director General shall within three months after receiving the request send the application forward as if he were sending an appeal forward pursuant to section 102; and

(c) the application shall thereupon be deemed to be an appeal and shall be disposed of accordingly.

Relief other than in respect of error or mistake

131A. (1) Where any person who has furnished to the Director General a return for a year of assessment in accordance with subsection 77(1) or 77A(1) and has paid tax for that year of assessment alleges that the assessment relating to that year of assessment is excessive by reason of—

(a) any exemption, relief, remission, allowance or deduction granted for that year of assessment under this Act or any

other written law is published in the *Gazette* after the year of assessment in which the return is furnished;

(b) the approval for any exemption, relief, remission, allowance or deduction is granted after the year of assessment in which the return is furnished; or

(c) a deduction not allowed in respect of payment not due to be paid under subsection 107A(2) or 109(2), section 109A, or subsection 109B(2) or 109F(2) on the day the return is furnished,

the person may make an application in writing to the Director General for relief.

(2) The application under subsection (1) shall be made—

(a) in respect of paragraphs (1)*(a)* and *(b)*, within five years after the end of the year the exemption, relief, remission, allowance or deduction is published in the *Gazette* or the approval is granted, whichever is the later; or

(b) in respect of paragraph (1)*(c)*, within one year after the end of the year the payment is made.

(3) On receiving an application under subsection (1), the Director General shall inquire into the matter and may give by way of repayment of tax such relief as appears to the Director General to be just and reasonable.

(4) An application under subsection (1) shall be as nearly as may be in the same form as a notice of appeal under section 99.

(5) Where the applicant is aggrieved by the Director General's decision on the application under subsection (1), the following provisions shall apply:

(a) the applicant may within six months after being informed of the decision request, in writing, the Director General to

send the application forward to the Special Commissioners;

(b) the Director General shall within three months after receiving the request send the application forward as if he were sending an appeal forward pursuant to section 102; and

(c) the application shall thereupon be deemed to be an appeal and shall be disposed of accordingly.

Double taxation arrangements

132. (1) If the Minister by statutory order declares that—

(a) arrangements specified in the order have been made by the Government with the government of any territory outside Malaysia with a view of affording relief from double taxation in relation to tax under this Act or other taxes of every kind under any written law and any foreign tax of that territory; and

(b) it is expedient that those arrangements should have effect,

then, so long as the order remains in force, those arrangements shall have effect in relation to tax under this Act or other taxes of every kind under any written law notwithstanding anything in any written law.

(1A) For the purposes of this section, arrangements made with a view to affording relief from double taxation include any arrangements which modify the effect of arrangements so made.

(2) Where any arrangements have effect by virtue of this section, section 138 shall not prevent the disclosure to a duly authorized servant or agent of the government with which the arrangements have been made of such information as is required to be disclosed under the arrangements.

(3) The appropriate provisions of Schedule 7 shall apply where, under any arrangements having effect under this section in relation to a territory outside Malaysia, foreign tax payable under the laws of that territory is to be allowed as a credit against tax payable under this Act.

(4) Any arrangements to which effect is given under this section may include—

(a) provision for relief from tax with respect to any person of any particular class;

(b) provision as to income which is not itself subject to double taxation;

(c) provision for exempting from tax any person or any person of any particular class or for exempting from tax (wholly or in part) the income of any person or any person of any particular class; and

(d) in addition to provisions for relief from double taxation, other provisions relating to tax under this Act or other taxes of every kind under any written law or to foreign tax of the territory to which the arrangements relate,

and any such arrangements containing any such provision may with respect to that provision be made to have effect for periods before the passing of this Act or before the making of the arrangements, and the foregoing subsections shall be construed accordingly.

(5) Where—

(a) any bilateral relief (within the meaning of Schedule 7) falls to be given to a person for a year of assessment in consequence of an order made under this section; and

(b) that year terminated prior to the date of that order,

any unilateral relief (within the meaning of that Schedule) falling to be given to that person for that year by virtue of section 133 shall not be

given after that date; and, if any such unilateral relief has been given to him for that year, the amount of any such bilateral relief shall be reduced by the amount of that unilateral relief which has been so given.

(6) Any order made under this section shall be laid before the Dewan Rakyat.

Tax information exchange arrangements

132A. (1) If the Minister by statutory order declares that—

(a) arrangements specified in the order have been made by the Government with the government of any territory outside Malaysia with a view to the exchange of information foreseeably relevant to the administration or assessment or collection or enforcement of the taxes under this Act or other taxes of every kind under any written law and any foreign tax of that territory; and

(b) it is expedient that those arrangements should have effect, then, so long as the order remains in force, notwithstanding anything in any written law, those arrangements shall have effect in relation to tax under this Act or other taxes of every kind under any written law.

(2) No arrangement under this section can be made if the order in respect of an arrangement under section 132 is in force.

(3) Where any arrangements have effect by virtue of this section, section 138 shall not prevent the disclosure to a duly authorized servant or agent of the government with which the arrangements have been made of such information as is required to be disclosed under the arrangements.

(4) Any order made under this section shall be laid before the Dewan Rakyat.

Mutual administrative assistance arrangement

132B. (1) Notwithstanding section 132 or 132A, if the Minister by statutory order declares that —

(a) arrangements specified in the order have been made by the Government with the government of any territory outside Malaysia with a view to the mutual administrative assistance in tax matters which includes simultaneous tax examinations, automatic exchange of information or tax administrations abroad; and

(b) it is expedient that those arrangements should have effect, then, so long as the order remains in force, notwithstanding anything in any written law, those arrangements shall have effect in relation to tax under this Act or other taxes of every kind under written law.

(1A) Where any arrangements have effect by virtue of this section, section 138 shall not prevent the disclosure to a duly authorized servant or agent of the government with which the arrangements have been made of such information as is required to be disclosed under the arrangements.

(2) Any order made under this section shall be laid before the Dewan Rakyat.

International obligations

132C. (1) Notwithstanding section 132, 132A or 132B, if the Minister by statutory order declares that—

(a) arrangements specified in the order have been made by the Government to give effect to Malaysia's international obligations in relation to tax under this Act or other taxes of every kind under any written law; and

(b) it is expedient that those arrangements should have effect,

then, so long as the order remains in force, notwithstanding anything in any written law, those arrangements shall have effect in relation to tax under this Act or other taxes of every kind under written law.

(2) Where any arrangements have effect by virtue of this section, section 138 shall not prevent the disclosure to a duly authorized servant or agent of the government with which the arrangements have been made of such information as is required to be disclosed under the arrangements.

(3) Any order made under this section shall be laid before the Dewan Rakyat.

Unilateral relief from double taxation

133. Relief from double taxation in relation to tax under this Act and any foreign tax of any territory shall, where there is no order under section 132 in force in respect of that territory, be given in accordance with the appropriate provisions of Schedule 7:

Provided that no relief shall be given under this section in relation to tax payable under the laws of a province or other component part of that territory or tax levied by or on behalf of a municipality or other local body.

PART IXA

SPECIAL INCENTIVE RELIEF

Special incentive relief

133A. Notwithstanding any other provisions of this Act, special incentive relief shall be given in accordance with Schedule 7A and Schedule 7B.

PART X

SUPPLEMENTAL

Chapter 1 - Administration

The Director General and his staff

134. (1) There shall be a Director General of Inland Revenue, who shall have the care and management of the tax.

(1A) The chief executive officer of the Inland Revenue Board of Malaysia appointed under subsection 6A(1) of the Inland Revenue Board of Malaysia Act 1995 shall be the Director General of Inland Revenue.

(1B) The deputy chief executive officers of the Inland Revenue Board of Malaysia appointed under subsection 6A(1A) of the Inland Revenue Board of Malaysia Act 1995 shall be the Deputy Directors General of Inland Revenue.

(2) The Inland Revenue Board of Malaysia shall, after consulting the Director General of Inland Revenue, appoint, by notification in the *Gazette* —

(a) (*Deleted by Act 742*);

(b) State Directors, Directors, Deputy Directors, Principal Assistant Directors and Assistant Directors of Inland Revenue;

(c) Head of Revenue Solicitor, Deputy Revenue Solicitors, Senior Revenue Counsels and Revenue Counsels; and

(d) such other officers as may be necessary and expedient for the due administration of this Act,

from amongst the employees of the Inland Revenue Board of Malaysia.

Power of Minister to give directions to Director General

135. The Minister may give to the Director General directions of a general character (not inconsistent with this Act) as to the exercise of the functions of the Director General under this Act; and the Director General shall give effect to any directions so given.

Delegation of Director General's functions

136. (1) Any function of the Director General under this Act (not being a function exercisable by statutory order or a function exercisable under section 152) may be exercised by a Deputy Director General.

(2) Any officer appointed under paragraphs 134(2)*(b)* and *(c)*, may exercise any function of the Director General under this Act (not being a function exercisable by statutory order or a function exercisable under section 152) except his function under section 44, subsection 137(1) and section 150.

(3) (*Deleted by Act 644*).

(4) (*Deleted by Act 644*).

(5) The Director General may by writing under his hand authorize any public officer or any employee of the Inland Revenue Board of Malaysia (subject to any exceptions or limitations contained in the authorization) to exercise or assist in exercising any function of the Director General under this Act which is exercisable under subsection (2) by the appointed officers.

(6) Where a public officer or any employee of the Inland Revenue Board of Malaysia exercises any of the Director General's functions by virtue of any provision of subsections (1) to (5), he shall do so subject to the general supervision and control of the Director General.

(7) The delegation by or under any provision of subsections (1) to (5) of the exercise of any function of the Director General shall not prevent the exercise of that function by the Director General himself.

(8) References in this Act to the Director General shall be construed, in relation to any case where a public officer or an employee of the Inland Revenue Board of Malaysia is authorized by any provision of subsections (1) to (5) to exercise the functions of the Director General, as including references to that officer or employee.

Identification of officials

137. (1) Any person exercising the right of access or the right to take possession conferred by section 80 shall carry a warrant in the prescribed form issued by the Director General (or, in the case of a warrant issued to the Director General, by a Deputy Director General) which shall identify the holder and his office and shall be produced by the holder on demand to any person having reasonable grounds to make the demand.

(2) Where a person purporting to be a public officer or an employee of the Inland Revenue Board of Malaysia exercising functions under this Act produces a warrant in the form prescribed under subsection (1) or any written identification or authority, then, until the contrary is proved, the warrant, identification or authority shall be presumed to be genuine and he shall be presumed to be the person referred to therein.

Certain material to be treated as confidential

138. (1) Subject to this section, every classified person shall regard and deal with classified material as confidential; and, if he is an official, he shall make and subscribe before the prescribed authority a declaration in the prescribed form that he will do so.

(2) No classified material shall be produced or used in court or otherwise except—

(a) for the purposes of this Act or another tax law;

(b) in order to institute or assist in the course of a prosecution for any offence committed in relation to tax or in relation to any tax or duty imposed by another tax law; or

(c) with the written authority of the Minister or of the person or partnership to whose affairs it relates.

(3) No official shall be required by any court—

(a) to produce or disclose classified material which has been supplied to him or another official otherwise than by or on behalf of the person or partnership to whose affairs it relates; or

(b) to identify the person who supplied that material.

(4) Nothing in this section shall prevent—

(a) the production or disclosure of classified material to the Auditor-General (or to public officers under his direction and control) or the use of classified material by the Auditor-General, to such an extent as is necessary or expedient for the proper exercise of the functions of his office;

(b) the Director General from publicizing, from time to time in any manner as he may deem fit, the following particulars in respect of a person who has been found guilty or convicted of any offence under this Act or dealt with under subsection 113(2) or section 124—

(i) the name, address and occupation or other description of the person;

(ii) such particulars of the offence or evasion as the Director General may think fit;

(iii) the year or years of assessment to which the offence or evasion relates;

(iv) the amount of the income not disclosed;

(v) the aggregate of the amount of the tax evaded and penalty (if any) charged or imposed;

(vi) the sentence imposed or other order made:

Provided that the Director General may refrain from publicizing any particulars of any person to whom this paragraph applies if the Director General is satisfied that, before any investigation or inquiry has been commenced in respect of any offence or evasion falling under section 113 or 114, that person has voluntarily disclosed to the Director General or to any authorized officer complete information and full particulars relating to such offence or evasion.

(5) In this section—

"another tax law" means any Ordinance wholly repealed by this Act, any written law relating to estate duty, film hire duty, payroll tax or turnover tax and any other written law declared by the Minister by statutory order to be another tax law for the purposes of this section;

"classified material" means any return or other document made for the purposes of this Act and relating to the income of any person or partnership and any information or other matter or thing which comes to the notice of a classified person in his capacity as such;

"classified person" means—

(a) an official;

(b) the Auditor-General and public officers under his direction and control;

(c) any person advising or acting for a person who is or may be chargeable to tax, and any employee of a person so

acting or advising if he is an employee who in his capacity as such has access to classified material; or

(d) any employee of the Inland Revenue Board of Malaysia;

"official" means a person having an official duty under or employed in carrying out the provisions of this Act.

Chapter 1A – Ruling

Public ruling

138A. (1) The Director General may at any time make a public ruling on the application of any provision of this Act in relation to any person or class of persons, or any type of arrangement.

(2) The Director General may withdraw, either wholly or partly, any public ruling made under this section.

(3) Notwithstanding any other provision of this Act, where a public ruling in subsection (1) applies to any person in relation to an arrangement and the person applies the provision in the manner stated in the ruling, the Director General shall apply the provision in relation to the person and the arrangement in accordance with the ruling.

Advance ruling

138B. (1) Subject to this section or any rules prescribed under this Act, on the application made by any person, the Director General shall make an advance ruling on the application of any provision of this Act to the person and to the arrangement for which the ruling is sought.

(2) An application under subsection (1) shall be made in the prescribed form and shall contain particulars as may be required by the Director General.

(3) The Director General may at any time withdraw any advance ruling made under subsection (1) by giving a notice in writing of such withdrawal to the person to whom the ruling applies.

(4) Notwithstanding any other provision of this Act, where an advance ruling applies to any person in relation to an arrangement and the person applies the provision in the manner stated in the ruling, the Director General shall apply the provision in relation to the person and that arrangement in accordance with the ruling.

(5) An advance ruling on any of the provision of this Act shall apply to a person in relation to an arrangement if the provision is expressly referred to in the ruling and for the basis period for year of the assessment for which the ruling applies.

(6) A ruling made under subsection (1) does not apply to a person in relation to an arrangement if—

(a) the arrangement is materially different from the arrangement stated in the ruling;

(b) there was a material omission or misrepresentation in, or in connection with the application of the ruling;

(c) the Director General makes an assumption about a future event or another matter that is material to the ruling, and that assumption subsequently proves to be incorrect; or

(d) the person fails to satisfy any of the conditions stipulated by the Director General.

Advance Pricing Arrangement

138C. (1) Subject to this section and any rules prescribed under this Act, on the application made to the Director General by any person who carries out a cross border transaction with an associated person—

(a) the Director General may enter into an advance pricing arrangement with that person; or

(b) in the case where section 132 applies, the competent authorities may enter into an advance pricing arrangement,

in order to determine the transfer pricing methodology to be used in any future apportionment or allocation of income or deduction to ensure the arm's length transfer prices in relation to that transaction.

(2) An application under subsection (1) shall be made in the prescribed form and shall contain particulars as may be required by the Director General.

(3) The transactions referred to in subsection (1) shall be construed as a transaction between—

(a) persons one of whom has control over the other;

(b) individuals who are relatives of each other; or

(c) persons both of whom are controlled by some other person.

(4) In this section, "relative" and "transaction" have the same meanings assigned to them under subsection 140(8).

Chapter 2 – Controlled companies and powers to protect the revenue in case of certain transactions

Controlled companies

139. (1) For the purposes of this Act, a person shall be taken to have control of a company—

(a) if he exercises or is able to exercise or is entitled to acquire control (whether direct or indirect) over the company's affairs and in particular, without prejudice to the generality of the preceding words, if he possesses or is

entitled to acquire the greater part of the share capital or voting power in the company;

(b) if he possesses or is entitled to acquire either—

(i) the greater part of the issued share capital of the company;

(ii) such part of that capital as would, if the whole of the income of the company were in fact distributed to the members, entitle him to receive the greater part of the amount so distributed; or

(iii) such redeemable share capital as would entitle him to receive on its redemption the greater part of the assets which, in the event of a winding up, would be available for distribution among members; or

(c) if in the event of a winding up he would be entitled to the greater part of the assets available for distribution among members.

(2) Where two or more persons together satisfy in respect of a company any of the conditions in subsection (l), they shall be taken to have control of the company.

(3) For the purposes of subsections (1) and (2) there shall be attributed to any person any rights or powers of a nominee for him, that is to say, any rights or powers which another person possesses on his behalf or may be required to exercise on his direction or behalf.

(4) Where the trustees of a trust are members of a controlled company, only one of those trustees shall be deemed to be a member thereof; and, where each of those trustees as such is a person of the kind mentioned in subsection (1) or (2), only one of those trustees shall be taken to be a person of that kind.

(5) For the purposes of subparagraph (1)*(b)*(iii) and paragraph *(c)*, any person who is a loan creditor of a company (otherwise than in

respect of any loan capital or debt issued or incurred by the company for money lent by him to the company in the ordinary course of a business of banking carried on by him) may be treated as a member, and the references to share capital may be treated as including loan capital.

(6) For the purposes of subsection (l) there may be attributed to any person all the rights and powers of any company of which he has, or he and associates of his have, control or any two or more such companies, or of any associate of his or any two or more associates of his, including those attributed to a company or associate under subsection (3) but not those attributed to an associate under this subsection; and such attributions shall be made under this subsection as will result in the company being treated as under the control of five or fewer persons, if it can be so treated.

(7) In this section—

"associate" means, in relation to a person—

(a) a person in any of the following relationships to that person, that is to say, husband or wife, parent or remoter forebear, child or remoter issue, brother, sister and partner;

(b) the trustee or trustees of a settlement in relation to which that person is, or any such relative of his (living or dead) as is mentioned in paragraph *(a)* of this definition is or was, a settlor ("settlement" and "settler" here having the same meaning as in section 65);

(c) where that person is interested in any shares or obligations of a company which are subject to any trust or are part of the estate of a deceased person, any other person interested therein;

"member" includes, in relation to a company, any person having a share or interest in the capital or income of the company, and for the purposes of subsection (1) a person shall be treated as entitled to

acquire anything which he is entitled to acquire at a future date or will at a future date be entitled to acquire.

Power to disregard certain transactions

140. (1) The Director General, where he has reason to believe that any transaction has the direct or indirect effect of—

(a) altering the incidence of tax which is payable or suffered by or which would otherwise have been payable or suffered by any person;

(b) relieving any person from any liability which has arisen or which would otherwise have arisen to pay tax or to make a return;

(c) evading or avoiding any duty or liability which is imposed or would otherwise have been imposed on any person by this Act; or

(d) hindering or preventing the operation of this Act in any respect,

may, without prejudice to such validity as it may have in any other respect or for any other purpose, disregard or vary the transaction and make such adjustments as he thinks fit with a view to counteracting the whole or any part of any such direct or indirect effect of the transaction.

(2) In exercising his powers under this section, the Director General may—

(a) treat any gross income from any source of any person either as the gross income and source of any other person or, where the gross income is that of a controlled company, as having been distributed to any member (within the meaning of subsection 139(7)) of that company;

(b) make such computation or recomputation of any gross income, adjusted income or adjusted loss, statutory income, aggregate income, total income or chargeable income of any person or persons as may be necessary to revise any person's liability to tax or impose any liability to tax on any person in accordance with his exercise of those powers; and

(c) make such assessment or additional assessment in respect of any person as may be necessary in consequence of his exercise of those powers, nullify a right to repayment of tax or require the return of a repayment of tax already made.

(2A) In exercising his powers under this section, the Director General may require by notice any person to pay to him within the time specified in the notice the amount of tax that would be deducted by that person under this Act in consequence of his exercise of those powers.

(3) Without prejudice to the generality of the foregoing subsections, the powers of the Director General conferred by this section shall extend—

(a) to the charging with tax of any person or persons who but for any adjustment made by virtue of this section would not be chargeable with tax or would not be chargeable with tax to the same extent; and

(b) to the charging of a greater amount of tax than would be chargeable but for any such adjustment.

(4) Where in accordance with this section the Director General requires from a person the return of the amount of a repayment of tax already made—

(a) the Director General shall give to that person a notice of that requirement and the notice shall be treated as a notice of assessment for the purposes of any appeal therefrom,

Chapter 2 of Part VI applying with any necessary modifications; and

(b) that amount shall be deemed to be tax payable under an assessment and section 103 and the other provisions of Part VII shall apply accordingly.

(5) Where in consequence of any adjustment made under this section an assessment is made, a right to repayment is refused or a return of a repayment of tax is required, particulars of the adjustment shall be given with the notice of assessment, with the notice refusing the repayment or with the notice requiring the return of a repayment, as the case may be.

(6) Transactions—

(a) between persons one of whom has control over the other;

(b) between individuals who are relatives of each other; or

(c) between persons both of whom are controlled by some other person,

shall be deemed to be transactions of the kind to which subsection (1) applies if in the opinion of the Director General those transactions have not been made on terms which might fairly be expected to have been made by independent persons engaged in the same or similar activities dealing with one another at arm's length.

(7) Notwithstanding any other provision of this section, where a transaction to which this section relates consists of a settlement on a relative or on a relative and other persons, nothing in this section and no powers exercised thereunder shall affect the interests of the relative under the settlement.

(8) In this section—

"relative" means a parent, a child (including a stepchild and a child adopted in accordance with any law), a brother, a sister, an uncle, an aunt, a nephew, a niece, a cousin, an ancestor or a lineal descendant;

"transaction" means any trust, grant, covenant, agreement, arrangement or other disposition or transaction made or entered into orally or in writing (whether before or after the commencement of this Act), and includes a transaction entered into by two or more persons with another person or persons.

Power to substitute the price on certain transactions

140A. (1) This section shall apply notwithstanding section 140 and subject to any rules prescribed under this Act.

(2) Subject to subsection (3), where a person in the basis period for a year of assessment enters into a transaction with an associated person for that year for the acquisition or supply of property or services, then, for all purposes of this Act, that person shall determine and apply the arm's length price for such acquisition or supply.

(3) Where the Director General has reason to believe that any property or services referred to in subsection (2) is acquired or supplied at a price which is either less than or greater than the price which it might have been expected to fetch if the parties to the transaction had been independent persons dealing at arm's length, he may in determination of the gross income, adjusted income or adjusted loss, statutory income, total income or chargeable income of the person, substitute the price in respect of the transaction to reflect an arm's length price for the transaction.

(4) (*Deleted by Act 801*).

(5) The transactions referred to in subsection (2) shall be construed as a transaction between—

(a) persons one of whom has control over the other;

(b) individuals who are relatives of each other; or

(c) persons both of whom are controlled by some other person (in this section referred to as "third person").

(5A) Without prejudice to the generality of section 139, for the purpose of subsection (5), "control" refers to persons one of whom owns shares of the other person, or a third person who owns shares of both persons, where the percentage of the share capital held in either situation is twenty per cent or more and—

(a) the business operations of that person depends on the proprietary rights, such as patents, non-patented technological know-how, trademarks, or copyrights, provided by the other person or a third person;

(b) the business activities, such as purchases, sales, receipt of services, provision of services, of that person are specified by the other person, and the prices and other conditions relating to the supply are influenced by such other person or a third person; or

(c) where one or more of the directors or members of the board of directors of a person are appointed by the other person or a third person.

(6) In this section, "relative" and "transaction" have the same meanings assigned to them under subsection 140(8).

Special provision applicable to loan or advances to director

140B. (1) Without prejudice to the generality of section 140A and subject to this section, where in a basis period for a year of assessment, a company makes any loan or advances of any money from the internal funds of the company to a person who is a director of that company, the company shall be deemed to have a gross income consisting of interest from such loan or advances for that basis period.

(2) For the purposes of subsection (1), the interest for the basis period for that year of assessment shall be the aggregate sum of interest for all calendar months in the basis period and the sum of interest for each calendar month shall be determined in accordance with the following formula:

$$\frac{1}{12} \times A \times B$$

where A is the total amount of loan or advances outstanding at the end of the calendar month; and

B is the average lending rate of commercial banks published by the Central Bank at the end of the calendar month or where there is no such average lending rate, such other reference lending rate as may be prescribed by the Director General.

(3) Where in respect of a loan or advances referred to under subsection (1), interest is charged by the company and the total amount of interest charged and payable by the director to that company for the basis period for a year of assessment—

(a) is more than the aggregate sum of interest under subsection (2) for that basis period, this section shall cease to apply; or

(b) is less than the aggregate sum of interest under subsection (2) for that basis period, this section shall apply and the total amount of interest which is charged and payable to the company for that basis period shall be disregarded.

(4) For the purposes of this Act, "director" has the same meaning assigned to it under subsection 75A(2).

Restriction on deductibility of interest

140C. (1) This section shall apply without prejudice to section 140 or 140A and subject to any rules made under this Act.

(2) In ascertaining the adjusted income of a person from each of his sources consisting of a business for the basis period for a year of assessment, no deduction from the gross income from that source for that period shall be allowed in respect of any interest expense in connection with or on any financial assistance in a controlled transaction granted directly or indirectly to that person which is in excess of the maximum amount of interest as determined under any rules made under this Act.

(3) In this section—

"control" has the meaning assigned to it in subsection 140A(5A);

"controlled transaction" shall be construed as a financial assistance—

(a) between persons one of whom has control over the other; or

(b) between persons both of whom are controlled by some other person (in this section referred to as "third person");

"financial assistance" includes loan, interest bearing trade credit, advances, debt or the provision of any security or guarantee;

"interest expense" means—

(a) interest on all forms of debt; or

(b) payments economically equivalent to interest (excluding expenses incurred in connection with the raising of finance).

Powers regarding certain transactions by non-residents

141. (1) Where—

(a) a person who is not resident for the basis year for a year of assessment carries on a business with another person who is resident for that basis year (that person, that other person and that year of assessment being in this section referred to as the non-resident, the resident and the relevant year respectively); and

(b) it appears to the Director General that, owing to the close connection between the resident and the non-resident and to the substantial control exercised by the non-resident over the resident, the course of business between them can be and is so arranged that the business done by the resident in pursuance of his connection with the non-resident produces to the resident in relation to the basis period for the relevant year either no income or a smaller income than that which might be expected to arise from that business,

the non-resident shall as regards the relevant year be taken to have a chargeable income and to be assessable and chargeable to tax thereon in the name of the resident by reference to the income which might be expected to arise from the business of the resident as if the resident were an agent of the non-resident.

(2) Where the true amount of the income from a business of the non-resident cannot be readily ascertained for the purposes of subsection (1)—

(a) the Director General may, if he thinks fit, assess and charge the non-resident for the relevant year on a fair and reasonable percentage of the turnover of the business done by the non-resident through or with the resident (the percentage being determined in each case with regard to the nature of the business); and

(b) the provisions of this Act relating to the delivery of returns or particulars by persons acting on behalf of others shall

extend so as to require returns or particulars of the business done by the non-resident through or with the resident to be furnished by the resident in the same manner as returns or particulars of income are to be delivered by persons acting for persons who are not resident.

Chapter 3 – Miscellaneous

Evidential provisions

142. (1) In a suit under section 106 the production of a certificate signed by the Director General giving the name and address of the defendant and the amount of tax due from him shall be sufficient evidence of the amount so due and sufficient authority for the court to give judgment for that amount.

(2) In criminal or civil proceedings under this Act any statement purporting to be signed by the Director General or an authorized officer which forms part of or is annexed to the information, complaint or statement of claim, shall, until the contrary is proved, be evidence of any fact stated therein:

Provided that this subsection shall not apply to—

(a) a statement of the intent of the accused person or other defendant; or

(b) proceedings for an offence punishable by imprisonment.

(3) A transcript of any particulars contained in a return or other document relating to tax, if it is certified under the hand of the Director General or an authorized officer to be a true copy of the particulars, shall be admissible in evidence as proof of those particulars.

(4) No statement made or document produced by or on behalf of any person shall be inadmissible in evidence against that person in any proceedings against him for an offence under section 112, 113 or 114, or for the recovery of any sum due by way of tax or penalty, by

reason only of the fact that he was or may have been induced to make the statement or produce the document by any lawful inducement or promise proceeding from the Director General or an authorized officer.

(5) *(a)* Save as provided in paragraph *(b)* nothing in this Act shall—

(i) affect the operation of Chapter IX of Part III of the Evidence Act 1950 [*Act 56*]; or

(ii) be construed as requiring or permitting any person to produce or give to a court, the Special Commissioners, the Director General or any other person any document, thing or information on which by that Chapter or those provisions he would not be required or permitted to produce or give to a court.

(b) Notwithstanding any other written law, where any document, thing, matter, information, communication or advice consists wholly or partly of, or relates wholly or partly to, the receipts, payments, income, expenditure, or financial transactions or dealings of any person (whether an advocate and solicitor, his client, or any other person), it shall not be privileged from disclosure to a court, the Special Commissioners, the Director General or any authorized officer if it is contained in, or comprises the whole or part of, any book, account, statement, or other record prepared or kept by any practitioner or firm of practitioners in connection with any client or clients of the practitioner or firm of practitioners or any other person.

(c) Paragraph *(b)* shall also apply with respect to any document, thing, matter, information, communication or advice made or brought into existence before the commencement of that paragraph.

Admissibility of electronic record

142A. (1) Notwithstanding any other written law, where in any proceedings under this Act an electronic record of—

(a) any prescribed form is furnished by way of electronic transmission under section 152A; or

(b) any other document is stored or received by or communicated to the Director General on an electronic medium or by way of electronic transmission,

the electronic record or the copy or print-out of that electronic record shall be admissible as evidence of the facts stated or contained therein:

Provided that the record or the copy or print-out is—

(i) certified by the Director General to contain all or any information furnished, stored, communicated or received on an electronic medium or by way of electronic transmission under this section; or

(ii) otherwise authenticated in the manner provided in the Evidence Act 1950 for authentication of documents produced by computer.

(2) Where the electronic record of any form prescribed under this Act or any other document, or a copy or print-out of that record is admissible under subsection (1), it shall be presumed, until the contrary is proved, that the record or the copy or print-out accurately reproduces the content of that form or document.

(3) For the purposes of this Act, "electronic medium" includes a data, text, image or any other information stored, received or communicated by means of electronic, magnetic, optical, imaging or any other data processing device.

Errors and defects in assessments, notices and other documents

143. (1) No assessment, notice or other document purporting to be made or issued for the purposes of this Act shall be quashed or deemed to be void or voidable for want of form, or be affected by any mistake, defect or omission therein, if it is in substance and effect in conformity with this Act or in accordance with the intent and meaning of this Act and—

(a) in the case of an assessment, the person assessed or intended to be assessed or affected thereby is designated according to common intent and understanding; and

(b) in any other case, the person to whom it is addressed and any other person referred to therein are so designated.

(2) An assessment purporting to be made or issued for the purposes of this Act shall not be impeached or affected by reason of a mistake therein as to—

(a) the name of a person charged to tax;

(b) the description of any income; or

(c) the amount of chargeable income assessed or tax charged,

and a notice of assessment purporting to be so made or issued shall not be impeached or affected by any such mistake if it is served on the person in respect of whom the assessment was made or intended to be made (or served in accordance with subsection 67(5)) and contains in substance and effect the particulars contained in the assessment.

(3) Notwithstanding subsection (2), if the amount of tax charged by an assessment has been incorrectly calculated by reference to the amount of the chargeable income and the appropriate rate of tax applicable thereto, the amount of tax charged as shown in the assessment and the notice of assessment may, if the Director General so directs, be taken to be the amount of tax which ought to have been charged if it had been correctly calculated.

(4) A notice of tax payable purporting to be issued for the purposes of this Act shall not be impeached by reason of a mistake therein as to the name of the person liable to pay the tax if the notice is served on that person.

Power to direct where returns, etc., are to be sent

144. The Director General may by statutory order direct that any information, return or document required to be supplied, sent or delivered to the Director General for the purposes of this Act shall, subject to any conditions contained in the order, be supplied, sent or delivered to such public officer or employee of the Inland Revenue Board of Malaysia or to such address as may be specified in the order.

Service of notices

145. (1) Subject to any express provision of this Act, for the purposes of this Act notices may be served personally or by ordinary or registered post.

(2) A notice relating to tax which is sent by ordinary or registered post shall be deemed to have been served on the person (including a partnership) to whom it is addressed on the day succeeding the day on which the notice would have been received in the ordinary course of post if it is addressed—

(a) in the case of a company, partnership or body of persons having a registered office in Malaysia—

(i) to that registered office;

(ii) to its last known address; or

(iii) to any person authorized by it to accept service of process;

(b) in the case of a company, partnership or body of persons not having a registered office in Malaysia—

(i) to any registered office of the company, partnership or body (wherever that office may be situated);

(ii) to the principal place of business or other activity of the company, partnership or body (wherever that place may be situated); or

(iii) to any individual authorized (by or under the law of any place where the company, partnership or body is incorporated, registered or established) to accept service of process; and

(c) in the case of an individual, to his last known address.

(3) Where a person to whom there has been addressed a registered letter containing a notice under this Act—

(a) is informed that there is a registered letter awaiting him at a post office but refuses or neglects to take delivery of the letter; or

(b) refuses to accept delivery of that registered letter when tendered,

the notice shall be deemed to have been served upon him on the date on which he was informed that the letter was awaiting him or on which the letter was tendered to him, as the case may be.

(4) For the purposes of subsection (3) an affidavit by the officer in charge of a post office stating that to the best of his knowledge and belief—

(a) there has been delivered to the address appearing on a registered letter a post office notification informing the addressee that there is a registered letter awaiting him; or

(b) there has been tendered for delivery to the addressee a registered letter,

shall, until the contrary is proved, be evidence that the addressee has been so informed or that that registered letter has been tendered to him, as the case may be.

Authentication of notices and other documents

146. (1) Subject to subsection (2), every notice or other document issued, served or given for the purposes of this Act by the Director General or an authorized officer shall be sufficiently authenticated if the name and office of the Director General is printed, stamped or otherwise written thereon.

(2) Where this Act provides for a notice, certificate or other document to be under the hand of any officer, the notice, certificate or document shall be signed in manuscript by that officer.

(3) A notice, certificate or other document issued, made, served or given for the purposes of this Act and purporting to be signed in manuscript by the Director General or an authorized officer shall be presumed, until the contrary is proved, to have been so signed.

Free postage

147. All returns made under this Act and all remittances of tax (and any correspondence resulting from or connected with any such return or remittance) may, if posted in Malaysia in envelopes marked "Income Tax", be sent free of postage to the Director General or to an officer or address specified in an order made under section 144:

Provided that the Director General may in certain cases by notice in writing require any person to send any return, document or correspondence by registered post.

Provisions as to approvals and directions given by Minister or Director General

148. Where by or under this Act there is conferred on the Minister or the Director General power to give an approval or direction of any kind (not being a power exercisable by statutory order)—

(a) an approval or direction given in the exercise of that power shall not be regarded as subsidiary legislation;

(b) that power shall be deemed to include—

(i) power to give any such approval or direction with retrospective effect;

(ii) power to vary or revoke any such approval or direction retrospectively or otherwise; and

(iii) power to give any such approval or direction subject to such conditions as the Minister or the Director General, as the case may be, may think fit to impose; and

(c) any such approval or direction shall take effect when it is given or, where the Minister or Director General, as the case may be, specifies a date on which it is to take effect, on that date.

Annulment of rules and orders laid before the Dewan Rakyat

149. Where this Act provides for any rule or order to be laid before the Dewan Rakyat, the rule or order shall be laid before the Dewan as soon as may be after it has been made and, if the Dewan at or before the second meeting begun after the rule or order is laid before it resolves that the rule or order or any provision of it be annulled, the rule or order or that provision of it shall cease to have effect, without prejudice to anything previously done thereunder or the making of a new rule or order:

Provided that this section shall not apply to an order made under subsection 6(2).

Power to approve pension or provident fund, scheme or society

150. The Director General may, subject to such conditions as he may think fit to impose, approve any pension or provident fund, scheme or society for the purposes of this Act.

Procedure for making refunds and repayments

151. Where the Director General is authorized or required by this Act to make any refund or repayment, he shall certify the amount of the sum to be refunded or repaid and cause the refund or repayment to be made forthwith.

Forms

152. (1) The Director General may, either by statutory order or in such other way as seems to him to be appropriate, prescribe such forms as are required by this Act to be prescribed and such other forms as he considers ought to be prescribed in connection with the operation of this Act, and may authorize the use of a suitable substitute for any form so prescribed:

Provided that this subsection shall not apply to the form of declaration to be prescribed for the purposes of subsection 138(1).

(2) Where in order to comply with any provision of this Act a person is required to use a prescribed form, he shall not be regarded as complying with that provision unless he uses all reasonable diligence to procure and use—

(a) a printed copy of the form as prescribed under subsection (1); or

(b) a copy of any substitute for the form authorized under subsection (1), being a printed copy unless the authorization provides otherwise.

Electronic medium

152A. (1) Any person or class of persons—

(a) shall, if so required under this Act; or

(b) may, if so allowed by the Director General,

furnish any form prescribed under this Act on an electronic medium or by way of an electronic transmission.

(2) For the purposes of subsection (1), the conditions and specifications under which any prescribed form is to be furnished shall be as determined by the Director General.

(3) For the purposes of subsection (1), a person may authorize in writing a tax agent to furnish on his behalf any form prescribed under this Act in the manner provided for in subsection (1).

(4) A form prescribed under this Act furnished in accordance with subsection (3) on behalf of any person shall be presumed to have been furnished on that person's authority, until the contrary is proved, and the person shall be deemed to be cognizant of its contents.

(5) Where subsection (3) applies—

(a) the person who authorizes the tax agent shall make a declaration in the form prescribed under this Act stating that—

(i) the tax agent is authorized to furnish the form to the Director General on his behalf; and

(ii) the information provided by him to the tax agent for the preparation of the form is true and correct;

(b) the tax agent shall make a declaration in the form furnished in accordance with subsection (1) stating that—

(i) the form is prepared in accordance with the information given by the person; and

(ii) he has received a declaration made by the person under paragraph *(a)*;

(c) the person shall keep and retain in safe custody the form being the hard copy of the form so furnished and that copy shall be made under processes and procedures which are designed to ensure that the information contained in the form shall be the only information furnished in accordance with this section;

(d) the hard copy shall be signed by the person; and

(e) the hard copy in paragraph *(c)* and the declaration made under paragraph *(a)* shall be kept and retained for a period of seven years from the end of the year of assessment in which the form is furnished.

(6) Any form referred to in subsection (1) is deemed to have been furnished by a person to the Director General on the date on which acknowledgement of receipt of the form is transmitted electronically by the Director General to the person.

Restriction on persons holding themselves out as tax agents, tax consultants, etc.

***153.** (1) No person holding himself out as a tax agent, a tax consultant or a tax adviser (or under any other like description) shall

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**NOTE*—*See* section 31 of Act 644 for explanation.

be permitted to act in Malaysia on behalf of any person for any of the purposes of this Act unless he is a tax agent as defined in this section:

Provided that—

(a) where a company, body of persons or partnership so holds itself out in any calendar year, then, if at the time of the holding out any employee of the company, member of the body or partner in the partnership (whether or not that employee, member or partner is in Malaysia) is a tax agent as so defined—

(i) it shall be sufficient for the purposes of this subsection if there is present in Malaysia for a period or periods in that year amounting in all to more than one hundred and eighty two days an employee, member or partner, as the case may be (not being necessarily the same employee, member or partner throughout that period or those periods) who is such a tax agent; and

(ii) the company, body or partnership in question shall not be guilty of a contravention of this section unless after the end of that year it is shown to have failed to comply with subparagraph (i);

(b) nothing in this subsection shall be construed as restricting an advocate in the lawful practice of his profession.

(2) In this section (and in section 120 in so far as it relates to this section) "person" includes partnership.

(3) For the purposes of this Act, "tax agent" means any professional accountant or person, approved by the Minister.

(4) An application for an approval under subsection (3) or for a renewal of such approval shall be made to the Minister.

(5) A fee as may be prescribed by the Minister by an order published in the *Gazette* shall be paid on the application for an approval or renewal of an approval under subsection (4).

(6) An approval or renewal of an approval under this section shall be valid for—

(a) a minimum period of twenty-four months beginning from the date of such approval or renewal; or

(b) any other period as approved by the Minister which shall not be less than twenty-four months beginning from the date of such approval or renewal.

(7) An approval granted by the Minister before 24 October 1986 shall lapse on 31 December 1987 unless a renewal of such approval is obtained under this section by that date.

Power to make rules

154. (1) The Minister may make rules—

(a) providing for the deduction and payment of tax at the source in respect of income from any employment and income of the kind mentioned in paragraph 4*(e)* and for the recovery of tax which has or should have been so deducted;

(b) prescribing, except where subsection 152(1) applies, anything required by this Act to be prescribed;

(c) implementing or facilitating the operation of an arrangement having effect under section 132, 132A, 132B or 132C;

(d) regulating the practice and procedure in appeals to the Special Commissioners and the Special Commissioners' own procedure;

(e) requiring any person chargeable to tax who intends to leave Malaysia to produce a certificate that he has paid all tax and other sums due from him under this Act or that the Director General does not object to his departure, and preventing any such person from leaving Malaysia if he fails to produce such a certificate;

(ea) prescribing penalties for any contravention or failure to comply with any of the provisions of any rules made under this section:

Provided that no such penalty shall exceed the penalty prescribed under section 120;

(eb) providing for the scope and procedure applied in relation to any ruling made under section 138A or 138B, or to any arrangement under section 138C;

(ec) prescribing fees charged in relation to any ruling made under section 138B or to any arrangement made under section 138C;

(ed) implementing and facilitating the operation of sections 140A and 140C;

(f) for facilitating generally the operation of this Act.

(2) Any rules made under subsection (1) shall be laid before the Dewan Rakyat.

Power to enter into an agreement with regard to tax liability

154A. (1) Notwithstanding any other provisions of this Act, the Government may enter into an agreement with any person with regard to ascertainment of his adjusted income or adjusted loss or tax chargeable on him where such agreement is, in the opinion of the Minister, just and equitable or in the interest of the Government or any State Government.

(2) Any such agreement may include—

(a) provision for disallowing (wholly or in part) outgoings or expenses which but for the agreement would have been allowed as a deduction; or

(b) provision for forgoing (wholly or in part) by any person of his entitlement to any relief or credit due to him under the Act.

Repeals

155. (1) The Acts and Ordinances specified in Schedule 8 are hereby repealed, to the extent therein specified, with effect from 1 January 1968.

(2) All subsidiary legislation made under any Ordinance wholly repealed by subsection (1) is hereby revoked with effect from 1 January 1968.

Transitional and saving provisions

156. Subject to section 127A, the transitional and saving provisions in Schedule 9 shall have effect notwithstanding section 155 or any other provision of this Act.

SCHEDULE 1

[Section 6]

Rates of Tax

PART I

1. Except where paragraphs 1A, 2, 2A, 2D, 3 and 4 provide otherwise, income tax shall be charged for a year of assessment upon the chargeable income of every person at the following rates:

Chargeable income	*RM*	*Rate of income tax*
For every ringgit of the first	5,000	0 per cent
For every ringgit of the next	15,000	1 per cent
For every ringgit of the next	15,000	3 per cent
For every ringgit of the next	15,000	8 per cent
For every ringgit of the next	20,000	14 per cent
For every ringgit of the next	30,000	21 per cent
For every ringgit of the next	150,000	24 per cent
For every ringgit of the next	150,000	24.5 per cent
For every ringgit of the next	200,000	25 per cent
For every ringgit of the next	400,000	26 per cent
For every ringgit of the next	1,000,000	28 per cent

Chargeable income	*RM*	*Rate of income tax*
For every ringgit exceeding	2,000,000	30 per cent

1A. Except where paragraph 2 provides otherwise, income tax shall be charged for a year of assessment on the chargeable income of a person (other than a company) not resident for the basis year for that year of assessment at the rate of 30 per cent on every ringgit of the chargeable income.

2. Subject to paragraph 3, income tax shall be charged for a year of assessment on the chargeable income of—

(a) a company other than a company to which paragraph 2A applies;

(b) (*Deleted by Act 578*).

(c) a trust body;

(d) an executor of an estate of a deceased individual who was domiciled outside Malaysia at the time of his death;

(e) a receiver with respect to whom section 68(4) applies;

(f) a limited liability partnership other than a limited liability partnership to which paragraph 2D applies,

at the rate of 25 per cent for the year of assessment 2015 and 24 per cent for the subsequent years of assessment on every ringgit of the chargeable income.

2A. Subject to paragraphs 2B, 2C and 3, income tax shall be charged for a year of assessment on the chargeable income of a company resident and incorporated in Malaysia which has a paid-up capital in respect of ordinary shares of two million five hundred thousand ringgit and less at the beginning of the basis period for a year of assessment and gross income from source or sources consisting of a business not exceeding fifty million ringgit for the basis period for that year of assessment at the following rates:

Chargeable income	*RM*	*Rate of income tax*
For every ringgit of the first	600,000	17 per cent

Chargeable income	*RM*	*Rate of income tax*
For every ringgit exceeding	600,000	24 per cent

2B. The provisions of paragraph 2A shall not apply to a company referred to in that paragraph if more than—

(a) fifty per cent of the paid up capital in respect of ordinary shares of the company is directly or indirectly owned by a related company;

(b) fifty per cent of the paid up capital in respect of ordinary shares of the related company is directly or indirectly owned by the first mentioned company; or

(c) fifty per cent of the paid up capital in respect of ordinary shares of the first mentioned company and the related company is directly or indirectly owned by another company.

2C. For the purpose of paragraph 2B, "related company" means a company which has a paid up capital in respect of ordinary shares of more than two million and five hundred thousand ringgit at the beginning of the basis period for a year of assessment.

2D. Subject to paragraphs 2E, 2F and 3, income tax shall be charged for a year of assessment on the chargeable income of a limited liability partnership resident in Malaysia which has a total contribution of capital (whether in cash or in kind) of two million five hundred thousand ringgit and less at the beginning of the basis period for a year of assessment and gross income from source or sources consisting of a business not exceeding fifty million ringgit for the basis period for that year of assessment at the following rates:

Chargeable income	*RM*	*Rate of income tax*
For every ringgit of the first	600,000	17 per cent
For every ringgit exceeding	600,000	24 per cent

2E. The provisions of paragraph 2D shall not apply to a limited liability partnership referred to in that paragraph if more than —

(a) fifty per cent of the capital contribution (whether in cash or in kind) of the limited liability partnership is directly or indirectly contributed by a company;

(b) fifty per cent of the paid up capital in respect of ordinary shares of the company is directly or indirectly owned by the limited liability partnership; or

(c) fifty per cent of the capital contribution (whether in cash or in kind) of the limited liability partnership and fifty per cent of the paid up capital in respect of ordinary shares of the company is directly or indirectly owned by another company.

2F. The company referred to in paragraph 2E, other than another company referred to in subparagraph 2E*(c)*, shall have a paid up capital in respect of ordinary shares of more than two million and five hundred thousand ringgit at the beginning of the basis period for a year of assessment.

3. Income tax shall be charged for a year of assessment on the chargeable income of an insurer from a reinsurance business at the rate of 8 per cent on every ringgit of the chargeable income.

4. Income tax shall be charged for a year of assessment on the chargeable income of a takaful operator from a retakaful business at the rate of 8 per cent on every ringgit of the chargeable income.

PART II

Notwithstanding Part I, income tax shall be charged on the following income at the following rates–

Type of income	Rate of income tax
1. Income of a non-resident person consisting of interest (other than interest on an approved loan or interest of the kind referred to in paragraph 33 of Part I, Schedule 6) derived from Malaysia …	15% of gross
2. Income of a non-resident person consisting of royalty derived from Malaysia … … … … … …	10% of gross
3. Income of a non-resident person (other than a company) consisting of remuneration or other income in respect of services performed or rendered in Malaysia by a public entertainer … …	15% of gross

PART III

(*Deleted by Act 451*)

PART IV

Notwithstanding Part I, income tax shall be charged for a year of assessment upon the chargeable income of every co-operative society at the following rates:

Chargeable Income	*RM*	*Rate of income tax*
For every ringgit of the first	30,000	0 per cent
For every ringgit of the next	30,000	5 per cent
For every ringgit of the next	40,000	10 per cent
For every ringgit of the next	50,000	15 per cent
For every ringgit of the next	100,000	18 per cent
For every ringgit of the next	250,000	21 per cent
For every ringgit of the next	250,000	23 per cent
For every ringgit exceeding	750,000	24 per cent

PART V

Notwithstanding Part I and Part II, income tax shall be charged on the income of a non-resident person consisting of—

(i) amounts paid in consideration of services rendered by the person or his employee in connection with the use of property or rights belonging to, or the installation or operation of any plant, machinery or other apparatus purchased from, such person;

(ii) amounts paid in consideration of any advice given, or assistance or services rendered in connection with the management or administration of any scientific, industrial or commercial undertaking, venture, project or scheme; or

(iii) rent or other payments made under any agreement or arrangement for the use of any moveable property,

which is derived from Malaysia at the rate of 10% of gross.

PART VI

Notwithstanding Part I, income tax shall be charged on the income of an individual resident in Malaysia consisting of interest (other than interest exempt under this Act or any order made thereto) accruing in or derived from Malaysia and received from a person referred to in section 109C at the rate of .. .. .5% of gross.

PART VII

(*Deleted by Act 624*)

PART VIII

Notwithstanding Part I and Part II, income tax shall be charged on the chargeable income of a life fund, other than income arising from life reinsurance business of a resident or non-resident insurer at the rate of .. .. .. 8 per cent.

PART IX

Notwithstanding Part I, income tax shall be charged on the chargeable income of a foreign fund management company in relation to the source consisting of the provision of fund management services to foreign investors as referred to in section 60G at the rate of .. .. .. 10 per cent for the years of assessment 2019 and 2020 and 24 per cent for the subsequent years of assessment.

PART X

1. Notwithstanding Part I—

(a) and subject to paragraphs *(b)* and *(c)*, income tax shall be charged for a year of assessment on the income of a unit holder other than a unit holder which is a resident company consisting of income distributed to the unit holder referred to in section 109D which is derived from Malaysia at the rate of 10% of gross;

(b) and subject to paragraph *(c)*, income tax shall be charged for a year of assessment on the income of a unit holder which is a non-resident company consisting of income distributed to the unit holder referred to in section 109D which is derived from Malaysia at the rate of 24% of

gross for the year of assessment 2016 and subsequent years of assessment; and

(c) and income tax shall be charged for a year of assessment on the income of a unit holder which is a foreign institutional investor consisting of income distributed to the unit holder referred to in section 109D which is derived from Malaysia at the rate of 10% of gross.

2. In this Part, "institutional investor" means a pension fund, collective investment scheme or such other person approved by the Minister.

PART XI

Notwithstanding Part I, income tax shall be charged on the income of—

(a) a participant other than a participant which is a resident company consisting of income distributed to that participant referred to in section 109E which is derived from Malaysia at the rate of .. .. ..8% of gross; and

(b) a participant which is a non-resident company consisting of income distributed to that participant referred to in section 109E which is derived from Malaysia at the rate of .. .. ..26% of gross for the year of assessment 2008 and 25% of gross for the subsequent years of assessment.

PART XII

Notwithstanding Part I and Part II, income tax shall be charged on the chargeable income of a family fund referred to in section 60AA, other than income arising from a family retakaful business of a resident or non-resident operator at the rate of .. .. 8 per cent.

PART XIII

Notwithstanding Parts I and II but subject to Parts X, XI and XII, income tax shall be charged on the income of a non-resident person consisting of gains or profits falling under paragraph 4*(f)* which is derived from Malaysia at the rate of 10% of gross.

PART XIV

1. Notwithstanding Part I, income tax shall be charged for a year of assessment on the chargeable income of an individual who is a knowledge worker and residing in a specified region in respect of having or exercising employment with a person who is carrying on a qualified activity in a specified region at the rate of 15 per cent on every ringgit of that chargeable income.

2. In this Part—

(a) the knowledge worker, qualified activity and specified region referred to in paragraph 1; and

(b) where the individual has income from a source other than the employment referred to in paragraph 1 or where subsection 45(2) applies, the chargeable income of the individual referred to in that paragraph,

shall be as determined by the Minister by rules made under this Act.

PART XV

1. Notwithstanding Part I, income tax shall be charged for a specified year of assessment on the chargeable income of an approved individual under the Returning Expert Programme in respect of having or exercising employment with a person in Malaysia at the rate of 15 per cent on every ringgit of that chargeable income.

2. In this Part—

(a) an approved individual and the specified year of assessment referred to in paragraph 1; and

(b) where the individual has income from a source other than the employment referred to in paragraph 1 or where subsection 45(2) applies, the chargeable income of the individual referred to in that paragraph,

shall be as determined by the Minister by rules made under this Act.

PART XVI

Notwithstanding Part I, income tax shall be charged for a year of assessment on the total amount received by an individual in respect of withdrawal from a deferred annuity or a private retirement scheme where such withdrawal is made before that

individual reaches the age of 55 (other than by reason of permanent total disablement, serious disease, mental disability, death, permanently leaving Malaysia, healthcare or housing, for which such withdrawal shall be in compliance with the criteria as set out in the relevant guidelines of the Securities Commission at the rate of 8 per cent on every ringgit of that contribution withdrawn.

SCHEDULE 2

[Section 34]

Deductions for Capital Expenditure on Mines

Qualifying mining expenditure

1. Subject to paragraph 2, qualifying mining expenditure for the purposes of this Schedule is expenditure which is incurred in connection with the working of a mine or in preparation for the working of a mine—

(a) on the acquisition of the mine or rights in or over the mine;

(b) on searching for, on discovering and testing or on winning access to deposits of minerals;

(c) on the construction of any works or buildings which, when the mine ceases to be worked, are likely to be of little or no value to any person except in connection with the working of another mine; or

(d) on development, general administration or management before the production of minerals begins or during any period when minerals are not being produced.

2. Where a deduction has been made under section 44 pursuant to Schedule 4 (or under any corresponding provision of any of the repealed laws as defined in Schedule 9) in respect of any expenditure, and that expenditure has not been added to any aggregate income under paragraph 43(1)*(c)* pursuant to subparagraph 5*(a)* of Schedule 4, that expenditure shall be deemed not to be qualifying mining expenditure for the purposes of this Schedule.

Deductions for qualifying mining expenditure

3. Subject to this Schedule, where the business of a person consists or mainly consists of the working of a mine with or without other mines (that business and that person being in this Schedule referred to as the relevant business and the operator respectively) and the operator has incurred qualifying mining expenditure in relation to that mine, then, in the ascertainment of the adjusted income of the operator for the basis period for a year of assessment from the relevant business there shall be allowed pursuant to this Schedule as a deduction under section 34 from the gross income for that period from the relevant business an amount arrived at by dividing the residual expenditure at the end of that period by the residual life at the beginning of that period.

4. (1) The operator shall, when he commences working a mine which forms part of the relevant business and thereafter from time to time as may be necessary, furnish to the Director General a written statement containing an estimate of the life of the mine by reference to the number of years during which the winning and obtaining of minerals from the mine may be expected to continue and setting out the calculations on which that estimate is based; and the Director General, by reference to that estimate or, where no or no proper or sufficient statement has been furnished under this paragraph, by reference to a similar estimate made by him to the best of his judgment shall from time to time as he thinks appropriate fix a figure of the number of years of the life of the mine, and that number shall constitute the estimated life of the mine for the purposes of this Schedule:

Provided that, if the commencement of working was before 1 January 1968, this subparagraph shall not apply as regards that commencement but shall otherwise apply from time to time as may be necessary.

(2) Except where any provision of paragraph 15 applies, a change in the estimated life of a mine shall not affect a deduction which has been or could have been made under section 34 pursuant to this Schedule in ascertaining adjusted income from the relevant business for the basis period for a year of assessment if that basis period ended before the change.

5. Where in a case to which section 41 applies it is necessary as regards a mine to ascertain a deduction under section 34 pursuant to this Schedule in relation to an accounting period of more or less than twelve months—

(a) the residual expenditure at the end of that period shall be divided by the residual life at the beginning of that period; and

(b) the resulting figure shall be increased or decreased in the same proportion as the length of that accounting period bears to a period of twelve months and shall then constitute the amount of the deduction.

Transfer of mine, etc.

6. Paragraphs 7 to 14 shall apply in relation to any particular mine forming part of the relevant business with respect to which the operator has incurred qualifying mining expenditure, and in those paragraphs—

"consideration" means consideration (not being in the nature of or representing income) which is monetary or non-monetary or both;

"the mine" means the particular mine in question;

"mining asset" means either the mine or an asset on or for which the operator has incurred qualifying mining expenditure in connection with or in preparation for the working of the mine;

"other property" means property which is not a mining asset;

"value" means—

(a) in relation to monetary consideration, the amount of the consideration;

(b) in relation to non-monetary consideration, the market value of the consideration at the time of the transaction to which the consideration relates.

7. Subject to paragraph 8—

(a) where the operator transfers a mining asset for a consideration, the value of the consideration shall be deemed to be recovered expenditure in relation to the mine and to be received by the operator at the date of the transfer;

(b) where the operator receives any consideration for the granting of any right in or over the mine or any part thereof, the value of the consideration shall be deemed to be recovered expenditure in relation to the mine and the operator; and

(c) where the operator receives any amount or property by way of compensation, recoupment or otherwise for any qualifying mining expenditure (being expenditure of a kind which does not produce a mining asset) incurred by him in connection with or in preparation for the working of the mine, that amount or the market value of that property at the time of its receipt shall be deemed to be recovered expenditure in relation to the mine and the operator.

8. Where the operator transfers a mining asset together with any other property, then—

(a) if the transfer is made for an undivided consideration and the operator and the transferee are able to agree how much of the value of the consideration should be treated as given for the mining asset and for the other property respectively, they shall within three months of the transfer jointly furnish the Director General with a written statement showing the apportionment of the consideration as so agreed and, subject to subparagraph *(c)*, the part of that value apportioned to the mining asset shall be deemed to be recovered expenditure in relation to the mine and to be received by the operator at the date of the transfer;

(b) if the transfer is made for separate considerations, the operator shall within three months of the transfer furnish the Director General with a written statement showing the value of each consideration and, subject to subparagraph *(c)*, the value of the consideration shown in that statement for the mining asset shall be deemed to be recovered expenditure in relation to the mine and to be received by the relevant person at the date of the transfer; and

(c) if the Director General is not satisfied with the apportionment mentioned in subparagraph *(a)* or with any value shown in the statement mentioned in subparagraph *(b)*, or if there is a failure to furnish a statement in accordance with either of those subparagraphs, the Director General shall determine to the best of his judgment the value of the consideration for the mining asset, and the value so determined shall be deemed to be recovered expenditure in relation to the mine and to be received by the operator at the date of the transfer.

9. Where there is a transfer by the operator of a mining asset (with or without any other property) together with a grant by the operator of a right of the kind mentioned in subparagraph 7*(b)*, then, for the purposes of paragraph 8—

(a) the grant shall be treated as forming part of the transfer of that asset; and

(b) the right shall be treated as forming part of that asset,

and that paragraph shall apply accordingly with any necessary modifications.

10. Where the operator transfers a mining asset (with or without other property) either—

(a) for an undivided consideration (as regards that asset and that other property, if any) together with an amount or property of the kind mentioned in subparagraph 7*(c)*; or

(b) for separate considerations (as regards that asset and that other property, if any) together with an amount or property of that kind,

paragraph 8 shall apply with any necessary modifications.

11. For the purposes of paragraphs 7 to 10—

(a) if any consideration consists partly of money and partly of non-monetary property, the value of the monetary part of the consideration and the value of the non-monetary part thereof shall, whenever necessary, be aggregated or aggregated and apportioned, as the case may require;

(b) if the subject matter of a transfer consists of two or more mines or of a right in or over two or more mines, any amount apportioned under those paragraphs to those mines shall be divided and apportioned to each of those mines in the proportion that the residual expenditure in relation to each of those mines at the date of the transfer bears to the total of the residual expenditure in relation to those mines.

12. Where the operator transfers the mine and at the date of the transfer the residual expenditure ascertained immediately before that date exceeds the difference between—

(a) the total amount of all the operator's recovered expenditure received on or before that date; and

(b) the total amount of all his recovered expenditure received prior to that date,

the amount of the excess shall be allowed pursuant to this Schedule under section 34 as a deduction from his gross income from the relevant business for the basis period (being the basis period appropriate to the relevant business for a year of assessment) in which the transfer was made.

13. (1) Where the operator has incurred expenditure in relation to the transfer to him of the mine and any other matter or thing appertaining to the mine, that expenditure shall be treated as qualifying mining expenditure incurred by the operator in respect of the mine.

(2) (*Deleted by Act A226*).

14. Where in relation to the mine there takes place a transaction as a result of which an amount would (but for this paragraph) fall to be treated under any provision of paragraphs 6 to 13 as recovered expenditure of the operator in relation to the mine and—

(a) the operator is a person over whom the other party to the transaction has control;

(b) that other party is a person over whom the operator has control;

(c) some other person has control over both the operator and that other party;

(d) the transaction takes place pursuant to a scheme of reconstruction or amalgamation of companies; or

(e) the Director General is of the opinion that the transaction is or forms part of a transaction to which section 140 applies,

the residual expenditure referable to the mine or any other mining asset immediately before the date of that first-mentioned transaction shall be deemed in the hands of the operator to be recovered expenditure received at that date and in the hands of that other party to be qualifying mining expenditure incurred at that date; and paragraphs 6 to 13 shall not apply in relation to that first-mentioned transaction.

Cessation of Working

15. Where in the basis period for a year of assessment the operator permanently ceases to work a mine (otherwise than upon his death of the transfer of the mine by him to any other person), recovered expenditure received by him after the date of the cessation of working shall (notwithstanding any provision of paragraphs 7 to 10) be treated as if it had been received on that date and—

(a) if he so elects, the deductions to be made under section 34 in respect of amounts allowed pursuant to this Schedule in computing his adjusted income from the relevant business for that basis period and for the basis period for each of the four immediately preceding years of assessment (or, if he commenced to work the mine in the basis period for one of those four years other than the earliest thereof, for that first-mentioned basis period and for the basis period being a basis period in which the mine was worked by him for each of the preceding years of assessment) shall be computed as regards each such basis period as if the reference in paragraph 3 to the residual life at the beginning of the basis period were a reference to what the residual life would be if the estimated life were taken to be equal to the number of complete years from the beginning of the first such basis period to the date of cessation of working; and

(b) such repayments of tax and assessments shall be made as are necessary to give effect to this paragraph.

Supplemental provisions

16. Where two or more separate and distinct sets of mining operations are carried on over a source of minerals and none of those sets of operations is carried on contiguously to another of those sets of operations, each of those sets of operations shall be treated for the purposes of this Schedule as being carried on in the working of a separate mine:

Provided that, where a deduction has been given under section 34 in respect of any amount allowed pursuant to this Schedule for qualifying mining expenditure in respect of any such separate mine, no amount shall be allowed pursuant to this Schedule for that expenditure in respect of any other such separate mine and that

expenditure shall not be treated as qualifying mining expenditure incurred in respect of that other mine.

17. (1) A person shall not be treated as working a mine for the purposes of this Schedule unless he is actively engaged in working the mine and his gross income from a business of his includes the proceeds of sale of minerals won or obtained by working the mine.

(2) A person is not actively engaged in working a mine within the meaning of subparagraph (1) if he has sublet the mine or authorized any other person to work the mine on payment of a premium, rent or tribute (by whatever name called).

18. Where—

(a) the relevant business consists of or includes the working of a mine; and

(b) the working of that mine begins at any time in the basis period appropriate to the relevant business for a year of assessment,

the number of years of the life of the mine at the time when the working of that mine began shall, in ascertaining the residual life for the purposes of paragraph 3, be deemed to be the number of years of the life of the mine at the beginning of that period.

19. (*Deleted by Act A226*).

20. (*Deleted by Act A226*).

21. (*Deleted by Act A226*).

22. In this Schedule—

"estimated life", in relation to a mine, means the figure of the number of years of the life of the mine fixed from time to time by the Director General under subparagraph 4(1) as the estimated life of the mine;

"recovered expenditure" means any amount ascertained in accordance with paragraphs 6 to 11 or paragraph 14 to be recovered expenditure in relation to any particular mine forming part of the relevant business;

"residual expenditure", in relation to any particular mine forming part of the relevant business and to any particular date, means the total qualifying mining expenditure incurred in respect of that mine before the date by the operator, reduced by the amount of—

(a) any deductions made under section 34 pursuant to this Schedule in respect of that expenditure from the gross income of the operator from

the relevant business for the basis period for any year of assessment, being a basis period ending before that date; and

(b) any recovered expenditure in relation to that mine received by the operator on or before that date;

"residual life", in relation to any particular mine forming part of the relevant business and to any particular date, means the number of years of the estimated life of the mine remaining at that date.

SCHEDULE 3

[Section 42]

Capital Allowances and Charges

Qualifying expenditure

1. Subject to this Schedule, qualifying expenditure for the purposes of this Schedule is qualifying plant expenditure or qualifying building expenditure within the meaning of paragraphs 2 to 6.

2. (1) Subject to subparagraph (2) and paragraph 67, qualifying plant expenditure is capital expenditure incurred on the provision of machinery or plant used for the purposes of a business, including—

(a) expenditure incurred on the alteration of an existing building for the purpose of installing that machinery or plant and other expenditure incurred incidentally to the installation thereof; and

(b) expenditure incurred on preparing, cutting, tunneling or levelling land in order to prepare a site for the installation of that machinery or plant but if the expenditure exceeds ten per cent of the aggregate of itself and any other expenditure (being qualifying plant expenditure) incurred for the purposes of the business this subparagraph shall not apply;

(c) expenditure incurred on fish ponds, animal pens, chicken houses, cages, buildings (other than those used wholly or partly for the living accommodation of a director, an individual having control of that business or an individual who is a member of the management, administrative or clerical staff engaged in the business), and other structural improvements on land which are used for the purposes of

poultry farms, animal farms, inland fishing industry or other agricultural or pastoral pursuits.

(2) In the case of a motor vehicle, other than a motor vehicle licensed by the appropriate authority for commercial transportation of goods or passengers, the qualifying plant expenditure incurred on or after the first day of the basis period for the year of assessment 1991 shall be limited to a maximum of fifty thousand ringgit:

Provided that where the qualifying plant expenditure is incurred on a motor vehicle purchased on or after 28 October 2000, the maximum amount shall be increased to not more than one hundred thousand ringgit if the motor vehicle has not been used prior to purchase and the total cost of the motor vehicle does not exceed one hundred and fifty thousand ringgit:

Provided further that where the qualifying plant expenditure is incurred between the period from 28 October 2000 to 31 December 2000, and that period forms part of the basis period of a person for the year of assessment prior to the year of assessment 2001, that expenditure shall be deemed for the purposes of this Schedule to be incurred in the basis period for the year of assessment 2001.

2A. Subject to this Schedule, where any person had in use machinery or plant for a non-business purpose, and that machinery or plant is subsequently brought into use for the purposes of a business of his, he is deemed to have incurred qualifying plant expenditure in relation to that machinery or plant and the amount of the qualifying plant expenditure shall be taken to be the market value of the machinery or plant on the day the machinery or plant was so brought into use.

2B. (*Deleted by Act 644*).

2C. Subject to this Schedule, where machinery or plant is brought into use for the purposes of a business in Malaysia by any person and prior thereto the machinery or plant had been used for the purposes of a business outside Malaysia, the person shall be deemed to have incurred qualifying plant expenditure and the amount of the qualifying plant expenditure in respect thereof shall be taken to be the market value or the net book value of the machinery or plant, whichever is the lower, on the day the machinery or plant was so brought into use in Malaysia.

2D. For the purpose of paragraph 1, the capital expenditure incurred by a person on the provision of machinery or plant shall not include any amount paid to a non-resident person in consideration of services rendered in connection with the installation or operation of that machinery or plant, if tax has not been deducted therefrom and paid to the Director General under paragraph 109B(1)*(a)* of the Act:

2E. For the purpose of paragraph 1, the qualifying expenditure incurred by a person shall not include any amount paid or to be paid in respect of goods and services tax as input tax by the person if he is liable to be registered under the Goods and Services

Tax Act 2014 and has failed to do so, or if he is entitled under that Act to credit that amount as input tax.

Provided that this paragraph shall not apply if the person has paid the amount referred to in subsection 109B(2).

3. (1) Subject to paragraph 6, qualifying building expenditure is capital expenditure incurred on the construction or purchase of a building which is used at any time after its construction or purchase, as the case may be, as an industrial building.

(2) For the purpose of this Schedule, the qualifying building expenditure in the case of purchase of a building shall be the amount of the purchase price of that building.

3A. (*Deleted by Act 639*).

4. (*Deleted by Act 639*).

5. (*Deleted by Act 639*).

6. Qualifying building expenditure does not include—

(a) subject to paragraph 67, expenditure which is qualifying plant expenditure for the purposes of this Schedule;

(b) subject to paragraph 42, expenditure which is qualifying agriculture expenditure for the purposes of this Schedule; or

(c) expenditure which is qualifying mining expenditure for the purposes of Schedule 2.

Qualifying agriculture expenditure

7. (1) Subject to this Schedule, qualifying agriculture expenditure for the purposes of this Schedule is capital expenditure incurred by a person on—

(a) the clearing and preparation of land for the purposes of agriculture;

(b) the planting (but not replanting) of crops on land cleared for planting;

(c) the construction on a farm of a road or bridge;

(d) the construction on a farm of a building used for the purposes of a business of that person which consists wholly or partly of the working of the farm, or the construction on that farm of a building which is provided by that person for the welfare of persons, or as living accommodation for a person, employed in or in connection with the

working of that farm and which, if the farm ceases to be worked, is likely to be of little or no value to any person except in connection with the working of another farm.

(2) For the purposes of this paragraph, "agriculture" includes the reforestation of timber.

Qualifying forest expenditure

8. (1) Subject to this Schedule, qualifying forest expenditure for the purposes of this Schedule is capital expenditure incurred only by a person who has a concession or licence to extract timber on the construction in a forest of—

(a) a road or building used for the purposes of a business of his which consists wholly or partly of the extraction of timber from the forest; or

(b) a building provided by him for the welfare of persons, or as living accommodation for a person, employed in or in connection with such extraction,

and which, if the forest ceases to be used for such extraction, would be likely to be of little or no value to any person except in connection with the extraction of timber from another forest or with a business which consists wholly or partly of the working of a farm.

(2) For the purposes of this paragraph, "forest", in relation to a person, means a forest in respect of which he has a concession or a licence to extract timber therefrom, being a forest in use by him for the extraction of timber therefrom for the purposes of a business of his which consists wholly or partly of that extraction.

Qualifying renovation or refurbishment expenditure

8A. (1) Subject to this Schedule, qualifying renovation or refurbishment expenditure for the purposes of this Schedule is capital expenditure incurred by a person on renovation or refurbishment of a premises which is used for the purpose of a business of his.

(2) For the purposes of this Schedule, the qualifying renovation or refurbishment expenditure shall be an amount incurred by a person between the period from 10 March 2009 to 31 December 2010 and the total amount of expenditure for that period in respect of all of his sources consisting of a business shall not exceed one hundred thousand ringgit.

(3) Qualifying renovation or refurbishment expenditure does not include—

(a) expenditure which is qualifying plant expenditure for the purposes of this Schedule;

(b) expenditure which is qualifying agriculture expenditure for the purposes of this Schedule;

(c) expenditure which is qualifying forest expenditure for the purposes of this Schedule; and

(d) expenditure which is qualifying mining expenditure for the purposes of Schedule 2.

8B. For the purpose of paragraphs 8A and 32B of this Schedule renovation or refurbishment expenditure shall be an expenditure prescribed by the Minister.

Qualifying expenditure: initial allowances

9. An allowance made under paragraphs 10 and 12 shall be known as an initial allowance.

10. Subject to this Schedule, where in the basis period for a year of assessment a person has for the purpose of a business of his incurred qualifying plant expenditure, there shall be made to him in relation to the source consisting of that business for that year an allowance equal to one-fifth of the expenditure or such other fraction as may be prescribed.

11. **(***Deleted by Act A1028*).

11A. **(***Deleted by Act A1028*).

12. Subject to this Schedule, where in the basis period for a year of assessment a person has for the purposes of a business of his incurred qualifying building expenditure on the construction or purchase of a building, there shall be made to him in relation to the source consisting of that business for that year an allowance equal to one tenth of that expenditure.

13. Notwithstanding paragraphs 10 and 12—

(a) no allowance shall be made to a person under paragraph 10 for a year of assessment in relation to an asset and a business of his if at the end of the basis period for that year he was not the owner of the asset or it was not in use for the purposes of the business or, where the asset was disposed of by him in that period, he was not the owner of the asset or it was not in use, prior to its disposal, for the purposes of the business at some time in that period;

(b) (*Deleted by Act A1028*);

(c) no allowance shall be made to a person under paragraph 12 for a year of assessment in relation to an asset and a business of his if at the end of the basis period for that year he was not the owner of the asset or it was not in use or was not about to be used as an industrial building or, where the asset was disposed of by him in that period, it was not in use, prior to its disposal, for the purposes of a business of his as an industrial building at some time in that period;

(d) where an allowance has been made to a person under paragraph 12 for a year of assessment in relation to a building and a business of his and that building was not in use or was not about to be used as an industrial building for the purposes of that business of his at some time in the basis period for the next following year of assessment, a balancing charge equal to the amount of the allowance shall be made on him in relation to that business for that year of assessment for which the allowance was given.

13A. Notwithstanding paragraph 10 no initial allowance shall be made to a person for a year of assessment in relation to an asset and a business of his referred to in paragraph 2A, 2B or 2C, as the case may be.

Qualifying expenditure: annual allowances

14. An allowance made under paragraphs 15 to 16A shall be known as an annual allowance.

15. Subject to this Schedule, where a person has for the purposes of a business of his, incurred qualifying plant expenditure in relation to an asset and at the end of the basis period for a year of assessment he was the owner of the asset and it was in use for the purposes of the business, there shall be made to him in relation to the source consisting of that business for that year an allowance equal to such proportion of that expenditure as may be prescribed.

15A. (*Deleted by Act 619*).

16. Subject to this Schedule, where a person has for the purposes of a business of his incurred qualifying building expenditure on the construction or purchase of a building and at the end of the basis period for a year of assessment he was the owner of the building and it was in use as an industrial building for the purposes of the business, there shall be made to him in relation to the source consisting of that business for that year an allowance equal to three hundredth or such other fraction as may be prescribed of that expenditure.

16A. Subject to this Schedule, where a person has incurred qualifying building expenditure on the construction of a building to which paragraph 67B applies and at the end of the basis period for a year of assessment the building was on lease to the Government, there shall be made to him in relation to the income from that lease for that year an allowance equal to three-fiftieths or such other fraction as may be prescribed of that expenditure.

16B. (1) Notwithstanding any other provisions of this Schedule, no allowance shall be made to a person under paragraphs 12 and 16 for a year of assessment in respect of any expenditure incurred in relation to paragraphs 37A, 37B, 37C, 37E, 37F, 37G, 37H, 42A, 42B and 42C of this Schedule relating to industrial building where the building or part thereof is used by that person for the purpose of letting of property including the business of letting of such property.

(2) Where part of the building used by that person referred to in paragraphs 37A, 37B, 37C, 37E, 37F, 37G, 37H, 42A, 42B and 42C for the purpose of letting of property is not more than one-tenth of the floor area of the whole building, the whole building qualifies as industrial building under those paragraphs.

(3) Where part of the building used by that person referred to in subparagraph (2) is more than one-tenth of the floor area of the whole building, such part of the building shall not be treated as industrial building for the purpose of those paragraphs and any allowance to be made to that person under those paragraphs shall consist of so much of what would have been the amount of allowance claimed on the expenditure incurred on the floor area on the part of the building which is not used by that person for the purpose of letting of property.

17. (*Deleted by Act 619*).

18. An allowance made to a person in relation to a business of his under paragraph 15 or 16 for a year of assessment in respect of any expenditure in relation to an asset shall not exceed the amount of the residual expenditure at the end of the basis period for that year.

19. Where in relation to any particular asset the Director General is of the opinion that the proportion prescribed under paragraph 15 is too high or too low having regard to the use of which the asset is put, he may give a direction for such other proportion as he considers appropriate to be adopted in relation to the qualifying plant expenditure.

Special allowances for small value assets

19A. (1) Where in the basis period for a year of assessment a person for the purposes of a business of his incurred qualifying plant expenditure in relation to an asset or assets, the value of each asset being not more than two thousand ringgit, and at the end of the basis period he was the owner of the asset and it was in use for the

purposes of the business, there shall be made in lieu of the amount of the allowance which would otherwise fall to be made to him under paragraph 10 or 15, an allowance equal to the amount of that expenditure for that year of assessment:

Provided that where the total qualifying plant expenditure in respect of such asset for each year of assessment exceeds the amount of twenty thousand ringgit, the total allowance that shall be made in respect of that expenditure under this paragraph shall be equal to such amount.

(2) Allowance under paragraph 10 or 15 in respect of the qualifying plant expenditure referred to in subparagraph (1)—

(a) shall be made a person if that person has not made a claim in respect of that expenditure under that subparagraph; or

(b) shall not be made to that person in respect of that expenditure which has been given allowance under that subparagraph.

(3) The proviso to subparagraph (1) shall not apply to a company resident and incorporated in Malaysia which has a paid up capital in respect of ordinary shares of two million and five hundred thousand ringgit and less at the beginning of the basis period for a year of assessment and gross income from source or sources consisting of a business not exceeding fifty million ringgit for the basis period for that year of assessment.

(4) A company referred to in subparagraph (3) shall not include a company where more than—

(a) fifty per cent of the paid up capital in respect of ordinary shares of the second mentioned company is directly or indirectly owned by a related company;

(b) fifty per cent of the paid up capital in respect of ordinary shares of the related company is directly or indirectly owned by the second mentioned company; or

(c) fifty per cent of the paid up capital in respect of ordinary shares of the second mentioned company and the related company is directly or indirectly owned by another company.

(5) For the purpose of subparagraph (4), "related company" means a company which has a paid up capital in respect of ordinary shares of more than two million and five hundred thousand ringgit at the beginning of the basis period for a year of assessment.

Agriculture allowances

20. An allowance made under paragraph 22 or 23 shall be known as an agriculture allowance.

21. A person entitled to an agriculture allowance in respect of any expenditure shall not be entitled to an allowance under any other paragraph in respect of the same expenditure.

22. Subject to this Schedule, where in the basis period for a year of assessment a person has for the purposes of a business of his incurred qualifying agriculture expenditure on the construction of—

(a) a building for the welfare of persons or as living accommodation for a person referred to in subparagraph 7(1)*(d)* there shall be made to him in relation to the source consisting of that business for that year and for each of the four following years of assessment an allowance equal to one-fifth of that expenditure; and

(b) any other building referred to in subparagraph 7(1)*(d)* there shall be made to him in relation to the source consisting of that business for that year and for each of the nine following years of assessment an allowance equal to one-tenth of that expenditure.

22A. (*Deleted by Act A643*).

23. Subject to this Schedule, where in the basis period for a year of assessment a person has for the purposes of a business of his incurred qualifying agriculture expenditure to which paragraph 22 does not apply, there shall be made to him in relation to the source consisting of that business for that year and for the following year of assessment an allowance equal to one-half of that expenditure.

24. Subject to this Schedule, where a person (in this paragraph referred to as the transmitter) would but for this paragraph be entitled to an agriculture allowance for a year of assessment in respect of qualifying agriculture expenditure incurred by him in relation to an asset for the purposes of a business of his and in the basis period for that year that asset is transferred or transmitted by operation of law or otherwise to some other person (in this paragraph referred to as the recipient)—

(a) the transmitter shall for that year be entitled to only a part of that allowance, being a part which bears the same proportion to the whole of that allowance as the number of days comprised in the period which begins at the beginning of that basis period and ends on the day of transfer or transmission bears to the number three hundred and sixty-five; and

(b) where the asset is—

(i) a farm used by the recipient for the purposes of a business of his which consists wholly or partly of the working of the farm; or

(ii) a building which is used by the recipient for the purposes of that business and is adjacent to or closely in the vicinity of that farm or another farm of his forming part of that business,

the recipient shall be entitled for the year of assessment in the basis period for which the transfer or transmission took place to the other part of that allowance, and for subsequent years of assessment to any agriculture allowance which would have been made to the transmitter if the asset had not been transferred or transmitted and had continued to be owned and used by the transmitter for the purposes of his business at all material times.

25. Notwithstanding paragraphs 22 to 24, no agriculture allowance shall be made to a person for a year of assessment in relation to an asset and a business of his—

(a) where the asset is transferred or transmitted in the basis period for that year, if it was not in use for the purposes of the business within one month (or such further period as the Director General may allow) before that transfer or transmission took place; or

(b) in any other case, if at the end of the basis period for that year he was not the owner of the asset or it was not in use for the purposes of the business.

26. (*Deleted by Act 755*).

27. Where in the basis period for a year of assessment a person disposes of an asset and in relation to that asset and a business of his an agriculture allowance has been made to him for a year of assessment, and the qualifying agriculture expenditure incurred in relation to that asset was incurred over a period ending on a particular day and the disposal of the asset took place less than five years after that day, there shall be made on him in relation to the source consisting of that business for that first-mentioned year of assessment an agriculture charge equal to the amount of—

(a) that agriculture allowance; or

(b) where an agriculture allowance in relation to that asset has been made to him for more than one year of assessment, the aggregate of all those allowances for all those years,

and where that asset is disposed of by that person after the end of the basis period (for a year of assessment) in which that business has permanently ceased to be carried on by him, the disposal shall be deemed to have been made in that basis period:

Provided that within three months (or such further period as the Director General may allow) of the beginning of the year of assessment following that first-mentioned year of assessment or, where that asset was disposed of by that person after the end of that last-mentioned basis period, the year of assessment following that in which he disposed of that asset, he may by notice in writing delivered to the Director General elect that the amount of any agriculture charge falling to be made on him in respect of the amount of that aggregate for that first-mentioned year be divided by the number of years of assessment for which those allowances were made; and an agriculture charge equal to the amount resulting from that division shall be made on him in relation to the source consisting of that business for each of those years of assessment.

Forest allowances and forest charges

28. An allowance made under paragraph 30, 30A or 31 shall be known as a forest allowance and a charge made under paragraph 32 shall be known as a forest charge.

29. A person entitled to a forest allowance in respect of any expenditure shall not be entitled to an allowance under any other paragraph in respect of the same expenditure.

30. Subject to this Schedule, where in the basis period for a year of assessment a person has for the purposes of a business of his incurred qualifying forest expenditure on the construction of—

(a) a building of the kind referred to in subparagraph 8(1)*(b)* there shall be allowed to him in relation to the source consisting of that business for that year and for each of the four following years of assessment an allowance equal to one-fifth of that expenditure; and

(b) a road or buildings of the kind referred to in subparagraph 8(1)*(a)* there shall be made to him in relation to the source consisting of that business for that year and each of the nine following years of assessment an allowance equal to one-tenth of that expenditure.

30A. Subject to this Schedule, where in the basis period for a year of assessment prior to the year of assessment 1970 a person has for the purposes of a business of his incurred qualifying forest expenditure on the construction of a building of the kind referred to in subparagraph 8(1)*(b)* and a forest allowance was made to him in relation to the source consisting of that business for a year of assessment prior to the year of assessment 1970 in respect of that expenditure there shall be allowed to him for the year of assessment 1970 and for each of the four following years of assessment an allowance equal to one-fifth of the difference between that qualifying forest expenditure and the forest allowances made to him in respect of that qualifying expenditure for years of assessment prior to the year of assessment 1970.

31. Where a person in relation to a business of his in the basis period for a year of assessment permanently ceases to extract timber from a forest in relation to which he has incurred qualifying forest expenditure, there shall be made to him in relation to the source consisting of that business for that year an allowance in an amount equal to the excess, if any, of that expenditure over the total of any allowances made to him under paragraph 30 or 30A in relation to that expenditure; and he shall not be entitled to an allowance under paragraph 30 or 30A in relation to that expenditure for any year of assessment subsequent to that first-mentioned year of assessment.

32. (1) Where a person who in relation to a business of his and a forest has incurred qualifying forest expenditure disposes of that forest, there shall be made on him in relation to the source consisting of that business for the year of assessment in the basis period for which the disposal took place a forest charge equal to the amount of any allowance or to the aggregate amount of any allowances made to him in relation to that expenditure under paragraph 30, 30A or 31; and where a forest is disposed of by that person after the end of the basis period (for a year of assessment) in which that business has permanently ceased to be carried on by him, the disposal shall be deemed to have been made in that basis period:

Provided that within three months (or such further period as the Director General may allow) of the beginning of the year of assessment following that year in which he disposed of the forest he may by notice in writing delivered to the Director General elect that the amount of that forest charge be divided by the number of years of assessment for which those allowances were made, and in lieu of that charge a forest charge equal to the amount resulting from that division shall be made on him in relation to the source consisting of that business for each of those years of assessment.

(2) For the purposes of this paragraph, a person shall be taken to have disposed of a forest if, having a concession or licence to extract timber therefrom, he transfers or assigns that concession or licence or surrenders that concession or licence for valuable consideration.

Renovation or refurbishment allowances

32A. (1) Subject to this Schedule, where in the basis period for a year of assessment a person has for the purposes of a business of his incurred qualifying renovation or refurbishment expenditure, there shall be made to him in relation to the source consisting of that business for that year and the immediate following year of assessment an allowance equal to one-half of that expenditure.

(2) No renovation or refurbishment allowances shall be made to a person for a year of assessment and a business of his, if at the end of the basis period for that year of assessment the premises which has been renovated or refurbished is not in use by that person for the purpose of his business.

32B. Subject to paragraph 8A, where a person incurs between the period from 10 March 2009 to 31 December 2010 capital expenditure on renovation or refurbishment of a premises which is used for the purpose of a business and such capital expenditure qualifies both as qualifying renovation or refurbishment expenditure and qualifying building expenditure, that person shall elect to claim an allowance in respect of that capital expenditure as qualifying renovation or refurbishment expenditure, or qualifying building expenditure.

Qualifying expenditure: balancing allowances and balancing charges

33. Allowances made under paragraph 34 and charges made under paragraph 35 shall be known as balancing allowances and balancing charges respectively.

34. Subject to this Schedule, where in the basis period for a year of assessment a person disposes of an asset in relation to which he has incurred qualifying expenditure for the purposes of a business of his and the residual expenditure at the date of its disposal exceeds its disposal value, there shall be made to him in relation to the source consisting of that business for that year an allowance equal to the amount of the excess.

35. Subject to this Schedule, where in the basis period for a year of assessment a person disposes of an asset in relation to which he has incurred qualifying expenditure for the purposes of a business of his and its disposal value exceeds the residual expenditure at the date of its disposal, there shall be made on him in relation to that business source for that year a charge equal to the amount of the excess.

36. No allowance shall be made for a year of assessment under paragraph 34 to a person in relation to an asset which has been disposed of unless an initial or annual allowance in relation to that asset has been made or would have been made, if claimed, to him:

Provided that this paragraph shall not apply in respect of any amount incurred under paragraph 67C.

37. A charge made on a person under paragraph 35 in relation to an asset shall not exceed the total of all allowances made to him under this Schedule in relation to that asset.

Qualifying expenditure: Licensed private hospital, maternity home and nursing home

37A. The provisions of this Schedule relating to industrial building shall apply, *mutatis mutandis*, to a private hospital, maternity home and nursing home licensed under the provisions of any written law for the time being in force relating to

registration of private hospital, maternity home and nursing home, or where no such law is in force, approved by the Director General after consultation with the Director General of Health; and in such application the reference to capital expenditure incurred on the construction of a building shall include any capital expenditure incurred on the alteration or renovation of rented premises for the purpose of carrying on therein a private hospital, maternity home or nursing home.

Qualifying expenditure: Building used for research

37B. The provisions of this Schedule relating to industrial building shall apply, *mutatis mutandis*, to a building or part thereof being in use for the purpose of—

(a) research and development approved by the Minister within the meaning of subsection 34A(1) and subsection 34B(4); or

(b) (*Deleted by Act 693*);

(c) (*Deleted by Act 544*);

(d) (*Deleted by Act 693*);

(e) research and development undertaken by a research and development company or a contract research and development company as defined in section 2 of the Promotion of Investments Act 1986,

and in such application, the reference to capital expenditure incurred on the construction of a building or part thereof, shall include any capital expenditure incurred on the alteration or renovation of rented premises for the purpose of carrying on therein such research and development, and the building or part thereof shall be deemed to be in use for the purposes of the business referred to in section 34A, notwithstanding that in the case of research and development referred to in subparagraph *(a)*, such research and development is not related to that business.

Qualifying expenditure: Building used for warehouse

37C. The provisions of this Schedule relating to industrial building shall apply *mutatis mutandis*, to a building or part thereof used by a person solely for the purpose of storage of goods for export or for the storage of imported goods which are to be processed and distributed or re-exported and there shall be substituted for the amount of the allowance which would otherwise fall to be made to him under paragraph 12 or 16 an allowance of an amount equal to one-tenth of the qualifying expenditure for that year and for each of the nine following years of assessment.

Qualifying expenditure: Machinery or plant used for research and development

37D. The provisions of this Schedule relating to qualifying plant expenditure shall apply, *mutatis mutandis*, to capital expenditure incurred on the provision of machinery or plant used for the purposes of research and development approved by the Minister within the meaning of section 34A; and in such application the machinery or plant shall be deemed to be in use for the purposes of the business referred to in section 34A, notwithstanding that such research and development is not related to that business.

Qualifying expenditure: Building used for approved service project

37E. The provisions of this Schedule relating to industrial buildings shall apply, *mutatis mutandis*, to a building or part thereof used by a person solely for the purpose of the provision of services and modernization of operations in relation to an approved service project as defined under Schedule 7B.

Qualifying expenditure: Building used for hotel

37F. The provisions of this Schedule relating to industrial buildings shall apply, *mutatis mutandis*, to a building or part thereof used by a person solely for the purpose of an hotel and that hotel is registered with the Ministry of Tourism.

Qualifying expenditure: Airport

37G. The provisions of this Schedule relating to industrial buildings shall apply, *mutatis mutandis*, to an airport and the reference to capital expenditure incurred in relation to that airport shall include the capital expenditure on the construction, reconstruction, extension, improvement or purchase of any building, runaway or ancillary structures.

Qualifying expenditure: Motor racing circuit

37H. The provisions of this Schedule relating to industrial buildings shall apply, *mutatis mutandis*, to a motor racing circuit approved by the Minister and the reference to capital expenditure incurred in relation to that motor racing circuit shall include the capital expenditure on the construction, reconstruction, extension or improvement of that motor racing circuit or ancillary structures.

Disposal subject to control, etc.

38. (1) Paragraphs 39 and 40 shall apply where a person disposes of an asset in relation to which an initial or annual allowance or an agriculture allowance or forest allowance has been made or would have been made, if claimed, to him and at the time of the disposal—

(a) the disposer of the asset is a person over whom the acquirer of the asset has control;

(b) the acquirer of the asset is a person over whom the disposer of the asset has control;

(c) some other person has control over the disposer and acquirer of the asset;

(d) the disposal is effected in consequence of a scheme of reconstruction or amalgamation of companies; or

(e) the disposal is effected by way of a settlement or gift or by devolution of the property in the asset on death,

the disposer of the asset, the asset in question and the acquirer of the asset being in those paragraphs referred to as the disposer, the asset and the acquirer respectively.

(2) In this paragraph "control", in relation to a company, means the power of a person to secure, by means of the holding of shares or the possession of voting power in or in relation to that or any other company, or by virtue of any powers conferred by the articles of association or other document regulating that or any other company, that the affairs of the first-mentioned company are conducted in accordance with the wishes of that person, and, in relation to a partnership, means the right to a share of more than one-half of the assets of the partnership, or to more than one-half of the divisible profits of partnership, or in relation to a limited liability partnership, means the right to a share of more than one-half of the capital contribution whether in cash or in kind of the limited liability partnership and in relation to business trust, means the right to not less than fifty per cent of residual profits of the business trust available for distribution, or not less than fifty per cent of any residual assets of the business trust available for distribution on a winding up.

38A. (1) Paragraphs 39 and 40 shall apply where a company disposes of an asset in respect of industrial building to a unit trust in relation to which an initial or annual allowance has been made or would have been made, if claimed, to the company.

(2) For the purpose of this paragraph—

(a) "unit trust" has the same meaning assigned to it in section 61A; and

(b) "company" means a company which holds not less than fifty per cent of residual profits of the unit trust available for distribution, or not less than fifty per cent of any residual assets of the unit trust available for distribution on a winding up.

38B. Paragraphs 39 and 40 shall apply where a partnership or a company is converted into a limited liability partnership in accordance with section 29 or 30 of the Limited Liability Partnerships Act 2012 and the partnership or that company disposes of an asset to that limited liability partnership in relation to which an initial or annual allowance has been made or would have been made, if claimed by the partnership or the company.

39. (1) Subject to any rules made under paragraph 40, the disposal of the asset shall be deemed to have taken place on the first day of the disposer's final period for a sum equal to the disposer's residual expenditure on that day.

(2) In this paragraph "the disposer's final period" means, in relation to the disposal and acquisition of the asset, the basis period (appropriate to the disposer's business for the purposes of which qualifying expenditure has been incurred in relation to the asset) for the year of assessment which coincides with the first year of assessment for which an initial or annual allowance may be made to the acquirer in relation to the asset if it is used for the purposes of a business carried on by the acquirer or as an industrial building.

40. Any qualifying expenditure incurred by the acquirer in relation to the asset to which regard would be had but for this paragraph shall be disregarded for the purposes of this Schedule and the acquirer shall be deemed to have incurred qualifying expenditure in relation to the asset of an amount equal to the sum ascertained under paragraph 39 in relation to the asset; and in relation to the asset—

(a) the date on which the acquirer shall be treated as having incurred the expenditure so deemed to have been incurred by him;

(b) the withdrawal of any allowance which would but for paragraph 39 and this paragraph fall to be made to the disposer;

(c) the amount of any allowance or charge to be made to or on the acquirer; and

(d) such other matters as may be considered necessary by the Minister,

shall be determined in such manner as may be prescribed by rules to be made for the purposes of paragraphs 38, 38A, 38B, 39 and this paragraph.

Asset used in more than one business

41. In any case where a person has incurred qualifying expenditure in relation to an asset and any one or more of the following circumstances are found—

(a) that expenditure was incurred for and that asset is used for the purposes of two or more businesses of his;

(b) that expenditure was incurred and the asset was used for the purposes of one business of his and thereafter the asset is used in that business and in another business, or two or more other businesses, of his;

(c) that expenditure was incurred and the asset was used for the purposes of one business of his and thereafter the asset ceases to be used in that business and is used in another business, or two or more other businesses, of his; or

(d) after any of the circumstances referred to in the preceding subparagraphs, the asset is disposed of or, where it was used in two or more businesses of his, it was disposed of in relation to one or more of those businesses,

the amount of any initial or annual allowances to be made to that person from time to time in any of those circumstances and any balancing allowance or balancing charge to be made on him on the disposal of the asset, and such other matters as may be considered necessary by the Minister, shall be determined in such manner as may be prescribed by rules made for the purposes of this paragraph.

Certain buildings treated as industrial buildings

42. (1) Where an industrial building is in use in the basis period for a year of assessment for the purposes of a business of a person and a building is constructed by him and provided by him as living accommodation for an individual employed by him in that business, that last-mentioned building shall be treated as an industrial building in use as an industrial building for the purposes of that business at any time that it is occupied by an individual so employed, and there shall be substituted for the amount of the initial allowance which would otherwise fall to be made to him under paragraph 12 an initial allowance equal to two-fifths of the qualifying expenditure incurred by that person on that last-mentioned building:

Provided that, where the expenditure incurred by that person on the construction of that last-mentioned building is expenditure of a kind to which paragraph 7 or 8 is applicable, that person may elect in a return for the basis period for a year of assessment in which the expenditure was incurred that, in lieu of having allowances made to him under paragraph 22 or 30 in relation to that expenditure, allowances be made to him under this paragraph.

(2) For the purposes of this paragraph, in relation to a business of a person, "employee" does not include a director, an individual having control of that business or an individual who is a member of the management, administrative or clerical staff engaged in that business.

42A. (1) Where a person carrying on a manufacturing, hotel or tourism business or an approved service project under Schedule 7B has incurred in the basis period for a year of assessment expenditure on the construction or purchase of a building for the purposes of that business for the provision of living accommodation for individuals employed by him in that business, that building shall be treated as an industrial building for the purposes of that business at any time that it is occupied by individuals so employed, and there shall be substituted for the amount of the allowance which would otherwise fall to be made to him under paragraph 12, 16 or 42 an allowance equal to one-tenth of the qualifying expenditure for that year and for each of the nine following years of assessment.

(2) Where a person has for the purposes of a business of his incurred in the basis period for a year of assessment expenditure on the construction or purchase of a building for the purposes of that business for the provision of child care facilities for individuals employed by him in that business, that building shall be treated as an industrial building for the purposes of that business at any time that it is used by individuals so employed, and there shall be substituted for the amount of the allowance which would otherwise fall to be made to him under paragraph 12, 16 or 42 an allowance equal to one-tenth of the qualifying expenditure for that year and for each of the nine following years of assessment.

(3) Notwithstanding any other provision of this Schedule, for the purposes of this paragraph the qualifying expenditure in the case of a purchased building shall be the purchase price of that building.

(4) For the purposes of subparagraph (1), "individuals employed by him" does not include a director, an individual having control of that business or an individual who is a member of the management, administrative or clerical staff engaged in that business.

42B. Where in the basis period for a year of assessment a person has for the purposes of a business of his incurred capital expenditure on the construction or purchase of a building for a school or an educational institution approved by the Minister of Education or Minister of Higher Education or any relevant authority, that building shall be treated as an industrial building for the purposes of that business and there shall be substituted for the amount of the allowance which would otherwise fall to be made to him under paragraph 12, 16 or 42 an allowance equal to one-tenth of the qualifying expenditure for that year and for each of the nine following years of assessment.

42C. Where in the basis period for a year of assessment a person has for the purposes of a business of his incurred capital expenditure on the construction or

purchase of a building for the purposes of industrial, technical or vocational training approved by the Minister, that building shall be treated as an industrial building for the purposes of that business and there shall be substituted for the amount of the allowance which would otherwise fall to be made to him under paragraph 12, 16 or 42 an allowance equal to one-tenth of the qualifying expenditure for that year end for each of the nine following years of assessment.

Interpretation

43. In this Schedule "asset", except where the context otherwise requires, means an asset in relation to which qualifying expenditure, qualifying agriculture expenditure or qualifying forest expenditure, as the case may be, has been incurred.

44. Any reference in this Schedule to any asset or to any relevant interest therein shall be construed whenever necessary as including a reference to a part of any asset or of any relevant interest therein (or, in the case of an asset or any relevant interest therein held in undivided shares, the undivided share in the asset or in the relevant interest therein); and, when it is so construed, the Director General shall make such necessary apportionments as may be just and reasonable to give proper effect to this Schedule.

45. For the purposes of this Schedule, capital expenditure incurred on—

(a) the provision of machinery or plant, includes capital expenditure incurred on the reconstruction of that machinery or plant;

(b) the construction of a building, includes capital expenditure incurred on the reconstruction or rebuilding of that building.

46. Where a person incurs capital expenditure under a hire purchase agreement on the provision of any machinery or plant for the purposes of a business of his, he shall for the purposes of this Schedule be taken to be the owner of that machinery or plant; and the qualifying expenditure incurred by him on that machinery or plant in the basis period for a year of assessment shall be taken to be the capital portion of any instalment payment (or, where there is more than one such payment, of the aggregate of those payments) made by him under the agreement in that period.

47. For the purposes of this Schedule, where an asset consists of a building the owner thereof shall be taken to be the owner of the relevant interest in the building.

48. A building in respect of which qualifying expenditure has been incurred is disposed of within the meaning of this Schedule on the occurrence of any of the following events:

(a) the sale, transfer or assignment of the relevant interest in the building;

(b) where that interest depends on the duration of a concession, the coming to an end of the concession;

(c) where that interest is a leasehold interest, the determination of that relevant interest otherwise than on the person entitled thereto acquiring the reversion;

(d) the demolition or destruction of the building,

or on the building ceasing to be used as an industrial building.

49. In this Schedule "relevant interest", in relation to a building on which qualifying building expenditure has been incurred, means (subject to paragraphs 50 and 51) the interest in the building to which the person who incurred that expenditure was entitled when he incurred it.

50. Where—

(a) a person is entitled to two or more interests in a building when he incurs qualifying expenditure on it; and

(b) one of those interests is an interest which is reversionary on all the others,

that reversionary interest shall be the relevant interest for the purposes of this Schedule.

51. An interest shall not cease to be the relevant interest for the purposes of this Schedule by reason of the creation of any lease or other interest to which that first-mentioned interest is subject; and, where the relevant interest is a leasehold interest and is extinguished by the surrender thereof or on the person entitled thereto acquiring the interest which is reversionary thereon, the interest into which that leasehold interest merges shall thereupon become the relevant interest.

52. (1) An asset in relation to which qualifying agriculture expenditure has been incurred by a person is disposed of within the meaning of this Schedule on the occurrence of any of the following events:

(a) on the sale of the relevant interest in that asset;

(b) where the relevant interest is a leasehold interest and the lease comes to an end, if an incoming lessee or the owner of the interest in immediate reversion makes any payment to that first-mentioned person;

(c) on the transfer or transmission of the asset for valuable consideration; or

(d) on the asset ceasing to be used by him for the purposes of a business of his which consists wholly or partly of the working of a farm.

(2) For the purposes of this paragraph, "relevant interest" shall have the meaning which it would have if in paragraphs 49 and 50 the reference to—

(a) a building, were to land or a building;

(b) qualifying building expenditure, were to qualifying agriculture expenditure;

(c) the building, were to land or a building; and

(d) qualifying expenditure, were to qualifying agriculture expenditure.

53. (1) Any reference in this Schedule to the disposal, purchase, transfer or transmission of any asset includes a reference to the disposal, purchase, transfer or transmission, as the case may be, of that asset together with any other asset, whether or not qualifying expenditure, qualifying agriculture expenditure or qualifying forest expenditure, as the case may be, has been incurred on that last-mentioned asset, and in any such case so much of the disposal value or the purchase price, as the case may be, of those assets as, on a just apportionment, is properly attributable to the first-mentioned asset shall, for the purposes of this Schedule, be deemed to be the disposal value or the purchase price, as the case may be, of that first-mentioned asset.

(2) For the purposes of this paragraph, all the assets which are disposed of, purchased, transferred or transmitted in pursuance of one bargain shall be deemed to be disposed of, purchased, transferred, or transmitted, as the case may be, together, notwithstanding that separate prices are or purport to be agreed for each of those assets or that there are or purport to be separate disposals, purchases, transfers or transmissions, as the case may be, of those assets.

(3) Subparagraphs (1) and (2) of this paragraph shall apply, with any necessary modifications, to the disposal, purchase, transfer or transmission of any asset or the relevant interest in any asset together with any other asset or relevant interest in any other asset.

54. Where any person has incurred expenditure in relation to an asset which is allowed to be deducted under Chapter 4 of Part III in computing the adjusted income or adjusted loss of that person for the basis period for a year of assessment from a business of his, that expenditure shall not be treated as qualifying expenditure or qualifying agriculture expenditure or qualifying forest expenditure or qualifying renovation or refurbishment expenditure in relation to that asset.

55. For the purposes of this Schedule—

(a) in the case of any expenditure incurred on the construction of a building, the day on which that expenditure is incurred is the day on which the construction of the building is completed and in the case of any expenditure incurred on the provision of machinery or plant for the purposes of a business the day on which that expenditure is incurred is the day on which the machinery or plant is capable of being used for the purposes of the business; and

(b) in any other case, the day on which the amount of any expenditure becomes payable is the day on which that amount of expenditure is incurred:

Provided that, where a person incurs expenditure for the purposes of a business of his which he is about to carry on, that expenditure shall be deemed to be incurred when he commences to carry on the business.

56. For the purposes of this Schedule, an asset which is temporarily disused in relation to a business of a person shall be deemed to be in use for the purposes of the business if it was in use for the purposes of the business immediately before becoming disused and if during the period of disuse it is constantly maintained in readiness to be brought back into use for those purposes.

57. If an asset which is temporarily disused in relation to a business of a person ceases to be ready for use for the purposes of the business or if its disuse can no longer reasonably be regarded as temporary, it shall be deemed to have ceased at the beginning of the period of disuse to be used for the purposes of the business, and all such assessments shall be made as may be necessary to counteract the benefit of any allowances made to him for any year of assessment by reason of the application of paragraph 56 in relation to the asset.

58. For the purposes of this Schedule, a building is purchased by a person on the sale, transfer or assignment to him of a relevant interest in the building.

59. Any reference in this Schedule to the date of any sale, purchase, transfer or transmission shall be construed as a reference to the date of completion of the sale, purchase, transfer or transmission, as the case may be, or the date when possession of the asset the subject matter of the sale, purchase, transfer or transmission, as the case may be (or of the asset in which there is a relevant interest which is the subject matter of the sale, purchase, transfer or transmission, as the case may be) is given, whichever is the earlier.

60. Where a person who owns a building grants a lease thereof and that building is in use as an industrial building, then, in the application of this Schedule to that person in relation to that building any reference to a business of his shall be taken to be a reference to the source in respect of any income to which that person is entitled under that lease, and any reference to a basis period (in relation to any such reference to a business) shall be taken to be a reference to the basis period in relation to that source.

61. Any plant or machinery which is used for the purposes of a business and in respect of which qualifying expenditure has been incurred is disposed of within the meaning of this Schedule if it is sold, discarded or destroyed or if it ceases to be used for the purposes of that business.

61A. (1) Notwithstanding paragraph 48 or 61, as the case may be, but subject to this paragraph, where in the basis period for a year of assessment an asset for which qualifying capital expenditure has been incurred is classified as asset held for sale in accordance with generally accepted accounting principles, such asset shall be deemed to have ceased to be used for the purposes of that paragraph.

(2) Where subparagraph (1) applies and the asset is sold in the basis period the asset is classified as asset held for sale, the disposal value of the asset for the purposes of this Schedule shall be an amount equal to its market value at the date it was classified as asset held for sale or the net proceeds of the sale, whichever is greater.

(3) Where in the basis period for a year of assessment an asset for which qualifying capital expenditure has been incurred is classified as asset held for sale in accordance with generally accepted accounting principles, such asset shall be deemed to have ceased to be used for the purposes of paragraph 48 or 61, as the case may be, in the following basis period—

(a) where the asset is sold in the following basis period; or

(b) where the asset is not sold after the end of the following basis period.

(4) For the purpose of subsection (3), the disposal value of the asset shall be—

(a) in the case where the asset is sold in the following basis period, an amount equal to its market value at the end of the basis period such asset is held for sale or the net proceeds of the sale, whichever is greater;

(b) in the case where the asset is not sold in the following basis period, the market value of the asset at the end of that following basis period.

(5) Where paragraph (4) applies, in determining the residual expenditure of such asset for that following basis period, the total qualifying expenditure incurred by that person shall be reduced by—

(a) any initial allowance made to that person in relation to that asset for any year of assessment;

(b) any annual allowance made to that person in relation to that asset for any year of assessment; and

(c) an amount of annual allowance which would have been made to that person for the basis period in which the asset was classified as held for sale as if the asset had been in use in that basis period for the purpose of a business of his.

(6) Where an asset deemed ceased to be used in accordance with subparagraph (3)*(b)* is brought into use by the person in a business of his in a basis period for any year of assessment after the basis period the asset is deemed ceased to be used —

(a) that person shall be deemed to have incurred qualifying capital expenditure for that asset equal to its market value at the date it is brought into use for the purpose of that business; and

(b) no initial allowance shall be made to that person in relation to an asset under subparagraph *(a)*.

(7) In this paragraph, "market value" in the case of an industrial building, means the market value as determined by a valuation officer employed by the Government.

61B. (1) Notwithstanding any other provisions of this Schedule, where any part of an asset of a person from a business ceases to be used for purposes of a business of his in a basis period for a year of assessment due to replacement with a new part and that new part is depreciated separately in accordance with the generally accepted accounting principles, that part of an asset is deemed to have been disposed of in that basis period for that year of assessment.

(2) The qualifying expenditure of the part of the asset disposed shall be taken to be the amount as determined in accordance with the generally accepted accounting principles.

(3) The residual expenditure under paragraph 68 in respect of the part of the asset disposed shall be the qualifying expenditure of the part of an asset disposed reduced by the amount of allowance that have been made or would have been made under this Schedule to that person prior to the disposal of that part of the asset.

(4) The provisions of this Schedule shall apply to the new part of an asset referred to in subparagraphs (1) and (2).

62. (1) Subject to subparagraph (2), for the purposes of this Schedule, where an asset is disposed of by a person, its disposal value shall be taken to be an amount equal to its market value at the date of its disposal or, in the case of its disposal by way of sale, transfer or assignment—

(a) an amount equal to its market value at the date of the sale, transfer or assignment, as the case may be; or

(b) the net proceeds of the sale, transfer or assignment as the case may be, whichever is the greater:

Provided that, where the asset is disposed of in such circumstances that insurance or compensation moneys are received by that person in respect of the asset, its disposal value shall be taken to be an amount equal to its market value at the date of its disposal or those moneys, whichever is the greater.

(2) Where an asset of the kind to which subparagraph 2(2) applies is disposed of, the disposal value shall be deemed to be an amount which bears the same proportion to the disposal value ascertained under subparagraph (1) as the qualifying plant expenditure ascertained under subparagraph 2(2) bears to the qualifying plant expenditure ascertained under subparagraph 2(1).

(3) Where pursuant to an agreement with the Government, State Government or a local authority in respect of a privatization project an asset used in the privatization project is disposed of to the Government, State Government or local authority as the case may be, its disposal value shall be taken to be an amount equal to the net proceeds of the disposal.

(4) Notwithstanding subparagraph 62(1) where an asset in relation to which the person has incurred qualifying plant expenditure for the purposes of a business of his is disposed of by way of gift, its disposal value shall be deemed to be zero if the gift is made to—

(a) a technical or vocational training institute established and maintained by the government or a statutory body;

(b) a technical or vocational training institute as approved by the Minister; or

(c) an approved research institute as defined in section 34B.

63. Subject to paragraphs 64 to 66, a building is an industrial building within the meaning of this Schedule if it is used for the purposes of a business and—

(a) it is used as a factory;

(b) it is used as a dock, wharf, jetty or other similar building;

(c) it is used as a warehouse and the business consists or mainly consists of the hire of storage space to the public;

(d) the business is that of a water or electricity undertaking supplying water or electricity for consumption by the public or is that of a telecommunication undertaking providing telecommunication services to the public;

(e) it is used in connection with the working of a farm and the business consists or mainly consists of the working of the farm, with or without other farms; or

(f) it is used in connection with the working of a mine and the business consists or mainly consists of the working of a mine, with or without other mines.

64. In subparagraph 63*(a)* "factory" includes—

(a) a building consisting of a mill, workshop (other than a workshop used for the repair or servicing of goods, if the repair or servicing is carried out in conjunction with or incidentally to the business of selling those goods) or other building for the housing of machinery or plant of any description for the manufacture of any product or the subjection of goods or materials to any process or the generating of power used for the purposes of that manufacture or process; and

(b) a building (within the same curtilage as a building which is used as a factory) used for the storage of any raw material, fuel or stores necessary for the manufacture of that product or the processing of those goods or materials, or for the storage of that product or those goods or materials when processed prior to the sale thereof.

65. (1) Where a building is an industrial building, any building provided as a canteen, rest-room, recreation room, lavatory, bathhouse, bathroom, or wash-room for persons employed in the business for the purposes of which that industrial building is used shall be treated as an industrial building.

(2) In the case of a farm, where a building is provided for the welfare of persons, or as living accommodation for a person, employed in connection with the working of a farm, then, if the building is likely to be of little or no value to any person except in connection with the working of that farm or of another farm, that building shall be treated as an industrial building.

(3) Subject to paragraph 67B, a building used as a dwelling house (not being for accommodation of the kind mentioned in subparagraph (2)) or a retail shop, showroom or office is not and shall not be treated as an industrial building.

66. Where part of a building or of an extension of a building is used as an industrial building and the other part of the building or extension, as the case may be, is not so used, then, if the capital expenditure incurred on the construction of the part which is not so used is not more than one-tenth of the capital expenditure incurred on the construction of the whole building or extension, as the case may be, the building or extension, as the case may be, shall be treated as an industrial building for the purposes of this Schedule; and, where the whole or some of the capital expenditure incurred on the construction of the part not so used is not identifiable as the capital

expenditure incurred on the whole building or extension as the case may be, that last-mentioned expenditure or the part thereof not identifiable as incurred on the respective parts of the building or extension, as the case may be, shall be apportioned by reference to the respective floor areas of those respective parts or in such other manner as the Director General may direct.

67. Where capital expenditure is incurred on preparing, cutting, tunnelling or levelling land in order to prepare a site for the installation of machinery or plant to be used for the purposes of a business, then, if that expenditure amounts to more than seventy-five per cent of the aggregate of that expenditure and the capital expenditure incurred on that machinery or plant, the machinery or plant shall as regards that aggregate expenditure be treated for the purposes of this Schedule as a building so long as that machinery or plant is used for the purposes of that business; and that aggregate expenditure shall be treated as the amount of the qualifying expenditure incurred on that building, which shall be treated as disposed of if that plant or machinery is disposed of.

67A. Where pursuant to an agreement with the Government a person incurs capital expenditure on the construction, reconstruction, extension or improvement of any public road and ancillary structures which expenditure is recoverable through toll collection, the road and ancillary structures as regards such expenditure shall, for the purposes of this Schedule, be treated as a building and the provisions of this Schedule relating to industrial building shall apply, *mutatis mutandis*, to such building:

Provided that—

(a) the balance of residual expenditure under paragraph 68 of this Schedule shall be reduced by the amount of any compensation received; and

(b) the disposal value of the asset shall be taken to be zero when the agreement expires or is terminated.

67B. (1) A building constructed by a person pursuant to an agreement entered into between that person and the Government on a build-lease-transfer basis shall, subject to the approval of the Minister, be treated as an industrial building for the purposes of this Schedule.

(2) Where subparagraph (1) applies—

(a) the balance of residual expenditure under paragraph 68 of this Schedule shall be reduced by the amount of any compensation received; and

(b) the disposal value of the asset shall be taken to be zero when the agreement expires or is terminated.

67C. (1) For the purpose of this Schedule, where—

(a) a person has incurred qualifying plant expenditure in respect of an asset for the purposes of a business of his and in the basis period for a year of assessment the asset is disposed of; and

(b) pursuant to any written law or agreement, that person is subsequently required to dismantle and remove the asset and restore the site on which the asset is located,

the residual expenditure under paragraph 68 of this Schedule shall be deemed to include any amount incurred for dismantling and removing the asset and restoring the site.

(2) Notwithstanding paragraph 61, in this paragraph "disposed of" means discarded, destroyed or ceased to be used for the purposes of the business.

(3) This paragraph shall not apply if the asset which has been dismantled and removed is subsequently used for any other business of that person or any other person.

(4) The amount incurred in subparagraph (1) shall not include any amount paid to a non-resident which are subject to section 109B, if tax has not been deducted therefrom and paid to the Director General under that section:

Provided that this paragraph shall not apply if the person has paid the amount referred to in subsection 109B(2).

67D. (1) Where in the basis period for a year of assessment a person has incurred qualifying plant expenditure, qualifying building expenditure, qualifying agriculture expenditure or qualifying forest expenditure, in relation to an asset and the input tax on the asset is subject to any adjustment made under the Goods and Services Tax Act 2014, the amount of such qualifying expenditure in relation to that asset shall be adjusted in the basis period for a year of assessment in which the period of adjustment relating to the asset as provided under the Goods and Services Tax Act 2014 ends.

(2) In the event the adjustment of the amount of the qualifying expenditure made under subparagraph (1) results in —

(a) an additional amount, such amount shall be deemed to be part of the qualifying expenditure incurred, and the residual expenditure under paragraph 68 in relation to the asset shall include that additional amount; or

(b) a reduced amount, the qualifying expenditure incurred and the residual expenditure under paragraph 68 shall be reduced by such amount, and if the amount of the allowance made or ought to have been made under this Schedule exceeds the residual expenditure, the excess shall be part of the statutory income of that person from a

source consisting of a business in the basis period the adjustment is made.

(3) The excess amount referred to in subsubparagraph (2)*(b)* shall not exceed the total amount of allowances given under this Schedule.

(4) Notwithstanding subparagraph (1), where a person has incurred the qualifying plant expenditure, qualifying building expenditure, qualifying agriculture expenditure or qualifying forest expenditure in relation to an asset, and the asset is disposed of at any time during the period of adjustment specified under the Goods and Services Tax Act 2014, the adjustment to such qualifying expenditure shall be made in the basis period for the year of assessment in which the disposal is made.

(5) Paragraphs 39 and 40 shall apply for the purpose of the adjustment referred to in subparagraph (4).

68. A reference in this Schedule to residual expenditure at any date in relation to an asset in respect of which qualifying expenditure has been incurred by a person is to be construed as a reference to the total qualifying expenditure incurred by him on the provision, construction or purchase of the asset before that date, reduced by—

(a) the amount of any initial allowance made to that person in relation to that asset for any year of assessment;

(b) any annual allowance made to that person in relation to that asset for any year of assessment before that date;

(c) any annual allowance which, if it had been claimed (or could have been claimed, if the expenditure in respect of the asset had been qualifying expenditure and if the asset had been in use for the purposes of a business of his) by that person in relation to that asset, would have been made to him for a year of assessment before that date.

69. Any reference in this Schedule to an allowance made to a person for a year of assessment or to an allowance to which a person is entitled under this Schedule for a year of assessment is a reference to—

(a) an allowance which is claimed for a year of assessment and is made or is due to be made for that year (any such allowance being treated as having been made at the end of the basis period for the appropriate source consisting of a business for that year); and

(b) an allowance which would have been made or to which that person would have been entitled in relation to a source consisting of a business of his for a year of assessment but for an insufficiency or absence of adjusted income or the existence of an adjusted loss for the basis period for that year.

70. In this Schedule "purchase price", in relation to the purchase of an industrial building, includes any legal fee, stamp duty or other incidental expenditure incurred by the purchaser in connection with the purchase, but does not include so much of the purchase price of the building and of any land or an interest therein purchased with the building as is attributable to the land or that interest; and, for the purposes of paragraph 53, the building and that land or the interest therein, as the case may be, shall be treated as being separate assets.

Supplemental provisions

71. Where a person has incurred qualifying expenditure in relation to an asset which is owned by that person for a period of less than two years, except by reason of the death of that person or any other reasons as the Director General thinks appropriate that any allowance which but for this paragraph would fall to be made to him in relation to that asset shall not be made; and, where any such allowance has been made, a balancing charge in an amount equal to any such allowance shall be made on him for the year of assessment in the basis period for which the asset was disposed of by him (being the basis period appropriate to the source consisting of the business for the purposes of which the expenditure was incurred).

72. **(***Deleted by Act A226*).

73. Where qualifying expenditure has been incurred by a person in relation to an asset used for the purposes of a business of his, then, if the asset is used only partly for the purposes of the business, any allowance to be made to that person under this Schedule for a year of assessment in relation to the asset shall consist of so much of what would have been the amount of the allowance claimed and due for that year if the asset had been used in the basis period for that year wholly for the purposes of the business, as shall be determined by the Director General having regard to all the circumstances of the case:

Provided that in ascertaining the residual expenditure at any date in relation to the asset regard shall be had, with respect to any allowance claimed in relation to that asset for any year of assessment, to the full amount of that allowance which but for this paragraph would then have been made to him for that year in relation to that asset.

74. Where a person has a source within the meaning of sections 55 to 58, any allowance or charge to be made to or on him for a year of assessment in relation to a source and to an asset for a year of assessment shall be determined in such manner as may be prescribed by rules made for the purposes of this paragraph.

75. Subject to paragraph 75A, where, by reason of an insufficiency or absence of adjusted income of a person from a business of his for the basis period for a year of assessment or by reason of the existence of an adjusted loss from the business for

that period, effect cannot be given or cannot be given in full to any allowance or to the aggregate amount of any allowances falling to be made to him for that year in relation to the source consisting of that business, that allowance or that aggregate amount, as the case may be, which has not been so made (or so much thereof as has not been so made to him for that year) shall be deemed to be an allowance to be made to him for the first subsequent year of assessment for the basis period for which there is adjusted income from that business, and so on for subsequent years of assessment until the whole amount of the allowance or that aggregate amount to be made to him has been made to him.

*__75A.__ Any allowance or aggregate amount of allowances for a year of assessment which has not been so made to a company as ascertained under paragraph 75 shall not be made to that company for the purposes of this Schedule and section 42 unless the Director General is satisfied that the shareholders of that company on the last day of the basis period for the year of assessment in which that allowance or that aggregate amount has not been so made were substantially the same as the shareholders of that company on the first day of the basis period for the year of assessment in which that allowance or that aggregate amount would otherwise be made to that company under this Schedule and available for the purposes of that section and that allowance or that aggregate amount which but for this paragraph would have been made to the company in a year of assessment shall be disregarded for subsequent years of assessment.

75AA. Where a partnership or a company is converted into a limited liability partnership in accordance with section 29 or 30 of the Limited Liability Partnerships Act 2012, any allowance or aggregate amount of allowances for a year of assessment which has not been so made to that partnership or company as ascertained under paragraph 75 shall be made to that limited liability partnership for the purposes of this Schedule and section 42 for the following year of assessment.

75B. (1) For the purpose of paragraph 75A—

(a) the shareholders of the company at any date shall be substantially the same as the shareholders at any other date if on both those dates—

(i) more than fifty per cent of the paid-up capital in respect of the ordinary share of the company is held by or on behalf of the same person; and

(ii) more than fifty per cent of the nominal value of the alloted shares in respect of ordinary share in the company is held by or on behalf of the same person;

**NOTE—see* section 33 of Act 644 for explanations.

(b) shares in the company held by or on behalf of another company shall be deemed to be held by the shareholders of the last-mentioned company; and

(c) any allowance or aggregate amount of allowances which has not been so made for any year of assessment referred to in that paragraph shall consist of an allowance falling to be made under this Schedule for that year of assessment but shall not include any amount of allowance deemed to have been made for that year of assessment pursuant to paragraph 75.

(2) In this paragraph, "ordinary share" has the same meaning assigned to it under subsection 44(5C).

75C. Where there is a substantial change in the shareholders of a company referred to in paragraph 75A, the Minister may under special circumstances exempt that company from the provisions of paragraph 75A.

76. A person shall not be entitled to an allowance under this Schedule for a year of assessment unless he makes a claim for the allowance for that year in accordance with paragraph 77.

76A. Where in a year of assessment a partnership or a company is converted into a limited liability partnership in accordance with section 29 or 30 of the Limited Liability Partnerships Act 2012, the limited liability partnership shall not be entitled to an allowance under this Schedule in relation to an asset which is transferred to that limited liability partnership for that year of assessment unless for that year of assessment no allowance in relation to that asset has been claimed by the partners of that partnership or that company in accordance with paragraph 77.

77. (1) Any claim by a person for an allowance under this Schedule for a year of assessment shall be made in a written statement containing such particulars as may be requisite to show that the claimant is entitled to the allowance and a certificate signed by the claimant verifying those particulars.

(2) Any claim to be made by a person for a year of assessment in accordance with this paragraph shall be furnished with a return of his income made under section 77 or 77A for that year.

78. Where in the case of a business of a person the basis periods for two years of assessment overlap, the period common to those periods shall be deemed for the purposes of this Schedule to fall into the earlier of those periods and not into the later of those periods.

79. Where as regards a business of a person the Director General has exercised the power conferred upon him by subsection 21A(3) to direct that the basis period for a year of assessment shall consist of a specified period, any allowance or charge to be

made on or to that person under this Schedule in relation to the source consisting of that business for that year shall be ascertained by reference to such a period as shall be determined by the Director General, and that last-mentioned period shall be taken to be the basis period for that year in the application of this paragraph with this Schedule.

80. The Minister may prescribe a building which is constructed or purchased by any person and used by him for the purposes of his business as an industrial building and the amount of the allowance or allowances which would otherwise fall to be made to him under paragraph 12, 16 or 42.

81. The Minister may prescribe any capital expenditure incurred by a person in his business as qualifying agriculture expenditure under paragraph 7 and the amount of the allowance or allowances in respect of that qualifying agriculture expenditure which would otherwise fall to be made to him under paragraphs 22 and 23.

SCHEDULE 4

[Sections 43 and 44]

Expenditure on Prospecting Operations

1. Qualifying prospecting expenditure for the purposes of this Schedule is expenditure wholly and exclusively incurred in searching for, discovering or winning access to deposits of minerals in an eligible area or in testing any such deposits, but excludes expenditure on the acquisition of—

(a) the site of the source of the deposits;

(b) the site of any works which are likely to be of little or no value when the source is no longer worked;

(c) rights in or over any such site; or

(d) rights in or over the deposits.

2. *(a)* A person who has incurred qualifying prospecting expenditure in the basis period for a year of assessment may elect to claim in a return of his income for that year of assessment a deduction to be made under subparagraph 5*(a)* (in this Schedule that person and that year of assessment being referred to as "the prospector" and "the relevant year" respectively).

(b) Where no election has been made under subparagraph *(a)*, a person who has incurred qualifying prospecting expenditure may claim for the relevant year a deduction under subparagraph 5*(b)*.

3. A claim under paragraph 2 shall—

(a) if an election is made, be made in writing and shall be irrevocable;

(b) specify the eligible area to which the claim relates and the amount of the qualifying prospecting expenditure claimed to be deductible;

(c) contain a declaration described in paragraph 4 if a claim is made for a deduction under subparagraph 5*(b)*; and

in the case of subparagraph *(b)* or *(c)*, shall contain such other information as may be necessary to enable the Director General to dispose of the claim in accordance with this Schedule.

4. The declaration referred to in subparagraph 3*(c)* is a declaration by the prospector that—

(a) on a date before the end of the basis year for the relevant year he permanently ceased to search for deposits of minerals in the area to which the claim relates, to win access to any such deposits discovered by him in that area and to test any such deposits; and

(b) he has not carried on and has formed the permanent intention not to carry on any business consisting of or including the working of a mine in that area.

5. Subject to this Schedule, there shall be deducted for the relevant year under subsection 44(1)—

(a) an amount equal to so much of the qualifying prospecting expenditure as was incurred in the basis period for the relevant year:

Provided that where the area specified in subparagraph 3*(b)* ceased to be an eligible area by reason of a lease, licence or certificate (other than a prospecting licence or certificate) granted or issued under any written law regulating mining being granted, issued or assigned to the prospector in any year of assessment subsequent to the relevant year, there shall be added under paragraph 43(1)*(c)* in ascertaining the prospector's aggregate income for that year of assessment subsequent to that relevant year an amount equal to that prospecting expenditure or where a prospecting expenditure has been made to him for more than one relevant year the aggregate of all those expenditure for all those years; or

(b) an amount equal to so much of the qualifying prospecting expenditure as was incurred before, but not more than ten years before, the end of the basis year for the relevant year.

6. Where—

(a) a claim under this Schedule is not allowable because the area specified under subparagraph 3*(b)* is not an eligible area or is misdescribed or because the amount of expenditure so specified is excessive; and

(b) the Director General is of the opinion that the claim would be wholly or partly allowable, if amendments were made affecting the area or amount so specified,

he may make those amendments and allow the claim (in whole or in part) as amended.

7. Subject to paragraph 8, where a claim under this Schedule in respect of any area and expenditure has been allowed or disallowed, no other claim may be made for any year of assessment in respect of that area or expenditure.

8. Where a claim under this Schedule in respect of any area and expenditure is disallowed because the Director General is not satisfied as to any matter to which the declaration described in paragraph 4 relates, a further claim in respect of that area and expenditure may be made for a subsequent year of assessment.

9. Where a claim is made under this Schedule in respect of any area and expenditure, the amount of any deduction which would otherwise be made under subsection 44(1) pursuant to this Schedule for any or all relevant years shall be reduced to the extent provided by paragraphs 10 to 13 (that amount being referred to in those paragraphs as the provisional deduction).

10. (1) Where machinery or plant has been purchased by the prospector and used in any operation connected with any qualifying prospecting expenditure to which the provisional deduction relates (whether or not is was first used in that way), the provisional deduction under subparagraph 5*(a)* shall be reduced—

(a) if the machinery or plant has been sold in the basis period for the relevant year by the amount of any consideration for the sale (ascertained in accordance with paragraph 11);

(b) by an amount equal to any sum received or receivable by the prospector in the basis period for the relevant year for the use of the machinery or plant otherwise than in any such operation; and

(c) if the machinery or plant has not been sold in the basis period for the relevant year in which he permanently ceased to search for deposits of

minerals in the area to which the claim relates, to win access to any such deposits discovered by him in that area and to test any such deposits, by an amount equal to its market value at the date he permanently ceased to prospect in that area.

(2) Where machinery or plant has been purchased by the prospector and used in any operation connected with any qualifying prospecting expenditure to which the provisional deduction relates (whether or not it was first used in that way), the provisional deduction under subparagraph 5*(b)* shall be reduced—

(a) if the machinery or plant has been sold before the date referred to in subparagraph 4*(a)*, by the amount of any consideration for the sale (ascertained in accordance with paragraph 11);

(b) if the machinery or plant has not been sold before that date, by an amount equal to its market value at that date; and

(c) by an amount equal to any sum received or receivable by the prospector before that date (and, in the case of machinery or plant to which paragraph 14 applies, after the date on which the machinery or plant was first used in any such operation) for the use of the machinery or plant otherwise than in any such operation.

11. For the purposes of paragraph 10, the consideration for a sale of machinery or plant shall be ascertained by taking the amount of any monetary consideration and the amount of the market value of any non-monetary consideration or, where there is only non-monetary consideration, by taking the amount of the market value of either—

(a) the non-monetary consideration; or

(b) the machinery or plant at the date of the sale,

whichever is the greater:

Provided that the consideration shall be taken to be the amount of the market value of the plant or machinery at the time of the sale in any case where the monetary consideration is less than the market value and the Director General is satisfied that the sale is a transaction to which section 140 applies.

12. The provisional deduction shall be reduced—

(a) by an amount equal to any sum received or receivable by the prospector at any time before the end of the basis year for the relevant year or in the basis period for the relevant year, as the case may be, from the sale of any rights or other benefits arising from or connected with the area to which the provisional deduction relates, and by an amount equal to

the market value at the time of the sale of any non-monetary consideration so received or receivable; and

(b) by an amount equal to any sum received or receivable by the prospector at any time before the end of the basis year for the relevant year or in the basis period for the relevant year, as the case may be, as a grant or other payment by the Government, a State Government or a statutory authority intended directly or indirectly to reduce the burden of the qualifying prospecting expenditure to which the provisional deduction relates.

13. Where, by reason of the fact that as regards the prospector there is for the relevant year no or no sufficient defined aggregate, a deduction which would otherwise be made under subsection 44(1) pursuant to this Schedule cannot be made or can be made only in part, the deduction (or, where the deduction can be made only in part, so much of the deduction as cannot be made) shall be made for the first year of assessment (being a year of assessment subsequent to the relevant year) for which in computing the total income of the prospector there is a defined aggregate, and so on for the years of assessment subsequent to that first year until the whole amount of the deduction has been made.

14. Where the operator uses in operations connected with qualifying prospecting expenditure any machinery or plant acquired by him otherwise than for such a use, the market value of the machinery or plant when first used in any of those operations (and not its price or market value when it was first acquired by him) shall be deemed to be included in that expenditure.

15. Where—

(a) there has been made under paragraphs 10 to 13 a reduction consisting of an amount equal to a sum receivable (but not received) by the prospector; and

(b) within the five years following the relevant year the prospector satisfies the Director General that the sum in question or a part of that sum is irrecoverable,

such adjustments in the ascertainment of the prospector's total income for any year of assessment shall be made as are necessary to compute the tax paid by him which would not have been paid if there had been allowed to him the deduction which would have been allowed if that sum or that part of that sum, as the case may be, had not been taken into account as receivable; and a sum equal to any tax so computed shall be repaid to the prospector by the Director General:

Provided that, where this paragraph has been applied to a part of that sum, that part shall be left out of account in any subsequent application of this paragraph.

16. Where the prospector receives in the basis year for a year of assessment subsequent to the relevant year which coincides with the year in which he permanently ceased to search for, win access or test deposits of minerals in that area—

(a) an amount to which, if it had been received or receivable by him in the basis year for the relevant year, paragraph 12 would have applied; or

(b) an amount on account or in respect of an amount treated as irrecoverable with regard to which an adjustment has been made under paragraph 15,

the amount so received shall be added under paragraph 43(1)*(c)* in ascertaining the prospector's aggregate income for that subsequent year:

Provided that the amount (if any) so added in ascertaining the prospector's aggregate income for a year of assessment by virtue of this paragraph, together with any amount so added in ascertaining his aggregate income for any previous year of assessment in relation to the same claim, shall not exceed the total deductions allowed in pursuance of the claim under any of the foregoing paragraphs for the relevant year and any subsequent year of assessment.

17. In this Schedule—

"defined aggregate", in relation to the prospector and a year of assessment, means his aggregate income for that year reduced by any deduction falling to be made for that year pursuant to subsection 44(2);

"eligible area" means any particular area in Malaysia which does not consist of or include an area with respect to which there is or has been in force at any time before the end of the basis year for the relevant year any lease, licence or certificate (other than a prospecting licence or certificate) granted or issued under any written law regulating mining and granted, issued or assigned to the prospector before the end of that basis year.

SCHEDULE 4A

[Sections 43 and 44]

(*Deleted by Act 644*)

SCHEDULE 4B

[Sections 43 and 44]

Qualifying Pre-Operational Business Expenditure

1. Qualifying pre-operational business expenditure for purposes of this Schedule is expenditure within the meaning of paragraph 2, incurred by a company resident in Malaysia in connection with a proposal by that company to undertake investment in a business venture as approved by the Minister in a country outside Malaysia.

2. Subject to paragraph 1, qualifying pre-operational business expenditure for the purposes of this Schedule is—

(a) expenses directly attributable to the conduct of feasibility studies;

(b) expenses directly attributable to the conduct of market research or the obtaining of marketing information, or

(c) expenses by way of fares in respect of travel to a country outside Malaysia by a representative of the company, being travel necessarily undertaken for the purposes of conducting feasibility study or market survey, and actual expenses, subject to a maximum of four hundred ringgit per day, for accommodation and sustenance for the whole period commencing with the representative's departure from Malaysia and ending with his return to Malaysia.

3. Subject to this Schedule, there shall be deducted for a year of assessment under subsection 44(1) an amount equal to so much of the qualifying pre-operational business expenditure as was incurred in the basis period for the year of assessment (in this Schedule that year of assessment being referred to as "the relevant year").

4. Where by reason of the fact that there is for the relevant year no or no sufficient defined aggregate, a deduction which would otherwise be made under subsection 44(1) pursuant to this Schedule cannot be made or can be made only in part, the deduction (or, where the deduction can be made only in part, so much of the deduction as cannot be made) shall be made for the first year of assessment (being a year of assessment subsequent to the relevant year) for which in computing the total

income there is a defined aggregate, and so on for the years of assessment subsequent to that first year until the whole amount of the deduction has been made.

5. In this Schedule, "defined aggregate", in relation to a year of assessment, means the aggregate income for that year reduced by a deduction made pursuant to subsection 44(2) or Schedule 4.

SCHEDULE 4c

[Sections 44]

(*Deleted by Act 644*)

SCHEDULE 5

[Section 102]

Appeals

Hearing of appeals

1. (1) Every appeal shall be heard by three Special Commissioners, at least one of whom shall be a person with judicial or other legal experience within the meaning of subsection 98(3).

(2) If a Chairman or Deputy Chairman of the Special Commissioners has been appointed and is present at the hearing of an appeal, he shall preside at the hearing.

(3) Two or more hearing of appeals may be heard concurrently at any one time.

(4) If the Chairman or Deputy Chairman has not been appointed or is not present at the hearing of the appeals, the Special Commissioners present at the hearing of the appeals shall choose one of their number, who shall be a person with experience of the kind mentioned in subparagraph (1), to preside at the hearing.

1A. Notwithstanding subparagraph 1(1), if the Chairman deems it fit in the interest of achieving expeditious and efficient conduct of the appeal, he may decide that the appeal shall be heard by any of the following persons sitting alone—

(a) the Chairman;

(b) the Deputy Chairman; or

(c) any other Special Commissioners as the Chairman may determine.

1B. If a Special Commissioner who has commenced a hearing of an appeal is unable to complete the hearing of the appeal due to the expiration of the term of his appointment or other reasons—

(a) in the case where the hearing is before three Special Commissioners, the hearing may be heard afresh or be continued by the remaining Special Commissioners with another Special Commissioner, with the consent of the parties; or

(b) in the case where the hearing is before a Special Commissioner sitting alone, the hearing may be heard afresh or be continued by another Special Commissioner, with the consent of the parties.

Place of sitting

2. The Special Commissioners shall sit for the hearing of appeals in—

(a) Ipoh;

(b) Kota Kinabalu;

(c) Kuala Lumpur;

(d) Kuching;

(e) Malacca;

(f) Penang; and

(g) such other places (if any) as they think appropriate.

3. The Special Commissioners shall draw up in advance a programme for each half-year of the places at which and the dates on which they intend to sit and shall conform with their programme so far as is reasonably practicable, without prejudice to their right to make such variations in the programme as circumstances appear to them to require.

4. (*Deleted by Act A1609*).

Sending forward of appeals, etc.

5. Where the Director General sends an appeal forward in pursuance of section 102, he shall do so by forwarding to the Secretary a copy of the notice of appeal given under section 99, together with an address for service and a request for the appeal to be set down for hearing.

6. The notice forwarded under paragraph 5 shall constitute the petition of appeal and the appellant's address contained therein shall constitute the appellant's address for service.

7. Either party to an appeal may change his address for service by giving written notice of the change to the Secretary and the other party.

Place and date of hearing

8. On receipt of a request under paragraph 5 for an appeal to be set down for hearing, the Secretary shall fix a place and date of hearing which he considers suitable and shall give the appellant and the Director General at least twenty-eight days notice of the date and place so fixed:

Provided that, before sending an appeal forward, the Director General may make an agreement in writing with the appellant fixing one of the places included in any programme drawn up under paragraph 3 as the place of hearing of the appeal, and, where he does so—

(a) he shall forward a copy of the agreement to the Secretary when he sends the appeal forward; and

(b) the Secretary shall fix as the place of hearing the place so agreed.

9. One of the Special Commissioners on the application of a party to an appeal may, after giving the other party an opportunity to be heard, vary any date or place fixed under paragraph 8 and may do so, in the case of a place so fixed, notwithstanding that the appeal has been partly heard in that place.

Appeals may be heard together

10. One of the Special Commissioners may order—

(a) two or more appeals by the same person; or

(b) two or more appeals by different persons, if they agree,

to be heard together.

11. One of the Special Commissioners may make an order under subparagraph 10*(a)* either of his own motion or on the application of a party to one of the appeals in question, but no such order shall be made until the parties to those appeals have been given an opportunity to be heard.

Scope of argument

12. At the hearing of an appeal the appellant may rely on grounds of appeal other than those stated in the petition of appeal and may vary any ground of appeal so stated:

Provided that, where he does so without giving reasonable notice to the Director General, the Special Commissioners shall adjourn the hearing for a reasonable period if requested to do so by the Director General.

Onus of proof

13. The onus of proving that an assessment against which an appeal is made is excessive or erroneous shall be on the appellant.

Representation and attendance

14. For the purposes of an appeal—

(a) the Director General may be represented by an authorized officer, a legal officer or an advocate;

(b) the appellant may be represented by an advocate or a tax agent or by bot an advocate and a tax agent; and

(c) if the appellant is the principal within the meaning of section 67, he may be represented by the representative within the meaning of that section.

15. In paragraph 14—

"legal officer" means a legally qualified public officer entitled under the law in force in any part of Malaysia to represent the Government in civil proceedings by or against the Government.

16. The Director General and the appellant may—

(a) attend at the time and place fixed for the hearing of the appeal; and

(b) do any other thing or take any other action in connection with the appeal,

either personally or by a representative of the kind referred to in paragraph 14.

16A. Where both parties to an appeal attend, either personally or by a representative of the kind referred to in paragraph 14, at the time and place fixed for the hearing of the appeal, the Special Commissioners may on the application of either or both of the parties grant a postponement of the hearing on such terms as they consider reasonable, including terms as to the costs of the postponement to the Special Commissioners and to the party not applying for postponement, against the party or parties (as the case may be) applying for the postponement.

17. (1) Where a party to an appeal fails to attend, either personally or by a representative of the kind referred to in paragraph 14, at the time and place fixed for the hearing of the appeal, the Special Commissioners—

(a) if they are then and there satisfied that the defaulting party is prevented from attending by sickness or other reasonable cause, shall postpone the hearing for what appears to them to be an appropriate time, or they may hear and decide the appeal in the absence of the defaulting party if he requests them to do so;

(b) if they are not so satisfied, may hear and decide the appeal in the absence of the defaulting party, or may dismiss the appeal if the defaulting party is the appellant, or may postpone the hearing for what appears to them to be an appropriate time.

(2) Where both parties to an appeal fail to attend, either personally or by a representative of the kind referred to in paragraph 14, at the time and place fixed for the hearing of the appeal—

(a) if each of the parties fails to satisfy the Special Commissioners that he is prevented from attending by sickness or other reasonable cause, they may either decide or dismiss the appeal in the absence of both parties or postpone the hearing for what appears to them to be an appropriate time, and where they postpone the hearing they may order either or both parties to pay to them such costs as they consider reasonable;

(b) if the Special Commissioners are then and there satisfied that one of the parties is prevented from attending by sickness or other reasonable cause and are not satisfied that the other party is so prevented, they shall postpone the hearing for what appears to them to be an appropriate

time, or they may decide the appeal in the absence of the parties if the party so prevented requests them to do so;

(c) if the Special Commissioners are satisfied that both parties are prevented from attending by sickness or other reasonable cause, they shall postpone the hearing for what appears to them to be an appropriate time, or they may decide the appeal in the absence of the parties if the parties request them to do so.

18. Where, after a deciding order has been made under paragraph 17 as the result of a party's failure to attend at the time and place fixed for the hearing of an appeal, the Special Commissioners are satisfied on an application made within a period of thirty days after the making of the order that the defaulting party was prevented from attending by sickness or other reasonable cause, they may set aside the order and fix a time and place for a fresh hearing of the appeal.

Powers of Special Commissioners

19. The Special Commissioners shall have—

(a) power to summon to attend at the hearing of an appeal any person who in their opinion is or might be able to give evidence respecting the appeal;

(b) power, where a person is so summoned, to examine him as a witness on oath or otherwise;

(c) power, where a person is so summoned, to require him to produce any books, papers or documents which are in his custody or under his control and which the Special Commissioners may consider necessary for the purposes of the appeal;

(d) power, where a person is so summoned, to allow him any reasonable expenses incurred by him in connection with his attendance;

(e) all the powers of a subordinate court with regard to the enforcement of attendance of witnesses, hearing evidence on oath and punishment for contempt;

(f) subject to subsection 142(5), power to admit or reject any evidence adduced, whether oral or documentary and whether admissible or inadmissible under the provisions of any written law for the time being in force relating to the admissibility of evidence; and

(g) power to postpone or adjourn the hearing of an appeal from time to time (including power to adjourn to consider their decision).

Witnesses bound to tell truth, etc.

20. Every person examined as a witness by or before the Special Commissioners, whether on oath or otherwise, shall be legally bound to state the truth and if summoned under subparagraph 19*(a)* to produce such books, papers or documents in his custody or under his control as the Special Commissioners may require under subparagraph 19*(c)*.

Witnesses' expenses

21. (1) Expenses allowed under subparagraph 19*(d)* shall be assessed by the Secretary on the scale used in civil proceedings in a subordinate court and shall be paid by the appellant or the Government as the Special Commissioners may direct.

(2) In a case where section 67 applies, the Special Commissioners may direct that expenses assessed under subparagraph (1) shall be paid by the representative (within the meaning of that section); and, where they so direct, subsections (4) to (7) of that section shall apply as if those expenses were tax due from the representative.

Procedure

22. Subject to this Act and any rules made under paragraph 154(1)*(d)*, the Special Commissioners may regulate the procedure at the hearing of an appeal and their own procedure.

Deciding orders

23. As soon as may be after completing the hearing of an appeal, the Special Commissioners shall give their decision on the appeal in the form of an order which shall be known as a deciding order and which, subject to this Schedule, shall be final.

23A. For the purpose of paragraph 23, "deciding order" includes an order where the Special Commissioners dismiss an appeal under paragraph 17.

24. A deciding order may, if the Special Commissioners think fit, be read or summarized in the presence of the parties by one of the Special Commissioners or the Secretary; but the fact that any deciding order is not so read or summarized shall not affect its validity and the fact that any deciding order is so read or summarized shall not relieve the Secretary of his obligation under paragraph 44 to cause a copy of the order to be served on the parties.

25. If the Special Commissioners differ among themselves as to the decision to be given on an appeal—

(a) the opinion of the majority shall prevail; and

(b) the Special Commissioner who dissents from the majority view shall sign the deciding order as required by paragraph 44 (unless he is incapacitated from doing so as mentioned in that paragraph), but in doing so shall indicate the fact of his dissent and may, if he thinks fit, add a statement of his reasons therefor.

26. Subject to paragraphs 25 and 31, a deciding order shall either confirm or discharge the assessment to which the appeal relates or shall direct the Director General to amend the assessment; and, where it directs amendment, the order shall—

(a) specify the appropriate amendments;

(b) require the appropriate amendments to be determined by agreement between the parties or, failing agreement, by the Special Commissioners; or

(c) specify some of the appropriate amendments and require the others to be so determined.

27. Where a deciding order is made pursuant to subparagraph 26*(b)* or *(c)* in respect of an appeal, section 101 shall apply as if references to the order were substituted for references to the notice of appeal under subsection 99(1) (any agreement come to pursuant to the order being deemed to be and to have the same effect as an agreement of the kind mentioned in subsection 101(2)) and section 102 shall apply as it applies on a failure to come to an agreement of that kind:

Provided that—

(a) if a notice of appeal is filed under paragraph 34 in respect of the order, section 102 shall not come into operation until all proceedings respecting the case have been completed; and

(b) if the Director General has cause to send the appeal forward to the Special Commissioners pursuant to section 102, he shall do so by sending to the Secretary and the appellant a written statement that a further hearing has become necessary by reason of the parties' failure to agree.

28. Where an appeal is set down for further hearing pursuant to paragraph 27, it shall not be necessary for the further hearing to take place before the same Special Commissioners as those who heard the earlier proceedings.

Vexatious and frivolous appeals

29. (1) Where on an appeal the Special Commissioners do not discharge or amend an assessment, they may, if in their opinion the appeal was vexatious or

frivolous, order the appellant to pay as costs to the Special Commissioners a sum not exceeding five thousand ringgit.

(2) In a case where section 67 applies, the Special Commissioners may order the representative (within the meaning of that section) to pay costs under subparagraph (1); and, where they do so, subsections (4) to (7) of that section shall apply as if those costs were tax due from the representative.

30. Subject to any representation made under paragraph 31 a sum ordered to be paid under paragraph 29 shall become due and payable on the expiration of a period of seven days starting on the date when the order for payment was served on the appellant or the representative (within the meaning of section 67), as the case may be, and shall be recoverable as a debt due to the Government.

31. (1) The Special Commissioners may make an order as to costs under paragraph 29 notwithstanding that the appellant was not present at the hearing of the appeal.

(2) Where the Special Commissioners make an order as to costs under paragraph 29—

(a) it shall be included in the deciding order made under paragraph 26; and

(b) the appellant or the representative (within the meaning of section 67) may within twenty-one days of the service on him of the deciding order make representation orally or in writing to the Special Commissioners showing cause why the order as to costs ought not to have been made or why the costs ordered ought to be reduced, and the Special Commissioners if satisfied with the representation may remit the costs ordered either wholly or partly.

Costs and fees

32. Except as expressly provided in this Schedule, the Special Commissioners shall not make any order as to the payment of the costs of an appeal.

32A. (1) Except as provided in paragraph 30, any sum ordered to be paid by the Special Commissioners as costs shall become due and payable on the order for payment being made and shall be recoverable—

(a) in the case of costs ordered to be paid to the appellant, as a debt due to him; and

(b) in the case of costs ordered to be paid to the Special Commissioners or the Director General, as a debt due to the Government.

(2) In any proceedings for the recovery of costs ordered by the Special Commissioners the production of a certificate signed by one of the Special Commissioners giving the names and addresses of the persons to whom and by whom such costs are to be paid and the amount of the costs due shall be sufficient evidence of the amount so due and sufficient authority for the court to give judgment for that amount.

33. (*Deleted by Act A108*).

Appeals to the High Court

34. (1) Either party to the proceedings before the Special Commissioners may appeal to the High Court on a question of law against a deciding order made in those proceedings.

(2) An appeal under subparagraph (1) shall be by way of a notice in writing filed with the Secretary within twenty-one days from the date of the decision of the Special Commissioners.

(3) A copy of the notice of appeal shall be extended to the Registry of the High Court within the time limited for the filing of an appeal as specified under subparagraph (2).

(4) A duplicate copy of the notice of appeal must be served by the appellant on every other party to the proceedings within the time limited for the filing of an appeal as specified under subparagraph (2).

(5) The appellant shall, within the time limited for the filing of an appeal as specified under subparagraph (2), apply to the Secretary in writing for the notes of proceedings and the grounds of decision.

(6) The appellant shall pay to the Secretary at the time of the filing of the notice of appeal such fee as may be prescribed by the Minister in respect of each deciding order against which he seeks to appeal.

(7) The High Court may, on the application of an intending appellant made by a notice of application, extend the period to file a notice of appeal.

34A. (1) The appellant shall, within sixty days from the date of the filing of the notice of appeal, prepare and file to the High Court a record of appeal in a number of copies as may be required by the Court.

(2) The record of appeal shall contain—

(a) a duplicate copy of the notice of appeal;

(b) the statement of facts and issues;

(c) the memorandum of appeal;

(d) the deciding order of the Special Commissioners;

(e) the notes of proceedings, when available;

(f) the grounds of decision, when available;

(g) a duplicate copy of the notice of cross appeal, if any; and

(h) all such documentary exhibits and other documents the parties consider relevant for the purposes of the appeal.

(3) The record of appeal under subparagraph (2) shall be filed notwithstanding that the notes of proceedings or grounds of decision are not ready within the sixty days period mentioned in subparagraph (1).

(4) When the notes of proceedings or grounds of decision become available, they shall be filed by way of a supplementary record of appeal without leave of the High Court.

34B. (1) The memorandum of appeal shall set forth consecutively, concisely and under distinct heads without any argument or narrative, the grounds of objection to the decision appealed against and the points of law which are alleged to have been wrongly decided.

(2) Where a supplementary record of appeal is filed pursuant to subparagraph 34A(4), the appellant may include in the supplementary record of appeal an amended memorandum of appeal without leave of the High Court.

34C. (1) A draft index of the documents to be included in the record of appeal shall be sent by the appellant to the respondent who may, within forty-eight hours, object to the inclusion or exclusion of any documents.

(2) In the event the parties are unable to agree on the documents to be included in the record of appeal, the matter shall be referred to the Registrar of the High Court who may require the parties to attend before a Judge of the High Court.

(3) The Registrar of the High Court and the parties shall endeavour to exclude from the record of appeal all documents that are not necessary or not relevant to the subject matter of the appeal.

(4) Where in the course of the preparation of the record of appeal one party objects to the inclusion of a document on the ground that it is unnecessary or irrelevant and the other party nevertheless insists on it being included, the record as finally printed or typed shall, with a view to the subsequent adjustment of the costs of and incidental to such documents, indicate in the index of papers or otherwise, the fact that, and the party by whom, the inclusion of the document was objected to.

(5) The appellant shall serve a copy of the record of appeal to the respondent within the time limited for the filing of a record of appeal within the sixty days period mentioned in subparagraph 34A(1).

35. (*Deleted by Act A1609*).

36. (*Deleted by Act A1609*).

37. (*Deleted by Act A1609*).

37A. The appellant shall pay to the Secretary the cost for the notes of proceedings or other documents at such rate as may be prescribed by the Minister.

38. (*Deleted by Act A1609*).

39. The High Court shall hear and determine any question of law arising on an appeal under paragraph 34 and may in accordance with its determination thereof—

(a) order the assessment to which the appeal relates to be confirmed, discharged or amended;

(b) remit the appeal to the Special Commissioners with the opinion of the court thereon; or

(c) make such other order as it thinks just and appropriate.

40. (*Deleted by Act A1609*).

41. There shall be such rights of appeal from decisions of the High Court on an appeal under paragraph 34 as exist in respect of decisions of the High Court on questions of law in its appellate civil jurisdiction.

42. Unless it is otherwise provided by rules of court, the rules of court for the time being in force in relation to appeals in civil matters from a subordinate court to the High Court and from the High Court in its appellate jurisdiction to the Court of Appeal and the Federal Court shall, subject to this Schedule, apply with the necessary modifications to appeals under this Schedule to the High Court, the Court of Appeal and the Federal Court respectively.

Supplemental provisions

42A. Where any matter of procedure or practice is not provided for in this Schedule, the procedure and practice for the time being in force or in use in the subordinate court or in the High Court, as the case may be, shall be adopted and followed with the necessary modifications.

43. (1) Proceedings under this Schedule before the Special Commissioners or the court shall take place in camera:

Provided that where the Director General applies to the Special Commissioners or the court, as the case may be, that the proceedings, or such part thereof as he may deem necessary, be heard by way of a hearing open to the public, the Special Commissioners or the court, as the case may be, shall direct that the proceedings or the part thereof, as the case may be, shall be so heard, notwithstanding any objection from any other party to the proceedings:

Provided further that, where in the opinion of the Special Commissioners or the court any proceedings or part thereof heard in camera ought to be reported, the Special Commissioners or the court, as the case may be, may publish or authorize publication of the facts of the case, the arguments and the decision relating to the proceedings or the part thereof heard in camera, but without identifying the parties (other than the Director General) where the whole proceedings were heard in camera.

(2) Any publication authorized under subparagraph (1) may be obtained from the Special Commissioners or the court on payment of such fee as may be prescribed from time to time by the Minister.

44. Where a deciding order or any other order is made by the Special Commissioners or one of the Special Commissioners in or in connection with proceedings under this Schedule—

(a) the order shall be dated and signed by the Special Commissioners or Special Commissioner making it; and

(b) a copy of the order shall be served by the Secretary on the parties to the proceedings:

Provided that, if any of the Special Commissioners who have made a deciding order are incapacitated from signing by reason of death, illness, absence or any other cause, the order shall be signed by such of them as are able to do so.

45. Directions for the settlement or disposal of any matter of a procedural nature arising in connection with proceedings before the Special Commissioners, the High Court, the Court of Appeal or the Federal Court under this Schedule may, if no other provision is made by or under this Act or rules of court for the settlement or disposal of the matter, be given—

(a) in relation to proceedings before the Special Commissioners, by one of the Special Commissioners on an application made in whatever manner he considers appropriate; and

(b) in relation to proceedings before the High Court, the Court of Appeal or the Federal Court, by the High Court on an application made by notice of application.

46. The Special Commissioners in the exercise of their functions shall enjoy the same judicial immunity as is enjoyed by the person presiding in a subordinate court.

47. In sections 193 and 228 of the Penal Code the words "judicial proceeding" shall be deemed to include an appeal.

48. In this Schedule—

"appeal", except in paragraphs 34 to 42, means an appeal to the Special Commissioners under section 99;

"deciding order" means a deciding order made under paragraph 23;

"subordinate court" means a sessions court or the court of a magistrate of the first class;

"High Court", in relation to an appeal heard by the Special Commissioners, means (unless the parties to the appeal agree otherwise in writing) the High Court having jurisdiction in the place where the appeal begins to be heard by the Special Commissioners.

SCHEDULE 6

[Section 127]

Exemption from tax

PART I

INCOME WHICH IS EXEMPT

1. The official emoluments of a Ruler or Ruling Chief as defined in section 76.

1A. The official emoluments of the Consort of a Ruler of a State having the title of Raja Perempuan, Sultanah, Tengku Ampuan, Raja Permaisuri, Tengku Permaisuri, or Permaisuri:

Provided that where there are two or more consorts of a Ruler of a State having the above titles, the exemption shall be given only to the one recognized to be the official Consort.

1B. The official income of a former Ruler or Ruling Chief as defined in section 76 (excluding a former Governor or Yang di-Pertua Negara of a State) or a Consort of a former Ruler of a State previously having the title of Raja Perempuan, Sultanah, Tengku Ampuan, Raja Permaisuri, Tengku Permaisuri, or Permaisuri.

2. The official emoluments received by any person in respect of the exercise by him of the functions of a State Authority in a temporary or acting capacity.

3. Any income which is exempt by virtue of the Diplomatic Privileges (Vienna Convention) Act 1966 [*Act 24 of 1966*], or by virtue of an order made under Part III of the *Diplomatic and Consular Privileges Ordinance 1957 [*Ord. 53 of 1957*] or under the Foreign Representatives (Privileges and Immunities) Act 1967 [*Act 541*].

4. The official emoluments of consular officers and consular employees (as defined in the Diplomatic and Consular Privileges Ordinance 1957) in the service of a country to which Part IV of that Ordinance applies, to the extent provided by any consular convention between Malaysia and that country or, in the absence of a consular convention, to the extent that reciprocal treatment is accorded by that country to persons exercising corresponding functions in the service of Malaysia.

5. The income of the Government or a State Government.

6. The income of a local authority.

**NOTE*—This Ordinance has been repealed by Act A1064 w.e.f. 03-09-1999.

7. Wound and disability pensions granted to persons in respect of—

(a) service in the armed forces of Malaysia or a Commonwealth country;

(b) service on and after Merdeka Day in the armed forces;

(c) service before Merdeka Day in the Malay Regiment, the Federation Regiment, the Johore Military Forces, any volunteer force or local defence corps within the meaning of the Volunteer Forces and Local Defence Corps (Demobilization) Ordinance 1946 [*Ord. 16 of 1946*], or any force raised or established by or under the Malayan Auxiliary Air Force Ordinance 1950 [*Ord. 1 of 1950*], the Volunteer Force Ordinance 1951 [*Ord. 5 of 1951*], the Malayan Royal Naval Volunteer Reserve Ordinance 1952 [*Ord. 3 of 1952*], or the Military Forces Ordinance 1952 [*Ord. 47 of 1952*]; or

(d) service in the Sarawak Volunteer Force or the Sarawak Rangers,

and pensions granted to wives or dependant relatives of members of any of those forces or local defence corps killed on war service.

8. Disability pensions granted in respect of war service injuries to members of civil defence organizations in any territory comprised in Malaysia on 1 January 1968.

9. Sums payable out of moneys provided by Parliament by way of bounty to members of any of the following reserve forces, that is to say—

(a) Royal Malaysian Naval Volunteer Reserve;

(b) Malaysian Territorial Army;

(c) Royal Malaysian Air Force Volunteer Reserve.

10. The emoluments of any person who is a member of the armed forces of a Commonwealth country or in the service of the government of a Commonwealth country, if—

(a) he is in Malaysia for the purpose of performing his duties as a member of those forces or as a person in that service, as the case may be; and

(b) those emoluments are payable from the public funds of that country and subject to foreign tax of that country.

11. (*Deleted by Act 328*).

12. (1) The income of any co-operative society—

(a) in respect of a period of five years commencing from the date of registration of such co-operative society; and

(b) thereafter where the members' funds of such co-operative society as at the first day of the basis period for the year of assessment is less than seven hundred and fifty thousand ringgit.

(2) For the purposes of this paragraph "members' funds" means the aggregate of the paid up capital (in respect of shares and subscriptions and not including any amount in respect of bonus shares to the extent they were issued out of capital reserve created by revaluation of fixed assets) statutory reserve fund, reserves (other than any capital reserve which was created by revaluation of fixed assets and provisions for depreciation, renewals or replacements and diminution in value of assets), balance of share premium account (not including any amount credited therein at the instance of issuing bonus shares at premium out of capital reserve created by revaluation of fixed assets), and balance of profit and loss appropriation account.

12A. Any dividend paid, credited or distributed to any member by a co-operative society.

12B. Any dividend paid, credited or distributed to any person where the company paying such dividend is not entitled to deduct tax under this Act and any deductions in relation to such dividend shall be disregarded for the purpose of ascertaining the chargeable income of the person.

12C. Any profit paid, credited or distributed to partners by a limited liability partnership.

13. (1) The income of—

(a) an institution, organization or fund approved for the purposes of subsection 44(6) so long as the approval remains in force;

(b) a religious institution or organization in respect of any contribution received for charitable purposes in the basis year for a year of assessment provided such institution or organization is not operated or conducted primarily for profit and is established in Malaysia exclusively for the purpose of religious worship or the advancement of religion; or

(c) an appropriate religious authority or a body or a public university approved for the purposes of subsection 44(11D) in respect of any *wakaf* or endowment received including the income derived therefrom in the basis period for a year of assessment, so long as the approval remains in force.

14. Sums received by way of death gratuities or as consolidated compensation for death or injuries.

15. (1) A payment (other than a payment by a controlled company to a director of the company who is not a whole-time service director) made by an employer to an employee of his as compensation for loss of employment or in consideration of any covenant entered into by the employee restricting his right to take up other employment of the same or a similar kind—

(a) if the Director General is satisfied that the payment is made on account of loss of employment due to ill-health; or

(b) in the case of a payment made in connection with a period of employment with the same employer or with companies in the same group, in respect of so much of the payments as does not exceed an amount ascertained by multiplying the sum of ten thousand ringgit by the number of completed years of service with that employer or those companies:

Provided that this subsubparagraph shall apply to the payment made in respect of an individual who has ceased employment on or after 1 July 2008.

(2) For the purposes of this paragraph the Director General may direct that a period of employment in a business with different employers where the control and management of that business substantially remains with the same person or persons or where the employment is with different employers whose businesses are conducted by or through a central agency shall be treated as a period of employment with the same employer.

(3) In this paragraph, "compensation for loss of employment" shall include any payment made by an employer to an employee of his pursuant to a separation scheme where employees are given an option for an early termination of an employment contract provided that such scheme from which payment was made does not expressly or impliedly provide for the employee to be reemployed under any other scheme of employment by the same or any other employer.

16. Pensions granted to any person under any written law relating to widows', widowers' and orphans' pensions (or under any approved scheme within the meaning of any such law) and pensions paid under an approved scheme to or for the benefit of the widow, widower, child or children of a deceased contributor to the scheme.

17. The income of a trade union registered under any written law relating to trade unions, in so far as the income does not consist of the gains or profits from a business carried on by the union.

18. (*Deleted by Act 785*).

19. Interest paid or credited to any person in respect of any savings certificates issued by the Government.

20. The income of any approved scheme.

20A. Any income of a life insurer or takaful operator from an investment made out of a life fund or family fund in respect of a deferred annuity established in accordance with the Retirement Savings Standards approved by the Central Bank of Malaysia and any adjusted loss from the investment in respect of the deferred annuity shall be disregarded for the purposes of the Act.

21. Subject to paragraph 22, the income of an individual from an employment exercised by him in Malaysia—

(a) for a period or periods which together do not exceed sixty days in the basis year for a year of assessment; or

(b) for a continuous period (not exceeding sixty days) which overlaps the basis years for two successive years of assessment); or

(c) for a continuous period (not exceeding sixty days) which overlaps the basis years for two successive years of assessment and for a period or periods which together with that continuous period do not exceed sixty days,

if he is not resident for that basis year or for each of those basis years, as the case may be.

22. Paragraph 21 shall not apply to the income of an individual from an employment—

(a) if that individual has income derived from Malaysia from that employment for a period or periods amounting in all to more than sixty days in the basis year referred to in that paragraph or in the period consisting of the basis years so referred to; or

(b) if the income is income from an employment exercised by a public entertainer and no part of that income is paid out of the public funds of the government of a country outside Malaysia.

23. Education allowances paid to designated officers under the Overseas Service (North Borneo) Agreement 1961, or the Overseas Service (Sarawak) Agreement 1961.

24. Any sums paid by way or in the nature of a scholarship or other similar grant or allowance to an individual, whether or not in connection with an employment of that individual.

25. (1) Sums received by way of gratuity on retirement from an employment—

(a) if the Director General is satisfied that the retirement was due to ill-health;

(b) if the retirement takes place on or after reaching the age of 55, or on reaching the compulsory age of retirement from employment specified under any written law and in either case from an employment which has lasted ten years with the same employer or with companies in the same group; or

(c) if the retirement takes place on reaching the compulsory age of retirement pursuant to a contract of employment or collective agreement at the age of 50 but before 55 and that employment has lasted for ten years with the same employer or with companies in the same group.

(2) For the purposes of this paragraph the Director General may direct that a period of employment in a business with different employers where the control and management of that business substantially remains with the same person or persons or where the employment is with different employers whose businesses are conducted by or through a central agency shall be treated as a period of employment with the same employer.

25A. Sum received by way of gratuity or by way of payment in lieu of leave paid out of public funds on retirement from an employment under any written law.

25B. Sums received by way of gratuity paid out of public funds on termination of a contract of employment (less the employer's contribution to the Employees Provident Fund, if any, and interest thereon).

25C. Perquisite consisting of long service, past achievement, service excellence, innovation or productivity award, whether in money or otherwise, provided to an employee pursuant to his employment, limited to a maximum amount or value of two thousand ringgit for each employee for a year of assessment provided that exemption in respect of long service award shall apply only after the employee has exercised an employment for more than ten years with the same employer.

25D. Sums received by way of gratuity on retirement from an employment under any written law or termination of a contract of employment other than when paragraph 25, 25A, 25B or 30A applies:

Provided that the sums shall not exceed an amount ascertained by multiplying the sum of one thousand ringgit by the number of completed year of service of that individual.

26. The income of—

(a) any national amateur sports organization certified by the President and Secretary of the Olympic Council of Malaysia to be affiliated to that Council during the basis year for any year of assessment; and

(b) any State amateur sports organization certified by the President (or corresponding officer) and Secretary of an organization to which paragraph *(a)* applies to be affiliated to that organization during the basis year for any year of assessment,

being in each case income for that year of assessment.

27. (*Deleted by Act 785*).

28. (1) Income of any person, other than a resident company carrying on the business of banking, insurance or sea or air transport, for the basis year for a year of assessment derived from sources outside Malaysia and received in Malaysia.

(2) Paragraphs 5 and 6 of Schedule 7A shall apply *mutatis mutandis* to the amount of income derived and received by a resident company exempted under subparagraph (1).

29. Notwithstanding the provisions of subsection 44(6), the aggregate income of any person remaining after the reductions made pursuant to paragraphs 44(1)*(a)*, *(b)* and *(c)* to the extent of the amount of any contribution made by him during the basis period for a year of assessment to the National Monument Restoration Fund established for the purpose of restoring the National Monument in Kuala Lumpur.

30. Pensions derived from Malaysia and paid to a person on reaching the age of 55, or on reaching the compulsory age of retirement from employment specified under any written law or if the Director General is satisfied that the retirement was due to ill-health—

(a) in respect of services rendered in exercising a former employment in Malaysia; and

(b) where the pension is paid other than under any written law, from a pension or provident fund, scheme or society which is an approved scheme.

Provided that where a person is paid more than one pension, this paragraph shall apply to the higher or the highest pension paid, as the case may be.

30A. Gratuity or pension derived from Malaysia and paid to a person resident for the basis year for a year of assessment under any written law applicable to the President or Deputy President of the Senate, Speaker or Deputy Speaker of the House of Representatives, Speaker of the State Legislative Assembly, member of the Senate, member of the House of Representatives or member of the State Legislative Assembly:

Provided that—

(a) the exemption in respect of pension shall apply only when the person has attained the age of fifty-five or if the Director General is satisfied that such person ceased to be President, Deputy President, Speaker, Deputy Speaker or member due to ill-health; and

(b) where such person is eligible for exemption in respect of pension under this paragraph and also under paragraph 30 of this Schedule, exemption shall be applicable only to the higher or the highest pension payable, as the case may be.

31. (*Deleted by Act 323*).

32. Income of ten thousand ringgit for the basis year for a year of assessment derived by an individual resident in Malaysia for that basis year from royalty or payment in respect of the publication of, or the use of or the right to use, any artistic work (other than any original painting), and from royalty in respect of recording discs or tapes.

32A. Income of twelve thousand ringgit for the basis year for a year of assessment, derived by an individual resident in Malaysia, being payment received in that year in respect of any translation of books or literary work at the specific request of any agency of the Ministry of Education or Ministry of Higher Education or the Attorney General's Chambers:

Provided that the exemption shall not apply where the payment arises to the individual as part of his emoluments in the exercise of his official duties.

32B. Income of twenty thousand ringgit for the basis year for a year of assessment derived by an individual resident in Malaysia for that basis year from royalty (other than royalty in respect of recording discs or tapes) or payment in respect of the publication of, or the use of or the right to use, any literary work or any original painting.

32C. Income of an individual resident in Malaysia in that basis year in respect of his performances in cultural performances approved by the Minister:

Provided that the exemption shall not apply where the payment arises to the individual as part of his emoluments in the exercise of his official duties.

32D. Income of twenty thousand ringgit for the basis year for a year of assessment, derived by an individual resident in Malaysia, being payment in respect of any musical composition:

Provided that the exemption shall not apply where the payment arises to the individual as part of his emoluments in the exercise of his official duties.

32E. Income of an individual for the basis year for a year of assessment being payment by way of fee or honorarium in respect of services provided for purposes of validation, moderation or accreditation of franchised educational programmes in higher educational institutions and the services are verified by the Lembaga Akreditasi Negara:

Provided that the exemption shall not apply where the payment arises to the individual as part of his emoluments in the exercise of his official duties.

33. Income of any person not resident in Malaysia for the basis year for a year of assessment, in respect of interest derived from Malaysia (other than such interest accruing to a place of business in Malaysia of such person) and paid or credited by any person (whether the same person or not) carrying on banking business or Islamic banking business in Malaysia and licensed under the Financial Services Act 2013 or the Islamic Financial Services Act 2013, as the case may be, or by any other institution approved by the Minister:

Provided that the exemption under this paragraph shall not apply to interest paid or credited on funds required for purposes of maintaining net working funds as prescribed by the Minister pursuant to section 12 of the Financial Services Act 2013 and section 12 of the Islamic Financial Services Act 2013, as the case may be.

33A. (1) Interest paid or credited to any company not resident in Malaysia, other than such interest accruing to a place of business in Malaysia of such company—

(a) in respect of securities issued by the Government; or

(b) in respect of sukuk or debenture issued in Ringgit Malaysia, other than convertible loan stock, approved or authorized by, or lodged with, the Securities Commission.

(2) The exemption under subparagraph (1) shall not apply to interest paid or credited to a company in the same group.

33B. (1) Interest paid or credited to any person in respect of sukuk originating from Malaysia, other than convertible loan stock–

(a) issued in any currency other than Ringgit; and

(b) approved or authorized by, or lodged with, the Securities Commission, or approved by the Labuan Financial Services Authority.

(2) The exemption under subparagraph (1) shall not apply to—

(a) interest paid or credited to a company in the same group;

(b) interest paid or credited to—

(i) a bank licensed under the Financial Services Act 2013;

(ii) an Islamic bank licensed under the Islamic Financial Services Act 2013; or

(iii) a development financial institution prescribed under the Development Financial Institutions Act 2002.

34. (1) Income of an individual derived from exercising an employment on board a ship used in a business operated by a person being a registered owner of a ship under the Merchant Shipping Ordinance 1952 who is resident in Malaysia.

(2) For the purpose of this paragraph "ship" means a seagoing ship other than a ferry, barge, tug-boat, supply vessel, crew boat, lighter, dredger, fishing boat or other similar vessel.

34A. Interest paid or credited to any individual in respect of Merdeka Bonds issued by the Central Bank of Malaysia.

35. Interest or discount paid or credited to any individual, unit trust and listed closed-end fund—

(a) in respect of securities or bonds issued or guaranteed by the Government; or

(b) in respect of debentures, or sukuk other than convertible loan stock, approved or authorized by, or lodged with, the Securities Commission; or

(c) (*Deleted by Act 624*);

(d) in respect of Bon Simpanan Malaysia issued by the Central Bank of Malaysia.

35A. Income of a unit trust in respect of interest derived from Malaysia and paid or credited by—

(a) a bank licensed under the Financial Services Act 2013;

(b) an Islamic bank licensed under the Islamic Financial Services Act 2013; or

(c) a development financial institution prescribed under the Development Financial Institutions Act 2002:

Provided that the exemption shall not apply to the interest paid or credited to a unit trust that is a wholesale fund which is a money market fund.

36. Sums received by way of annuities granted under annuity contracts issued by Malaysian life insurers.

For the purposes of this paragraph "Malaysian life insurers" means life insurers and takaful operators whose ownership or membership are held in majority by Malaysian citizens.

PART II

(*Deleted by Act 328*)

SCHEDULE 7

[Sections 132 and 133]

Double Taxation Relief

Bilateral credit

1. Subject to this Schedule, the amount of Malaysian tax payable for a year of assessment shall be reduced by the amount of any bilateral credit.

2. Bilateral credit shall not be allowed against Malaysian tax for any year of assessment unless the person chargeable to the Malaysian tax is resident for the basis year for that year of assessment.

3. Where foreign income charged to foreign tax is income for a period which overlaps the basis period for a year of assessment, that income shall be apportioned in the manner provided by paragraph 3A and for that year of assessment bilateral credit may be given only in respect of so much of that income as is apportioned to the part of the overlapping period which overlaps the basis period.

3A. (1) For the purposes of paragraph 3, where a foreign income is receivable in respect of a period which overlaps the basis period (which is referred to in this paragraph as the overlapping period), that foreign income when received shall be apportioned between the part of the overlapping period which overlaps the basis period and the remaining part of the overlapping period.

(2) The apportionment under subparagraph (1) shall be made in the proportion that the number of days of the overlapping period that fall into the basis period bears to the total number of days of the overlapping period, unless the Director General, having regard to the facts of any particular case, otherwise directs.

(3) So much of that foreign income as is apportioned to the overlapping part of the overlapping period shall be treated as foreign income of the person for the basis period.

4. Where foreign income (being income for a particular period) is charged to Malaysian tax for more than one year of assessment or is charged to foreign tax more than once, bilateral credit may be allowed for a year of assessment for the total amount of foreign tax charged on that foreign income:

Provided that—

(a) the credit so allowed should not exceed the total amount of Malaysian tax charged on that foreign income; and

(b) where credit has been allowed for a year of assessment for any foreign tax, no credit shall be given for the same tax for any other year of assessment.

5. The bilateral credit to be allowed to a person in respect of any foreign income for a year of assessment shall not exceed a sum equal to so much of the Malaysian tax payable by him for that year (before the allowance of any credit under this Schedule) as bears to the whole of that Malaysian tax the same proportion as his statutory income in respect of that foreign income bears to his total income for that year.

6. Notwithstanding paragraph 5, the total bilateral credit to be allowed to a person for a year of assessment shall not exceed the total Malaysian tax payable by him on his chargeable income for that year before the allowance of any credit under this Schedule.

7. Bilateral credit shall not be allowed against Malaysian tax payable by a person for a year of assessment if he elects that credit shall not be allowed for that year.

8. (*Deleted by Act 591*).

9. Any claim for bilateral credit for a year of assessment shall be made in writing to the Director General not more than two years after the end of that year; and, where the claimant is aggrieved by the Director General's decision on the claim, subsection 131(5) shall apply (with any necessary modifications) as it applies where an applicant is aggrieved by the Director General's decision on an application under subsection 131(1).

10. Where the amount of any bilateral credit given is rendered excessive or insufficient by reason of any adjustment of the amount of any Malaysian tax or foreign tax, nothing in this Act limiting the time for making assessments, for making applications for relief or for giving notice of appeal shall apply to any assessment, application for relief or notice of appeal to which the adjustment gives rise, being an

assessment, application or notice made or given not more than two years after the time when all such assessments, adjustments and other determinations have been made (in Malaysia or elsewhere) as are material in determining whether any and if so what bilateral credit falls to be given.

Special provisions for trusts

11. Where the trust body of a trust is resident for the basis year for a year of assessment and the total income of the trust body includes foreign income which has suffered foreign tax, every beneficiary of the trust who is resident for that basis year shall be deemed for the purposes of this Schedule—

(a) to have a part of that foreign income proportionately equal to the share of the total income of the trust body to which he is entitled; and

(b) to have paid on that part of that foreign income a part of that foreign tax proportionately equal to that share of the total income of the trust body.

12. Where a trust is not resident for the basis year of a year of assessment, any beneficiary of the trust (including an annuitant) who is resident for that basis year shall, if he satisfies the Director General that—

(a) he has paid or suffered foreign tax on his income from his further source (within the meaning of subsection 61(5)) in relation to the trust body or on so much of the annuity as is derived from outside Malaysia; or

(b) any income from such further source or any annuity so derived was paid by the trust body from income which had suffered foreign tax,

be allowed bilateral credit in respect of that foreign tax in accordance with this Schedule.

Unilateral credit

13. Subject to paragraphs 14 and 15, unilateral credit shall be allowed in the same way as bilateral credit, and paragraphs 1 to 12 shall apply accordingly.

14. The unilateral credit allowed in respect of any foreign income for a year of assessment shall not exceed half the foreign tax payable on that income for that year.

15. Where an employee pays Malaysian tax and foreign tax in respect of income from an employment exercised outside Malaysia, then, whether or not he was resident for the basis year for the year of assessment for which the Malaysian tax was paid, unilateral credit may be allowed for foreign tax.

Interpretation

16. In this Schedule—

"bilateral credit" means credit in respect of foreign tax which, by virtue of any arrangements having effect under section 132, is to be allowed as a credit against Malaysian tax;

"foreign income" means income derived from outside Malaysia or in the case of bilateral credit, includes income derived from Malaysia charged to foreign tax;

"Malaysian tax" means tax imposed by this Act;

"unilateral credit" means credit in respect of foreign tax payable under the laws of a territory outside Malaysia with respect to which no arrangements under section 132 are in force.

SCHEDULE 7A

[Section 133A]

Reinvestment Allowance

1. Subject to this Schedule, where a company which is resident in Malaysia—

(a) has been in operation for not less than thirty- six months; and

(b) has incurred in the basis period for a year of assessment capital expenditure on a factory, plant or machinery used in Malaysia for the purposes of a qualifying project referred to under subparagraph 8*(a)*;

(c) (*Deleted by Act 591*),

there shall be given to the company for that year of assessment a reinvestment allowance of an amount equal to sixty per cent of that expenditure:

Provided that such expenditure shall not include capital expenditure incurred on plant or machinery which is provided wholly or partly for the use of a director, or an individual who is a member of the management, or administrative or clerical staff.

1A. Subject to this Schedule, where a company which has been in operation for not less than thirty-six months and is resident in Malaysia for the basis year for a year of assessment has incurred in the basis period for that year of assessment, capital

expenditure in relation to an agricultural project in Malaysia for the purposes of any qualifying project referred to under subparagraph 8*(c)* there shall be given to the company for that year of assessment a reinvestment allowance of sixty per cent of that expenditure.

1B. (1) Where a company has incurred capital expenditure in respect of an asset for the purposes of a qualifying project and that asset is acquired by a person (in this paragraph referred to as "the acquirer") from that company or from any other person (in this paragraph referred to as "the disposer") and at the time of the acquisition—

(a) the disposer of the asset is a person over whom the acquirer of the asset has control;

(b) the acquirer of the asset is a person over whom the disposer of the asset has control;

(c) some other person has control directly or indirectly over the disposer and acquirer of the asset; or

(d) the acquisition is effected in consequence of a scheme of reconstruction or amalgamation of companies,

this Schedule shall not apply to the acquirer in respect of the asset.

(2) In this paragraph—

"asset" means a factory, plant or machinery referred to in paragraph 1, or plant, machinery or building referred to in the definition of "capital expenditure" in paragraph 9;

"control", in relation to a company, means the power of a person to secure, by means of the holding of shares or the possession of voting power in or in relation to that or any other company, or by virtue of any powers conferred by the articles of association or other document regulating that or any other company, that the affairs of the first mentioned company are conducted in accordance with the wishes of that person.

1C. (*Deleted by Act 755*).

1D. (1) For the purposes of paragraphs 1 and 1A, the capital expenditure incurred by a company shall not include any amount paid or to be paid in respect of goods and services tax as input tax by a company if the company is liable to be registered under the Goods and Services Tax Act 2014 and has failed to do so, or if the company is entitled under that Act to credit that amount as input tax.

(2) Where in the basis period for a year of assessment a company has incurred capital expenditure under this Schedule in relation to an asset and the input tax on

the asset is subject to any adjustment made under the Goods and Services Tax Act 2014, the amount of such expenditure in relation to that asset shall be adjusted in the basis period for a year of assessment in which the period of adjustment relating to the asset as provided under the Goods and Services Tax Act 2014 ends.

(3) In the event the adjustment of the amount of the capital expenditure made under subparagraph (2) results in —

(a) an additional amount, such amount shall be deemed to be part of the capital expenditure incurred, and subject to paragraphs 1 and 1A, there shall be given to the company for a year of assessment an allowance in respect of such additional amount; or

(b) a reduced amount, any amount of allowance that ought not to have been given under this Schedule in consequence of such reduction shall be part of the statutory income of that person from a source consisting of a business in the basis period the adjustment is made.

(4) Notwithstanding subparagraph (2), where a person has incurred the capital expenditure in relation to an asset, and the asset is disposed of at any time during the period of adjustment specified under the Goods and Services Tax Act 2014, the adjustment to such expenditure shall be made in the basis period for the year of assessment in which the disposal is made.

(5) Paragraph 1B shall apply for the purpose of the adjustment referred to in subparagraph (4).

2. An allowance under paragraph 1 or 1A shall be given in respect of capital expenditure incurred in the basis periods for fifteen consecutive years of assessment beginning from the year of assessment for the basis period in which a claim for that allowance was first made in the return of his income in respect of that capital expenditure.

2A. (1) Where an asset is disposed of at any time within five years from the date of acquisition of that asset, an allowance given under paragraph 1 or 1A in respect of that asset shall be deemed to have not been given to the person to which it would otherwise be entitled.

(2) The allowance which is deemed to have not been given under subparagraph (1) shall be part of the person's statutory income in the basis period for the year of assessment in which such asset is disposed of.

2B. Subject to this Schedule and notwithstanding paragraph 2, where a company has first made a claim for an allowance under this Schedule in the return of its income and the period for fifteen consecutive years of assessment referred to in paragraph 2—

(a) ended in the year of assessment 2015 or in any other preceding year of assessment, an allowance under paragraph 1 or 1A shall be given in respect of capital expenditure incurred by the company in the basis period for the years of assessment 2016, 2017 and 2018;

(b) ends in the year of assessment 2016, an allowance under paragraph 1 or 1A shall be given in respect of capital expenditure incurred by the company in the basis period for the years of assessment 2017 and 2018; or

(c) ends in the year of assessment 2017, an allowance under paragraph 1 or 1A shall be given in respect of capital expenditure incurred by the company in the basis period for the year of assessment 2018.

3. Where an allowance is given to a person under paragraph 1 or 1A for a year of assessment, so much of the statutory income of that business of that person for that year of assessment as is equal to the amount of the allowance (or to the aggregate amount of any such allowances as the case may be) but not exceeding seventy per cent of the statutory income shall be exempt from tax for that year of assessment:

Provided that where the qualifying project has achieved the level of productivity as prescribed by the Minister, the amount to be exempt shall be equal to the allowance (or to the aggregate amount of any such allowances as the case may be) but not exceeding the statutory income for that year of assessment.

4. Where, by reason of the restriction of the allowance to seventy per cent of the statutory income or of an insufficiency or absence of statutory income from a business of the person for the basis period for a year of assessment, effect cannot be given or cannot be given in full to any allowance or allowances to which the person is entitled under this Schedule for that year of assessment in relation to the source consisting of that business, so much of the allowance or allowances as cannot be given for that year shall be given to the person under this Schedule for the first subsequent year of assessment for the basis period for which there is statutory income from that business, and for subsequent years of assessment.

4A. Statutory income referred to in paragraphs 3 and 4 shall be construed as the amount of statutory income of a person from a source consisting of a business in respect of a qualifying project referred to in paragraph 8.

*__4B.__ Notwithstanding paragraph 4, so much of the allowance or allowances as cannot be given as ascertained under that paragraph at the end of the fifteen consecutive years of assessment referred to in paragraph 2 (in this paragraph referred to as "the first mentioned year of assessment"), shall only be given to that person in accordance with paragraph 4 for a period of seven consecutive years of assessment

***NOTE*— *See* section 28 of Act 812 for explanation.

(in this paragraph referred to as "that period") and that period commences immediately after the end of the first mentioned year of assessment, and any amount of that allowance or that allowances at the end of that period which cannot be given to that person, by reason of insufficiency or absence of statutory income from a business of his for that period, shall be disregarded for the purpose of this Schedule.

5. (1) In the case of a company as soon as any amount of income has become exempted under paragraph 3, that amount shall be credited to an account to be kept by that company for the purposes of this paragraph (that account and company being in this paragraph and paragraph 6 referred to as the exempt account and the relevant company respectively).

(2) Where the exempt account is in credit at the date on which any dividends are paid by the relevant company out of income which has been exempted under paragraph 3, an amount equal to those dividends or that credit, whichever is the less, shall be debited to the exempt account.

(3) So much of the amount of any dividends debited to the exempt account under subparagraph (2) as is received by a shareholder in the relevant company shall, if the Director General is satisfied with the entries in the exempt account, be exempt from tax in the hands of that shareholder.

(4) Any dividends debited to the exempt account under subparagraph (2) shall be treated as having been distributed to the shareholders (or any particular class of shareholders) of the relevant company in the same proportions as those in which the shareholders in question were entitled to payment of the dividends giving rise to the debit.

(5) Until the Director General is satisfied that there is no further need to maintain the exempt account, the relevant company shall deliver to the Director General a copy of the exempt account made up to a date specified by him whenever it is called upon to do so by notice in writing sent by the Director General to the company's registered office.

(6) Where—

(a) an amount is received by way of dividend from the relevant company by a shareholder;

(b) that amount is exempt from tax under subparagraph (3); and

(c) that shareholder is a company,

any dividends paid by that shareholding company to its shareholders shall, to the extent that the Director General is satisfied that the dividends so paid are paid out of that amount, be exempt from tax in the hands of those shareholders.

(7) (*Deleted by Act 683*).

6. Notwithstanding any other provisions of this Schedule, where paragraph 2A applies or where it appears to the Director General that any income of the relevant company exempted under paragraph 3 or any dividend exempted in the hands of a shareholder under paragraph 5 ought not to have been exempted, he may at any time within five years after the expiration of the year of assessment for which the exemption was given make such assessment or additional assessment upon any person as appears to him to be necessary in order to counteract any benefit obtained from the exemption, or direct the relevant company to debit the exempt account with such amount as the circumstances require.

6A. Where in the case of a business of a person the basis periods for two years of assessment overlap, the period common to those periods shall be deemed for the purposes of this Schedule to fall into the earlier of those periods and not into the later of those periods.

7. This Schedule shall not apply to a company—

(a) for the basis period during which the company—

(i) has been granted pioneer status under the Promotion of Investments Act 1986 in respect of a promoted activity or promoted product and which is applying or intends to apply for the grant of a pioneer certificate; or

(ii) has been granted pioneer certificate under the Promotion of Investments Act 1986 in respect of a promoted activity or promoted product and whose tax relief period has not ended or ceased;

(b) for the basis period for which the company has been granted approval for investment tax allowance under the Promotion of Investments Act 1986 in respect of a promoted activity or promoted product for the period prescribed under the relevant provisions of that Act;

(c) (*Deleted by Act 578*);

(d) for the basis period during which that company, notwithstanding the repeal of the Investment Incentives Act 1968—

(i) has been given approval under section 5, 12A or 12B of that Act and whose tax relief period has not ended; or

(ii) has been given approval under section 26 of that Act and incurs capital expenditure which qualifies for investment tax credit; or

(e) for the basis period for which the company has been granted approval under section 31C of the Promotion of Investments Act 1986 prior to the coming into operation of section 37 of the Promotion of Investments (Amendment) Act 2007 [*Act A1318*] in respect of a manufacturing activity or manufactured product for the period prescribed under paragraph 31E(2)*(b)* of that Act.

(f) (*Deleted by Act 683*).

8. In this Schedule, "qualifying project" means—

(a) a project undertaken by a company, in expanding, modernizing or automating its existing business in respect of manufacturing of a product or any related product within the same industry or in diversifying its existing business into any related product within the same industry;

(b) (*Deleted by Act 693*);

(c) an agricultural project undertaken by a company in expanding, modernizing or diversifying its cultivation and farming business excluding the business of rearing chicken and ducks; or

(d) (*Deleted by Act 755*).

9. In this Schedule—

"automating" refers to a process whereby manual operations are substituted by mechanical operations with minimal or reduced human intervention;

"capital expenditure", in relation to an agricultural project referred to in paragraphs 1A and 1C, means capital expenditure incurred in respect of—

(a) the clearing and preparation of land;

(b) the planting of crops;

(c) the provision of irrigation or drainage systems;

(d) the provision of plant and machinery;

(e) the construction of access roads including bridges;

(f) the construction or purchase of buildings (including those provided for the welfare of persons or as living accommodation for persons) and structural improvements on land or other structures; or

(g) (*Deleted by Act 755*),

for the purposes of any of the following activities:

(aa) cultivation of rice and maize;

(bb) cultivation of vegetables, tuber and roots;

(cc) cultivation of fruits;

(dd) livestock farming;

(ee) spawning, breeding or culturing of aquatic products;

(ff) any other activities approved by the Minister; and

(gg) (*Deleted by Act 755*);

"ceased to be used" in relation to an asset includes an asset classified as held for sale under paragraph 61A of Schedule 3;

"disposed of" means sold, conveyed, transferred, assigned, ceased to be used or alienated with or without consideration;

"diversifying" means to enlarge or vary the range of product of a company related to the same industry;

"expanding" refers to an increase of a product capacity or expansion of factory area;

"factory" means portion of the floor areas of a building or an extension of a building used for the purposes of qualifying project to place or install plant or machinery or to store any raw material, or goods or materials manufactured prior to sale:

Provided that in respect of portion of the building or extension of the building used for the storage of raw material, or goods or materials, or both, it shall not be more than one-tenth of the total floor areas of that building or extension;

"incurred" has the same meaning assigned thereto in paragraphs 46 and 55 of Schedule 3;

"manufacturing" means—

(a) conversion by manual or mechanical means of organic or inorganic materials into a new product by changing the composition, nature or quality of such materials;

(b) assembly of parts into a piece of machinery or products; or

(c) mixing of materials by a chemical reaction process including biochemical process that changes the structure of a molecule by the breaking of the intra molecular bonds or by altering the spatial arrangement of atom in the molecule,

but does not include—

(aa) the installation of machinery or equipment for the purpose of construction;

(bb) a simple packaging operations such as bottling, placing in boxes, bags and cases;

(cc) a simple fixing;

(dd) a simple mixing of any products;

(ee) a simple assembly of parts;

(ff) any activity to ensure the preservation of products in good condition during transportation and storage;

(gg) any activity to facilitate shipment and transportation;

(hh) any activity of packaging or presenting goods for sale; or

(ii) any activity that may be prescribed by the Minister, notwithstanding the above interpretation;

"machinery" means a device or apparatus consisting of fixed and moving parts that work together to perform function in respect of a manufacturing activity, which is directly used in carrying out that activity in a factory;

"modernizing" means an upgrading of manufacturing equipment and process;

"operation" means an activity which consists of the carrying on of a business referred to in paragraph 8;

"plant" means an apparatus used in respect of a manufacturing activity, which is directly used in carrying out that activity in a factory;

"simple" generally describes an activity which does not need special skills, special machines, special apparatus or special equipments especially produced or installed for carrying out that activity.

10. Except for paragraphs 1 and 5, this Schedule shall also apply to an agro-based co-operative society (within the meaning assigned to it under the Farmers' Organization Act 1973 [*Act 109*]), an Area Farmers' Association, a National Farmers' Association, a State Farmers' Association (within the meanings assigned to them under the Farmers' Organization Act 1973), an Area Fishermen's Association, a National Fishermen's Association and a State Fishermen's Association (within the meanings assigned to them under the Fishermen's Association Act 1971 [*Act 44*]).

11. For the purpose of paragraph 1C, where—

(a) a company or a partnership (hereinafter referred to in this subparagraph as "new partnership") commences to carry on a business of rearing chicken and ducks; and

(b) that business is a continuation of a business carried out by a sole proprietor or a partnership (hereinafter referred to in this subparagraph as "old partnership") for a period of not less than thirty-six months prior to that commencement,

that period, in relation to that company and the new partnership, shall be taken into account in ascertaining the period of not less than thirty-six months referred to in that paragraph:

Provided that the sole proprietor or any of the partners in the old partnership holds any share in that company or is the partner of the new partnership, as the case may be.

12. Where a person has a source within the meaning of sections 55 to 58, the rules prescribed under paragraph 74 of Schedule 3 shall apply, *mutatis mutandis*, in ascertaining the allowance to be made to that person for a year of assessment under this Schedule.

SCHEDULE 7B

[Section 133A]

Investment Allowance for Service Sector

1. Where a company which is resident in Malaysia for the basis year for a year of assessment has incurred in the basis period for that year of assessment capital expenditure for the purpose of an approved service project, there shall be given to the company for that year of assessment an investment allowance of an amount approved by the Minister, such allowance being not less than sixty per cent of that expenditure.

1A. (1) For the purposes of paragraph 1, the capital expenditure incurred by a company shall not include any amount paid or to be paid in respect of goods and services tax as input tax by a company if the company is liable to be registered under the Goods and Services Tax Act 2014 and has failed to do so, or if the company is entitled under that Act to credit that amount as input tax.

(2) Where in the basis period for a year of assessment a company has incurred capital expenditure under this Schedule in relation to an asset and the input tax on the asset is subject to any adjustment made under the Goods and Services Tax Act 2014, the amount of such expenditure in relation to that asset shall be adjusted in the basis period for the year of assessment in which the period of adjustment relating to the asset as provided under the Goods and Services Tax Act 2014 ends.

(3) In the event the adjustment of the amount of the capital expenditure made under subparagraph (2) results in—

(a) an additional amount, such amount shall be deemed to be part of the capital expenditure incurred, and subject to paragraph 1, there shall be given to the company for a year of assessment an allowance in respect of such additional amount; or

(b) a reduced amount, any amount of allowance that ought not to have been given under this Schedule in consequence of such reduction shall be part of the statutory income of that person from a source consisting of a business in the basis period the adjustment is made.

(4) Notwithstanding subparagraph (2), where a person has incurred capital expenditure in relation to an asset, and the asset is disposed of at any time during the period of adjustment specified under the Goods and Services Tax Act 2014, the adjustment to such expenditure shall be made in the basis period for a year of assessment in which the disposal is made.

2. The Minister may grant approval in respect of an application made in writing for an investment allowance under this Schedule on such terms and conditions as he deems fit.

3. An allowance for expenditure given under paragraph 1 shall be given in respect of expenditure incurred within five years from the date from which the approval is to take effect.

4. Where an allowance is given to a company under paragraph 1 for a year of assessment, so much of the statutory income of the business of the company in respect of an approved service project for that year of assessment as is equal to the amount of the allowance (or to the aggregate amount of any such allowance, as the case may be) shall be exempt from tax and the amount so exempt shall not exceed seventy per cent (or any other rate as the Minister may determine) of the statutory income of that business of the company for that year of assessment.

5. Where, by reason of an absence or insufficiency of statutory income of a company from a business for the basis period for a year of assessment, effect cannot be given or cannot be given in full to any allowance or allowances to which the company is entitled to under this Schedule for that year in relation to the source consisting of that business, then, notwithstanding the foregoing paragraphs, so much of the allowance or allowances in question as cannot be given for that year shall be deemed to be an allowance to be given to the company under this Schedule for the first subsequent year of assessment for the basis period for which there is statutory income from that business, and so on for subsequent years of assessment.

***5A.** Notwithstanding paragraph 5, so much of the allowance or allowances as cannot be given as ascertained under that paragraph for the year of assessment that relates to the basis period where the five-year period specified in paragraph 3 ends (in this paragraph referred to as "the first mentioned year of assessment"), shall only be given to that person in accordance with paragraph 5 for a period of seven consecutive years of assessment (in this paragraph referred to as "that period") and that period commences immediately after the end of the first mentioned year of assessment, and any amount of that allowance or those allowances at the end of that period which cannot be given to that person, by reason of insufficiency or absence of statutory income from a business of his for that period, shall be disregarded for the purpose of this Schedule.

6. Paragraphs 5 and 6 of Schedule 7A shall apply as if any reference in those paragraphs to any income exempted or which has become exempted under paragraph 3 of that Schedule were a reference to income credited to the exempt account under paragraph 4.

7. This Schedule shall not apply to a company for the period during which the company has been granted exemption under section 127.

8. For the purposes of this Schedule any expenditure incurred in relation to an approved service project prior to the commencement of the business, shall be deemed to be incurred on the day when the business commences.

9. For the purposes of this Schedule—

"approved service project" means a project in the service sector in relation to transportation, communications, utilities or any other sub-sector as approved by the Minister;

"capital expenditure", in relation to approved service project, means capital expenditure incurred on plant, machinery, fixtures, premises, buildings, structures or works of a permanent nature and shall not include capital expenditure incurred on buildings, plant or machinery which are provided wholly or partly for the use of a

***NOTE*— *See* section 30 of Act 812 for explanation.

director or an individual who is a member of the management, administrative or clerical staff;

"incurred" has the same meaning assigned to it in paragraphs 46 and 55 of Schedule 3.

SCHEDULE 8

[Section 155]

Repeals

No. and year	*Short title*	*Extent of repeal*
29 of 1956	Income Tax Ordinance 1956 of Sabah	The whole
13 of 1960	Inland Revenue Ordinance 1960 of Sarawak	The whole
M.U. 48 of 1947	Income Tax Ordinance 1947	The whole
F.M. 62 of 1950	Housing Trust Ordinance 1950	The words "and income tax" and "or income tax" in subsection 35 (1) and the words "Income Tax" in the marginal note to section 35
F.M. 36 of 1954	Petaling Jaya Ordinance 1954	The words "and income tax" and "or income tax" in section 29 and the words "and income tax" in the marginal note to that section
F.M. 20 of 1956	Land Development Ordinance 1956	The words "and income tax" and "or income tax" in subsection 63 (1)

No. and year	*Short title*	*Extent of repeal*
F.M. 61 of 1958	Central Bank of Malaysia Ordinance 1958	The words "from the provisions of any law relating to income taxation or company taxation, and" in section 50 and the words "taxation and" in the marginal note to that section
F.M. 10 of 1961	Racing (Totalizator Board) Act 1961	Subsection 19(2)
F.M. 25 of 1962	Sarawak Electricity Supply Corporation 1962	Section 32

SCHEDULE 9

[Section 156]

Transitional and Saving Provisions

PART I

General

Interpretation

1. (1) In this Schedule—

"pre-basis period", in relation to a pre-year of assessment, means the period which would have been the basis period for that year if that year had been a year of assessment in relation to which this Act has effect by virtue of subsection 1(3);

"pre-basis year", in relation to a pre-year of assessment, means the calendar year immediately preceding that pre-year of assessment;

"previous tax" means any tax imposed by a repealed law;

"pre-year of assessment" means a calendar year preceding the year of assessment 1968;

"repealed laws" means the Sabah Ordinance, the Sarawak Ordinance and the West Malaysian Ordinance, and "repealed law" means any of those Ordinances;

"Sabah Ordinance" means the Income Tax Ordinance 1956, of Sabah;

"Sarawak Ordinance" means the Inland Revenue Ordinance 1960, of Sarawak;

"West Malaysian Ordinance" means the Income Tax Ordinance 1947, of West Malaysia.

(2) In the marginal note to any paragraph of this Schedule—

(a) a reference to any specific Part, section or Schedule is a reference to the Part or section of this Act, or Schedule to this Act, to which that paragraph relates; and

(b) a reference to a specific Schedule followed by a colon and a number or numbers is a reference to the paragraph or paragraphs of that Schedule bearing that number or those numbers.

(3) This Part of this Schedule shall be subject in its operation to Parts II, III and IV thereof.

Power to make further transitional or saving provisions

2. (1) The Minister at any time may by statutory order make such further transitional or saving provisions as he considers necessary or expedient (including provisions amending any of the paragraphs of this Schedule except this paragraph).

(2) Any order made under subparagraph (1) shall be laid before the Dewan Rakyat.

Repealed laws saved for certain purposes

3. (1) Subject to subparagraph (2) and the other provisions of this Schedule, each of the repealed laws shall remain in force for all purposes in relation to the year of assessment 1967 under the law in question and to previous years of assessment under that law.

(2) Any function of a public officer under a repealed law may for the purposes of subparagraph (1) be exercised by any public officer referred to in section 134 whose office substantially corresponds to that of an officer by whom the function was exercisable under that law or by any public officer so referred to who is designated in that behalf by the Director General.

(3) Subsections 136(2) to (5) shall not apply to the exercise of the Director General's functions under subparagraph (2).

References to repealed law

4. Unless the context otherwise requires, a reference in a written law to any provision of a repealed law shall be construed in relation to the year of assessment 1968 and subsequent years of assessment as a reference to the corresponding provision (if any) of this Act.

References to Malaysia before 1968

5. Subject to any express provision of this Act, references in this Act to Malaysia shall be construed, in relation to any time before 1 January 1968, as references to the territories comprised in Malaysia on that date or any one or more of those territories.

Section 7

6. References in section 7 to years of assessment preceding a particular year of assessment and to the basis years for those preceding years include references to pre-years of assessment and pre-basis years respectively.

Section 8

7. Where a company or body of person falls to be treated as resident in Sabah, Sarawak or Peninsular Malaysia under the appropriate repealed law for a year of assessment under that law coinciding with the calendar year 1966 or 1967, then, for the purposes of subsection 8(2)—

(a) if the calendar year in question is 1966, it shall be presumed until the contrary is proved that the company or body was resident in Malaysia for the purposes of this Act for the basis years for the year of assessment 1968 and every subsequent year of assessment;

(b) if the calendar year in question is 1967, it shall be taken to have been established as between the Director General and the company or body that the company or body was resident in Malaysia for the basis year for the year of assessment 1968.

Section 10

8. References in section 10 to years of assessment preceding a particular year of assessment and to the basis years for those preceding years including references to pre-years of assessment and pre-basis years respectively.

Section 13

9. In subsections 13(2) and (3) "period" includes a period which elapsed or began before 1 January 1968.

Section 21

10. (1) In subsections 21(2) and (3) "financial year" and "accounting period" include, in relation to the year of assessment 1968, a financial year or accounting period, as the case may be, beginning before 1 January 1967.

(2) Where under subsection 28(2) of the Sabah Ordinance, subsection 25(2) of the Sarawak Ordinance or subsection 31(2) of the West Malaysian Ordinance a direction has been given (or purports to have been given) with respect to the years of assessment 1967 and 1968 under the Ordinance in question, the period which the direction indicates (or purports to indicate) with respect to the year of assessment 1968 under that Ordinance shall be taken to be the basis period for the year of assessment 1968 under this Act unless the Director General having regard to the circumstances of any particular case directs that some other period shall be taken to be the basis period for that year of assessment under this Act.

(3) Where the accounts for the financial year of a company or the accounts of a business were made up for a period of twelve months to some day in the calendar year 1966 other than 31 December and accounts were not made up to the corresponding day in the calendar year 1967, the Director General may act under subsection 21(3) in relation to the years of assessment 1968 and 1969 under this Act and, where appropriate, may act under any of the provisions of the repealed laws mentioned in subparagraph (2) in relation to the year of assessment 1967 under any repealed law.

Section 23

11. (1) In paragraph 23*(c)* "any tax" includes previous tax deducted in paying, crediting or distributing any gross income—

(a) if that previous tax was deducted in the calendar year 1967; or

(b) if part of the basis period for the year of assessment 1968 elapsed before 1 January 1967, and that previous tax was deducted in that part of that basis period from gross income which is gross income for that basis period.

(2) In paragraph 23*(d)* "tax", in relation to a dividend, includes previous tax—

(a) if the dividend was paid or credited in the calendar year 1967; or

(b) if part of the basis period for the year of assessment 1968 elapsed before 1 January 1967, and the dividend, being gross income for that basis period, was paid or credited in that part of that basis period.

(3) Where a dividend was paid or credited or distributed in specie in the year of assessment 1966 or 1967 under the Sarawak Ordinance by a company resident in Sarawak by virtue of that Ordinance for the year of assessment in which the dividend was paid, credited or distributed, section 23 shall operate in relation to the dividend so that, for the purposes of sections 24 to 28, it shall be deemed to have been paid, credited or distributed after deduction of tax at the rate in force for corporation profits tax in Sarawak for the year of assessment in question and to be of such a gross amount as after deduction of tax at that rate would be equal to—

(a) the amount of the dividend so paid or credited; or

(b) where the dividend consists of property other than money, the amount of the market value of that property at the time of the dividend's distribution.

Section 24

12. (1) An amount treated under any repealed law as income from a source other than a source consisting of a business shall not be treated as gross income under this Act if it is a debt arising in the manner described in paragraph 24(1)*(c)*.

(2) In subsection 24(4) "dividend" does not include any dividend which is treated under any repealed law as income from a source other than a source consisting of a business, and in subsection 24(5) "interest" does not include any interest which is so treated under any repealed law.

PART III

13. Where, in the application of Chapters 3 and 4 of Part III to a person and a source of his, regard is to be had to any particular period commencing prior to the basis period for a year of assessment, regard may be had to that particular period notwithstanding that it commenced prior to the basis period for the year of assessment 1968.

Sections 30 and 34

14. Where—

(a) a person is chargeable to previous tax in respect of the income or assessable profits from a business of his or would have been so chargeable but for an insufficiency of any such income or profits; and

(b) this Act is applicable to him in respect of gross income from that business for the basis period for the year of assessment 1968 or any subsequent year of assessment,

any provision of this Act which is necessary for the proper application of subsections 30(1) and (4) and 34(2) to him, to that business and to any such year of assessment may be deemed to have been applicable to him and that business for the pre-basis period, in relation to that business, for any pre-year of assessment.

Section 33

15. Where any particular part of the subject matter of any particular deduction which but for this paragraph would fall to be made under subsection 33(1) in computing the adjusted income of a person from a source for the basis period for a year of assessment has formed the whole or part of the subject matter of a deduction under any corresponding provision of a repealed law, that particular deduction, if the amount from which it was deducted is not gross income for the basis period for that year of assessment, shall be reduced in the application of subsection 33(1) to that year of assessment by so much thereof as relates to that particular part.

Section 34

16. Where any particular part of the subject matter of any particular deduction which but for this paragraph would fall to be made under subsection 34(1) in accordance with subsection (4), (6) or (7) of that section in computing the adjusted income of a person from a business for the basis period for a year of assessment has formed the whole or part of the subject matter of a deduction under any corresponding provision of a repealed law, that particular deduction, if the amount from which it was deducted is not gross income for the basis period for that year of assessment, shall be reduced in the application of subsection 34(1) and those subsections to that year of assessment by so much thereof as relates to that particular part.

Section 35

17. Where the relevant period for the purposes of section 35 is a basis period for the year of assessment 1968, paragraph (3)*(b)* of that section shall be so modified that the value of any particular item of the stock at the beginning of the relevant period (except where the business was commenced by the relevant person in the relevant period) shall be taken—

(a) to be an amount equal to the value which would be arrived at if paragraph (3)*(a)* were applied at the beginning and not at the end of the relevant period; or

(b) if a value in respect of that item was had regard to for the purposes of any repealed law at the end of an accounting period ending immediately before the relevant period, to be an amount equal to that value:

Provided that, where the value of an item to which subparagraph *(b)* applies was had regard to as mentioned in that subparagraph for the purposes of two or more repealed laws, regard shall be had for the purposes of that subparagraph to such one of those laws as the relevant person may elect by notice in writing given to the Director General within three months after the beginning of the year of assessment 1968 (or within such further period as the Director General may allow) or, if the relevant person fails so to elect, as the Director General may direct.

Section 43

18. (1) Where a person has incurred, in relation to a source of his, a loss of a kind deductible under any repealed law, there shall be ascertained the amount thereof, if any, unallowed after the application of that law to all years of assessment under that law for which that law was in force:

Provided that, if in the application of this subparagraph to a person and a loss in relation to a source an amount is so ascertained under the Sabah Ordinance and if under that Ordinance that loss is one incurred anywhere, this subparagraph shall not apply to any part of that loss in relation to any repealed law other than that Ordinance.

(2) Where an amount has been ascertained under subparagraph (1) in its application to a person and a source, then, in the application of section 43 to that person, that amount (in subparagraph (3) referred to as the specified amount) shall be treated as the amount ascertained under subsection 44(4) for the pre-year of assessment 1967, which shall be treated as the particular year of assessment preceding the relevant year for the purposes of subsection 43(2).

(3) Where the proviso to subparagraph (1) is applicable to a person and that person is not ordinarily resident for the basis year for the relevant year to which regard is had in the application of section 43, subsection 43(5) shall apply in order to ascertain how much of the specified amount is to be taken to be the amount of the Malaysian loss for the purposes of paragraph 43(5)*(a)* and the proportion thereof to be substituted for the purposes of paragraph 43(5)*(b)*.

Section 44

19. (1) Where a loss has been deducted in calculating the assessable income or the assessable profits (as the case may be) for the year of assessment 1967 under a repealed law no part of that loss shall be taken into account for the purposes of section 44.

(2) Where approval has been given for the purposes of any of the repealed laws to an institution of a public character, the approval, if it was still effective on 31 December 1967, shall be deemed to have been given (subject to any conditions effective on that date) under section 44.

Section 54

20. (1) Where a person has incurred, in relation to a source of his consisting of a business of a kind to which subsection 54(2) applies, a loss of a kind deductible under any repealed law, there shall be ascertained the amount thereof, if any, unallowed after the application of that law to all years of assessment under that law for which that law was in force.

(2) Subparagraph (1) shall apply to a depreciation allowance to which regard is had under a repealed law as it applies to a loss.

(3) Where an amount has been ascertained under subparagraph (1) or (2) or both in respect of a person and a source, then, in the application of paragraph 54(4)*(a)* to that person, that amount (or, where an amount has been ascertained under either or both of those subparagraph in relation to more than one repealed law, the aggregate of the amounts so ascertained) shall be treated as the amount ascertained under paragraph 54(4)*(b)* for the pre-year of assessment 1967, which shall be treated as a year of assessment preceding the relevant year for the purposes of paragraph 54(4)*(a)*.

(4) Paragraph 18 shall not apply to a loss to which this paragraph applies.

Section 60

21. In the application of subparagraphs 60(5)*(a)*(v) and (6)*(a)*(v) to the general business of an insurer for the basis period for the year of assessment 1968, subsection 60(9) shall not apply and for the amount of his reserve fund for unexpired risks regard shall be had to the amount taken by him to be the reserve for unexpired risks at the end of the basis period for the year of assessment 1967 under a repealed law or, where two or more repealed laws apply, the aggregate of the amounts taken by him to be the reserves for unexpired risks at the end of the basis period for the year of assessment 1967 under each of those laws.

Section 68

22. Where an appointment has been made under any repealed law of any person to be the agent of any other person for any of the purposes of that law, the appointment, if it was still effective on 31 December 1967, shall be deemed to have been made under section 68 for any purposes of this Act similar to those first-mentioned purposes.

Section 74

23. In subsections 74(5) and (6) "tax" includes previous tax.

Section 75

24. In subsection 75(2) the references to tax, this Act and section 107 include references to previous tax, any repealed law and any provision of a repealed law corresponding to section 107; and subsection 75(3) shall be construed accordingly.

PART VII

25. Part VII (except sections 108, 109 and 110) shall apply, with any necessary modifications, for the recovery of and otherwise in relation to any previous tax which is the subject of an assessment made under a repealed law on or after 1 January 1968, and any sum due in connection with any such previous tax.

Section 104

26. In section 104 the references to tax, sums and debts include references to previous tax and to sums and debts of a corresponding kind under the repealed laws.

Section 107

27. Where a direction has been given for the year of assessment 1968 under the Deduction of Income Tax (Employments) Rules 1948 of West Malaysia [*G.N. 3305/ 1948*], the direction shall be deemed to have been given under the Income Tax (Deduction from Emoluments: West Malaysia) Rules 1967 [*P.U. 636/1967*].

Section 108

28. (1) Where subsection 108(4) applies to a company for the year of assessment 1968—

(a) any tax which the company is entitled to deduct (or which is deemed to be deducted by the company) under the Sabah Ordinance or the West Malaysian Ordinance from a dividend paid or distributed in the calendar year 1967, and any tax deemed to be deducted by the company under paragraph 29 from a dividend paid, credited or distributed in that calendar year, shall be disregarded in arriving at the compared total for the purposes of subsection 108(4); and

(b) the reference in subsection 108(4) to "the balance (if any)" shall be construed—

(i) as a reference to the balance (if any) which would have been carried forward under subsection 40(5) of the West Malaysian Ordinance or subsection 37(5) of the Sabah Ordinance if the said section 40 or the said section 37, as the case may be, was applicable to the company for the year of assessment 1967 under the West Malaysian Ordinance or the Sabah Ordinance and would have been so applicable for the year of assessment 1968 under the West Malaysian Ordinance or the Sabah Ordinance but for the repeal of the Ordinance in question; or

(ii) if the company was resident in Sarawak for the year of assessment 1967 under the Sarawak Ordinance, as a reference to such a balance (if any) as is ascertained under paragraph 29.

(2) In the application of subsection 108(8) to any case to which subparagraph (1) applies, the references in the said subsection 108(8) to a year of assessment, any assessment and any repayment of tax shall be deemed to include references to a year of assessment, any assessment and any repayment of tax under any repealed law.

(3) For the avoidance of doubt it is declared that—

(a) any reference in section 108 to a company entitled to deduct tax from dividends includes a company entitled to declare itself a resident of Malaysia under paragraph 3 of Article VII of the Double Taxation Relief (Singapore) Order 1968 [*P.U.(A) 518/1968*]; and

(b) any reference in subsection 108(8) to repayment of tax includes payment of the Sabah credit, Sarawak credit or West Malaysian credit, as the case may be, which payment shall be deemed to have been made in the year of assessment in which the company became entitled to the credit.

(4) Where—

(a) a company, which is entitled to a Sabah credit, Sarawak credit or West Malaysian credit, is a non-resident company the payment of the Sabah credit, Sarawak credit or West Malaysian credit, as the case may be, to the company; or

(b) any of the provisos to subparagraphs 69(1), 85(1) and 109(1) applies to a non-resident company, the payment to a transferee company of the Sabah credit, Sarawak credit or West Malaysian credit, as the case may be, to which the non-resident company would have been entitled but for that proviso,

shall not be deemed to be a repayment of tax under subsection 108(8).

(5) For the purposes of subparagraph (4), a non-resident company refers to a company which is not resident in the basis year for the year of assessment 1967 but does not include a company which is entitled to declare itself a resident of Malaysia under paragraph 3 of Article VII of the Double Taxation Relief (Singapore) Order 1968.

Section 108

29. (1) Where subsubparagraph 28(1)*(b)*(ii) applies to a company—

(a) any dividend paid, credited or distributed by the company in any of the years of assessment 1964 to 1967 inclusive for which the company was resident in Sarawak under the Sarawak Ordinance (any such years for which the company was so resident being in this paragraph referred to as the residential years) shall be deemed to have been paid, credited or distributed after deduction of Sarawak tax at the rate in force for the year in question and to be of such a gross amount as after deduction of Sarawak tax at that rate would be equal to—

(i) the amount of the dividend so paid or credited; or

(ii) where the dividend consists of property other than money, the amount of the market value of that property at the time of the dividend's distribution,

and a sum equal to the difference between that gross amount and the amount of the dividend so paid, credited or distributed shall be deemed to be the amount of the Sarawak tax deducted from that dividend;

(b) for the first of the residential years there shall be ascertained the excess, if any, of the amount of the federal tax payable by the company for that first year (that amount being computed after giving any relief due to the company for that first year by virtue of section 59 or 61 of the Sarawak

Ordinance or the corresponding provisions of the Sabah Ordinance or the West Malaysian Ordinance) over the total of all amounts so deemed to have been deducted from dividends paid, credited or distributed by the company in that first year;

(c) for each of the residential years subsequent to that first year there shall be ascertained the excess, if any, of the aggregate of the federal tax payable by the company for that subsequent year, and the excess, if any, for the latest of the residential years preceding that subsequent year (as ascertained under this subparagraph or, where this subsubparagraph does not apply to that preceding year, under subparagraph *(b)*) over the total of all amounts so deemed to have been deducted from dividends paid by the company in that subsequent year; and

(d) the excess ascertained under subparagraph *(c)* (or, where subparagraph *(c)* does not apply, under subparagraph *(b)*) for the year of assessment 1967 in relation to the company shall be deemed to be the balance.

(2) Where this paragraph has applied to a dividend which has been credited, it shall not apply to that dividend when paid.

Section 108

30. In paragraph 29—

"federal tax" means any one or more of the following, that is to say, the income tax imposed by the Sabah Ordinance, the corporation profits tax imposed by the Sarawak Ordinance and the income tax imposed by the West Malaysian Ordinance, but does not include tin profits tax or development tax imposed under any repealed law;

"Sarawak tax" means the corporation profits tax imposed by the Sarawak Ordinance, but does not include development tax imposed by that Ordinance;

"year of assessment", in relation to Sarawak tax, means a year of assessment for the purposes of the Sarawak Ordinance, and in relation to federal tax means a year of assessment for the purposes of any one or more of the repealed laws.

Section 110

31. (1) Subject to subparagraph (2), in the application of section 110, other than subsections (8), (9), (10) and (12) thereof, any reference to tax shall include a reference—

(a) to any previous tax deducted from any dividend or interest paid in the calendar year 1967; or

(b) where part of the basis period for the year of assessment 1968 elapsed before 1 January 1967, to any previous tax deducted in that part of that basis period from any dividend or interest which is gross income for that basis period.

(2) Subparagraph (1) shall not apply to any tax imposed under the West Malaysian Ordinance or the Sabah Ordinance and deducted from any dividend or interest if by virtue of subparagraph 12(2) that dividend or interest is not to be included as gross income for the basis period for a year of assessment.

(3) Where an amount of previous tax is deemed by virtue of subparagraph 11(3) to have been deducted from a dividend and the dividend is included in the gross income of a person from a source for the basis period for a year of assessment, that amount shall be deemed for the purposes of section 110 to be tax deducted under section 108.

Section 115

32. In subsection 115(1) the references to tax, sums and debts include references to previous tax and sums and debts of a corresponding kind under the repealed laws.

Section 127

33. Any exemption from any previous tax or from any provision of a repealed law shall, if it was made under a repealed law and was effective on 31 December 1967, be deemed to have been made by an order under section 127 in relation to tax imposed by this Act or in relation to the corresponding provision of this Act, as the case may be:

Provided that this paragraph shall not apply in relation to—

(a) any such exemption for which provision is made, with or without modification, in this Act; or

(b) subsection 44(3) of the Sarawak Ordinance.

Section 131

34. In subsection 131(3) the references to tax, years of assessment and assessments include references to previous tax and to years of assessment and assessments under any repealed law.

Section 134

35. (1) With effect from 1 January 1968—

(a) the person holding on 31 December 1967, the office of Director General of Inland Revenue shall become Director General of Inland Revenue within the meaning of subsection 134(1);

(b) all other persons holding on 31 December 1967, federal public offices in the Inland Revenue Department shall become federal public officers for the purposes of subsection 134(2); and

(c) the Director General may with the concurrence of the Director General of Establishments make such changes (if any) in the designation of the offices held by those other persons as he considers necessary and appropriate in order to implement and conform with subsection 134(2):

Provided that nothing in this paragraph shall be construed as altering any officer's terms of service.

(2) Subsections 136(2) to (5) shall not apply to the exercise of the Director General's functions under subsubparagraph (1)*(c)*.

(3) To such extent as may be necessary for the proper application of this Act in relation to the year of assessment 1968, subparagraph (1) shall have effect as if any references therein to 1 January 1968, and 31 December 1967, were references to 28 September 1967, and 27 September 1967, respectively.

Section 138

36. Where for the purposes of any repealed law a person has made a declaration of a kind corresponding to a declaration required by subsection 138(1), the declaration so made shall be treated as a declaration that he will regard and deal with classified material as confidential and as a declaration made and subscribed by him for the purposes of section 138.

Section 142

37. Where by virtue of paragraph 25 civil proceedings are taken under section 106 for the recovery of previous tax or any other sum due under a repealed law, section 142 shall apply in relation to those proceedings and that tax or sum as it applies in relation to proceedings for the recovery of tax due under this Act.

Section 149

38. Section 149 shall not apply to an order deemed to have been made under paragraph 33.

Section 150

39. Where approval has been given for the purposes of any of the repealed laws to a retirement scheme or to a pension or provident fund or society, the approval, if it was still effective on 31 December 1967, shall be deemed to have been given (subject to any conditions effective on that date) under section 150.

Section 154

40. (1) In paragraph 154(1)*(e)* the references to tax include a reference to previous tax and the reference to sums due includes a reference to sums of a corresponding kind due under the repealed laws.

(2) Rules made under section 154 may include such transitional and saving provisions as may be expedient in the circumstances.

Schedule 2:6

41. For the purposes of Schedule 2, where the operator owned an asset at the beginning of the basis period for the year of assessment 1968 and has incurred capital expenditure as defined in the Income Tax (Mining Operations) Rules 1949, of West Malaysia [*F.L.N. 534/49*] on or for the asset in connection with the working of the mine—

(a) the asset shall be deemed to be included in the definition of "mining asset" in paragraph 6 of that Schedule; and

(b) that capital expenditure to the extent allowed or determined to rank as capital expenditure under the Income Tax (Mining Operations) Rules 1949, of West Malaysia shall be treated as qualifying mining expenditure.

Schedule 2:15

42. Paragraph 15 of Schedule 2 shall not apply where the operator (within the meaning of that Schedule) permanently ceases to work a mine in the basis period for the year of assessment 1968; and, where he permanently ceases to work a mine in the basis period for any of the years of assessment 1969 to 1972 inclusive—

(a) the reference to preceding years of assessment in subparagraph *(a)* of that paragraph shall include a reference to years of assessment under the West Malaysian Ordinance; and

(b) the references to repayments of tax and assessments in subparagraph *(b)* of that paragraph shall include references to repayments of previous tax and assessments under the West Malaysian Ordinance.

Schedule 2:22

43. Where any capital expenditure is included by virtue of paragraph 41 in the total qualifying mining expenditure mentioned in the definition of "residual expenditure" in paragraph 22 of Schedule 2, that total, apart from any other deductions made for the purposes of that definition, shall be reduced by the amount—

(a) by which capital expenditure incurred prior to the commencement of the basis period for the year of assessment 1948 exceeds the residue of capital expenditure for that year of assessment as computed in accordance with rule 2(vii)*(a)* of the Income Tax (Mining Operations) Rules 1949;

(b) of any deductions made under paragraph 14(1)*(h)* of the West Malaysian Ordinance in respect of that capital expenditure in computing the income of the operator in question from the business in question for any period in ascertaining the statutory income from the business for any year of assessment under that Ordinance ending before 1 January 1968; and

(c) of any recoupment of that capital expenditure in relation to the mine in question received by the operator before that date and taken into account in computing any allowance under that Ordinance.

Schedule 3:5

44. For the purposes of paragraph 5 of Schedule 3 in its relation to a building, in any case where the expenditure on the construction of the building in question was incurred prior to 1 January 1968, references in that paragraph to "year of assessment' and "basis period" shall be deemed to include references to any pre-year of assessment and to any pre-basis period respectively.

Schedule 3:10, 11 and 22

45. (1) Where in a case to which paragraph 10 or 11 of Schedule 3 or subparagraph (2) of this paragraph applies the basis period for the year of assessment

1967 under a repealed law overlaps the basis period for the year of assessment 1968, then, for the purposes of paragraph 10, 11 or 22, as the case may be, of Schedule 3, expenditure incurred in the period common to those two basis periods shall not be treated as incurred in the basis period for the year of assessment 1968.

(2) Where a person has for the purposes of a business of his incurred prior to the basis period for the year of assessment 1968 qualifying plantation expenditure on the construction of a building, then, if but for the repeal of the repealed laws he would have been entitled to an allowance in respect of that expenditure for a particular year of assessment under any of the repealed laws commencing after 31 December 1967, there shall be made to him under paragraph 22 of Schedule 3 in relation to the source consisting of that business for the year of assessment under this Act which coincides with that particular year an allowance equal to the amount of any allowance or allowances to which he would have been so entitled for that particular year.

Schedule 3:23

46. (1) For the purposes of paragraph 23 of Schedule 3, where in the basis period for the year of assessment 1967 under any repealed law a person has for the purposes of a business of his incurred qualifying plantation expenditure other than expenditure on the construction of a building, there shall be made to him in relation to the source consisting of that business for the year of assessment 1968 an allowance equal to one-half of that expenditure:

Provided that this subparagraph shall not apply in relation to any expenditure incurred in Sarawak.

(2) Where a person has for the purposes of a business of his incurred (prior to 31 December 1964) capital expenditure within the meaning of section 14 of the Sabah Ordinance upon a plantation or (prior to 31 December 1961) capital expenditure within the meaning of section 18A of the West Malaysian Ordinance, then, if but for the repeal of those Ordinances he would have been entitled to an allowance in respect of that expenditure for a particular year of assessment (under the appropriate one of those Ordinances) commencing after 31 December 1967, there shall be made to him under paragraph 23 of Schedule 3 in relation to the source consisting of that business for the year of assessment which coincides with that particular year an allowance equal to the amount of the allowance to which he would have been so entitled for that particular year.

(3) Where in a case to which subparagraph (1) or (2) applies the basis period for the year of assessment 1967 under a repealed law overlaps the basis period for the year of assessment 1968, then, for the purposes of paragraph 23 of Schedule 3, expenditure incurred in the period common to those two basis periods shall not be treated as incurred in the basis period for the year of assessment 1968.

Schedule 3:26

47. For the purposes of paragraph 26 of Schedule 3, if any sum as therein mentioned falls into charge to tax imposed under the West Malaysian Ordinance or the Sabah Ordinance for the year of assessment 1967, that paragraph shall not apply to that sum.

Schedule 3:27

48. (1) Paragraph 27 of Schedule 3 shall not apply in relation to a person, an asset or a business of his where, under subsection 18A(3) of the West Malaysian Ordinance or subsection 14(3) of the Sabah Ordinance, any sum of money or consideration is deemed to be that person's income for the year of assessment 1967 under the Ordinance in question, and the whole or any part of the sum or consideration relates directly or indirectly to that asset.

(2) In relation to a person, an asset and a business of his, the reference in paragraph 27 of Schedule 3 to qualifying agriculture expenditure shall when appropriate include capital expenditure (as defined in section 18A of the West Malaysian Ordinance and in section 14 of the Sabah Ordinance) incurred on that asset; and, when there is such an inclusion, then, if the preliminary conditions of that paragraph are satisfied, the references in subsubparagraph *(b)* of that paragraph to "agriculture allowance", "year of assessment" and "allowances" shall include respectively—

(a) any allowance made to that person under the said section 18A or 14 which relates directly or indirectly to any such capital expenditure incurred on that asset;

(b) any year of assessment under either of those Ordinances; and

(c) any such allowances,

and the reference in the proviso to that paragraph to "year of assessment" shall include any year of assessment under either of those Ordinances.

Schedule 3:35

49. Paragraph 35 of Schedule 3 shall not apply to an asset disposed of by a person if a balancing charge in relation to that asset has been made on him under any repealed law.

Schedule 3:36

50. In the application of paragraph 36 of Schedule 3 to a person and an asset, if the asset is disposed of by him in the basis period for the year of assessment 1968, the reference in that paragraph to an initial or annual allowance shall be taken to be a reference to an initial or annual allowance of a kind allowed under any repealed law.

Schedule 3:37

51. In the application of paragraph 37 of Schedule 3 to a person and an asset, there shall be included in the total therein mentioned all allowances of a kind similar to allowances under that Schedule made to him under any repealed law in relation to that asset.

Schedule 3:39 and 40

52. Paragraphs 39 and 40 of Schedule 3 shall not apply to an asset disposed of if a balancing allowance or charge in relation to that asset has been made on a person (being the disposer in relation to that asset for the purposes of paragraphs 38 and 39 of that Schedule) under any repealed law.

Schedule 3:40 and 41

53. Rules made under paragraph 40 or 41 of Schedule 3 may be made applicable for transitional purposes to any repealed law and to any matter to which that law has been applicable.

Schedule 3:42

54. Paragraph 42 of Schedule 3 shall not apply to a building constructed prior to the basis period for the year of assessment 1968.

Schedule 3:57

55. Where in relation to an asset and a business of a person the period of any disuse for the purposes of paragraph 57 of Schedule 3 is a period which commenced prior to the basis period for the year of assessment 1968, all such assessments shall be made under any repealed law as may be necessary to counteract the benefit of any allowance made to that person for any year of assessment under that law in relation to that asset.

Schedule 3:68

56. (1) Subject to this paragraph, in the application of paragraph 68 of Schedule 3 in relation to an asset and a person as therein mentioned, any capital expenditure incurred by him on the asset shall be treated as qualifying expenditure incurred by him for the purposes of that paragraph and, where the total qualifying expenditure has been ascertained under that paragraph as construed with this subparagraph, that total shall be reduced in the manner provided by that paragraph (if applicable) and by any allowance made to him in relation to that asset.

(2) Subject to subparagraph (3), in subparagraph (1)—

"allowance" means any allowance made under any provision of any repealed law corresponding to any provision of Schedule 3 or any amount written off under any repealed law for any year of assessment for which no initial or annual allowance falls to be made in relation to an industrial building or any amount which was deducted from the capital expenditure under the provisions of any repealed law in connection with the computation of the value of an asset acquired before the basis period for the first year of assessment under any repealed law;

"capital expenditure" means capital expenditure as defined in any repealed law for the purposes of any provisions thereof corresponding to any provisions of Schedule 3.

(3) In the application of subparagraphs (1) and (2) in relation to a person and an asset if, but for this subparagraph, regard would be had to the same amount in respect of any capital expenditure or allowance by reference to more than one repealed law, regard shall be had to that amount only by reference to the appropriate repealed law, that is to say—

(a) the repealed law by virtue of which he is resident in the territory to which the law applies; or

(b) if there are two or more such laws, one of those laws elected by him when he first makes a claim for an allowance under Schedule 3 in respect of the asset or, in default of such an election, specified by the Director General.

Schedule 3:69

57. Where for the purpose of this Schedule and Schedule 3 it is necessary to have regard to an allowance made under any repealed law, paragraph 69 of Schedule 3 shall apply (with such modifications as may be necessary) by reference to the repealed law relating to any such allowance.

Schedule 3:75

58. (1) In relation to a person, an asset and a business of his, if effect cannot be given or cannot be given in full to any allowance or allowances of the kind defined in subparagraph 56(2) to which paragraph 57 applies, that allowance or those allowances (or, as the case may be, the amount thereof to which effect has not been so given) shall be deemed to be an allowance to be made to him for the purposes of paragraph 75 of Schedule 3, the reference therein to the first subsequent year of assessment being treated as a reference to the year of assessment 1968 if there is adjusted income from that business for the basis period for that year or, in the absence of any such adjusted income, as a reference to the first year of assessment subsequent to the year of assessment 1968 for the basis period for which there is any such adjusted income:

Provided that, where this paragraph has been applied to any allowance or allowances or to any part thereof in relation to a business, this paragraph shall not apply to that allowance, those allowances or that part in relation to any other business of his.

(2) Subparagraph 56(3) shall apply to allowances affected by this paragraph as it applies to allowances within the meaning of subparagraph 56(1).

Schedule 3: general

59. Unless the context otherwise requires and subject to this Schedule, any reference in Schedule 3 to expenditure includes a reference to expenditure incurred before the basis period for the year of assessment 1968 and any reference in that Schedule to anything done or to any event includes a reference to a thing or event of the kind in question done or occurring before that basis period.

Schedule 4

60. (1) Subject to this paragraph, where in any case a person makes a claim under Schedule 4 for a deduction for a year of assessment in respect of qualifying prospecting expenditure, then, for the purposes of applying that Schedule to that case regard may be had to any such expenditure incurred (and any event which took place) not more than ten years before the end of the basis year for that year of assessment notwithstanding that the whole or part of that period of ten years elapsed before the commencement of this Act; and, whenever necessary, the reference in the proviso to paragraph 11 of that Schedule to a transaction to which section 140 applies shall be construed to include a transaction to which that section would have applied if it had been in force at the date of that transaction.

(2) Subparagraph (1) shall not apply to any expenditure incurred in Sabah or Sarawak, prior to the basis year for the year of assessment 1968 or to any expenditure

with respect to which any deduction has been made under section 14A of the West Malaysian Ordinance.

Schedule 5

61. Where a notice of appeal against an assessment is given under the Sabah Ordinance or the West Malaysian Ordinance or a notice of objection to an assessment is given under the Sarawak Ordinance, then—

(a) if the notice was given before 1 January 1968, and the hearing of the appeal has not commenced before that date, the person to whom the notice was given shall forward it to the Secretary to the Special Commissioners as soon as may be after that date;

(b) if the notice is given after that date, it shall, notwithstanding any other provision of this Schedule, be given to the Secretary to the Special Commissioners and not to the person who would otherwise have received it,

and, where a notice relating to an assessment is forwarded or given to the Secretary to the Special Commissioners in pursuance of this paragraph, an appeal against the assessment shall be deemed to have been forwarded to the Special Commissioners and shall be disposed of as nearly as may be in accordance with Schedule 5.

Application of this Act to assessment made under repealed law

61A. (1) Where an assessment under a repealed law is made on a person on or after 1 January 1972, the provisions of section 97 and Chapter 2 of Part VI of this Act shall apply to such assessment as if the assessment was made under section 90 or 91, as the case may be, of this Act.

(2) Where subparagraph (1) applies, the provisions to the contrary relating to appeal or objection against an assessment contained in a repealed law shall not apply.

Income related back

62. Where—

(a) by the operation of this Act any income of a person from a source of his is to be regarded as income receivable in respect of a period before the basis period for the year of assessment 1968; and

(b) that income would have been gross income for the pre-basis period for a pre-year of assessment if this Act had been in operation at the material time,

that income, if not otherwise subject to previous tax, shall be treated as income for the year of assessment under the appropriate repealed law which corresponds to that pre-year of assessment or, if there is no such corresponding year of assessment, as income for the year of assessment under that law which includes the 1 July of that pre-year of assessment.

PART II

SPECIAL PROVISIONS FOR SABAH

Application and power of remission

63. (1) This Part shall apply only to Sabah.

(2) Any tax paid or payable by virtue of this Part may be remitted by the Director General on grounds of undue hardship; and section 129 shall apply in relation to any tax so remitted as it applies in relation to tax remitted under that section.

Interpretation

64. In this Part—

"appropriate date", in relation to a person, means the date on which the appropriate event mentioned in paragraphs 71 to 74 which gives him entitlement to payment of the Sabah credit of a company apportioned to him occurs;

"old tax" means income tax (excluding any tax deemed to be income tax under the Sabah Ordinance) imposed under the Sabah Ordinance;

"relevant date", in relation to a company, means the date on which the appropriate event mentioned in paragraph 69 which gives it entitlement to payment of the Sabah credit occurs;

"Sabah credit" means the amount ascertained under paragraph 68;

"statutory income", in relation to a person, a source and a year of assessment under the Sabah Ordinance, means the amount of his income from that source for the basis period under that Ordinance for that year of assessment increased by any balancing charge falling to be made in relation to that source for that year of assessment and reduced by any allowance falling to be made for that year under sections 14 to 21 of that Ordinance in relation to that source;

"year of assessment 1966/67" means the year of assessment commencing on 1 July 1966, under the Sabah Ordinance;

"year of assessment 1967' means the year of assessment 1967 under the Sabah Ordinance;

"year of assessment 1967/68" means the year of assessment commencing on 1 July 1967, under the Sabah Ordinance.

No chargeable income in certain cases

65. In the application of subparagraph 3(1) of this Schedule, a person shall be deemed not to have any chargeable income under the Sabah Ordinance for the year of assessment 1967/68.

Provisions as to statutory income for certain years of assessment

66. (1) In the case of a person other than a company, the aggregate of—

(a) so much of his statutory income for the year of assessment 1967/68 from each source of his other than a source consisting of a business (or, where paragraph *(b)* applies, from each source of his) as bears the same proportion to that statutory income as the number of days of the interval period bears to the number of days in the basis period in relation to that source under the Sabah Ordinance for that year of assessment; and

(b) where the accounts of a business of that person were made up for a period of twelve months ending on a day in the second half of the calendar year 1965 and the Commissioner has made a direction under subsection 28(2) of the Sabah Ordinance to treat that period as the basis period under that Ordinance for the year of assessment 1966/67, so much of what would have been the statutory income from each source of his other than a source consisting of a business for the year of assessment commencing on 1 July 1968, under the Sabah Ordinance, but for its repeal, as bears the same proportion to that statutory income as the number of days of the interval period bears to the number of days in the basis period in relation to that source under that Ordinance for the year of assessment commencing on 1 July 1968, under that Ordinance,

shall be deemed to be statutory income of his for the year of assessment 1966/67 from a source of his.

(2) The amount of the statutory income of a person for the year of assessment 1966/67 from a source of his as ascertained under subparagraph (1) shall be charged to old tax for that year at the effective rate of tax; and Parts XI to XIII of the Sabah

Ordinance shall apply to that amount as if that amount had been additional chargeable income of that person for that year.

(3) Where subparagraph (1) applies to a person and in his case there is no effective rate of tax, then, if none of the sources of income of that person was possessed by him for the whole of the basis period, in relation to each source, under the Sabah Ordinance for the year of assessment 1966/67, and the amount of his statutory income ascertained under subparagraph (1) exceeds the aggregate of the statutory income from each source of that person for that year—

(a) the effective rate of tax shall be ascertained by substituting that amount for that aggregate; and

(b) the total of that amount and the assessable income for the year of assessment 1966/67 (or, where there is no assessable income for that year, the total of that amount and the aggregate of the statutory income, if any, from each source of that person for that year reduced by the amount of any loss falling to be deducted under section 32 of the Sabah Ordinance in ascertaining the assessable income of that person for that year) shall be charged to old tax for that year at the effective rate of tax so ascertained; and Parts XI to XIII of the Sabah Ordinance shall apply as if that total (or, as the case may be, that total as so reduced) had been the chargeable income of that person for that year and that effective rate of tax had been the rate set forth in Part I of the Third Schedule to that Ordinance in relation to that person for that year.

(4) Where subparagraph (1) applies to a person and in his case the amount of any loss or the aggregate of the amount of any losses falling to be deducted under section 32 of the Sabah Ordinance in ascertaining the assessable income of that person for the year of assessment 1966/67 exceeds the aggregate of the statutory income from each source of that person for that year, the excess shall be deducted from the amount of his statutory income ascertained under subparagraph (1); and in the application of paragraph 18 in relation to that person, regard shall be had only to the balance (if any) of any such loss or losses after the application of this subparagraph.

(5) Where by the operation of paragraph 62 any income of a person from a source falls to be treated as income for the year of assessment 1967/68, that income—

(a) shall be added to his statutory income from that source for the year of assessment 1967/68; or

(b) where he has no statutory income from that source for that year—

(i) if there is an amount of loss in relation to that source (being a loss which would fall to be deducted under section 32 of the Sabah Ordinance, but for its repeal, in ascertaining the

assessable income for that year) the amount of that loss shall be reduced by the amount of that income or where that income exceeds that loss the excess shall be deemed to be statutory income from that source for that year;

(ii) if there is no such loss, the amount of that income shall be taken to be his statutory income from that source for that year,

and this paragraph shall apply to that loss as so reduced or, as the case may be, that statutory income.

(6) For the purposes of this paragraph, except where the context in subparagraphs (3) and (4) otherwise requires—

"basis period", in a case where a person other than a company possesses a source for a part or parts, but not for the whole, of a basis period, is to be construed as meaning that part or those parts of the basis period in question;

"effective rate of tax" in relation to a person, means the rate determined by dividing the amount of old tax chargeable on the chargeable income (excluding any additional chargeable income created under subparagraph (2)) of that person for the year of assessment 1966/67 by the amount of the assessable income of that person for that year;

"interval period", in relation to the year of assessment 1967/68 or the year of assessment commencing on 1 July 1968, under the Sabah Ordinance means that part of the basis period for that year which elapsed before 1 January 1967.

Ascertainment of old tax payable by company

67. For the purposes of this Part, in the case of a company the accounts of a business of whom were made up for a period of twelve months ending on a day in the calendar year 1966 other than 31 December (being a company with respect to which the Commissioner has not made a direction under subsection 28(2) of the Sabah Ordinance to treat that period as the basis period under that Ordinance for the year of assessment 1967) there shall be ascertained—

(a) the total amount of all old tax payable by that company, whether assessed under one or more assessments for that year of assessment, that total being computed after giving any relief due to that company for that year on or before the relevant date by virtue of section 41 or 43 of the Sabah Ordinance; and

(b) the amount of that total paid by the company on or before the relevant date and not refunded or repaid to it on or before the relevant date.

Ascertainment of Sabah credit

68. (1) There shall be ascertained with respect to the old tax paid by a company as ascertained under paragraph 67 the Sabah credit in accordance with the following subparagraphs.

(2) In the case of a company to which paragraph 67 applies, the Sabah credit shall be so much of the old tax paid for the year of assessment 1967 as bears the same proportion to that old tax as the total of the statutory income from each source for the overlapping period bears to the assessable income of the company for that year.

(3) In this paragraph—

"overlapping period" means that part of the basis period under the Sabah Ordinance in relation to a source for a year of assessment under that Ordinance which overlaps the basis period in relation to that source for a year of assessment under this Act;

"total of the statutory income from each source for the overlapping period", in relation to a company, means so much of the aggregate of the statutory income from each source of that company for a year of assessment under the Sabah Ordinance, reduced by any amount falling to be deducted under section 32 of that Ordinance in ascertaining the assessable income of the company under that Ordinance for that year, as bears the same proportion to that aggregate as so reduced as the aggregate of the number of days of the overlapping period in relation to each source bears to the aggregate of the number of days in the basis period in relation to each source under that Ordinance for that year.

Events in which Sabah credit is payable to company

69. (1) Subject to paragraph 76, the Sabah credit of a company shall be payable upon the date of the occurrence of such one of the following events as first occurs in relation to the company, that is to say, on the dissolution of the company after 31 December 1967, or on its satisfying the Director General that it has not gone into dissolution before 1 January 1988, or, in the case of a company which ceases to have income (other than dividends) derived from Malaysia in the basis year for a year of assessment, on its satisfying the Director General that it was not resident for that basis year or for a year subsequent thereto and that it is not likely to have any income (other than dividends) derived from Malaysia in any of the two years following that basis year or, as the case may be, that subsequent year:

Provided that this paragraph shall not apply on the dissolution of a particular company after 31 December 1967, if at or about the time of the dissolution any of the assets of that particular company available for distribution to its members are transferred—

(a) to a company which together with that particular company is a member of the same group;

(b) to a company more than fifty per cent of the shares of which are held by members of that particular company; or

(c) to the members of that particular company or to a person or persons having control of that particular company within the meaning of section 139.

(2) Where the proviso to subparagraph (1) applies on the transfer of a company's assets, the Sabah credit to which, but for that proviso, the company would have been entitled shall be paid in accordance with the following subparagraphs.

(3) Subject to subparagraph (4)—

(a) where all the assets of a company are transferred to the members of the company or to persons having control of the company within the meaning of section 139, the Sabah credit of the company shall be apportioned among them in the proportion in which they held as beneficial owners the ordinary share capital of the company at the date of its dissolution ("ordinary share capital" here having the same meaning as in the definition of "director" in subsection 2(1)), or, in the case of persons having such control, in the proportion in which they held their controlling interest, and shall be paid to each of them on the appropriate date;

(b) where all the assets of a company are transferred to a single person having such control, the Sabah credit of the company shall be regarded as his and shall be paid to him on the appropriate date.

(4) Where a member or person to whom a Sabah credit (or any portion thereof) is to be paid under subparagraph (3) is a company, the amount to be paid shall be treated as a Sabah credit of the company and subparagraph (1) shall apply with respect to the payment of that credit.

(5) Where subparagraph (3) does not apply, the Sabah credit of a company shall be treated as a Sabah credit of the transferee and subparagraph (1) shall apply with respect to the payment of that credit.

(6) In a case where there are two or more transfers (other than transfers to members of the company or to a person or persons having control of the company within the meaning of section 139) to which the proviso to subparagraph (1) applies, subparagraph (5) shall be applied by making such apportionment of the Sabah credit among the transferees as the Director General considers to be reasonably necessary in order to give proper effect to subparagraph (5) in the circumstances.

Credit payable to company before dissolution in certain cases

70. Where the Director General is satisfied that the dissolution of a company is imminent and that the company will be entitled on its dissolution to the Sabah credit, he may make the amount of the Sabah credit available to the liquidator of the company; and, if the company is not dissolved within three months (or such longer period as the Director General may consider reasonable in the circumstances) after the making available of that amount to the liquidator, it shall be the duty of the liquidator to return that amount to the Director General upon being called upon to do so.

Events in which company's credit apportioned to individual is payable

71. Subject to paragraph 76, so much of the Sabah credit of a company as is apportioned under subparagraph 69(3) to an individual who was a member of that company at the time of its dissolution shall be payable on the date of the occurrence of such one of the following events as first occurs in relation to him:

(a) on his satisfying the Director General that he attained the age of fifty-five years before 1 January 1968;

(b) on his death at any time after 31 December 1967;

(c) on his attaining at any time after 31 December 1967, the age of fifty-five years;

(d) on his departure from Malaysia, if he is not a citizen and if he satisfies the Director General as to the matters set out in paragraph 72;

(e) if he was not resident for the basis year (being the year in which the company was dissolved or a year subsequent thereto) for a year of assessment and is not a citizen, on his satisfying the Director General that in that basis year or prior thereto he ceased to have any income (other than dividends) derived from Malaysia and that he is not likely to have any income (other than dividends) derived from Malaysia in any of the two years following that basis year;

(f) on his satisfying the Director General that he was not entitled before 1 January 1988, to payment of the amount of the Sabah credit apportioned to him;

(g) on his satisfying the Director General that he was prevented by serious disability from being gainfully employed for a period of not less than twelve months and during that period he did not have any source of income; or

(h) on his satisfying the Director General that he is in receipt of a pension derived from Malaysia and that he does not have and is not likely to have any other source of income:

Provided that subsubparagraph *(d)* shall not apply to the individual if at the time of his departure from Malaysia he has any source (being a source the income from which is wholly or partly derived from Malaysia) other than—

(i) a source from which dividends arise;

(ii) a source from which interest arises;

(iii) a source consisting of a pension derived from Malaysia; or

(iv) a source consisting of an employment which will cease upon the expiration of a period of leave which commences on his departure or at the end of a period of travel which commences on his departure.

Matters as to which Director General is to be satisfied for the purposes of paragraph 71

72. For the purposes of subsubparagraph 71*(d)*, an individual is required to satisfy the Director General that the individual—

(a) has not at the date of his departure from Malaysia obtained a Malaysian entry or re-entry permit or other like document;

(b) has not at the date under any written law any right of entry or re-entry into Malaysia; and

(c) is not likely to be resident in any of the basis years for the five years of assessment commencing with the year of assessment which follows the year of assessment in the basis year for which the departure took place.

Trustees and executors

73. Subject to paragraph 76, so much of the Sabah credit of a company as is apportioned under subparagraph 69(3) to the trustees of a trust or the executors of a deceased person (the trustees or the executors, as the case may be, being members of the company at the time of its dissolution) shall be payable—

(a) on the termination of the trust or on the ascertainment of the residue of the estate of the deceased person, as the case may be;

(b) on their satisfying the Director General that the trust has not been terminated (or, as the case may be, the residue ascertained) before 1 January 1988; or

(c) where the trust body ceases, or the executors cease, to have income (other than dividends) derived from Malaysia in the basis year (being the year in which the company was dissolved or a year subsequent thereto) for a year of assessment, on their satisfying the Director General that the trust body was not, or the executors were not, resident for that basis year, and that the trust body is not, or the executors are not, likely to have any income (other than dividends) derived from Malaysia in any of the two years following that basis year.

Provisions applicable when paragraphs 71 to 73 do not apply

74. Subject to paragraph 76, so much of the Sabah credit of a company as is apportioned under subparagraph 69(3) to a person (being a member of the company at the time of its dissolution) to whom none of paragraphs 71 to 73 applies shall be payable—

(a) on application to the Director General in the year of assessment 1988; or

(b) on application to the Director General before that year if the Director General is satisfied that there are circumstances similar to those in which a company would be entitled to payment of a Sabah credit before that year.

Married women

75. Where the Sabah credit of a company is apportioned under subparagraph 69(3) to a woman who was a member of the company at the time of its dissolution, so much of that credit as is so apportioned to her shall be paid if she is married, whether at that time or subsequently thereto, and before the date on which she would otherwise have been entitled to payment thereof to her husband on the appropriate date in relation to him as if that credit had been apportioned to him:

Provided that—

(a) where the husband becomes entitled to payment of the credit so apportioned by virtue of subsubparagraph 71*(d)*, that paragraph shall be so modified as to require the husband to satisfy the Director General as to the matters set out in paragraph 72 not only in respect of himself but also in respect of his wife, or, if paragraph 72 is not applicable to

her, as to the matters set out in subsubparagraph 71*(e)* in respect of his wife;

(b) where the husband becomes so entitled by virtue of subsubparagraph 71*(e)*, that paragraph shall be so modified as to require the husband to satisfy the Director General as to the matters set out therein not only in respect of himself but also in respect of his wife, or, where subsubparagraph 71*(e)* is not applicable to her as to the matters set out in paragraph 72 in respect of his wife.

Power to set off credit against tax payable

76. Notwithstanding the foregoing paragraphs of this Part, where in any calendar year any company becomes entitled to payment of a Sabah credit or a person becomes entitled to payment of the Sabah credit of a company apportioned to him, the Director General may withhold payment thereof for the purposes of setting off the amount thereof against any tax or previous tax payable by that company or, as the case may be, by that person.

Construction of references to certain years of assessment

77. Where in any case regard is to be had by virtue of this Schedule to the year of assessment 1966 or 1967 under the Sabah Ordinance or to a year of assessment under the Sabah Ordinance coinciding with the calendar year 1966 or 1967, and in that case the appropriate year of assessment under that Ordinance is the year of assessment commencing on 1 July 1965, or the year of assessment 1966/67, regard shall be had to the year of assessment commencing on 1 July 1965, or the year of assessment 1966/67, as the case may be, and the basis period therefor in relation to a source, and not to the year of assessment 1966 or 1967 or the year of assessment coinciding with the calendar year 1966 or 1967, or the basis period therefor.

PART III

SPECIAL PROVISIONS FOR SARAWAK

Application and power of remission

78. (1) This Part shall apply only to Sarawak.

(2) Any tax paid or payable by virtue of this Part may be remitted by the Director General on grounds of undue hardship; and section 129 shall apply in relation to any tax so remitted as it applies in relation to tax remitted under that section.

Interpretation

79. In this part—

"old tax" means the profits tax (excluding any tax deemed to be profits tax under the Sarawak Ordinance) imposed under the Sarawak Ordinance;

"relevant date", in relation to any person means the date on which the appropriate event mentioned in paragraphs 83 to 88 which gives him entitlement to payment of the Sarawak credit occurs;

"Sarawak credit" means the amount ascertained under paragraph 82;

"year of assessment 1967" means the year of assessment 1967 under the Sarawak Ordinance.

No chargeable income in certain cases

80. Subject to paragraph 93, in the application of subparagraph 3(1) of this Schedule a person chargeable to salaries tax under the Sarawak Ordinance shall be deemed not to have any chargeable income under that Ordinance for the year of assessment 1967.

Ascertainment of old tax payable by a person

81. In the case of a person the accounts of a business of whom were made up to a date in the calendar year 1966 other than 31 December that business being a business with respect to which the Commissioner has not made a direction under subsection 25(1) of the Sarawak Ordinance to treat that period as the period by reference to which the assessable profits or loss from the business was to be computed there shall be ascertained for the purposes of this Part—

(a) the total amount of all profits tax payable by that person whether assessed under one or more assessments for the year of assessment 1967, that total being computed after giving any relief due to him for that year on or before the relevant date by virtue or section 59 or 61 of the Sarawak Ordinance; and

(b) the amount of that total paid by him on or before the relevant date and not refunded or repaid to him on or before the relevant date.

Ascertainment of Sarawak credit

82. (1) There shall be ascertained with respect to the total amount of the old tax paid by a person as ascertained under paragraph 81 the Sarawak credit in accordance with the following subparagraphs.

(2) In any case to which paragraph 81 applies, the Sarawak credit of a person shall be so much of the profits tax paid by him for the year of assessment 1967 as bears the same proportion to that profits tax as the assessable profits for the overlapping period bears to the aggregate of the assessable profits from each source of his for that year reduced by the amount of any loss incurred by him which would be set off against those assessable profits under section 28 of the Sarawak Ordinance for the year of assessment 1967.

(3) In the application of subparagraph (2) to the trustees of a trust, the reference therein to profits tax paid for the year of assessment 1967 shall be taken to be a reference to so much of that profits tax paid by the trustees for that year as bears the same proportion to that profits tax as the aggregate of the assessable profits from each source of the trustees for that year, reduced first by the amount of any loss incurred by the trustees which would be set-off against those assessable profits under section 28 of the Sarawak Ordinance for the year of assessment 1967 and thereafter by so much thereof as falls to be treated as assessable profits for that year of a beneficiary or beneficiaries of the trust, bears to that aggregate reduced by the amount of any such loss for that year.

(4) In this paragraph—

"assessable profits for the overlapping period", in relation to a person, means so much of the aggregate of the assessable profits from each source of that person under the Sarawak Ordinance for a year of assessment under that Ordinance, reduced by the amount of any loss incurred by him which would be set-off against those assessable profits under section 28 of the Sarawak Ordinance, as bears the same proportion to that aggregate as so reduced as the aggregate number of days of the overlapping period in relation to each source bears to the aggregate of the number of days of the basis period in relation to each source under that Ordinance for that year of assessment;

"overlapping period" means that part of the basis period under the Sarawak Ordinance in relation to a source for the year of assessment 1967 which overlaps the basis period in relation to that source for a year of assessment under this Act.

Events in which Sarawak credit is payable to an individual

83. Subject to paragraph 92, the Sarawak credit of an individual shall be payable upon the date of the occurrence of such one of the following events as first occurs in relation to him:

(a) on his satisfying the Director General that he had attained the age of fifty-five years prior to 1 January 1968;

(b) on his death at any time after 31 December 1967;

(c) on his attaining the age of fifty-five years after 31 December 1967;

(d) on his departure from Malaysia, if he is not a citizen and if he satisfies the Director General as to the matters set out in paragraph 84;

(e) if he was not resident in the basis year (being the year in which he ceases to have income, other than dividends, derived from Malaysia or a year subsequent thereto) for a year of assessment and is not a citizen, on his satisfying the Director General that he is not likely to have any income (other than dividends) derived from Malaysia in any of the two years following that basis year;

(f) on his satisfying the Director General that he was not entitled to payment of the Sarawak credit prior to 1 January 1988;

(g) on his satisfying the Director General that he was prevented by serious disability from being gainfully employed for a period of not less than twelve months and during that period he did not have any source of income; or

(h) on his satisfying the Director General that he is in receipt of a pension derived from Malaysia and that he does not have and is not likely to have any other source of income:

Provided that subsubparagraph *(d)* shall not apply to the individual if at the time of his departure from Malaysia he has any source (being a source the income from which is wholly or partly derived from Malaysia) other than—

(i) a source from which dividends arise;

(ii) a source from which interest arises;

(iii) a source consisting of a pension derived from Malaysia; or

(iv) a source consisting of an employment which will cease upon the expiration of a period of leave which commences on his departure or at the end of a period of travel which commences on his departure.

Matters as to which the Director General is to be satisfied for the purposes of paragraph 83

84. For the purposes of subsubparagraph 83*(d)*, an individual is required to satisfy the Director General that the individual—

(a) has not at the date of his departure from Malaysia obtained a Malaysian entry or re-entry permit or other like document;

(b) has not at that date under any written law any right of entry or re-entry into Malaysia; and

(c) is not likely to be resident in any of the basis years for the five years of assessment commencing with the year of assessment which follows the year of assessment in the basis year for which the departure took place.

Events in which Sarawak credit is payable to a company

85. (1) Subject to paragraph 92, the Sarawak credit of a company shall be payable upon the date of the occurrence of such one of the following events as first occurs in relation to the company, that is to say, on the dissolution of the company after 31 December 1967, or on its satisfying the Director General that it has not gone into dissolution before 1 January 1988, or, in the case of a company which ceases to have income (other than dividends) derived from Malaysia in the basis year for a year of assessment, on its satisfying the Director General that it was not resident for that basis year or for a year subsequent thereto and that it is not likely to have any income (other than dividends) derived from Malaysia in any of the two years following that basis year or, as the case may be, that subsequent year:

Provided that this paragraph shall not apply on the dissolution of a particular company after 31 December 1967, if at or about the time of the dissolution any of the assets of that particular company available for distribution to its members are transferred—

(a) to a company which together with that particular company is in the same group;

(b) to a company more than fifty per cent of the shares of which are held by members of that particular company; or

(c) to the members of that particular company or to a person or persons having control of that particular company within the meaning of section 139.

(2) Where the proviso to subparagraph (1) applies on the transfer of a company's assets, the Sarawak credit to which, but for that proviso, the company would have been entitled shall be paid in accordance with the following subparagraphs.

(3) Subject to subparagraph (4)—

(a) where all the assets of a company are transferred to the members of the company or to persons having control of the company within the meaning of section 139, the Sarawak credit of the company shall be apportioned among them in the proportion in which they held as beneficial owners the ordinary share capital of the company at the date of its dissolution ("ordinary share capital" here having the same meaning as in the definition of "director" in subsection 2(1)), or, in the case of persons having such control, in the proportion in which they held their controlling interest, and shall be paid to each of them on the relevant date as if the amount apportioned to each were a Sarawak credit of his: and

(b) where all the assets of a company are transferred to a single person having such control, the Sarawak credit of the company shall be regarded as his and shall be paid to him on the relevant date.

(4) Where a member or person to whom a Sarawak credit (or any portion thereof) is to be paid under subparagraph (3) is a company, the amount to be paid shall be treated as a Sarawak credit of the company and subparagraph (1) shall apply with respect to the payment of that credit.

(5) Where subparagraph (3) does not apply, the Sarawak credit of a company shall be treated as a Sarawak credit of the transferee and subparagraph (1) shall apply with respect to the payment of that credit.

(6) In a case where there are two or more transfers (other than transfers to members of the company or to a person or persons having control of the company within the meaning of section 139) to which the proviso to subparagraph (1) applies, subparagraph (5) shall be applied by making such apportionment of the Sarawak credit among the transferees as the Director General considers to be reasonably necessary in order to give proper effect to subparagraph (5) in the circumstances.

Sarawak credit payable to company before dissolution in certain cases

86. Where the Director General is satisfied that the dissolution of a company is imminent and that the company will be entitled on its dissolution to the Sarawak credit, he may make the amount of the Sarawak credit available to the liquidator of the company; and, if the company is not dissolved within three months (or such longer period as the Director General may consider reasonable in the circumstances) after the

making available of that amount to the liquidator, it shall be the duty of the liquidator to return that amount to the Director General upon being called upon to do so.

Trustees and executors

87. Subject to paragraph 92, the Sarawak credit of the trustees of a trust or the executors of the estate of a deceased person shall be payable—

(a) on the termination of the trust or on the ascertainment of the residue of the estate of the deceased person, as the case may be;

(b) on their satisfying the Director General that the trust has not been terminated (or, as the case may be, the residue ascertained) before 1 January 1988; or

(c) where the trust body ceases, or the executors cease, to have income (other than dividends) derived from Malaysia in the basis year for a year of assessment, on their satisfying the Director General that the trust body was not, or the executors were not, resident for that basis year or a year subsequent thereto, and that the trust body is not, or the executors are not, likely to have any income (other than dividends) derived from Malaysia in any of the two years following that basis year or, as the case may be, that subsequent year.

Provisions applicable where paragraphs 83 to 87 do not apply

88. Subject to paragraph 92, the Sarawak credit of a person to whom none of paragraphs 83 to 87 applies shall be payable—

(a) on application to the Director General in the year of assessment 1988; or

(b) on application to the Director General before that year, if the Director General is satisfied that there are circumstances similar to those in which a company would be entitled to payment of the Sarawak credit before that year.

Married persons: general

89. Where section 47A of the Sarawak Ordinance applies to a married woman and her husband for the year of assessment 1967, then, in the application of the foregoing paragraphs of this Part to the husband—

(a) a source of hers shall be taken to be a source of his;

(b) any reference to assessable profits or loss in relation to him shall be taken to include a reference to any assessable profits or loss of hers from a source so taken to be his source;

(c) any old tax paid by her for the year of assessment 1967 shall be treated as paid by him.

Married persons: disposal of wife's credit

90. Where—

(a) a marriage took place before 31 December 1967, but section 47A of the Sarawak Ordinance did not apply to the wife of that marriage and her husband for any year of assessment under the Sarawak Ordinance; or

(b) a marriage takes place after 31 December 1967,

the wife of that marriage shall not be entitled to any Sarawak credit to which she would otherwise have been entitled, and any such credit shall be payable to the husband of that marriage as if it were a credit ascertained as regards him under paragraphs 81 and 82 or under paragraph 85.

Married persons: modification of paragraphs 89 and 90

91. In any case where paragraph 89 or 90 applies to the husband and wife of a marriage—

(a) subsubparagraph 83*(d)* shall be so modified as to require the husband to satisfy the Director General as to the matters set out in paragraph 84 not only in respect of himself but also in respect of that wife, or, if paragraph 84 is not applicable to her, as to the matters set out in subsubparagraph 83*(e)* in respect of that wife;

(b) subsubparagraph 83*(e)* shall be so modified as to require the husband to satisfy the Director General as to the matters set out therein not only in respect of himself but also in respect of that wife, or, where subsubparagraph 83*(e)* is not applicable to her, as to the matters set out in paragraph 84 in respect of that wife.

Power to set-off Sarawak credit against tax payable

92. Notwithstanding the foregoing paragraphs of this Part, where any person becomes entitled to a Sarawak credit in any calendar year, the Director General may

withhold payment thereof for the purposes of setting off the amount thereof against any tax or previous tax payable by that person.

Certain income to be disregarded

93. (1) Where in the calendar year 1967 a person ceased to possess a source the income from which is chargeable to profits tax under the Sarawak Ordinance, then, if by reference to income from that source up to the date of cessation an assessment has been made under the Sarawak Ordinance for the year of assessment 1968 under that Ordinance, the income from that source included in that assessment shall be disregarded for the purposes of this Act unless that assessment falls to be amended for any reason on or after 1 January 1968.

(2) Where in the calendar year 1967 a person ceased to possess a source the income from which is chargeable to salaries tax under the Sarawak Ordinance for that year of assessment, then, if—

(a) that person does not have income from any other source for the basis period in relation to any such other source for the year of assessment 1968; and

(b) subparagraph (1) does not apply to him,

paragraph 80 shall not apply to that person and to the income from that source; and where this subparagraph applies to a person his income from that source which is chargeable to salaries tax under that Ordinance for the year of assessment 1967 shall be disregarded for the purposes of this Act.

(3) Where paragraph 80 applies to a person and by the operation of paragraph 62 any income of a person from a source chargeable to salaries tax under the Sarawak Ordinance falls to be treated as gross income for the pre-basis period for a pre-year of assessment, paragraph 62 shall be so modified in its application to that person and that income to treat that income as being income for the year of assessment under the Sarawak Ordinance which coincides with that pre-basis period.

Allowance for industrial building under Sarawak Ordinance to continue

94. In the case of a building which is an industrial building under the Sarawak Ordinance, the rate at which annual allowances were given in respect of that industrial building under the Sarawak Ordinance shall continue to apply to that building, and the allowances to which a person is entitled by virtue of paragraph 6 of the Fifth Schedule to the Sarawak Ordinance shall be given for the remainder of the years for which that allowance would have been given but for the repeal of that Ordinance instead of any allowance to which that person might otherwise be entitled under this Act.

PART IV

SPECIAL PROVISIONS FOR PENINSULAR MALAYSIA

Application and power of remission

95. (1) This Part shall apply only to Peninsular Malaysia.

(2) Any tax paid or payable by virtue of this Part may be remitted by the Director General on grounds of undue hardship; and section 129 shall apply in relation to any tax so remitted as it applies in relation to tax remitted under that section.

Interpretation

96. In this Part—

"old tax" means income tax (excluding any tax deemed to be income tax under the West Malaysian Ordinance) imposed under the West Malaysian Ordinance;

"relevant date", in relation to any person, means the date on which the appropriate event mentioned in paragraphs 107 to 113 which gives him entitlement to payment of the West Malaysian credit occurs;

"statutory income", in relation to a source and a year of assessment under the West Malaysian Ordinance, means the amount of the income from that source for the basis period under the West Malaysian Ordinance in relation to that source for a year of assessment under that Ordinance increased by any balancing charge falling to be made in relation to that source for that year and reduced by any allowance falling to be made for that year under sections 16 to 22A of that Ordinance in relation to that source;

"West Malaysian credit" means the amount ascertained under paragraph 102;

"year of assessment 1967" means the year of assessment 1967 under the West Malaysian Ordinance.

No statutory income in certain cases

97. Where a person in the calendar year 1967 commenced to carry on a business or commenced to exercise an employment or commenced to derive income from a source other than a business or an employment (being a source of a kind to which subsection 31(6) of the West Malaysian Ordinance would, but for this paragraph, have applied for the year of assessment 1967), he shall be deemed not to have any statutory income from that source for the year of assessment 1967.

Provisions for certain cases where subsection 31(5) or (7) of West Malaysian Ordinance would have been applicable

98. (1) Subject to paragraph 99, where a person in the calendar year 1965 or 1966 commenced to carry on a business or commenced to exercise an employment or commenced to derive income from a source of the kind referred to in paragraph 97, the following subparagraphs shall apply if subsection 31(5) or (7) of the West Malaysian Ordinance would, but for its repeal, have applied in relation to any such source for the year of assessment 1968 under that Ordinance and the year of assessment 1967.

(2) With respect to the year of assessment 1967, the calendar year 1967 shall be taken to be the basis period in relation to any such source for that year of assessment, if the income for that basis period is greater than what would, but for this paragraph, have been the basis period under the West Malaysian Ordinance for that year of assessment, in relation to that source.

(3) With respect to the year of assessment 1968, the calendar year 1968 shall be taken to be the basis period for that year of assessment, in relation to any such source.

(4) With respect to the year of assessment 1969, the person in question shall be deemed not to have statutory income from any source of the kind in question.

Paragraph 98 not to apply in certain cases

99. Paragraph 98 shall not apply in relation to a person and a source if—

(a) there in an acquisition (as defined in paragraph 105) of that source; or

(b) that source being a source the income from which falls within a particular paragraph of section 4, there is an acquisition by him of a new source (the income from which falls under that paragraph of section 4) prior to 1 January 1970, and the Director General does not, having regard to all the circumstances of the case, direct that this paragraph shall not apply,

and all such assessments or additional assessments or repayments of tax shall be made as may be necessary in consequence of this paragraph.

Tax chargeable for year of assessment 1969

100. (1) Notwithstanding subparagraph 98(4), for the purposes of this paragraph the statutory income of a person from a source for the year of assessment 1968 (being a source in relation to which the calendar year 1968 is to be taken to be the basis period for that year of assessment) shall be taken into account in ascertaining the

chargeable income of that person for the year of assessment 1969 as if that statutory income were statutory income of his from that source for the year of assessment 1969 and there shall be ascertained the tax chargeable on the chargeable income so ascertained for the year of assessment 1969.

(2) In the case of a person to whom subparagraph (1) applies, the tax chargeable for the year of assessment 1969 on the chargeable income (ascertained without having regard to subparagraph (1)) for that year shall be taken to be so much of the tax chargeable as ascertained under subparagraph (1) as bears to the tax so ascertained the same proportion as the total income of that person for that year ascertained without having regard to subparagraph (1) bears to the total income of that person for that year ascertained by having regard to that subparagraph.

Ascertainment of old tax payable by a person

101. (1) For the purposes of this Part, there shall be ascertained—

(a) the total amount of all old tax payable by a person, whether assessed under one or more assessments, for the year of assessment 1967, that total being computed after giving any relief due to him for that year, on or before the relevant date, by virtue of section 44 or 46 of the West Malaysian Ordinance; and

(b) the amount of that total paid by him on or before the relevant date and not refunded or repaid to him on or before the relevant date.

(2) In ascertaining under subparagraph (1) the total amount of all old tax payable by a person for the year of assessment 1967 and the amount of that total paid by him, any old tax payable by reason of subparagraph 98(2) for that year and the amount of old tax paid in respect thereof shall be disregarded.

Ascertainment of West Malaysian credit

102. (1) Subject to paragraphs 103 and 104 with respect to the amount of the old tax paid by a person as ascertained under paragraph 101, there shall be ascertained an amount (in this Part referred to as the West Malaysian credit) which bears the same proportion to the amount so paid as the total amount of his statutory income bears to the assessable income of that person for the year of assessment 1967.

(2) In the application of subparagraph (1) to the trustees of a trust, the reference therein to old tax paid for the year of assessment 1967 shall be taken to be a reference to so much of that old tax as the aggregate of the statutory income of the trust body from all sources for that year reduced first by any amount falling to be deducted under subsection 33(2) of the West Malaysian Ordinance in ascertaining the

assessable income of the trust body for that year and thereafter by so much of that aggregate (as so reduced) as falls to be treated as statutory income for that year of a beneficiary or beneficiaries of the trust, bears to the assessable income of the trust body for that year.

(3) In this paragraph "total amount of his statutory income" means the aggregate of his statutory income for the year of assessment 1967 from each source of income of a kind to which subsection 31(5) or (7) of the West Malaysian Ordinance would have applied (but for its repeal) at some time subsequent to that year, less any amount falling to be deducted under subsection 33(2) of that Ordinance in ascertaining the assessable income for that year.

Exclusion and inclusion of certain income for purposes of paragraph 102

103. For the purposes of paragraph 102, in ascertaining in relation to a person the total amount of his statutory income as therein mentioned—

(a) there shall be excluded—

(i) statutory income of that person from a source to which paragraph 97 or 98 applies;

(ii) income of his received in West Malaysia from outside West Malaysia in respect of which there is any statutory income of his for the year of assessment 1967, if he is not ordinarily resident for the basis year for the year of assessment 1968; and

(b) there shall be included, if paragraph 104 is applicable to him, the amount of his statutory income from any source therein referred to for the year of assessment 1967.

Provisions consequent upon acquisition of source

104. Where the circumstances are such that a person has an amount of statutory income from a source (in this paragraph referred to as the old source) of a kind to which subsection 31(5) or (7) of the West Malaysian Ordinance has applied (or, but for this paragraph, would have applied) for both the year of assessment 1967 and the preceding year of assessment under the West Malaysian Ordinance, then, if—

(a) there is an acquisition of the old source on or after 15 June 1967; or

(b) the old source being a source the income from which falls within any paragraph of subsection 10(1) of the West Malaysian Ordinance, there is an acquisition by him of a new source (the income from which falls or would have fallen under that paragraph of the West Malaysian

Ordinance but for its repeal) prior to 1 January 1969, and the Director General does not, having regard to all the circumstances of the case, direct that this paragraph shall not apply,

subsection 31(1) or (2), as the case may be, of the West Malaysian Ordinance shall apply to him in relation to the old source for both those years, and all such assessments or additional assessments or repayments of old tax under that Ordinance (or, if subsection 31(5) or (7) has been applied to him in relation to the old source, all such assessments or additional assessments or repayments of old tax under that Ordinance) shall be made as may be necessary in consequence of this subparagraph.

Meaning of "acquisition"

105. In subsubparagraph 99*(a)* and in subsubparagraph 104*(a)* "acquisition" means acquisition of a source—

(a) in the case of a particular company—

(i) by a company in the same group;

(ii) by a company the shareholders of which hold or have held more than fifty per cent of the shares of that particular company; or

(iii) by a person having control of that particular company;

(b) in the case of an individual—

(i) by a relative of his ("relative" here and in subsubparagraph *(c)*(iii) having the same meaning as in section 65);

(ii) by a partnership of which he has, or he and associates of his have, control ("associates" and "control" here having the same meaning as in section 139 and paragraph 38 of Schedule 3 respectively);

(iii) by a company of which he has control; or

(iv) by a partner of his in any other business, otherwise than for valuable and adequate consideration;

(c) in the case of a source of a partnership—

(i) by a partner of the partnership;

(ii) by another partnership of which some or all of the partners of the first partnership are partners; or

(iii) by a partnership the partners of which are relatives of the partners of the first-mentioned partnership, otherwise than for valuable and adequate consideration; and

(d) in any other case, where the circumstances are similar to those in which, if the person effecting the acquisition was a company, there would be an acquisition.

Additional provisions where subsubparagraph 104*(a)* applies

106. Where subsubparagraph 104*(a)* applies to a person and an old source, then, if that source is the only source of his in 1967 or if all sources of his ceased in 1967, the West Malaysian credit to the payment of which he would otherwise be entitled under this Part shall be payable to the person who acquired that old source at the relevant date in relation to that last-mentioned person and, where an old source was acquired by more than one person or two or more old sources were acquired by different persons, that credit shall be apportioned between the acquirers in such proportion as the Director General having regard to the circumstances considers just and reasonable and shall be payable to each of them on the relevant date as if the amount apportioned to each were a West Malaysian credit ascertained as regards him.

Events in which West Malaysian credit is payable to individual

107. Subject to paragraph 117, the West Malaysian credit of an individual shall be payable upon the date of the occurrence of such one of the following events as first occurs in relation to him:

(a) on his satisfying the Director General that he had attained the age of fifty-five years prior to 1 January 1968;

(b) on his death at any time after 31 December 1967;

(c) on his attaining the age of fifty-five years after 31 December 1967;

(d) on his departure from Malaysia, if he is not a citizen and if he satisfies the Director General as to the matters set out in paragraph 108;

(e) if he was not resident in the basis year (being a year in which he ceases to have income, other than dividends, derived from Malaysia or a year subsequent thereto) for a year of assessment and is not a citizen, on his satisfying the Director General that he is not likely to have any income

(other than dividends) derived from Malaysia in any of the two years following that basis year;

(f) on his satisfying the Director General that he was not entitled to payment of the West Malaysian credit prior to 1 January 1988;

(g) on his satisfying the Director General that he was prevented by serious disability from being gainfully employed for a period of not less than twelve months and during that period he did not have any source of income; or

(h) on his satisfying the Director General that he is in receipt of a pension derived from Malaysia and that he does not have and is not likely to have any other source of income:

Provided that subparagraph *(d)* shall not apply to the individual if at the time of his departure from Malaysia he has any source (being a source the income from which is wholly or partly derived from Malaysia) other than—

(i) a source from which dividends arise;

(ii) a source from which interest arises;

(iii) a source consisting of a pension derived from Malaysia; or

(iv) a source consisting of an employment which will cease upon the expiration of a period of leave which commences on his departure or at the end of a period of travel which commences on his departure.

Matters as to which the Director General is to be satisfied for the purposes of subsubparagraph 107*(d)*

108. For the purposes of subsubparagraph 107*(d)*, an individual is required to satisfy the Director General that the individual—

(a) has not at the date of his departure from Malaysia obtained a Malaysian entry or re-entry permit or other like document;

(b) has not at that date under any written law any right of entry or re-entry into Malaysia; and

(c) is not likely to be resident for any of the basis years for the five years of assessment commencing with the year of assessment which follows

the year of assessment in the basis year for which the departure took place.

Events in which West Malaysian credit is payable to company

109. (1) Subject to paragraph 117, the West Malaysian credit of a company shall be payable upon the date of the occurrence of such one of the following events as first occurs in relation to the company, that is to say, on the dissolution of the company after 31 December 1967 or on its satisfying the Director General that it has not gone into dissolution before 1 January 1988 or in the case of a company which ceases to have income (other than dividends) derived from Malaysia in the basis year for a year of assessment, on its satisfying the Director General that it was not resident for that basis year or for a year subsequent thereto and that it is not likely to have any income (other than dividends) derived from Malaysia in any of the two years following that basis year or, as the case may be, that subsequent year:

Provided that this paragraph shall not apply on the dissolution of a particular company after 31 December 1967, if at or about the time of the dissolution any of the assets of that particular company available for distribution to its members are transferred—

(a) to a company which together with that particular company is a member of the same group;

(b) to a company more than fifty per cent of the shares of which are held by members of that particular company; or

(c) to the members of that particular company or to a person or persons having control of that particular company within the meaning of section 139.

(2) Where the proviso to subparagraph (1) applies on the transfer of a company's assets, the West Malaysian credit to which, but for that proviso, the company would have been entitled shall be paid in accordance with the following subparagraphs.

(3) Subject to subparagraph (4)—

(a) where all the assets of a company are transferred to the members of the company or to persons having control of the company within the meaning of section 139, the West Malaysian credit of the company shall be apportioned among them in the proportion in which they held as beneficial owners the ordinary share capital of the company at the date of its dissolution ("ordinary share capital" here having the same meaning as in the definition of "director" in subsection 2(1)) or, in the case of persons having such control, in the proportion in which they held their controlling interest, and shall be paid to each of them on the relevant date as if the amount apportioned to each were a West Malaysian credit of his;

(b) where all the assets of a company are transferred to a single person having such control, the West Malaysian credit of the company shall be regarded as his and shall be paid to him on the relevant date.

(4) Where a member or person to whom a West Malaysian credit (or any portion thereof) is to be paid under subparagraph (3) is a company, the amount to be paid shall be treated as a West Malaysian credit of the company and subparagraph (1) shall apply with respect to the payment of that credit.

(5) Where subparagraph (3) does not apply, the West Malaysian credit of the company shall be treated as a West Malaysian credit of the transferee and subparagraph (1) shall apply with respect to the payment of that credit.

(6) In a case where there are two or more transfers (other than transfers to members of the company or to a person or persons having control of the company within the meaning of section 139) to which the proviso to subparagraph (1) applies, subparagraph (5) shall be applied by making such apportionment of the West Malaysian credit among the transferees as the Director General considers to be reasonably necessary in order to give proper effect to subparagraph (5) in the circumstances.

West Malaysian credit payable to company before dissolution in certain cases

110. Subject to paragraph 117, where the Director General is satisfied that the dissolution of a company is imminent and that the company will be entitled on its dissolution to the West Malaysian credit, he may make the amount of the West Malaysian credit available to the liquidator of the company; and, if the company is not dissolved within three months (or such longer period as the Director General may consider reasonable in the circumstances) after the making available of that amount to the liquidator, it shall be the duty of the liquidator to return that amount to the Director General upon being called upon to do so.

Trustees and executors

111. Subject to paragraph 117, the West Malaysian credit of the trustee of a trust or the executors of the estate of a deceased person shall be payable—

(a) on the termination of the trust or on the ascertainment of the residue of the estate of the deceased person, as the case may be;

(b) on their satisfying the Director General that the trust has not been terminated (or, as the case may be, the residue ascertained) before 1 January 1988; or

(c) where the trust body ceases, or the executors cease, to have income (other than dividends) derived from Malaysia in the basis year for a year of assessment, on their satisfying the Director General that the trust body was not, or the executors were not, resident for that basis year or a year subsequent thereto and that the trust body is not, or the executors are not, likely to have any income (other than dividends) derived from Malaysia in any of the two years following that basis year or, as the case may be, that subsequent year.

Hindu joint families

112. Subsubparagraphs 107*(a), (b), (c), (e)* and *(f)* shall apply in relation to a Hindu joint family as if those subparagraphs referred to the family's manager or *karta*.

Provisions applicable where paragraphs 107 to 112 do not apply

113. Subject to paragraph 117, the West Malaysian credit of a person to whom none of paragraphs 107 to 112 applies shall be payable—

(a) on application to the Director General in the year of assessment 1988; or

(b) on application to the Director General before that year if the Director General is satisfied that there are circumstances similar to those in which a company would be entitled to the payment of the West Malaysian credit before that year.

Married persons: general

114. Where section 47 of the West Malaysian Ordinance applies to a married woman and her husband for the year of assessment 1967, then, in the application of the foregoing paragraphs of this Part to the husband—

(a) any reference to a source shall be taken to include a reference to a source of hers as if it were a source of his;

(b) any reference to statutory income in relation to him shall be taken to include a reference to any statutory income of hers from a source so included as his source;

(c) any reference to an acquisition by him shall be taken to include an acquisition by her; and

(d) any old tax paid by her for the year of assessment 1967 shall be treated as paid by him.

Married persons: disposals of wife's credit

115. Where a marriage takes place after 31 December 1967, the wife of that marriage shall not be entitled to any West Malaysian credit to which she would otherwise have been entitled, and any such credit shall be payable to the husband of that marriage as if it were a credit ascertained as regards him under paragraphs 101 to 105 or under paragraph 109.

Married persons: modification of paragraphs 107 and 108

116. In any case where paragraph 107 or 108 applies to the husband and wife of a marriage—

(a) subsubparagraph 107*(d)* shall be so modified as to require the husband to satisfy the Director General as to the matters set out in paragraph 108 not only in respect of himself but also in respect of that wife, or, if paragraph 108 is not applicable to her, as to the matters set out in subsubparagraph 107*(e)* in respect of that wife;

(b) subsubparagraph 107*(e)* shall be so modified as to require the husband to satisfy the Director General as to the matters set out therein not only in respect of himself but also in respect of that wife, or, where subsubparagraph 107*(e)* is not applicable to her, as to the matters set out in paragraph 108 in respect of that wife.

Power to set off West Malaysian credit against tax payable

117. Notwithstanding the foregoing paragraphs of this Part, where any person becomes entitled to a West Malaysian credit in any calendar year, the Director General may withhold payment thereof for the purposes of setting off the amount thereof against any tax or previous tax payable by that person.

Certain income to be disregarded

118. Subject to paragraph 104, where any person ceases to possess a source in the calendar year 1967 (being a source to which subsection 31(5) or (7) of the West Malaysian Ordinance is applicable for both the year of assessment 1967 and the preceding year of assessment under that Ordinance), any income of that person from that source shall be disregarded for the purposes of this Act.

LAWS OF MALAYSIA

Act 53

INCOME TAX ACT 1967

LIST OF AMENDMENTS

Amending law	Short title	In force from
Act A77/1967	Income Tax (Amendment) Act 1967	14-12-1967
P.U. 144/1968	Income Tax (Transitional Provisions) Order 1968	14-12-1967
Act A13	Income Tax (Amendment) Act 1969	1. Assessment year 1968 and subsequent years 2. Section 8— Assessment year 1969 and subsequent years
P.U. (B) 146/1969	Resolution under s. 127 (2)	04-07-1969
P.U. (A) 510/1969	Income Tax (Amendment to Schedule 6) Order 1969	12-12-1969
P.U. (A) 256/1970	Emergency (Essential Powers) Ordinance No. 38, 1970	(Various dates as per Schedule to the Ordinance)
Act A32	Income Tax (Amendment) Act 1971	Assessment year 1971 and subsequent years
Act A60	Income Tax (Amendment) (No. 2) Act 1971	(Various date as per Schedule to the Act)
Act A98	Income Tax (Amendment) Act 1972	01-01-1972
Act A108	Income Tax (Amendment) (No. 2) Act 1972	04-04-1972

Amending law	Short title	In force from
Act A158	Income Tax (Amendment) Act 1973	Assessment year 1973 and subsequent years except expressly provided
P.U. (A) 266/1974	Amendment to Part II of Schedule 6	Assessment year 1973 and subsequent years
P.U. (A) 267/1974	Amendment to Part II of Schedule 6	Assessment year 1968 and subsequent years
P.U. (A) 328/1974	Amendment to Part II of Schedule 6	Assessment year 1963 and subsequent years
Act A225	Income Tax (Amendment) Act 1974	1. Sections 2 and 3—01-01-1974 2. Remaining provisions—29-02-1974
Act A226	Income Tax (Amendment) (No. 2) Act 1974	Assessment year 1974 and subsequent years except expressly provided
Act A227	Income Tax (Amendment) (No. 3) Act 1974	Assessment year 1974 and subsequent years
Act A273	Income Tax (Amendment) Act 1975	Assessment year 1975 and subsequent years except section 6 which shall have effect for the year of assessment 1974
Act 160	Malaysian Currency (Ringgit) Act 1975	29-08-1975
Act A344	Income Tax (Amendment) Act 1976	Assessment year 1976 and subsequent years
P.U. (B) 50/1976	Amendment to Part I of Schedule 6	Assessment year 1976 and subsequent years
P.U. (B) 303/1976	Amendment to Part II of Schedule 6	Assessment year 1976 and subsequent years

Amending law	Short title	In force from
P.U. (B) 186/1977	Amendment to Part II of Schedule 6	Assessment year 1973 and subsequent years
P.U. (B) 187/1977	Amendment to Part II of Schedule 6	Assessment year 1968 and subsequent years
P.U. (B) 363/1977	Amendment to Part II of Schedule 6	01-12-1974
P.U. (B) 364/1977	Amendment to Part II of Schedule 6	Assessment year 1973
P.U. (B) 365/1977	Amendment to Part II of Schedule 6	Assessment year 1977
Act A380	Income Tax (Amendment) Act 1977	1. Paragraph 2(*b*) and section 8—01-01-1977 2. Remaining provisions—Assessment year 1977 and subsequent years
Act A429	Income Tax (Amendment) Act 1978	1. Assessment year 1978 and subsequent years 2. Section 2—01-01-1977 3. Paragraph 12(*b*)—Assessment year 1977 and subsequent years
Act A434	Subordinate Courts (Amendment) Act 1978	01-07-1978
Act A451	Income Tax (Amendment) Act 1979	1. Assessment year 1979 and subsequent years 2. Sections 2 and 4—Assessment year 1973 and subsequent years 3. Sections 10, 11, 12 and 14—01-01-1979

Amending law	Short title	In force from
		4. Sections 15 and 18—Assessment year 1980 and subsequent years
P.U. (B) 421/1979	Amendment to Part I of Schedule 6	Assessment year 1977 and subsequent years
P.U. (B) 422/1979	Amendment to Part II of Schedule 6	Assessment year 1977 and subsequent years
P.U. (B) 423/1979	Amendment to Part II of Schedule 6	Assessment year 1980
Act A471	Income Tax (Amendment) Act 1980	1. Section 3—Assessment year 1978 and subsequent years
		2. Section 16—Assessment year 1968 and subsequent years
		3. Section 14—Assessment year 1980 and subsequent years
		4. Remaining provisions—Assessment year 1980 and subsequent years
Act 241	Finance Act 1981	1. Section 8, paragraph 10*(b)*, sections 11, 12, 16 and paragraph 18(*a*)—Assessment year 1980 and subsequent years
		2. Remaining provisions—Assessment year 1981 and subsequent years
P.U. (A) 161/1981	Revision of Laws (Income Tax Act 1967) Order 1981	05-06-1981
Act 264	Finance Act 1982	1. Section 10—01-01-1982

Amending law	Short title	In force from
		2. Remaining provisions—Assessment year 1982 and subsequent years
Act 274	Finance (No. 2) Act 1982	1. Sections 4, 5, 6 and 14—Assessment year 1984 and subsequent years
		2. Sections 7, 8, 9, 10, 11 and 12—01-01-1983
		3. Paragraph 15*(a)*—22-10-1982
		4. Remaining provisions—Assessment year 1983 and subsequent years
Act 293	Finance Act 1983	1. Sections 4, 5, 6, 9, 10, 11, 15, 16, 17, 18, 19, 20, 21 and 22—21-10-1983
		2. Section 7—01-01-1984
		3. Sections 12, 13 and 14—Assessment year 1984 and subsequent years
		4. Remaining provisions—Assessment year 1984 and subsequent years
Act 309	Finance Act 1984	1. Sections 16 and 18—19-10-1984
		2. Sections 5, 8 and 14—21-10-1983
		3. Sections 4*(b)*, section 13, paragraphs 15*(b)* and 19*(g)*—Assessment year 1984 and subsequent years
		4. Section 7—19-10-1984

Amending law	Short title	In force from
		5. Remaining provisions—Assessment year 1985 and subsequent years
Act 315	Finance Act 1985	Assessment year 1985 and subsequent years
Act 323	Finance Act (No. 2) 1985	1. Paragraph 4*(d)*—Assessment year 1984 and subsequent years
		2. Section 23—Assessment year 1985 and subsequent years
		3. Paragraphs 6*(a)*, 6*(b)*, 7*(c)* and section 22—Assessment year 1987 and subsequent years
		4. Paragraphs 4*(a)*, 4*(b)*, sections 8, 17 and 19—25-10-1985
		5. Section 24*(b)*—25-10-1986
		6. Remaining provisions—Assessment year 1986 and subsequent years
Act A643	Income Tax (Amendment) Act 1986	1. Section 7—01-01-1986
		2. Remaining provisions—Assessment year 1987 and subsequent years
Act 328	Finance Act 1986	1. Sections 5, 7 and 12—21-10-1983
		2. Sections 4, 6, 10, 11, 13, 15, and 18—24-10-1986
		3. Section 8—01-01-1986

Amending law	Short title	In force from
		4. Section 16—Assessment year 1984
		5. Paragraph 19*(h)*—Assessment year 1988 and subsequent years
		6. Remaining provisions—Assessment year 1987 and subsequent years;
		Provided that paragraphs 9*(c)* and *(e)* shall cease to have effect from—
		(i) year of assessment 1988 where the gross premiums receivable by the insurer during the basis period for year of assessment 1986 on account of all Malaysian life policies in force at the end of that period, amount to fifty million ringgit or more;
		(ii) year of assessment 1990 where the gross premiums receivable by the insurer during the basis period for year of assessment 1986 on account of all Malaysian life policies in force at the end of that period, amount to ten million ringgit or more but less then fifty million ringgit; and
		(iii) year of assessment 1992 where the gross premiums receivable by the insurer during the basis period for year of assessment 1986 on account of all Malaysian life policies in force at the end of

Amending law	Short title	In force from
		that period, is less than ten million ringgit
Act 337	Finance Act 1987	1. Section 10—24-10-1986 2. Section 13—01-01-1989 3. Remaining provisions—Assessment year 1988 and subsequent years
Act 364	Finance Act 1988	1. Paragraphs 14*(b)* and *(e)*—Assessment year 1990 and subsequent years 2. Remaining provisions—Assessment year 1989 and subsequent years
P.U.(A) 212/1989	Income Tax (Transitional Provisions) Order 1989	Assessment year 1968
Act 420	Finance Act 1990	1. Sections 7, 8 and 15—Assessment year 1989 and subsequent years 2. Section 13—01-01-1989 3. Section 16—Assessment year 1991 and subsequent years 4. Remaining provisions—Assessment year 1990 and subsequent years
P.U.(A) 266/1990	Income Tax (Transitional Provisions) Order 1990	Assessment year 1968
Act 421	Finance (No. 2) Act 1990	1. Sections 5 and 6—Assessment year 1990 and subsequent years 2. Remaining provisions—

Amending law	Short title	In force from
		Assessment year 1991 and subsequent years
Act A774	Income Tax (Amendment) Act 1990	Assessment year 1991 and subsequent years
Act 451	Finance Act 1991	1. Chapter II except for sections 7, 8, 10, paragraphs 11*(a)*, 11*(b)*, section 19, paragraphs 20*(b)*, sections 21, 23, 26, 27, paragraphs 28*(d)* and 28*(e)*—Assessment year 1991 and subsequent years 2. Section 19, paragraph 20*(b)*, sections 23 and 27—14-12-1990 3. Sections 7, 8, 10, paragraphs 11*(a)*, 11*(b)* and section 26—Assessment year 1992 and subsequent years 4. Section 21, paragraphs 28*(d)* and 28*(e)*—01-10-1989
P.U.(A) 406/1991	Revision of Laws (Rectification) Order 1991	01-11-1971
Act 476	Finance Act 1992	1. Chapter II except for sections 6, 7, 11, 12 and paragraph 18*(a)*—Assessment year 1992 and subsequent years 2. Sections 6, 11, 12, and paragraph 18*(a)*—Assessment year 1991 and subsequent years 3. Section 7—01-01-1990
Act 497	Finance Act 1993	1. Chapter II except for section 4, paragraph 6*(b)* and section 7—

Amending law	Short title	In force from
		Assessment year 1993 and subsequent years
		2. Section 4—Assessment year 1994 and subsequent years
		3. Paragraph 6*(b)*—Assessment year 1989
		4. Section 7—30-10-1992
Act 513	Finance Act 1994	1. Chapter II except for sections 4, 7, paragraphs 8*(d)*, 10*(a)*, sections 11, 12, 13, 14, 17, 18, 19, 20, 21, 22, 23, 24, 25, paragraph 28*(d)* and section 29—Assessment year 1994 and subsequent years
		2. Section 4, paragraph 10*(a)* and section 11—01-6-1991
		3. Section 7, paragraph 8*(d)*, sections 12, 14 and 29—01-01-1994
		4. Section 13—01-01-1993
		5. Paragraph 28*(d)*—16-02-1993
		6. Sections 17, 18, 19, 20, 21, 22, 23, 24 and 25—25-02-1994
Act 531	Finance Act 1995	1. Chapter II except for section 6, paragraphs 19*(c)* and 19*(e)*—Assessment year 1995 and subsequent years
		2. Section 6 (except for subparagraph 6*(a)*(i))—

Amending law	Short title	In force from
		Assessment year 1994 and subsequent years 3. Subparagraph 6*(a)*(i)—Assessment year 1991 4. Paragraphs 19*(c)* and 19*(e)*—28-10-1994
Act 544	Finance Act 1996	1. Chapter II except for paragraphs 10*(a)*,10*(b)*, 11*(a)*, 16*(c)* and section 17—Assessment year 1996 and subsequent years 2. Paragraphs 10*(a)*, 10*(b)*, 11*(a)*, 11*(b)* and 16*(c)*—Assessment year 1995 and subsequent years 3. Section 17—Assessment year 1997 and subsequent years
Act A955	Income Tax (Amendment) Act 1996	02-08-1996
Act 557	Finance Act 1997	1. Chapter II except for paragraphs 4*(a)*, 4*(b)*, 19*(a)*, 19*(b)*, sections 5, 7, 15, 16, 17, 18, 20 and 21—Assessment year 1997 and subsequent years 2. Paragraphs 4*(a)*, 19*(b)*, sections 16, 17 and 18—25-10-1996 3. Paragraphs 4*(b)* and 19*(a)*, sections 5, 7, 15 and 21—01-01-1997 4. Section 20—02-08-1996

Amending law	Short title	In force from
Act A998	Income Tax (Amendment) Act 1997	01-08-1997
Act 578	Finance Act 1998	1. Chapter II except for sections 7, 8, 10, 14, 15, 18, paragraphs 21*(d)* and 21*(g)*—Assessment year 1998 and subsequent years 2. Sections 7, 8, 14, 15 and paragraph 21*(g)*—01-01-1999 3. Section 10—17-10-1997 4. Section 18—20-03-1998 5. Paragraph 21*(d)*—Assessment year 1999 and subsequent years
Act A1028	Tax Laws (Amendment) Act 1998	1. Chapter I except section 6–02-07-1998 2. Section 6—Assessment year 1998 and subsequent years
Act 591	Finance (No. 2) Act 1998	1. Chapter II except sections 4, 6, 10 and 13—Assessment year 1999 and subsequent years of assessment 2. Section 4—24-10-1998 3. Sections 6 and 10—Assessment year 2000 and subsequent years of assessment 4. Section 13—Assessment year 1998 and subsequent years of assessment
Act A1055	Income Tax (Amendment) Act 1999	1. Sections 2, 3, 5 and 6—01-01-2000

Amending law	Short title	In force from
		2. Sections 20, 21, 77 and 92—Assessment year 2000 in respect of the basis period ending in the year 2000 and subsequent years of assessment 3. Section 4—Assessment year 1999 and subsequent years of assessment 4. Sections 7 to 16—Assessment year 2000 in respect of the basis period ending in the year 1999 5. Section 17—01-01-2000
Act A1069	Income Tax (Amendment) (No. 2) Act 1999	01-01-2000 1. Subsection 107C(3) of section 12—Assessment year 2002 and subsequent years of assessment 2. Sections 13, 14, 15 and 16—01-01-2000 3. Section 17—Assessment year 2001 4. Remaining provisions—Assessment year 2001 and subsequent years of assessment
Act 600	Finance Act 2000	1. Sections 5, 6, 7, 8, 11, 12 and 15—Assessment year 2000 in respect of the basis period ending in the year 2000 (current year basis) and subsequent years of assessment

Amending law	Short title	In force from
		2. Sections 4, 9, 10 and 14—16-06-2000 3. Section 13—Assessment year 2000 in respect of the basis period ending in the year 1999 (preceding year basis) and subsequent years of assessment
Act A1093	Income Tax (Amendment) Act 2000	1. Sections 2–11, 13–18 and 21–Assessment year 2001 and subsequent years of assessment 2. Section 12—Assessment year 2000 in respect of the basis period ending in the year 2000 and subsequent years of assessment 3. Section 16—Only for assessment year 2000 in respect of the basis period ending in the year 2000 4. Sections 19, 20 and 22–28—01-01-2001
Act 608	Finance (No.2) Act 2000	1. Sections 4-14 and 16-27—Assessment year 2001 and subsequent years of assessment 2. Section 15—Assessment year 1986 and subsequent years of assessment
Act 619	Finance Act 2002	1. Sections 4, 5, 7, paragraphs 8*(a)*, 8*(b)*, 8*(d)*, 8*(e)*, 8*(f)*, 8*(g)*, 8*(h)*, 8*(i)*, 8*(j)*, 8*(l)* and 8*(m)*, section 9 and paragraphs 10*(a)*, 10*(b)* and 10*(c)*—Assessment year

Amending law	Short title	In force from
		2002 and subsequent years of assessment 2. Paragraph 8*(c)*—01-01-2000—Assessment year 2000 and subsequent year of assessment 3. Paragraph 37F of Schedule 3 as inserted by paragraph 8*(k)*—Assessment year 2002 and subsequent years of assessment 4. Paragraphs 37G and 37H of Schedule 3 as Inserted by paragraph 8*(k)*—Assessment year 2001 and subsequent years 5. Paragraph 10*(d)*—Assessment year 1998 and subsequent years of assessment
Act A1151	Income Tax (Amendment) Act 2002	1. Sections 2, 3 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, paragraph 20*(a)*, subparagraph 21*(b)*(i), subparagraphs 21*(c)*(i) and (ii), sections 22 and 23, paragraphs 24*(b)* and 25*(a)* and subparagraph 25*(b)*(ii)—Assessment year 2004 and subsequent years of assessment 2. Paragraphs 20*(b)* and *(c)*, paragraph 21*(a)*, subparagraph 21*(b)*(ii) and paragraph 21*(d)*—Assessment year 2001 and subsequent years of assessment

Amending law	Short title	In force from
		3. Paragraph 24*(a)* and subparagraph 25*(b)*(i)—Assessment year 2002 and subsequent years of assessment 4. Section 26— Assessment year 2004 5. Section 27— Assessment year 2002 6. Sections 28, 29, 30 and 31—Assessment year 2003
P.U. (A) 338/2002	Revision of Laws (Rectification of Income Tax Act 1967) Order 2002	23-08-2002
Act 624	Finance (No. 2) Act 2002	1. Sections 4, 6, 8, 9, 10, 11, 12, 13, 16, 17, paragraph 19*(a)*, sections 20, 21, 22, 23, 28 and 29—Assessment year 2003 and subsequent years of assessment 2. Section 5—Assessment year 2002 and subsequent years of assessment 3. Sections 7, 18 and 24—21-09-2002 4. Sections 14, 15 and 27 shall have effect on the coming into operation of Act 624—27-12-2002 5. Paragraph 19*(b)*—Assessment year 2001 and subsequent years of assessment 6. Sections 25 and 26—Assessment year 2000

Amending law	Short title	In force from
		(current year) and subsequent years of assessment
Act 631	Finance Act 2003	1. Sections 4, 6, 8 and 16 and paragraph 19*(b)*—Assessment year 2003 and subsequent years of assessment 2. Sections 12 and 15—Assessment year 2003 3. Sections 5, 7, 9, 11, 13, 14, 18 and 20—Assessment year 2003 and subsequent years of assessment 4. Section 10—Assessment years 2003, 2004 and 2005 5. Paragraph 17*(b)*—01-01-2001 6. Subparagraph 19*(a)*(i)—13-09-2003 7. Subparagraph 19*(a)*(ii)—Assessment year 2000 (current year) and subsequent years of assessment
Act 639	Finance Act 2004	1. Sections 4, 5, 6, and subparagraph 7*(b)*(ii) and sections 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 23, 27, 28, 29, 30, 31 and 32—Assessment year 2005 and subsequent years of assessment 2. Paragraph 7*(a)*—Assessment year 2001 and subsequent years of assessment

Amending law	Short title	In force from
		3. Subparagraph 7*(b)*(i) and sections 20 and 22—Assessment year 2001 and subsequent years of assessment
		4. Sections 24, 25 and 26—01-01-2005
		5. Paragraph 33*(a)*—Assessment year 2003 and subsequent years of assessment
		6. Paragraph 33*(b)*—11-09-2004
Act 644	Finance Act 2005	1. Sections 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 21, 22, 24, 32, 33, 34, 35, 36 and 37 have effect for the year of assessment 2006 and subsequent years of assessment
		2. Sections 23 and 30—01-01-2006
		3. Section 25—01-10-2005
Act 661	Finance Act 2006	1. Sections 4, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 19, 25, paragraph 30*(a)*, section 31, paragraphs 32*(a)*, *(b)*, *(c)* and *(e)* and section 33 have effect for the year of assessment 2007 and subsequent years of assessment
		2. Section 5, paragraph 24*(a)*, sections 26, 27, 28, 29 and paragraph 30*(b)*—01-01-2007

Amending law	Short title	In force from
		3. Section 18 has effect for the year of assessment 2006 and subsequent years of assessment
		4. Section 20—01-01-2007
		5. Sections 21, 22, 23, paragraph 24*(b)*, paragraph 32*(d)* and section 34—02-09-2006
Act 683	Finance Act 2007	1. Sections 4, 5, 8, paragraphs 10*(a)* and *(d)*, subparagraphs 12*(a)*(i) and (iv) in respect of paragraph 46(1)*(l)* of the Income Tax Act 1967, sections 14, 15, 17, 19, 20, 21, 23, 24, 25, 26, 27, 29, 33, 34, paragraphs 36*(a)* and *(f)* and sections 38, 39, 40, 41, 42, 43, 44, 45, 46, 47, 48, 49, 50, 51, 52, 53, 54, 55, 56 and 57 have effect for the year of assessment 2008 and subsequent years of assessment
		2. Sections 6 and 22—01-01-2008
		3. Subparagraphs 12*(a)*(ii), (iii) and (iv) in respect of paragraph 46(1)*(k)* of the Income Tax Act 1967, section 16 and paragraph 36*(d)* have effect for the year of assessment 2007 and subsequent years of assessment
		4. Sections 7, 9, 11 and 13 are deemed to have effect for the year of assessment 2006 and subsequent years of assessment

Amending law	Short title	In force from
		5. Section 28—01-08-2008
		6. Section 32—21-02-2007
Act 693	Finance Act 2009	1. Paragraph 45*(a)* has effect for the year of assessment 2008 and subsequent years of assessment
		2. Sections 4, 6, 7, 11, 12, 13, 14, 16, 17, 18, 19, 20, 21, 22, 23, 24, 27, 29, 38, paragraphs 42*(a)* and *(b)*, paragraphs 43*(b)*, *(c)*, *(d)*, *(e)* and *(f)*, paragraph 45*(b)*, paragraphs 46*(a)*, *(c)*, (*d*), *(f)* and *(g)* and subparagraphs 46*(e)*(i) and (ii) have effect for the year of assessment 2009 and subsequent years of assessment
		3. Sections 8, 9, 26, 28, 30, 31, 33, 34, 35, 36, paragraph 43*(a)*, section 44, paragraph 46*(b)* and sections 47, 48, 49 and 50—09-01-2009
		4. Sections 5, 10, 15, 25, 37, 39, 40 and 41 and paragraph 42*(d)*—01-01-2009
		5. Paragraph 42*(c)* has effect from 1 January 2009 to 31 December 2011
		6. Subparagraph 46*(e)*(iii) has effect for the year of assessment 2009 and 2010
P.U. (B) 62/2009	Corrigendum	Corrigendum to the Income Tax Act 1967 [*Act 53*] reprinted in the year 2006 and incorporating all

Amending law	Short title	In force from
		amendments up to 1 January 2006
Act A1349	Income Tax (Amendment) Act 2009	1. Sections 2, 3 and 4 are deemed to have effect for the years of assessment 2008, 2009 and 2010 2. Sections 5 and 6 have effect for the year of assessment 2009 and subsequent years of assessment 3. Section 7—01-07-2008
Act 702	Finance Act 2010	1. Sections 4 and 4A, subparagraph 5*(a)*(i), sections 6, 7, 14, 15 and 16 have effect for the year of assessment 2010 and subsequent years of assessment 2. Subparagraphs 5*(a)*(ii), (iii), (iv) and paragraph 5*(b)* have effect for the years of assessment 2010, 2011 and 2012 3. Section 8 has effect for the year ending 31 December 2009 and subsequent years 4. Sections 9, 11, 12 and 13—15-01-2010 5. Section 10 has effect for the year of assessment 2011 and subsequent years of assessment
Act 719	Finance Act 2011	1. Subparagraphs 4*(a)*(ii), (iii) and (iv) and paragraph 4*(b)* — 11-02-2010

Amending law	Short title	In force from
		2. Sections 5, 6, 8, paragraph 9*(a)*, sections 10, 11, 12, 13, 14, 15, 16, 24 and 25 have effect for the year of assessment 2011 and subsequent years of assessment
		3. Section 7 is deemed to have effect from the year of assessment 2010
		4. Paragraphs 9*(b)*, *(c)* and *(d)* have effect from 1 January 2011 for the year of assessment 2011 and subsequent years of assessment
		5. Subparagraph 4*(a)*(i), section 17, 18, 20, 21, 22 and 23 commence on the coming into operation of this Act
		6. Section 19 has effect for the year of assessment 2012 and subsequent years of assessment
Act 742	Finance Act 2012	1. Sections 4, 6, 7, 9, 11, 12, 21, and 22, paragraphs 23*(a)* and *(c)*, sections 24 and 25 have effect for the year of assessment 2012 and subsequent years of assessment
		2. Section 5 comes into operation from 1 January 2012 until 31 December 2016
		3. Sections 8, 13, 15, 16, 17 and 19—01-01-2012

Amending law	Short title	In force from
		4. Section 10 comes into operation from the year of assessment 2012 until the year of assessment 2021 5. Sections 14—10-02-2012 6. Section 20—30-01-2012 7. Paragraph 23*(b)* is deemed to have effect from the year of assessment 2011
Act A1429	Income Tax (Amendment) Act 2012	23-06-2012
Act 755	Finance Act 2013	1. Subparagraphs 4*(a)*(i) and (iii), paragraphs 4*(b)* and *(c)*, sections 7 and 23, and paragraph 35*(c)* in relation to business trust come into operation on the coming into operation of the corresponding provisions of the Capital Markets and Services (Amendment) Act 2012 [*Act A1437*] relating to business trust—28-12-2012 2. Subparagraph 4 *(a)*(ii), sections 20 and 22, and paragraph 35*(a)* come into operation on the coming into operation of this Act—11-01-2013 3. Subparagraphs 4*(a)*(iv), (v) and (vi), sections 7, 8, 9, 14, 15, 23, 24, 25, 27, 28 and 29, paragraphs 33*(b)* and *(c)*, and paragraphs 35*(c)*, 35*(f)* and 37*(a)* in relation to limited liability partnership come into operation on the coming into operation of the

Amending law	Short title	In force from
		Limited Liability Partnerships Act 2012 [*Act 743*]—26-12-2012
		4. Subparagraph 4 *(a)*(vii), sections 5,10,13,18, paragraphs 33*(a)* and *(d)*, paragraphs 35*(d)* and *(e)*, paragraphs 38*(a)* , *(b)*, *(c)*, *(d)*, *(e)*, *(g)*, *(h)* and *(i)*, and sections 39 and 40 have effect for the year of assessment 2013 and subsequent years of assessment
		5. Sections 6 and 30, and paragraph 33*(e)*—01-01-2013
		6. Sections 11, 12, 16, 26, 31, 32 and 34, paragraph 35*(b)*, section 36 and paragraph 38*(f)*—01-01-2014
		7. Section 17 has effect for the years of assessment 2012, 2013, 2014, 2015, 2016 and 2017
		8. Sections 19 and 21, and paragraph 37*(b)* have effect for the year of assessment 2012 and subsequent years of assessment
Act 761	Finance Act 2014	1. Sections 4, 5, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 21, 22, 25, 26 and 30 have effect for the year of assessment 2014 and subsequent years of assessment

Amending law	Short title	In force from
		2. Sections 6, 20, 23, 24, 27, 28, 29, 31 and 32—24-01-2014
P.U. (B) 47/2014	Corrigendum	Corrigendum to the Income Tax Act 1967 [*Act 53*] reprinted in the year 2006 and incorporating all amendments up to 1 January 2006
Act 764	Finance (No. 2) Act 2014	1. Sections 4, 5, 6, 7, 8, 9, 10, 12 and 16, subparagraphs 20*(a)*(i), (ii), (iii) and (v), subsubparagraph 20*(a)*(iv)(B), paragraph 20*(b)*, section 21, paragraphs 22*(b)* and *(c)*, and section 23 have effect for the year of assessment 2015 and subsequent years of assessment
		2. Sections 11, 13 and 14, paragraph 15*(a)*, sections 17, 18 and 19, subsubparagraph 20*(a)*(iv)(A) and paragraph 22*(a)*—01-01-2015
		3. Paragraph 15*(b)*—01-01-2015
Act 773	Finance Act 2015	1. Subparagraphs 4*(a)*(i) and (ii), paragraphs 10*(a)*, *(b)* and *(c)* in respect of paragraphs 39(1) *(o)* and *(p)* of the Income Tax Act 1967, section 17, paragraphs 25*(a)* and *(e)*, paragraph 28*(a)* and section 29 have effect for the year of assessment 2015 and subsequent years of assessment

Amending law	Short title	In force from
		2. Sections 5, 6, 7, 8, 9 and 11, paragraphs 12*(a)*, *(b)*, *(c)* and *(d)* in respect of paragraph 46(1)*(n)* of the Income Tax Act 1967, sections 13, 14, 22 and 24, paragraphs 25 *(b)*, *(c)* and *(d)*, paragraphs 25*(b)*, *(c)* and *(d)*, paragraph 26*(a)*, section 27 and paragraph 28*(c)* have effect for the year of assessment 2016 and subsequent years of assessment
		3. Subparagraph 4*(a)*(iii), paragraph 4(b), sections 15, 19, 20, 21, 23, and paragraphs 26*(b)*, *(c)* and *(d)*, and Part II—31-12-2015
		4. Paragraph 28*(b)* has effect for the year of assessment 2016, 2017 and 2018
		5. Paragraph 10*(c)* in respect of paragraph 39(1)*(q)* of the Income Tax Act 1967—01-01-2016
		6. Paragraph 12*(d)* in respect of paragraph 46(1)*(o)* of the Income Tax Act 1967, has effect for the year of assessment 2016 until the year of assessment 2020
		7. Section 16 has effect for the year ending 31 December 2016 and subsequent years

Amending law	Short title	In force from
		8. Section 18 has effect for the year of assessment 2018 and subsequent years of assessment
Act 785	Finance Act 2017	1. Sections 4, 6, 22, 23, 24 and 26, and paragraph 28*(b)*—17-01-2017
		2. Section 5 and subparagraph 10*(a)*(i) are deemed to have effect from the year of assessment 2015
		3. Sections 12, 13, 20 and 21, subparagraph 27*(a)*(iii), and paragraphs 27*(b)* and 29*(e)*—30-06-2013
		4. Paragraph 7*(a)*—01-01-2010
		5. Paragraph 7*(b)*, sections 8 and 9, subparagraphs 10*(a)*(ii), (iii), (iv), (v), (vi), (vii) and (viii), paragraph 10*(b)*, sections 11, 14, 15, 16 and 17, and subparagraphs 27*(a)*(i) and (ii), and paragraphs 29*(a)*, *(b)*, *(c)*, *(d)*, *(f)*, *(g)* and *(h)* have effect for the year of assessment 2017 and subsequent years of assessment
		6. Sections 18 and 25—01-01-2017
		7. Section 19 has effect for the year of assessment 2019 and subsequent years of assessment

Amending law	Short title	In force from
		8. Paragraph 28*(a)* is deemed to have effect from the year of assessment 2016
Act A1556	Income Tax (Amendment) Act 2017	30-12-2017
Act 801	Finance (No. 2) Act 2017	1. Sections 4, 7 and 8 have effect for the year of assessment 2019 and subsequent years of assessment 2. Sections 5, 9, 10, 13 and 14—30-12-2017 3. Sections 6 and 12 have effect for the year of assessment 2018 and subsequent years of assessment 3. Section 11—01-01-2018
Act 812	Finance Act 2018	1. Sections 10, 11, 12, 15, 16, 17, 18, 19, 24, 27, 28, 29 and 30 and paragraphs 23*(a)*, *(b)*, *(c)* and *(d)* have effect for the year of assessment 2019 and subsequent years of assessment 2. Section 13 has effect for the years of assessment 2019, 2020 and 2021 3. Section 14 has effect for the years of assessment 2019 and 2020 4. Paragraph 4*(b)* and sections 5, 6, 6A, 7, 8, 19A and paragraph 23*(aa)*—28-12-2018

Amending law	Short title	In force from
		5. Paragraph 4*(a)* and sections 9, 20, 21, 22 and 26—01-01-2019
Act A1576	Income Tax (Amendment) Act 2018	1. Sections 3, 4 and 5 have effect for the year of assessment 2019 and subsequent years of assessment 2. Sections 2, 6, 7, 8, 9 and 10—28-12-2018
Act A1609	Income Tax (Amendment) Act 2019	01-01-2020
Act 823	Finance Act 2019	1. Paragraph 5*(a)* has effect from the year of assessment 2020 until the year of assessment 2025 2. Section 6 has effect for the year of assessment 2019 and subsequent years of assessment 3. Sections 4, 7, 8, 9, 14, 20 and 21, and paragraph 19*(a)* have effect for the year of assessment 2020 and subsequent years of assessment 4. Paragraphs 5*(b)*, 16*(a)* and 19*(b)*, and sections 10, 11, 13, 15, 17 and 18—01-01-2020 5. Section 12 and paragraph 16*(b)*—01-01-2020

LAWS OF MALAYSIA

Act 53

INCOME TAX ACT 1967

LIST OF SECTIONS AMENDED

Section	Amending authority	In force from
2	Act 77/1967	14-12-1967
	P.U. (A) 256/1970	01-01-1970
	Act A60	01-01-1970
	Act A98	01-01-1972
	Act A108	Year of assessment 1968 and subsequent years of assessment
	Act A158	Year of assessment 1973 and subsequent years of assessment
	Act A226	Year of assessment 1974 and subsequent years of assessment
	Act A273	Year of assessment 1975 and subsequent years of assessment
	Act A380	Year of assessment 1977 and subsequent years of assessment; para. 2*(b)* – 01-01-1977
	Act A429	01-01-1977
	Act A451	Year of assessment 1973 and subsequent years of assessment
	Act 293	21-10-1983
	Act 323	para. 4*(a)*, *(b)*–25-10-1985; para. 4*(c)*–Year of assessment 1986 and subsequent years of assessment; para. 4*(d)*–Year of assessment 1984 and subsequent years of assessment
	Act 328	24-10-1986
	Act 337	Year of assessment 1988 and subsequent years of assessment
	Act 420	Year of assessment 1990 and subsequent years of assessment
	Act A774	Year of assessment 1991 and subsequent years of assessment
	Act 513	01-06-1991
	Act A955	02-08-1996
	Act 557	para. 4*(a)* – 25-10-1996;

Section	Amending authority	In force from
		para. 4*(b)* – 01-01-1997
	Act 600	16-06-2000
	Act A1093	Year of assessment 2001 and subsequent years of assessment
	Act 608	Year of assessment 2001 and subsequent years of assessment
	Act 631	Year of assessment 2003 and subsequent years of assessment
	Act 639	Year of assessment 2005 and subsequent years of assessment
	Act 661	Year of assessment 2007 and subsequent years of assessment
	Act 693	Year of assessment 2009 and subsequent years of assessment
	Act 702	Year of assessment 2010 and subsequent years of assessment
	Act 719	11-02-2010; 28-01-2011
	Act 742	Year of assessment 2012 and subsequent years of assessment
	Act 755	26-12-2012; 28-12-2012; 11-01-2013
	Act 761	Year of assessment 2013 and subsequent years of assessment; Year of assessment 2014 and subsequent years of assessment
	Act 773	subpara. 4*(a)*(iii) and para. 4*(b* – 31-12-2015; subpara. 4*(a)*(i) and (ii)–Year of assessment 2015 and subsequent years of assessment
	Act 785	17-01-2017
	Akta 812	Para. 4*(a)* — 01-01-2019; Para. 4*(b)* — 28-12-2018
	Act A1609	01-01-2020
	Act 823	Year of assessment 2020 and subsequent years of assessment
3	Act A226	Year of assessment 1974 and subsequent years of assessment
3A	Act A273	Year of assessment 1975 and subsequent years of assessment

Section	Amending authority	In force from
	Act A471	Year of assessment 1980 and subsequent years of assessment
	Act 309	para. 4*(a)*–Year of assessment 1985 and subsequent years of assessment; para. 4*(b)*–Year of assessment 1984 and subsequent years of assessment
	Act 323	Year of assessment 1986 and subsequent years of assessment
	Act 337	Year of assessment 1988 and subsequent years of assessment
	A420	Year of assessment 1990 and subsequent years of assessment
	Act 451	Year of assessment 1991 and subsequent years of assessment
3B	Act A774	Year of assessment 1991 and subsequent years of assessment
	Act 683	Year of assessment 2008 and subsequent years of assessment
3C	Act 531	Year of assessment 1995 and subsequent years of assessment
	Act 578	Year of assessment 1998 and subsequent years of assessment
4	Act 693	Year of assessment 2009 and subsequent years of assessment
4A	Act 293	21-10-1983
	Act 309	21-10-1983
	Act 328	21-10-1983
	Act 557	01-01-1997
	Act 812	28-12-2018
4B	Act 755	Year of assessment 2013 and subsequent years of assessment
4C	Act 761	Year of assessment 2014 and subsequent years of assessment
5	Act A273	Year of assessment 1975 and subsequent years of assessment
	Act A471	Year of assessment 1978 and subsequent years of assessment

Section	Amending authority	In force from
	Act 241	Year of assessment 1981 and subsequent years of assessment
	Act 323	para. 6*(a), (b)*–Year of assessment 1987 and subsequent years of assessment; para. 6*(c)*–Year of assessment 1986 and subsequent years of assessment
	Act 337	Year of assessment 1988 and subsequent years of assessment
	Act 683	Year of assessment 2008 and subsequent years of assessment
	Act 764	Year of assessment 2015 and subsequent years of assessment
6	Act 77/1967	14-12-1967
	Act A98	01-01-1972
	Act A158	Year of assessment 1973 and subsequent years of assessment
	Act A273	Year of assessment 1974 and subsequent years of assessment
	Act A380	Year of assessment 1977 and subsequent years of assessment
	Act A451	Year of assessment 1979 and subsequent years of assessment
	Act 293	21-10-1983
	Act 323	para. 7*(a)*–Year of assessment 1986 and subsequent years of assessment; para. 7*(b* and *(c)*–Year of assessment 1987 and subsequent years of assessment
	Act 420	Year of assessment 1990 and subsequent years of assessment
	Act 451	Year of assessment 1991 and subsequent years of assessment
	Act 544	Year of assessment 1996 and subsequent years of assessment
	Act 624	Year of assessment 2003 and subsequent years of assessment
	Act 639	Year of assessment 2005 and subsequent years of assessment
	Act 661	01-01-2007
	Act 683	01-01-2008
	Act 693	01-01-2009

Section	Amending authority	In force from
	Act 742	01-01-2012 until 31-12-2016
	Act 755	01-01-2013
	Act 761	24-01-2014
	Act 773	Year of assessment 2016 and subsequent years of assessment
	Act 823	para. 5*(a)* – Year of assessment 2020 until the year of assessment 2025; para. 5*(b)*–01-01-2020
6A	Act A380	Year of assessment 1977 and subsequent years of assessment
	Act A429	Year of assessment 1978 and subsequent years of assessment
	Act 309	Year of assessment 1985 and subsequent years of assessment
	Act 451	Year of assessment 1991 and subsequent years of assessment
	Act 513	Year of assessment 1994 and subsequent years of assessment
	Act 531	Year of assessment 1995 and subsequent years of assessment
	Act 578	Year of assessment 1998 and subsequent years of assessment
	Act 608	Year of assessment 2001 and subsequent years of assessment
	Act 639	Year of assessment 2005 and subsequent years of assessment
	Act 661	Year of assessment 2007 and subsequent years of assessment
	Act 693	Year of assessment 2009 and subsequent years of assessment
	Act 702	Year of assessment 2010 and subsequent years of assessment
	Act 742	Year of assessment 2012 and subsequent years of assessment
	Act 823	Year of assessment 2019 and subsequent years of assessment
6B	Act 241	Year of assessment 1981 and subsequent years of assessment
	Act 264	Year of assessment 1982 and subsequent years of assessment
	Act 661	Year of assessment 2007 and subsequent years of assessment

Section	Amending authority	In force from
6C	Act 578	Year of assessment 1998 and subsequent years of assessment
	Act 719	Year of assessment 2011 and subsequent years of assessment
7	Act 77/1967	14-12-1967
	Act A13	Year of assessment 1968 and subsequent years of assessment
	Act A226	Year of assessment 1974 and subsequent years of assessment
	Act 241	Year of assessment 1981 and subsequent years of assessment
	Act 337	Year of assessment 1988 and subsequent years of assessment
	Act 624	Year of assessment 2002 and subsequent years of assessment
	Act 693	Year of assessment 2009 and subsequent years of assessment
8	Act 755	28-12-2012
9	Act A226	Year of assessment 1974 and subsequent years of assessment
10	Act 77/1967	14-12-1967
	Act A226	Year of assessment 1974 and subsequent years of assessment
11	Act 624	Year of assessment 2003 and subsequent years of assessment
12	Act 812	28-12-2018
13	P.U. (A) 256/1970	Year of assessment 1968 and subsequent years of assessment
	Act A60	Year of assessment 1968 and subsequent years of assessment
	Act A226	Year of assessment 1974 and subsequent years of assessment
	Act 293	01-01-1984
	Act 309	For a passage commencing on or after 19-10-1984
	Act 323	25-10-1985
	Act 557	Year of assessment 1997 and subsequent years of assessment

Section	Amending authority	In force from
	Act 591	24-10-1998
	Act 661	Year of assessment 2007 and subsequent years of assessment
	Act 785	From the year of assessment 2015
13A	Act 241	Year of assessment 1981 and subsequent years of assessment
	Act 293	Year of assessment 1984 and subsequent years of assessment
14	Act A1093	Year of assessment 2001 and subsequent years of assessment
15	Act A158	Year of assessment 1973 and subsequent years of assessment
	Act A451	Year of assessment 1973 and subsequent years of assessment
	Act 328	24-10-1986
	Act 693	09-01-2009
15A	Act 293	21-10-1983
	Act 309	21-10-1983
	Act 328	21-10-1983
	Act 557	01-01-1997
	Act 624	21-09-2002
	Act 693	09-01-2009
	Act 785	17-01-2017
	Act 812	28-12-2018
15B	Act 693	01-01-2009
16	Act 719	Year of assessment 2011 and subsequent years of assessment
17	Act A226	Year of assessment 1974 and subsequent years of assessment
18	Act A13	Year of assessment 1968 and subsequent years of assessment
	Act A471	Year of assessment 1980 and subsequent years of assessment
	Act 241	Year of assessment 1980 and subsequent years of assessment

Section	Amending authority	In force from
	Act 323	Year of assessment 1986 and subsequent years of assessment
	Act A643	Year of assessment 1987 and subsequent years of assessment
	Act 364	Year of assessment 1989 and subsequent years of assessment
	Act 476	Year of assessment 1992 and subsequent years of assessment
	Act 624	Year of assessment 2003 and subsequent years of assessment
	Act 693	Year of assessment 2009 and subsequent years of assessment
19	Act 77/1967	14-12-1967
	Act 420	Year of assessment 1989 and subsequent years of assessment
	Act 451	Year of assessment 1992 and subsequent years of assessment
	Act 644	Year of assessment 2006 and subsequent years of assessment
20	Act A1055	01-01-2000
21	Act A13	Year of assessment 1968 and subsequent years of assessment
	Act A1055	01-01-2000
	Act A1093	Year of assessment 2001 and subsequent years of assessment
	Act A1151	Year of assessment 2004 and subsequent years of assessment
	Act 755	26-12-2012
21A	Act A1093	Year of assessment 2001 and subsequent years of assessment
	Act A1151	Year of assessment 2004 and subsequent years of assessment
	Act 755	26-12-2012
	Act 801	Year of assessment 2019 and subsequent years of assessment
22	Act A13	Year of assessment 1968 and subsequent years of assessment
	Act 241	Year of assessment 1981 and subsequent years of assessment

Section	Amending authority	In force from
	Act 661	Year of assessment 2007 and subsequent years of assessment
23	Act A226	Year of assessment 1974 and subsequent years of assessment
24	Act A226	Year of assessment 1974 and subsequent years of assessment
	Act 293	21-10-1983
	Act 755	Year of assessment 2013 and subsequent years of assessment
	Act 761	Year of assessment 2014 and subsequent years of assessment
	Act 773	Year of assessment 2016 and subsequent years of assessment
25	Act 77/1967	14-12-1967
	Act A13	Year of assessment 1968 and subsequent years of assessment
	Act A226	Year of assessment 1974 and subsequent years of assessment
	Act A273	Year of assessment 1975 and subsequent years of assessment
	Act A380	Year of assessment 1977 and subsequent years of assessment
	Act 578	01-01-1999
	Act 644	Year of assessment 2006 and subsequent years of assessment
	Act 693	Year of assessment 2009 and subsequent years of assessment
	Act 755	01-01-2014
	Act 773	Year of assessment 2016 and subsequent years of assessment
26	Act A226	Year of assessment 1974 and subsequent years of assessment
	Act A1093	Year of assessment 2001 and subsequent years of assessment
27	Act 77/1967	14-12-1967
	Act A226	Year of assessment 1974 and subsequent years of assessment
	Act 578	01-01-1999
	Act 683	Year of assessment 2006 and subsequent years of assessment

Section	Amending authority	In force from
	Act 755	01-01-2014
29	Act A226	Year of assessment 1974 and subsequent years of assessment
	Act 761	Year of assessment 2014 and subsequent years of assessment
	Act 764	Year of assessment 2015 and subsequent years of assessment
30	Act 77/1967	14-12-1967
	Act A226	Year of assessment 1974 and subsequent years of assessment
	Act 661	Year of assessment 2007 and subsequent years of assessment
31	Act 77/1967	14-12-1967
	Act 624	Year of assessment 2003 and subsequent years of assessment
32	Act 77/1967	14-12-1967
	Act A273	Year of assessment 1975 and subsequent years of assessment
	Act 644	Year of assessment 2006 and subsequent years of assessment
	Act 693	Year of assessment 2009 and subsequent years of assessment
33	Act 77/1967	14-12-1967
	Act A13	Year of assessment 1968 and subsequent years of assessment
	P.U. (A) 256/1970	Year of assessment 1968 and subsequent years of assessment
	Act A60	Year of assessment 1968 and subsequent years of assessment
	Act 761	Year of assessment 2014 and subsequent years of assessment
	Act 773	Year of assessment 2016 and subsequent years of assessment
34	Act A226	Year of assessment 1974 and subsequent years of assessment
	Act 274	Year of assessment 1984 and subsequent years of assessment
	Act A643	Year of assessment 1987 and subsequent years of assessment

Section	Amending authority	In force from
	Act 476	Year of assessment 1992 and subsequent years of assessment
	Act 497	Year of assessment 1994 and subsequent years of assessment
	Act 513	Year of assessment 1994 and subsequent years of assessment
	Act 544	Year of assessment 1996 and subsequent years of assessment
	Act 557	Year of assessment 1997 and subsequent years of assessment
	Act 578	Year of assessment 1998 and subsequent years of assessment
	Act 591	Year of assessment 1999 and subsequent years of assessment
	Act 608	Year of assessment 2001 and subsequent years of assessment
	Act 619	Year of assessment 2002 and subsequent years of assessment
	Act 639	para. 7*(a)*–Year of assessment 2001 and subsequent years of assessment; subpara. 7*(b)*(i)–Year of assessment 2004 and subsequent years of assessment; subpara. 7*(b)*(ii)–Year of assessment 2005 and subsequent years of assessment
	Act 661	Year of assessment 2007 and subsequent years of assessment
	Act 683	Year of assessment 2008 and subsequent years of assessment
	Act 693	Year of assessment 2009 and subsequent years of assessment
	Act 719	Year of assessment 2010
	Act 773	Year of assessment 2016 and subsequent years of assessment
	Act 785	para. 7*(a)*–01-01-2010; para. 7*(b)*–Year of assessment 2017 and subsequent years of assessment
	Act 812	28-12-2018
	Act 823	Year of assessment 2020 and subsequent years of assessment

Section	Amending authority	In force from
34A	Act 274	Year of assessment 1984 and subsequent years of assessment
	Act A643	Year of assessment 1987 and subsequent years of assessment
	Act 421	Year of assessment 1991 and subsequent years of assessment
	Act 631	Year of assessment 2003 and subsequent years of assessment
	Act 693	Year of assessment 2009 and subsequent years of assessment
	Act 812	28-12-2018
34B	Act 451	Year of assessment 1992 and subsequent years of assessment
	Act 513	01-01-1994
	Act 531	Year of assessment 1994 and subsequent years of assessment; subpara. 6*(a)*(i) – for year of assessment 1991
	Act 742	Year of assessment 2012 and subsequent years of assessment
34C	Act 683	Year of assessment 2006 and subsequent years of assessment
	Act 719	Year of assessment 2011 and subsequent years of assessment
34D	Act 755	Year of assessment 2013 and subsequent years of assessment
35	Act 77/1967	14-12-1967
	Act A108	Year of assessment 1968 and subsequent years of assessment
	Act A226	Year of assessment 1974 and subsequent years of assessment
	Act 274	Year of assessment 1984 and subsequent years of assessment
	Act 631	Year of assessment 2004 and subsequent years of assessment
	Act 661	Year of assessment 2007 and subsequent years of assessment
36	Act 309	Year of assessment 1985 and subsequent years of assessment

Section	Amending authority	In force from
	Act 631	Year of assessment 2003 and subsequent years of assessment
37	Act 77/1967	14-12-1967
	Act 624	Year of assessment 2003 and subsequent years of assessment
38	Act 77/1967	14-12-1967
	Act 624	Year of assessment 2003 and subsequent years of assessment
38A	Act 364	Year of assessment 1989 and subsequent years of assessment
39	Act A13	Year of assessment 1969 and subsequent years of assessment
	Act A273	Year of assessment 1975 and subsequent years of assessment
	Act A344	Year of assessment 1976 and subsequent years of assessment
	Act A451	Year of assessment 1979 and subsequent years of assessment
	Act 241	para. 10*(a)*–Year of assessment 1981 and subsequent years of assessment; para. 10*(b)*–Year of assessment 1980 and subsequent years of assessment
	Act 274	01-01-1983
	Act 293	21-10-1983
	Act 309	Year of assessment 1985 and subsequent years of assessment
	Act A643	Year of assessment 1987 and subsequent years of assessment
	Act 364	Year of assessment 1989 and subsequent years of assessment
	Act 421	Year of assessment 1990 and subsequent years of assessment
	Act 451	Year of assessment 1979 and subsequent years of assessment
	Act 531	Year of assessment 1995 and subsequent years of assessment
	Act 557	Year of assessment 1997 and subsequent years of assessment
	Act 578	17-10-1997

Section	Amending authority	In force from
	Act 608	Year of assessment 2001 and subsequent years of assessment
	Act 619	Year of assessment 2002 and subsequent years of assessment
	Act 631	Year of assessment 2004 and subsequent years of assessment
	Act 644	Year of assessment 2006 and subsequent years of assessment
	Act 693	01-01-2009
	Act 719	para. 9*(a)*–Year of assessment 2011 and subsequent years of assessment; para. 9*(b)*, *(c)* and *(d)*–01-01-2011 for the year of assessment 2011 and subsequent years of assessment
	Act 742	01-01-2012
	Act 755	26-12-2012
	Act 761	Year of assessment 2014 and subsequent years of assessment
	Act 773	para. 10*(a)*, *(b)* and *(c)* in respect of paragraph 39(1)*(o)* and *(p)* of the Income Tax Act 1967–Year of assessment 2015 and subsequent years of assessment; para. 10*(c)* in respect of paragraph 39(1)*(q)* of the Income Tax Act 1967–01-01-2016
	Act 812	01-01-2019
42	Act A643	Year of assessment 1987 and subsequent years of assessment
	Act A1055	Year of assessment 1999 and subsequent years of assessment
42B	Act 364	Year of assessment 1989 and subsequent years of assessment
	Act 451	Year of assessment 1992 and subsequent years of assessment
	Act 476	Year of assessment 1991 and subsequent years of assessment
	Act 644	Year of assessment 2006 and subsequent years of assessment

Section	Amending authority	In force from
	Act 661	Year of assessment 2007 and subsequent years of assessment
44	Act A226	Year of assessment 1974 and subsequent years of assessment
	Act A429	Year of assessment 1978 and subsequent years of assessment
	Act 309	Year of assessment 1985 and subsequent years of assessment
	Act 323	Year of assessment 1986 and subsequent years of assessment
	Act 328	01-01-1986
	Act 364	Year of assessment 1989 and subsequent years of assessment
	Act 420	Year of assessment 1989 and subsequent years of assessment
	Act 421	Year of assessment 1990 and subsequent years of assessment
	Act 451	para. 11*(a), (b)*–Year of assessment 1992 and subsequent years of assessment; para. 11*(c)* –Year of assessment 1991 and subsequent years of assessment
	Act 476	01-01-1990
	Act 513	Year of assessment 1994 and subsequent years of assessment; para. 8*(d)*–01-01-1994
	Act 531	Year of assessment 1995 and subsequent years of assessment
	Act 557	Year of assessment 1997 and subsequent years of assessment
	Act 578	Year of assessment 1998 and subsequent years of assessment
	Act 591	Year of assessment 2000 and subsequent years of assessment
	Act A1093	Year of assessment 2001 and subsequent years of assessment
	Act 608	Year of assessment 2001 and subsequent years of assessment
	Act A1151	Year of assessment 2004 and subsequent years of assessment
	Act 639	Year of assessment 2005 and subsequent years of assessment

Section	Amending authority	In force from
	Act 644	Year of assessment 2006 and subsequent years of assessment
	Act 661	Year of assessment 2007 and subsequent years of assessment
	Act 683	para. 10*(a)* and *(d)*–Year of assessment 2008 and subsequent years of assessment; para. 10*(b)* and *(c)*–29-12-2007
	Act 693	Year of assessment 2009 and subsequent years of assessment
	Act A1349	Years of assessment 2008, 2009 and 2010
	Act A1429	23-06-2012
	Act 755	26-12-2012
	Act 761	Year of assessment 2014 and subsequent years of assessment
	Act 785	Year of assessment 2017 and subsequent years of assessment
	Act 801	30-12-2017
	Act 812	Year of assessment 2019 and subsequent years of assessment
	Act 823	Year of assessment 2020 and subsequent years of assessment
44A	Act 644	Year of assessment 2006 and subsequent years of assessment
	Act 661	Year of assessment 2007 and subsequent years of assessment
	Act 683	Year of assessment 2006 and subsequent years of assessment
	Act 693	Year of assessment 2009 and subsequent years of assessment
	Act 755	01-01-2014
	Act 812	Year of assessment 2019 and subsequent years of assessment
44B	Act A1349	Years of assessment 2008, 2009 and 2010
45	Act 77/1967	14-12-1967
	P.U. (A) 256/1970	Year of assessment 1970 and subsequent years of assessment
	Act A60	Year of assessment 1970 and subsequent years of assessment

Section	Amending authority	In force from
	Act A273	Year of assessment 1975 and subsequent years of assessment
	Act A429	Year of assessment 1978 and subsequent years of assessment
	Act A471	Year of assessment 1980 and subsequent years of assessment
	Act 315	Year of assessment 1985 and subsequent years of assessment
	Act 323	Year of assessment 1986 and subsequent years of assessment
	Act 337	Year of assessment 1988 and subsequent years of assessment
	Act 451	Year of assessment 1991 and subsequent years of assessment
	Act 608	Year of assessment 2001 and subsequent years of assessment
	Act 742	Year of assessment 2012 and subsequent years of assessment
45A	Act 608	Year of assessment 2001 and subsequent years of assessment
	Act 639	Year of assessment 2005 and subsequent years of assessment
	Act 644	Year of assessment 2006 and subsequent years of assessment
	Act 773	Year of assessment 2016 and subsequent years of assessment
	Act 785	Year of assessment 2017 and subsequent years of assessment
46	Act A273	Year of assessment 1975 and subsequent years of assessment
	Act A429	Year of assessment 1978 and subsequent years of assessment
	Act A471	Year of assessment 1980 and subsequent years of assessment
	Act 451	Year of assessment 1991 and subsequent years of assessment
	Act 476	Year of assessment 1992 and subsequent years of assessment
	Act 531	Year of assessment 1995 and subsequent years of assessment
	Act 544	Year of assessment 1996 and subsequent years of assessment

Section	Amending authority	In force from
	Act 557	Year of assessment 1997 and subsequent years of assessment
	Act 600	Year of assessment 2000 in respect of the basis period ending in the year 2000 and subsequent years of assessment
	Act 608	Year of assessment 2001 and subsequent years of assessment
	Act 639	Year of assessment 2005 and subsequent years of assessment
	Act 644	Year of assessment 2006 and subsequent years of assessment
	Act 661	Year of assessment 2007 and subsequent years of assessment
	Act 683	subpara. 12*(a)*(ii), (iii) and (iv) – Year of assessment 2007 and subsequent years of assessment; subpara. 12*(a)*(i) and (iv) – Year of assessment 2008 and subsequent years of assessment. para 12*(b)* – 29-12-2007
	Act 702	subpara. 5*(a)*(i)–Year of assessment 2010 and subsequent years of assessment; subpara. 5*(a)*(ii), (iii), (iv) and 5*(b)*–Years of assessment 2010, 2011 and 2012
	Act 719	Year of assessment 2011 and subsequent years of assessment
	Act 755	Year of assessment 2012, 2013, 2014, 2015, 2016 and 2017
	Act 761	Year of assessment 2014 and subsequent years of assessment
	Act 764	Year of assessment 2015 and subsequent years of assessment
	Act 773	subpara. 12*(a)*, *(b)*, *(c)* and *(d)* in respect of paragraph 46(1)*(n)* of the Income Tax Act 1967–Year of assessment 2016 and subsequent years of assessment; para. 12*(d)* in respect of paragraph 46(1)*(o)* of the Income Tax Act 1967–Year of assessment 2016 until the year of assessment 2020

Section	Amending authority	In force from
	Act 785	para. 10*(a)*(i) – From year of assessment 2015; subpara. 10*(a)*(ii), (iii), (iv), (v), (vi), (vii) and (viii), para. 10*(b)*– Year of assessment 2017 and subsequent years of assessment
	Act 812	Years of assessment 2019 and 2020
	Act 823	Year of assessment 2020 and subsequent years of assessment
46A	Act 631	Years of assessment 2003, 2004 and 2005
	Act 683	Year of assessment 2006 and subsequent years of assessment
46B	Act A1349	Year of assessment 2009 and subsequent years of assessment
47	P.U. (A) 256/1970	Year of assessment 1970 and subsequent years of assessment
	Act A60	Year of assessment 1970 and subsequent years of assessment
	Act A227	Year of assessment 1974 and subsequent years of assessment
	Act A273	Year of assessment 1975 and subsequent years of assessment
	Act A429	Year of assessment 1978 and subsequent years of assessment
	Act A471	Year of assessment 1980 and subsequent years of assessment
	Act 241	Year of assessment 1980 and subsequent years of assessment
	Act 323	Year of assessment 1986 and subsequent years of assessment
	Act 451	Year of assessment 1991 and subsequent years of assessment
	Act 476	Year of assessment 1992 and subsequent years of assessment
	Act 531	Year of assessment 1995 and subsequent years of assessment
	Act 639	Year of assessment 2005 and subsequent years of assessment
	Act 773	Year of assessment 2016 and subsequent years of assessment

Section	Amending authority	In force from
	Act 785	Year of assessment 2017 and subsequent years of assessment
48	Act 77/1967	14-12-1967
	Act A226	Year of assessment 1974 and subsequent years of assessment
	Act A227	Year of assessment 1974 and subsequent years of assessment
	Act A273	Year of assessment 1975 and subsequent years of assessment
	Act A429	Year of assessment 1978 and subsequent years of assessment
	Act A451	Year of assessment 1979 and subsequent years of assessment
	Act A471	Year of assessment 1980 and subsequent years of assessment
	Act 309	Year of assessment 1985 and subsequent years of assessment
	Act 323	Year of assessment 1986 and subsequent years of assessment
	Act 451	Year of assessment 1991 and subsequent years of assessment
	Act 476	Year of assessment 1992 and subsequent years of assessment
	Act 513	Year of assessment 1994 and subsequent years of assessment
	Act 531	Year of assessment 1995 and subsequent years of assessment
	Act 544	Year of assessment 1996 and subsequent years of assessment
	Act 578	Year of assessment 1998 and subsequent years of assessment
	Act A1151	Year of assessment 2004 and subsequent years of assessment
	Act 631	Year of assessment 2004 and subsequent years of assessment
	Act 644	Year of assessment 2006 and subsequent years of assessment
	Act 755	Year of assessment 2013 and subsequent years of assessment
	Act 764	Year of assessment 2015 and subsequent years of assessment
	Act 773	Year of assessment 2016 and subsequent years of assessment

Section	Amending authority	In force from
49	Act 77/1967	14-12-1967
	Act A273	Year of assessment 1975 and subsequent years of assessment
	Act A429	Year of assessment 1978 and subsequent years of assessment
	Act A451	Year of assessment 1979 and subsequent years of assessment
	Act 241	Year of assessment 1980 and subsequent years of assessment
	Act 323	Year of assessment 1986 and subsequent years of assessment
	Act 451	Year of assessment 1991 and subsequent years of assessment
	Act 476	Year of assessment 1991 and subsequent years of assessment
	Act 513	para. 10*(a)*–01-06-1991; para. 10*(b)*, *(c)* and *(d)*–Year of assessment 1994 and subsequent years of assessment
	Act 544	Year of assessment 1996 and subsequent years of assessment
	Act 557	Year of assessment 1997 and subsequent years of assessment
	Act 600	Year of assessment 2000 in respect of the basis period ending in the year 2000 and subsequent years of assessment
	Act 639	Year of assessment 2005 and subsequent years of assessment
	Act 702	Year of assessment 2010 and subsequent years of assessment
	Act 719	Year of assessment 2011 and subsequent years of assessment
	Act 742	Year of assessment 2012 until the year of assessment 2021
	Act 761	Year of assessment 2014 and subsequent years of assessment
	Act 812	Year of assessment 2019 and subsequent years of assessment
50	Act 77/1967	14-12-1967
	Act A13	Year of assessment 1968 and subsequent years of assessment
	Act A108	Year of assessment 1970 and subsequent years of assessment

Section	Amending authority	In force from
	Act A273	Year of assessment 1975 and subsequent years of assessment
	Act A429	Year of assessment 1978 and subsequent years of assessment
	Act 323	Year of assessment 1986 and subsequent years of assessment
	Act 451	Year of assessment 1991 and subsequent years of assessment
	Act 476	Year of assessment 1991 and subsequent years of assessment
	Act 513	01-06-1991
	Act 544	Year of assessment 1996 and subsequent years of assessment
	Act 600	Year of assessment 2000 in respect of the basis period ending in the year 2000 and subsequent years of assessment
	Act 608	Year of assessment 2001 and subsequent years of assessment
	Act 719	Year of assessment 2011 and subsequent years of assessment
51	Act A471	Year of assessment 1980 and subsequent years of assessment
53	Act 693	Year of assessment 2009 and subsequent years of assessment
53A	Act 693	Year of assessment 2009 and subsequent years of assessment
54	Act 77/1967	14-12-1967
	Act A226	Year of assessment 1974 and subsequent years of assessment
	Act A451	Year of assessment 1979 and subsequent years of assessment
	Act 264	Year of assessment 1982 and subsequent years of assessment
	Act 293	Year of assessment 1984 and subsequent years of assessment
54A	Act A451	Year of assessment 1979 and subsequent years of assessment
	Act 264	Year of assessment 1982 and subsequent years of assessment

Section	Amending authority	In force from
	Act 293	Year of assessment 1984 and subsequent years of assessment
	Act 309	Year of assessment 1984 and subsequent years of assessment
	Act 591	Year of assessment 1999 and subsequent years of assessment
	Act 683	Year of assessment 2008 and subsequent years of assessment
	Act 693	Year of assessment 2009 and subsequent years of assessment
	Act 742	Year of assessment 2012 and subsequent years of assessment
54B	Act 264	Year of assessment 1982 and subsequent years of assessment
	Act 293	Year of assessment 1984 and subsequent years of assessment
55	Act 77/1967	14-12-1967
56	Act 77/1967	14-12-1967
57B	Act 764	31-12-2014
59	Act 77/1967	14-12-1967
60	Act 77/1967	14-12-1967
	Act A13	Year of assessment 1968 and subsequent years of assessment
	Act A471	Year of assessment 1980 and subsequent years of assessment
	Act 264	Year of assessment 1982 and subsequent years of assessment
	Act 328	Year of assessment 1987 and subsequent years of assessment
	Act 337	Year of assessment 1988 and subsequent years of assessment
	Act 476	Year of assessment 1992 and subsequent years of assessment
	Act 531	Year of assessment 1995 and subsequent years of assessment

Section	Amending authority	In force from
	Act 544	para. 10*(a)*, *(b)*–Year of assessment 1995 and subsequent years of assessment; para. 10*(c)*–Year of assessment 1996 and subsequent years of assessment
	Act 578	Year of assessment 1998 and subsequent years of assessment
	Act 591	Year of assessment 1999 and subsequent years of assessment
	Act 608	Year of assessment 2001 and subsequent years of assessment
	Act 644	Year of assessment 2006 and subsequent years of assessment
	Act 742	Year of assessment 2012 and subsequent years of assessment
	Act 764	Year of assessment 2015 and subsequent years of assessment
	Act 785	30-06-2013
	Act 812	Year of assessment 2019 and subsequent years of assessment
60A	Act A227	Year of assessment 1974 and subsequent years of assessment
	Act A471	Year of assessment 1980 and subsequent years of assessment
	Act 812	Year of assessment 2019 and subsequent years of assessment
60AA	Act 323	Year of assessment 1986 and subsequent years of assessment
	Act 608	Year of assessment 1986 and subsequent years of assessment
	Act 683	Year of assessment 2008 and subsequent years of assessment
	Act 755	Year of assessment 2012 and subsequent years of assessment
	Act 761	Year of assessment 2014 and subsequent years of assessment
	Act 764	Year of assessment 2015 and subsequent years of assessment
	Act 785	30-06-2013
	Act 801	Year of assessment 2018 and subsequent years of assessment
	Act 812	Year of assessment 2019 and subsequent years of assessment

Section	Amending authority	In force from
60AB	Act 531	Year of assessment 1995 and subsequent years of assessment
	Act 761	Year of assessment 2014 and subsequent years of assessment
60B	Act A471	Year of assessment 1980 and subsequent years of assessment
	Act 264	Year of assessment 1982 and subsequent years of assessment
	Act 812	Year of assessment 2019 and subsequent years of assessment
60C	Act 264	Year of assessment 1982 and subsequent years of assessment
	Act 624	Year of assessment 2003 and subsequent years of assessment
60D	Act 420	Year of assessment 1990 and subsequent years of assessment
	Act 476	Year of assessment 1992 and subsequent years of assessment
	Act 600	Year of assessment 2000 in respect of the basis period ending in the year 2000 and subsequent years of assessment
60E	Act 420	Year of assessment 1990 and subsequent years of assessment
	Act 476	Year of assessment 1992 and subsequent years of assessment
	Act 513	01-01-1993
	Act 513	Year of assessment 1995 and subsequent years of assessment
	Act 544	Year of assessment 1995 and subsequent years of assessment
	Act 578	01-01-1999
	Act 624	Year of assessment 2003 and subsequent years of assessment
60F	Act 497	Year of assessment 1993 and subsequent years of assessment
	Act 644	Year of assessment 2006 and subsequent years of assessment
	Act 661	Year of assessment 2006 and subsequent years of assessment

Section	Amending authority	In force from
	Act 719	Year of assessment 2011 and subsequent years of assessment
	Act 761	Year of assessment 2014 and subsequent years of assessment
60FA	Act 644	Year of assessment 2006 and subsequent years of assessment
60G	Act 544	Year of assessment 1996 and subsequent years of assessment
	Act 755	11-01-2013
60H	Act 557	Year of assessment 1997 and subsequent years of assessment
	Act 719	Year of assessment 2011 and subsequent years of assessment
	Act 761	Year of assessment 2014 and subsequent years of assessment
60I	Act 683	Year of assessment 2007 and subsequent years of assessment
	Act 702	Year of assessment 2010 and subsequent years of assessment
	Act 755	Year of assessment 2012 and subsequent years of assessment
	Act 764	Year of assessment 2015 and subsequent years of assessment
	Act 773	31-12-2015
61	Act 77/1967	14-12-1967
	P.U. (A) 256/1970	Year of assessment 1968 and subsequent years of assessment
	Act A60	Year of assessment 1968 and subsequent years of assessment
	Act A226	Year of assessment 1974 and subsequent years of assessment
	Act 420	Year of assessment 1990 and subsequent years of assessment
	Act 639	Year of assessment 2005 and subsequent years of assessment
61A	Act 639	Year of assessment 2005 and subsequent years of assessment

Section	Amending authority	In force from
	Act 661	Year of assessment 2007 and subsequent years of assessment
	Act 785	Year of assessment 2017 and subsequent years of assessment
62	Act A226	Year of assessment 1974 and subsequent years of assessment
63A	Act 420	Year of assessment 1990 and subsequent years of assessment
	Act 639	Year of assessment 2005 and subsequent years of assessment
	Act 785	Year of assessment 2017 and subsequent years of assessment
63B	Act 420	Year of assessment 1990 and subsequent years of assessment
	Act 639	Year of assessment 2005 and subsequent years of assessment
	Act 719	Year of assessment 2011 and subsequent years of assessment
	Act 761	Year of assessment 2014 and subsequent years of assessment
	Act 785	Year of assessment 2017 and subsequent years of assessment
63C	Act 639	Year of assessment 2005 and subsequent years of assessment
	Act 785	Year of assessment 2017 and subsequent years of assessment
62	Act A226	Year of assessment 1974 and subsequent years of assessment
63D	Act 639	Year of assessment 2005 and subsequent years of assessment
64	Act 77/1967	14-12-1967
	Act A226	Year of assessment 1974 and subsequent years of assessment
	Act A471	Year of assessment 1980 and subsequent years of assessment
65	Act A226	Year of assessment 1974 and subsequent years of assessment;

Section	Amending authority	In force from
	Act 719	Year of assessment 2011 and subsequent years of assessment
65A	Act A380	Year of assessment 1997 and subsequent years of assessment
	Act A429	Year of assessment 1978 and subsequent years of assessment
	Act 451	Year of assessment 1991 and subsequent years of assessment
	Act 531	Year of assessment 1995 and subsequent years of assessment
	Act 755	11-01-2013
67	Act A226	Year of assessment 1974 and subsequent years of assessment
	Act 274	01-01-1983
	Act 293	21-10-1983
	Act 683	Year of assessment 2008 and subsequent years of assessment
	Act 742	01-01-2012
68	Act 77/1967	14-12-1967
69	Act 77/1967	14-12-1967
70	Act 77/1967	14-12-1967
72	Act 77/1967	14-12-1967
74	Act A226	Year of assessment 1974 and subsequent years of assessment
	Act A1151	Year of assessment 2004 and subsequent years of assessment
	Act 719	28-01-2011
	Act 823	01-01-2020
75	Act 619	08-02-2002
	Act 624	27-12-2002
75A	Act 624	27-12-2002
	Act 644	01-01-2006
	Act 761	24-01-2014
75B	Act 755	26-12-2012
	Act 764	31-12-2014

Section	Amending authority	In force from
	Act A1576	28-12-2018
76	Act 513	Year of assessment 1994 and subsequent years of assessment
77	Act A1055	01-01-2000
	Act A1069	Year of assessment 2001 and subsequent years of assessment
	Act A1093	Year of assessment 2001 and subsequent years of assessment
	Act A1151	Year of assessment 2004 and subsequent years of assessment
	Act 631	Year of assessment 2003
	Act 639	Year of assessment 2004 and subsequent years of assessment
	Act 755	26-12-2012
77A	Act A1151	Year of assessment 2004 and subsequent years of assessment
	Act 631	Year of assessment 2004 and subsequent years of assessment
	Act 755	26-12-2012
	Act 761	Year of assessment 2014 and subsequent years of assessment
	Act A1576	Year of assessment 2019 and subsequent years of assessment
77B	Act 693	Year of assessment 2009 and subsequent years of assessment
	Act 823	01-01-2020
77C	Act 761	Year of assessment 2014 and subsequent years of assessment
	Act 764	Year of assessment 2015 and subsequent years of assessment
78	Act 451	14-12-1990
80	Act 77/1967	14-12-1967
	P.U. (A) 256/1970	01-01-1968
	Act A60	01-01-1968
	Act A1069	Year of assessment 2001 and subsequent years of assessment
	Act 683	29-12-2007

Section	Amending authority	In force from
81	Act A13	Year of assessment 1968 and subsequent years of assessment
	P.U. (A) 256/1970	Year of assessment 1968 and subsequent years of assessment
	Act A60	Year of assessment 1968 and subsequent years of assessment
	Act 742	10-02-2012
82	Act 337	24-10-1986
	Act 451	para. 20*(a)*–Year of assessment 1991 and subsequent years of assessment; para. 20*(b)*–14-12-1990
	Act A1093	Year of assessment 2001 and subsequent years of assessment
	Act A1151	Year of assessment 2004 and subsequent years of assessment
	Act 624	Year of assessment 2003 and subsequent years of assessment
	Act A1576	Year of assessment 2019 and subsequent years of assessment
82A	Act 624	Year of assessment 2003 and subsequent years of assessment
83	Act A158	Year of assessment 1973 and subsequent years of assessment
	Act 337	Year of assessment 1988 and subsequent years of assessment
	Act 557	Year of assessment 1997 and subsequent years of assessment
	Act 702	Year ending 31 December 2009 and subsequent years
	Act 773	Year ending 31 December 2016 and subsequent years
83A	Act 742	01-01-2012
84	Act 77/1967	14-12-1967
86	Act 77/1967	14-12-1967
	Act A13	Year of assessment 1968 and subsequent years of assessment
	Act A226	Year of assessment 1974 and subsequent years of assessment

Section	Amending authority	In force from
	Act A1151	Year of assessment 2004 and subsequent years of assessment
	Act 639	Year of assessment 2004 and subsequent years of assessment
89	Act 77/1967	14-12-1967
90	Act A1069	Year of assessment 2001 and subsequent years of assessment
	Act A1093	Year of assessment 2001 and subsequent years of assessment
	Act A1151	Year of assessment 2004 and subsequent years of assessment
91	Act 578	01-01-1999
	Act 644	01-01-2006
	Act 661	01-01-2007
	Act 755	01-01-2014
	Act 764	31-12-2014
	Act 773	Year of assessment 2015 and subsequent years of assessment
	Act 823	01-01-2020
91A	Act 693	Year of assessment 2009 and subsequent years of assessment
92	Act 77/1967	14-12-1967
	Act A13	Year of assessment 1968 and subsequent years of assessment
	Act A108	Year of assessment 1972 and subsequent years of assessment
	Act A226	Year of assessment 1974 and subsequent years of assessment
	Act A1055	01-01-2000
	Act A1093	Year of assessment 2001 and subsequent years of assessment
93	Act A1069	Year of assessment 2001 and subsequent years of assessment
	Act A1151	Year of assessment 2004 and subsequent years of assessment
	Act 693	Year of assessment 2009 and subsequent years of assessment

Section	Amending authority	In force from
95	Act 476	Year of assessment 1992 and subsequent years of assessment
	Act 644	Year of assessment 2006 and subsequent years of assessment
96	Act A1069	Year of assessment 2001 and subsequent years of assessment
	Act A1151	Year of assessment 2004 and subsequent years of assessment
	Act 693	Year of assessment 2009 and subsequent years of assessment
	Act 823	01-01-2020
96A	P.U. (A) 256/1970	01-01-1970
	Act A60	01-01-1970
	Act A1069	Year of assessment 2001 and subsequent years of assessment
	Act A1151	Year of assessment 2004 and subsequent years of assessment
97	Act A108	In respect of an appeal made on or after 01-01-1972
97A	Act 693	01-01-2009
	Act 742	01-01-2012
	Act 785	01-01-2017
98	Act 77/1967	14-12-1967
	Act 693	09-01-2009
99	Act 77/1967	14-12-1967
	Act A1093	For the year of assessment 2000 in respect of the basis period ending in the year 2000 and subsequent years of assessment
	Act 761	24-01-2014
	Act 764	31-12-2014
	Act A1576	Year of assessment 2019 and subsequent years of assessment
100	Act A108	01-01-1972
	Act 823	Year of assessment 2020 and subsequent years of assessment
101	Act 77/1967	14-12-1967
	P.U. (A) 256/1970	01-01-1970

Section	Amending authority	In force from
	Act A60	01-01-1970
	Act 600	16-06-2000
102	Act A108	01-01-1972
	Act 600	16-06-2000
	Act 781	24-01-2014
103	Act 77/1967	14-12-1967
	P.U. (A) 256/1970	01-01-1970
	Act A60	01-01-1970
	Act A451	01-01-1979
	Act 264	01-01-1982
	Act 274	01-01-1983
	Act 293	21-10-1983
	Act 557	25-10-1996
	Act A1069	Year of assessment 2001 and subsequent years of assessment
	Act 608	Year of assessment 2001 and subsequent years of assessment
	Act A1151	Year of assessment 2004 and subsequent years of assessment
	Act 631	Year of assessment 2004 and subsequent years of assessment
	Act 639	Year of assessment 2004 and subsequent years of assessment
	Act 693	Year of assessment 2009 and subsequent years of assessment
	Act 755	26-12-2012
	Act 823	01-01-2020
103A	Act A1069	Year of assessment 2001 and subsequent years of assessment
	Act A1093	Year of assessment 2001 and subsequent years of assessment
	Act A1151	Year of assessment 2004 and subsequent years of assessment
	Act 631	Year of assessment 2003
104	Act A451	01-01-1979
	Act 274	01-01-1983
	Act 293	21-10-1983
	Act A1151	Year of assessment 2004 and subsequent years of assessment
	Act 693	09-01-2009
	Act 719	28-01-2011

Section	Amending authority	In force from
	Act 823	01-01-2020
106	Act A451	01-01-1979
	Act A1069	Year of assessment 2001 and subsequent years of assessment
	Act A1151	Year of assessment 2004 and subsequent years of assessment
	Act 693	Year of assessment 2009 and subsequent years of assessment
	Act 823	01-01-2020
107	Act 77/1967	14-12-1967
	Act A158	Year of assessment 1973 and subsequent years of assessment
	Act A451	Year of assessment 1979 and subsequent years of assessment
	Act 337	Year of assessment 1988 and subsequent years of assessment
	Act 702	15-01-2010
107A	Act 274	01-01-1983
	Act 293	21-10-1983
	Act 328	24-10-1986
	Act 557	25-10-1996
	Act 624	21-09-2000
	Act 661	02-09-2006
	Act 693	09-01-2009
107B	Act 337	01-01-1989
	Act A1069	Year of assessment 2001 and subsequent years of assessment
	Act 600	For the year of assessment 2000 in respect of the basis period ending in the year 2000 and subsequent years of assessment
	Act A1151	Year of assessment 2004 and subsequent years of assessment
	Act 693	09-01-2009
	Act 755	26-12-2012
107C	Act A1069	Year of assessment 2002 and subsequent years of assessment
	Act A1093	Year of assessment 2001 and subsequent years of assessment

Section	Amending authority	In force from
	Act A1151	para. 20*(a)*—Year of assessment 2004 and subsequent years of assessment; para. 20*(b)* and *(c)*—Year of assessment 2001 and subsequent years of assessment
	Act 631	Year of assessment 2003 and subsequent years of assessment
	Act 644	Year of assessment 2006 and subsequent years of assessment
	Act 683	Year of assessment 2008 and subsequent years of assessment
	Act 693	Year of assessment 2010 and subsequent years of assessment
	Act 702	Year of assessment 2011 and subsequent years of assessment
	Act 719	Year of assessment 2012 and subsequent years of assessment
	Act 755	26-12-2012
	Act 761	Year of assessment 2014 and subsequent years of assessment
	Act 764	para. 15*(a)*—31-12-2014; para. 15*(b)*—01-01-2015
	Act 773	Year of assessment 2018 and subsequent years of assessment
	Act 785	Year of assessment 2019 and subsequent years of assessment
	Act 801	Year of assessment 2019 and subsequent years of assessment
108	Act 77/1967	14-12-1967
	P.U. (A) 256/1970	Year of assessment 1968 and subsequent years of assessment
	Act A60	Year of assessment 1968 and subsequent years of assessment
	Act A273	Year of assessment 1975 and subsequent years of assessment
	Act A380	Year of assessment 1977 and subsequent years of assessment
	Act 241	Year of assessment 1981 and subsequent years of assessment
	Act 337	Year of assessment 1988 and subsequent years of assessment
	Act 364	Year of assessment 1989 and subsequent years of assessment

Section	Amending authority	In force from
	Act A774	Year of assessment 1991 and subsequent years of assessment
	Act 497	Year of assessment 1993 and subsequent years of assessment; para 6*(b)*—For the year of assessment 1989
	Act 513	Year of assessment 1994 and subsequent years of assessment
	Act 531	Year of assessment 1995 and subsequent years of assessment
	Act 578	Year of assessment 1998 and subsequent years of assessment
	Act A1093	Year of assessment 2001 and subsequent years of assessment
	Act 624	para. 19*(a)*—Year of assessment 2003 and subsequent years of assessment; para. 19*(b)*—Year of assessment 2001 and subsequent years of assessment
	Act A1151	para. 2*(a)*, subpara. 21*(b)*(ii) and para. 21*(d)*—Year of assessment 2001 and subsequent years of assessment; subpara. 21*(b)*(i), 21*(c)*(i) and 21*(c)*(ii)—Year of assessment 2004 and subsequent years of assessment
	Act 631	para. 17*(a)*–Year of assessment 2003 and subsequent years of assessment; para. 17*(b)*– 01-01-2001
	Act 683	Year of assessment 2008 and subsequent years of assessment
109	Act 77/1967	14-12-1967
	Act A98	01-01-1972
	Act A158	Year of assessment 1973 and subsequent years of assessment
	Act A226	Year of assessment 1974 and subsequent years of assessment
	Act A380	01-01-1977
	Act A451	01-01-1979
	Act 241	Year of assessment 1981 and subsequent years of assessment

Section	Amending authority	In force from
	Act 323	25-10-1985
	Act 328	24-10-1986
	Act 497	30-10-1992
	Act 557	25-10-1996
	Act 661	02-09-2006
	Act 683	Year of assessment 2008 and subsequent years of assessment
	Act 693	09-01-2009
109A	Act A158	Year of assessment 1973 and subsequent years of assessment
109B	Act 293	21-10-1983
	Act 309	21-10-1983
	Act 328	21-10-1983
	Act 557	para. 19*(a)*–01-01-1997; para. 19*(b)*–25-10-1996
	Act 661	02-09-2006
	Act 693	09-01-2009
	Act 812	28-12-2018
109C	Act 323	01-01-1986
	Act A643	01-01-1986
	Act 661	para. 24*(a)*—01-01-2007; para. 24*(b* —02-09-2006
	Act 693	09-01-2009
	P.U. (B) 62/2009	Corrigendum to the Income Tax Act 1967 [*Act 53*] reprinted in the year 2006 and incorporating all amendments up to 1 January 2006
	Act 785	30-06-2013
109E	Act 683	01-01-2008
	Act 693	09-01-2009
	Act 742	01-01-2012
	Act 761	Year of assessment 2014 and subsequent years of assessment
109F	Act 693	01-01-2009
109G	Act 755	01-01-2013
	Act 761	24-01-2014
	Act 823	01-01-2020
109H	Act 755	01-01-2013

Section	Amending authority	In force from
110	Act 77/1967	14-12-1967
	Act A13	Year of assessment 1968 and subsequent years of assessment
	Act A158	Year of assessment 1973 and subsequent years of assessment
	Act 293	21-10-1983
	Act 364	Year of assessment 1989 and subsequent years of assessment
	Act 420	Year of assessment 1990 and subsequent years of assessment
	Act 497	Year of assessment 1993 and subsequent years of assessment
	Act 513	Year of assessment 1994 and subsequent years of assessment
	Act 531	Year of assessment 1995 and subsequent years of assessment
	Act 578	Year of assessment 1998 and subsequent years of assessment
	Act A1093	Year of assessment 2001 and subsequent years of assessment
	Act 608	Year of assessment 2001 and subsequent years of assessment
	Act A1151	Year of assessment 2004 and subsequent years of assessment
	Act 683	Year of assessment 2008 and subsequent years of assessment
	P.U. (B) 62/2009	Corrigendum to the Income Tax Act 1967 [*Act 53*] reprinted in the year 2006 and incorporating all amendments up to 1 January 2006
110A	Act A774	Year of assessment 1991 and subsequent years of assessment
	Act 683	Year of assessment 2008 and subsequent years of assessment
110B	Act 683	Year of assessment 2008 and subsequent years of assessment
110C	Act 764	Year of assessment 2015 and subsequent years of assessment
	Act 785	30-06-2013
111	Act 77/1967	14-12-1967

Section	Amending authority	In force from
	Act A158	01-01-1973
	Act A226	Year of assessment 1974 and subsequent years of assessment
	Act A1093	Year of assessment 2001 and subsequent years of assessment
	Act 624	Year of assessment 2003 and subsequent years of assessment
	Act 661	Year of assessment 2007 and subsequent years of assessment
	Act 683	Year of assessment 2008 and subsequent years of assessment
	Act 719	28-01-2011
	Act 755	01-01-2014
111A	Act A774	Year of assessment 1991 and subsequent years of assessment
	Act 683	Year of assessment 2008 and subsequent years of assessment
111B	Act 639	01-01-2005
	Act 644	01-01-2006
	P.U. (B) 62/2009	Corrigendum to the Income Tax Act 1967 [*Act 53*] reprinted in the year 2006 and incorporating all amendments up to 1 January 2006
111C	Act 639	01-01-2005
111D	Act 742	For the year of assessment 2013
112	Act 77/1967	14-12-1967
	Act 513	25-02-1994
	Act A1069	01-01-2000
	Act A1151	Year of assessment 2004 and subsequent years of assessment
	Act 702	15-01-2010
	Act 764	31-12-2014
	Act 773	31-12-2015
	Act 801	Year of assessment 2019 and subsequent years of assessment
112A	Act 785	17-01-2017
	Act A1556	30-12-2017

Section	Amending authority	In force from
113	Act 77/1967	14-12-1967
	Act 513	25-02-1994
113A	Act 785	17-01-2017
	Act A1556	30-12-2017
114	Act 513	25-02-1994
	Act A1069	01-01-2000
115	Act 513	25-02-1994
	Act 764	31-12-2014
116	Act 77/1967	14-12-1967
	Act 513	25-02-1994
	Act A1069	01-01-2000
117	Act 513	25-02-1994
	Act A1576	28-12-2018
118	Act 513	25-02-1994
119	Act 513	25-02-1994
119A	Act A1093	01-01-2001
119B	Act 785	17-01-2017
	Act A1556	30-12-2017
120	P.U. (A) 256/1970	01-05-1970
	Act A60	01-05-1970
	Act A158	Year of assessment 1973 and subsequent years of assessment
	Act 328	24-10-1986
	Act 513	25-02-1994
	Act 578	20-03-1998
	Act A1069	01-01-2000
	Act A1093	01-01-2001
	Act 683	01-08-2008
	Act 702	15-01-2010
	Act 742	01-01-2012
	Act 764	31-12-2014
	Act 773	31-12-2015
	Act 801	30-12-2017
123	Act A1028	02-07-1998

Section	Amending authority	In force from
124	Act 77/1967	14-12-1967
125	Act 77/1967	14-12-1967
	Act 644	Year of assessment 2006 and subsequent years of assessment
	Act 773	31-12-2015
127	Act 77/1967	14-12-1967
	Act 274	01-01-1983
	Act 293	21-10-1983
	Act 337	Year of assessment 1988 and subsequent years of assessment
	Act 608	Year of assessment 2001 and subsequent years of assessment
	Act 644	01-10-2005
	Act 683	Year of assessment 2008 and subsequent years of assessment
	Act 801	30-12-2017
127A	Act 608	Year of assessment 2001 and subsequent years of assessment
128	Act 241	Year of assessment 1981 and subsequent years of assessment
	Act 274	Year of assessment 1983 and subsequent years of assessment
	Act 328	Year of assessment 1987 and subsequent years of assessment
	Act 608	Year of assessment 2001 and subsequent years of assessment
	Act 624	Year of assessment 2003 and subsequent years of assessment
129A	Act 608	Year of assessment 2001 and subsequent years of assessment
130	Act 77/1967	14-12-1967
	Act A13	Year of assessment 1968 and subsequent years of assessment
	Act A226	Year of assessment 1974 and subsequent years of assessment
	Act A273	Year of assessment 1975 and subsequent years of assessment
	Act A380	Year of assessment 1977 and subsequent years of assessment

Section	Amending authority	In force from
	Act 451	Year of assessment 1991 and subsequent years of assessment
	Act 591	Year of assessment 1999 and subsequent years of assessment
	Act 608	Year of assessment 2001 and subsequent years of assessment
131	Act 624	Year of assessment 2003 and subsequent years of assessment
	Act 755	01-01-2014
131A	Act 785	01-01-2017
132	Act 719	28-01-2011
	Act A1576	28-12-2018
132A	Act 719	28-01-2011
132B	Act 761	24-01-2014
	Act A1576	28-12-2018
132C	Act A1576	28-12-2018
133A	Act A451	Year of assessment 1980 and subsequent years of assessment
	Act 544	Year of assessment 1996 and subsequent years of assessment
134	Act 77/1967	14-12-1967
	Act A998	01-08-1997
	Act 644	01-01-2006
	Act 742	10-02-2012
136	Act 323	25-10-1985
	Act A955	02-08-1996
	Act 557	02-08-1996
	Act 644	01-01-2006
137	Act A955	02-08-1996
138	Act 77/1967	14-12-1967
	Act A225	01-01-1974
	Act A955	02-08-1996
138A	Act 661	01-01-2007

Section	Amending authority	In force from
138B	Act 661	01-01-2007
138C	Act 693	01-01-2009
140	Act A1151	para. 24*(a)*—Year of assessment 2002 and subsequent years of assessment; para. 24*(b)*— Year of assessment 2004 and subsequent years of assessment
	Act 761	24-01-2014
140A	Act 693	01-01-2009
	Act 801	01-01-2018
	Act 812	01-01-2019
140B	Act 761	Year of assessment 2014 and subsequent years of assessment
140C	Act 812	01-01-2019
141	Act 77/1967	14-12-1967
142	Act A225	01-01-1974
142A	Act 683	29-12-2007
143	Act 77/1967	14-12-1967
144	Act A955	02-08-1996
145	Act 293	21-10-1983
	Act 420	01-01-1989
146	Act 644	01-01-2006
147	Act A158	01-01-1973
148	Act 77/1967	14-12-1967
151	Act 639	01-01-2005
152A	Act A1093	Year of assessment 2001 and subsequent years of assessment
	Act 683	29-12-2007

Section	Amending authority	In force from
	Act 702	15-01-2010
	Act 773	Year of assessment 2016 and subsequent years of assessment
153	Act 77/1967	14-12-1967
	Act 328	24-10-1986
	Act 451	14-12-1990
	Act 644	01-01-2006
	Act 661	01-01-2007
	Act 683	21-02-2007
154	Act 77/1967	14-12-1967
	Act 531	Year of assessment 1995 and subsequent years of assessment
	Act 661	01-01-2007
	Act 693	01-01-2009
	Act 719	28-01-2011
	Act 773	31-12-2015
	Act 785	17-01-2017
	Act 812	01-01-2019
	Act A1576	28-12-2018
154A	Act A158	Year of assessment 1968 and subsequent years of assessment
156	Act 608	Year of assessment 2001 and subsequent years of assessment
Schedule 1	Act A32	Year of assessment 1971 and subsequent years of assessment
	Act A158	Year of assessment 1973 and subsequent years of assessment
	Act A226	Year of assessment 1974 and subsequent years of assessment
	Act A273	Year of assessment 1975 and subsequent years of assessment
	Act A344	Year of assessment 1976 and subsequent years of assessment
	Act A380	Year of assessment 1977 and subsequent years of assessment
	Act A451	Year of assessment 1979 and subsequent years of assessment
	Act A471	Year of assessment 1980 and subsequent years of assessment

Section	Amending authority	In force from
	Act 241	Year of assessment 1980 and subsequent years of assessment
	Act 264	Year of assessment 1982 and subsequent years of assessment
	Act 293	Year of assessment 1984 and subsequent years of assessment
	Act 309	Year of assessment 1985 and subsequent years of assessment; para. 15*(b)* — Year of assessment 1984 and subsequent years of assessment
	Act 323	Year of assessment 1986 and subsequent years of assessment sec. 22 — Year of assessment 1987 and subsequent years of assessment
	Act 328	From year of assessment 1984
	Act 337	Year of assessment 1988 and subsequent years of assessment
	Act 364	Year of assessment 1989 and subsequent years of assessment
	Act 420	Year of assessment 1990 and subsequent years of assessment
	Act 451	Year of assessment 1991 and subsequent years of assessment
	Act 476	Year of assessment 1992 and subsequent years of assessment
	Act 497	Year of assessment 1993 and subsequent years of assessment
	Act 513	Year of assessment 1994 and subsequent years of assessment
	Act 531	Year of assessment 1995 and subsequent years of assessment para. 19*(c)* and *(e)* — 28-10-1994
	Act 544	Year of assessment 1996 and subsequent years of assessment
	Act 557	01-01-1997
	Act 578	Year of assessment 1998 and subsequent years of assessment
	Act 600	For the year of assessment 2000 in respect of the basis period

Section	Amending authority	In force from
		ending in the year 2000 and subsequent years of assessment
	Act A619	Year of assessment 2002 and subsequent years of assessment
	Act 624	Year of assessment 2003 and subsequent years of assessment
	Act 631	Year of assessment 2004 and subsequent years of assessment
	Act 639	Year of assessment 2005 and subsequent years of assessment
	Act 661	para. 30 *(a)* — Year of assessment 2007 and subsequent years of assessment; para. 30 *(b)* — 01-01-2007
	Act 683	Year of assessment 2008 and subsequent years of assessment
	Act 693	para. 42*(a)* and *(b)* — Year of assessment 2009 and subsequent years of assessment; para. 42*(d)* — 01-01-2009; para. 42*(c)* — 01-01-2009 to 31-12-2011
	Act 702	Year of assessment 2010 and subsequent years of assessment
	Act 742	Year of assessment 2012 and subsequent years of assessment
	Act 755	para. 33*(a)* and *(d)* — Year of assessment 2013 and subsequent years of assessment; para. 33*(b)* and *(c)* — 26-12-2012; para. 33*(e)* — 01-01-2013
	Act 761	24-01-2014
	Act 812	Para 23*(a)*, *(b)*, *(c)* and *(d)* – Year of assessment 2019 and subsequent years of assessment; Para 23*(aa)* – 28-12-2018

Section	Amending authority	In force from
	Act 823	Para. 19*(a)* – Year of assessment 2020 and subsequent years of assessment; Para 19*(b)* – 01-01-2020
PART I		
paragraph 1	Act 764	Year of assessment 2015 and subsequent years of assessment
	Act 773	Year of assessment 2016 and subsequent years of assessment
	Act 801	Year of assessment 2018 and subsequent years of assessment
paragraph 1A	Act 764	Year of assessment 2015 and subsequent years of assessment
paragraph 2	Act 764	Year of assessment 2015 and subsequent years of assessment
paragraph 2A	Act 764	31-12-2014; Year of assessment 2015 and subsequent years of assessment
	Act 785	Year of assessment 2017 and subsequent years of assessment
	Act 812	Year of assessment 2019 and subsequent years of assessment
paragraph 2D	Act 764	Year of assessment 2015 and subsequent years of assessment
	Act 785	Year of assessment 2017 and subsequent years of assessment
	Act 812	Year of assessment 2019 and subsequent years of assessment
paragraph 4	Act 785	30-06-2013
PART IV	Act 764	Year of assessment 2015 and subsequent years of assessment
PART XII	Act 785	30-06-2013
Schedule 2	Act 77/1967	14-12-1967
	Act A226	Year of assessment 1974 and subsequent years of assessment

Section	Amending authority	In force from
	Act A429	Year of assessment 1978 and subsequent years of assessment
	Act 309	19-10-1984
	Act 755	01-01-2014
Schedule 3	Act 77/1967	14-12-1967
	Act A13	Year of assessment 1968 and subsequent years of assessment
	Act 764	Year of assessment 2015 and subsequent years of assessment
	P.U. (A) 256/1970	Year of assessment 1970 and subsequent years of assessment
	Act A60	Year of assessment 1970 and subsequent years of assessment
	Act A108	Year of assessment 1968 and subsequent years of assessment
	Act A158	Year of assessment 1968 and subsequent years of assessment
	Act A226	Year of assessment 1974 and subsequent years of assessment
	Act A273	Year of assessment 1975 and subsequent years of assessment
	Act 241	Year of assessment 1981 and subsequent years of assessment
	Act 274	Year of assessment 1984 and subsequent years of assessment
	Act 293	Year of assessment 1984 and subsequent years of assessment
	Act 309	Year of assessment 1985 and subsequent years of assessment
	Act 323	Year of assessment 1985 and subsequent years of assessment
	Act A643	Year of assessment 1987 and subsequent years of assessment
	Act 328	Year of assessment 1987 and subsequent years of assessment
	Act 421	Year of assessment 1991 and subsequent years of assessment
	Act 451	Year of assessment 1991 and subsequent years of assessment
	Act 476	Year of assessment 1992 and subsequent years of assessment; para. 18*(a)*— Year of assessment 1991 and subsequent years of assessment

Section	Amending authority	In force from
	Act 513	Year of assessment 1994 and subsequent years of assessment
	Act 531	Year of assessment 1995 and subsequent years of assessment
	Act 544	Year of assessment 1996 and subsequent years of assessment
	Act 557	Year of assessment 1997 and subsequent years of assessment
	Act 578	Year of assessment 1998 and subsequent years of assessment
	Act A1028	Year of assessment 1998 and subsequent years of assessment
	Act 600	For the year of assessment 2000 in respect of the basis period ending in the year 1999 and subsequent years of assessment
	Act 608	Year of assessment 2001 and subsequent years of assessment
	Act 619	para. 8*(a), (b), (d), (e), (f), (g), (h), (i), (j), (l)* and *(m)*—Year of assessment 2002 and subsequent years of assessment; para. 8*(c)*—For the year of assessment 2000 in respect of the basis period ending in the year 2000 and subsequent years of assessment; para. 8*(k)* in respect of paragraph 37F of Schedule 3 to the Income Tax Act 1967—Year of assessment 2002 and subsequent years of assessment; para. 8*(k)* in respect of paragraphs 37G and 37H of Schedule 3 to the Income Tax Act 1967—Year of assessment 2001 and subsequent years of assessment
	Act A1151	para. 25*(a)* and subpara. 25*(b)*(ii)—Year of assessment 2004 and subsequent years of assessment; subpara. 25*(b)*(i)—Year of assessment 2002 and subsequent years of assessment

Section	Amending authority	In force from
	Act 624	21-09-2002
	Act 631	subpara. 19*(a)*(i)—13-09-2003; subpara. 19*(a)*(ii)—Year of assessment 2000 and subsequent years of assessment; para. 19*(b)*—Year of assessment 2003 and subsequent years of assessment
	Act 639	Year of assessment 2005 and subsequent years of assessment
	Act 644	Year of assessment 2006 and subsequent years of assessment
	Act 661	Year of assessment 2007 and subsequent years of assessment
	Act 683	Year of assessment 2008 and subsequent years of assessment
	Act 693	para. 43*(b), (c), (d), (e)* and *(f)*—Year of assessment 2009 and subsequent years of assessment; para. 43*(a)*—09-01-2009
	P.U. (B) 62/2009	Corrigendum to the Income Tax Act 1967 [*Act 53*] reprinted in the year 2006 and incorporating all amendments up to 1 January 2006
	Act A1349	Year of assessment 2009 and subsequent years of assessment
	Act 755	para. 35*(c)* and *(f)*—26-12-2012; para. 35*(a)* — 11-01-2013; para. 35*(b)* — 01-01-2014; para. 35*(c)* in relation to business trust—28-12-2012; para. 35*(d)* and *(e)*—Year of assessment 2013 and subsequent years of assessment
	Act 761	24-01-2014
	Act 764	Year of assessment 2015 and subsequent years of assessment
	Act 773	para. 25*(a)* and *(e)*—Year of assessment 2015 and subsequent years of assessment; para. 25*(b), (c)* and *(d)*—Year of assessment 2016 and subsequent years of assessment

Section	Amending authority	In force from
	Act 785	paragraph 28*(a)*—from the year of assessment 2016; para. 28*(b)*—17-01-2017
	Act 801	30-12-2017
	Act 812	Year of assessment 2019 and subsequent years of assessment
	Act 823	Year of assessment 2020 and subsequent years of assessment
Schedule 4	Act 77/1967	14-12-1967
	Act A13	Year of assessment 1968 and subsequent years of assessment
	Act A471	Year of assessment 1980 and subsequent years of assessment
	Act 309	19-10-1984
	Act 624	Year of assessment 2000 and subsequent years of assessment
	Act 755	01-01-2014
Schedule 4A	Act 364	Year of assessment 1989 and subsequent years of assessment
	Act 420	Year of assessment 1989 and subsequent years of assessment
	Act 624	Year of assessment 2000 and subsequent years of assessment
	Act 639	Year of assessment 2005 and subsequent years of assessment
	Act 644	Year of assessment 2006 and subsequent years of assessment
Schedule 4B	Act 451	Year of assessment 1992 and subsequent years of assessment
	Act 742	Year of assessment 2012 and subsequent years of assessment
Schedule 4C	Act 591	Year of assessment 2000 and subsequent years of assessment
	Act 608	Year of assessment 2001 and subsequent years of assessment
	Act 624	27-12-2002
	Act 639	Year of assessment 2005 and subsequent years of assessment
	Act 644	Year of assessment 2006 and subsequent years of assessment

Section	Amending authority	In force from
Schedule 5	Act 77/1967	14-12-1967
	Act A108	01-01-1972
	Act A225	01-03-1974
	Act A434	01-07-1978
	Act 328	24-10-1986
	Act 451	14-12-1990
	Act 600	16-06-2000
	Act 683	29-12-2007
	Act 693	09-01-2009
	Act A1609	01-01-2020
Schedule 6	Act 77/1967	14-12-1967
	Act A13	Year of assessment 1968 and subsequent years of assessment
	P.U. (B) 146/1969	10-12-1969
	P.U. (A) 510/1969	Year of assessment 1971 and subsequent years of assessment
	Act A158	Year of assessment 1973 and subsequent years of assessment
	P.U. (A) 266/1974	Year of assessment 1973 and subsequent years of assessment
	P.U. (A) 267/1974	Year of assessment 1968 and subsequent years of assessment
	P.U. (A) 328/1974	Year of assessment 1963 and subsequent years of assessment
	Act A226	Year of assessment 1974 and subsequent years of assessment
	P.U. (B) 50/1976	Year of assessment 1976 and subsequent years of assessment
	P.U. (B) 303/1976	Year of assessment 1976 and subsequent years of assessment
	P.U. (B) 186/1977	From year of assessment 1973
	P.U. (B) 187/1977	Year of assessment 1968 and subsequent years of assessment
	P.U. (B) 363/1977	01-12-1974
	P.U. (B) 364/1977	From year of assessment 1973
	P.U. (B) 365/1977	From year of assessment 1977
	Act A380	Year of assessment 1977 and subsequent years of assessment
	P.U. (B) 421/1979	Year of assessment 1977 and subsequent years of assessment
	P.U. (B) 422/1979	Year of assessment 1977 and subsequent years of assessment
	Act A429	Year of assessment 1978 and subsequent years of assessment;

Section	Amending authority	In force from
		para. 12*(b)*—Year of assessment 1977 and subsequent years of assessment
	Act A451	Year of assessment 1979 and subsequent years of assessment
	P.U. (B) 423/1979	From year of assessment 1980
	Act A471	Year of assessment 1980 and subsequent years of assessment
	Act 241	para. 18*(a)*–Year of assessment 1980 and subsequent years of assessment; Year of assessment 1981 and subsequent years of assessment;
	Act 264	Year of assessment 1982 and subsequent years of assessment
	Act 274	Year of assessment 1983 and subsequent years of assessment; para. 15*(a)* — 22-10-1982
	Act 293	Year of assessment 1984 and subsequent years of assessment
	Act 309	Year of assessment 1985 and subsequent years of assessment; para. 19*(g)*–Year of assessment 1984 and subsequent years of assessment
	Act 323	Year of assessment 1986 and subsequent years of assessment; para. 24*(b)* — 25-10-1985
	Act 328	Year of assessment 1987 and subsequent years of assessment; para. 19*(h)* – Year of assessment 1988 and subsequent years of assessment
	Act 364	Year of assessment 1989 and subsequent years of assessment
	Act 451	para. 28*(d)* and *(e)*—01-10-1989; Year of assessment 1991 and subsequent years of assessment
	Act 476	Year of assessment 1992 and subsequent years of assessment
	Act 497	Year of assessment 1993 and subsequent years of assessment
	Act 513	Year of assessment 1994 and subsequent years of assessment; para 28*(d)*–16-02-1993

Section	Amending authority	In force from
	Act 544	Year of assessment 1996 and subsequent years of assessment
	Act 557	Year of assessment 1997 and subsequent years of assessment
	Act 591	Year of assessment 1999 and subsequent years of assessment
	Act 600	For the year of assessment 2000 in respect of the basis period ending in the year 2000 and subsequent years of assessment
	Act 608	Year of assessment 2001 and subsequent years of assessment
	Act 624	Year of assessment 2003 and subsequent years of assessment
	Act 631	Year of assessment 2004 and subsequent years of assessment
	Act 639	para. 33*(a)*—Year of assessment 2003 and subsequent years of assessment; para. 33*(b)*—11-09-2004
	Act 644	Year of assessment 2006 and subsequent years of assessment
	Act 661	para. 32*(d)* — 02-09-2006; para. 32*(a)*, *(b)*, *(c)* and *(e)*—Year of assessment 2007 and subsequent years of assessment
	Act 683	para. 36*(d)*—Year of assessment 2007 and subsequent years of assessment; para. 36*(a)* and *(f)*—Year of assessment 2008 and subsequent years of assessment; para. 36*(b)*, *(c)* and *(e)*—01-01-2014
	Act 693	para. 45*(b)*—Year of assessment 2009 and subsequent years of assessment; para. 45*(a)*—Year of assessment 2008 and subsequent years of assessment
	Act A1349	01-07-2008
	P.U. (B) 62/2009	Corrigendum to the Income Tax Act 1967 [*Act 53*] reprinted in the year 2006 and incorporating all

Section	Amending authority	In force from
		amendments up to 1 January 2006
	Act 702	Year of assessment 2010 and subsequent years of assessment
	Act 719	Year of assessment 2011 and subsequent years of assessment
	Act 755	para. 37*(a* —26-12-2012; para. 37*(b)*—Year of assessment 2012 and subsequent years of assessment
	Act 764	para. 22*(b)* and *(c)*—Year of assessment 2015 and subsequent years of assessment; para. 22*(a)* — 31-12-2014
	Act 773	para. 26*(a)*—Year of assessment 2016 and subsequent years of assessment; para. 26*(b)*, *(c)* and *(d)*—31-12-2015
	Act 785	para. 29*(a)*, *(b)*, *(c)*, *(d)*, *(f)*, *(g)* and *(h)*—Year of assessment 2017 and subsequent years of assessment; para. 29*(e* —30-06-2013
	Act 801	30-12-2017
	Act 812	01-01-2019
	Act 823	Year of assessment 2020 and subsequent years of assessment
Schedule 7	Act A226	Year of assessment 1974 and subsequent years of assessment
	Act 591	Year of assessment 1999 and subsequent years of assessment
	Act 661	Year of assessment 2007 and subsequent years of assessment
	Act 773	Year of assessment 2016 and subsequent years of assessment
Schedule 7A	Act A451	Year of assessment 1980 and subsequent years of assessment
	Act A471	Year of assessment 1980 and subsequent years of assessment
	Act 274	Year of assessment 1983 and subsequent years of assessment

Section	Amending authority	In force from
	Act 323	Year of assessment 1986 and subsequent years of assessment
	Act A643	Year of assessment 1987 and subsequent years of assessment
	Act 764	Year of assessment 2015 and subsequent years of assessment
	Act 328	Year of assessment 1987 and subsequent years of assessment
	Act 364	Year of assessment 1989 and subsequent years of assessment; para. 14*(b)*,*(e)*–Year of assessment 1990 and subsequent years of assessment
	Act 420	Year of assessment 1991 and subsequent years of assessment
	Act 421	Year of assessment 1991 and subsequent years of assessment
	Act 451	Year of assessment 1991 and subsequent years of assessment
	Act 513	01-01-1994
	Act 544	Year of assessment 1997 and subsequent years of assessment
	Act 557	Year of assessment 1997 and subsequent years of assessment
	Act 578	Year of assessment 1998 and subsequent years of assessment; para. 21*(d)* — Year of assessment 1999 and subsequent years of assessment; para. 21*(g)* — 01-01-1999
	Act 591	Year of assessment 1998 and subsequent years of assessment
	Act 619	para. 10*(a)*, *(b)* and *(c)*—Year of assessment 2002 and subsequent years of assessment; para. 10*(d)*—Year of assessment 1998 and subsequent years of assessment;
	Act 624	Year of assessment 2003 and subsequent years of assessment
	Act 644	Year of assessment 2006 and subsequent years of assessment
	Act 661	02-09-2006
	Act 683	29-12-2007

Section	Amending authority	In force from
	Act 693	para. 46*(a)*, *(c)*, *(d)*, *(f)*, and *(g)*, and subpara. 46*(e)*(i) *and* (ii) — Year of assessment 2009 and subsequent years of assessment; para. 46*(b)*—09-01-2009; subpara. 46*(e)*(iii)—Year of assessment 2009 and 2010 09-01-2009
	Act 719	Year of assessment 2011 and subsequent years of assessment
	Act 742	para. 23*(b* — Year of assessment 2011; para. 23*(a)* and *(c)* — Year of assessment 2012 and subsequent years of assessment
	Act 755	para. 38*(a)*, *(b)*, *(c)*, *(d)*, *(e)*, *(g)*, *(h)* and *(i)*—Year of assessment 2013 and subsequent years of assessment; para. 38*(f)*—01-01-2014
	Act 764	Year of assessment 2015 and subsequent years of assessment
	Act 773	para. 28*(a)*—Year of assessment 2015 and subsequent years of assessment; para. 28*(c)*—Year of assessment 2016 and subsequent years of assessment; para. 28*(b)*—Year of assessment 2016, 2017 and 2018
	Act 812	Year of assessment 2019 and subsequent years of assessment
Schedule 7B	Act 544	Year of assessment 1996 and subsequent years of assessment
	Act 702	Year of assessment 2010 and subsequent years of assessment
	Act 773	Year of assessment 2015 and subsequent years of assessment
	Act 812	Year of assessment 2019 and subsequent years of assessment
Schedule 9	Act 77/1967	14-12-1967
	P.U. 144/1968	14-12-1967

Section	Amending authority	In force from
	Act A13	Year of assessment 1968 and subsequent years of assessment
	P.U. (A) 256/1970	Year of assessment 1968 and subsequent years of assessment
	Act A60	Year of assessment 1968 and subsequent years of assessment
	Act A108	01-01-1972
	Act A158	Year of assessment 1968 and subsequent years of assessment
	Act A471	Year of assessment 1968 and subsequent years of assessment
	P.U. (A) 212/1989	From year of assessment 1968
	P.U. (A) 266/1990	From year of assessment 1968
	P.U. (B) 62/2009	Corrigendum to the Income Tax Act 1967 [*Act 53*] reprinted in the year 2006 and incorporating all amendments up to 1 January 2006
Throughout the Act	Act A1609	01-01-2020

MALAYSIA

Warta Kerajaan

SERI PADUKA BAGINDA

DITERBITKAN DENGAN KUASA

HIS MAJESTY'S GOVERNMENT GAZETTE

PUBLISHED BY AUTHORITY

Jil. 50 No. 6	**23hb Mac 2006**	*TAMBAHAN No. 32 PERUNDANGAN (A)*

P.U. (A) 111.

PERLEMBAGAAN PERSEKUTUAN

PERATURAN-PERATURAN PEGAWAI AWAM (KELAKUAN DAN TATATERTIB) (PINDAAN) 2006

PADA menjalankan kuasa yang diberikan oleh Fasal (2) Perkara 132 Perlembagaan Persekutuan, Yang di-Pertuan Agong membuat peraturan-peraturan yang berikut:

Nama dan permulaan kuat kuasa

1. (1) Peraturan-Peraturan ini bolehlah dinamakan **Peraturan-Peraturan Pegawai Awam (Kelakuan dan Tatatertib) (Pindaan) 2006.**

(2) Peraturan-Peraturan ini disifatkan telah mula berkuat kuasa pada 20 Jun 2002.

Pindaan peraturan 53

2. Peraturan-Peraturan Pegawai Awam (Kelakuan dan Tatatertib) 1993 [*P.U. (A) 395/1993*] dipinda dengan menggantikan peraturan 53 dengan peraturan yang berikut:

"53. (1) Apa-apa surat-menyurat antara pihak Berkuasa Tatatertib yang berkenaan dengan pegawai yang tertakluk kepada tindakan tatatertib hendaklah ditandatangani oleh Pengerusi Pihak Berkuasa Tatatertib yang berkenaan atau oleh mana-mana anggota Pihak Berkuasa Tatatertib bagi pihak Pengerusi.

(2) Walau apa pun peruntukan subperaturan (1), jika Pihak Berkuasa Tatatertib itu ialah Suruhanjaya Perkhidmatan yang ditubuhkan di bawah Bahagian X Perlembagaan Persekutuan, apa-apa surat-menyurat yang dikehendaki ditandatangani boleh ditandatangani oleh Setiausaha Suruhanjaya Perkhidmatan yang berkenaan.".

Dibuat 20 Februari 2006
[JPA(S)TT. 8006/1 Jld. 2; PN(PU²)171B/IV]

Dengan Titah Perintah

TAN SRI SAMSUDIN BIN OSMAN
Setiausaha Jemaah Menteri

FEDERAL CONSTITUTION

PUBLIC OFFICERS (CONDUCT AND DISCIPLINE) (AMENDMENT) REGULATIONS 2006

IN exercise of the powers conferred by Clause (2) of Article 132 of the Federal Constitution, the Yang di-Pertuan Agong makes the following regulations:

Citation and commencement

1. (1) These regulations may be cited as the **Public Officers (Conduct and Discipline) (Amendment) Regulations 2006.**

(2) These Regulations are deemed to have come into operation on 20 June 2002.

Amendment of regulation 53

2. The Public Officers (Conduct and Discipline) Regulations 1993 [*P.U. (A) 395/1993*] are amended by substituting for regulation 53 the following regulation:

"53. (1) Any correspondence between the appropriate Disciplinary Authority and the officer who is subject to disciplinary action shall be signed by the Chairman of the appropriate Disciplinary Authority or by any member of the Disciplinary Authority on behalf of the Chairman.

(2) Notwithstanding the provisions of subregulation (1), where the Disciplinary Authority is a Service Commission established under Part X of the Federal Constitution, any correspondence required to be signed may be signed by the Secretary of the Service Commission concerned.".

Made 20 February 2006
[JPA(S)TT. 8006/1 Jld. 2; PN(PU²)171B/IV]

By Command

TAN SRI SAMSUDIN BIN OSMAN
Secretary to the Cabinet

P.U. (A) 112.

AKTA CUKAI PENDAPATAN 1967

PERINTAH CUKAI PENDAPATAN (PENGECUALIAN) (No. 11) 2006

PADA menjalankan kuasa yang diberikan oleh perenggan 127(3)*(b)* Akta Cukai Pendapatan 1967 [*Akta 53*], Menteri membuat perintah yang berikut:

Nama dan permulaan kuat kuasa

1. (1) Perintah ini bolehlah dinamakan **Perintah Cukai Pendapatan (Pengecualian) (No. 11) 2006.**

(2) Perintah ini disifatkan telah berkuat kuasa mulai tahun taksiran 1998.

Tafsiran

2. Dalam Perintah ini—

"perniagaan diluluskan" ertinya apa-apa perniagaan yang diluluskan oleh Menteri di bawah skim galakan istimewa;

"perniagaan perintis" mempunyai makna yang sama seperti yang ditakrifkan dalam seksyen 2 Akta Penggalakan Pelaburan 1986 [*Akta 327*];

"skim galakan istimewa" ertinya suatu skim galakan pra-pakej yang diluluskan oleh Menteri;

"syarikat" ertinya suatu syarikat diperbadankan di bawah Akta Syarikat 1965 [*Akta 125*].

Pengecualian

3. (1) Menteri mengecualikan suatu syarikat bermastautin di Malaysia dalam tempoh asas bagi suatu tahun taksiran daripada pembayaran cukai pendapatan berkenaan dengan pendapatan berkanun yang diperoleh daripada suatu perniagaan yang diluluskan.

(2) Pengecualian cukai atas pendapatan berkanun perniagaan diluluskan yang disebut dalam subperenggan (1) adalah tertakluk kepada syarat sebagaimana yang dinyatakan oleh Menteri dalam surat kelulusan bagi perniagaan diluluskan.

(3) Pendapatan berkanun perniagaan diluluskan yang disebut dalam subperenggan (1) hendaklah dikecualikan bagi suatu tempoh sebagaimana yang akan ditentukan oleh Menteri (selepas ini disebut sebagai "tempoh pengecualian") dan dikira mengikut cara yang ditetapkan di bawah perenggan 4.

(4) Permulaan tempoh pengecualian hendaklah ditentukan oleh Menteri atau Menteri Perdagangan Antarabangsa dan Industri, mengikut mana-mana yang berkenaan.

(5) Tertakluk kepada syarat yang dinyatakan dalam surat kelulusan yang disebut dalam subperenggan (2), Akta Penggalakan Pelaburan 1986 hendaklah terpakai kepada mana-mana perniagaan diluluskan yang telah diberikan pengecualian di bawah Perintah ini.

(6) Dalam hal perniagaan diluluskan adalah lanjutan kepada tempoh pelepasan cukai bagi suatu perniagaan perintis suatu syarikat yang diberi di bawah Akta Penggalakan Pelaburan 1986, maka perniagaan yang diluluskan hendaklah dianggap sebagai lanjutan kepada perniagaan perintis syarikat itu.

(7) Tiada apa-apa dalam subperenggan (1) akan melepaskan atau dianggap melepaskan syarikat daripada mematuhi apa-apa keperluan untuk mengemukakan apa-apa penyata atau penyata akaun atau mengemukakan apa-apa maklumat lain di bawah Akta.

Pendapatan berkanun

4. (1) Pendapatan berkanun perniagaan diluluskan dalam tempoh asas bagi suatu tahun taksiran hendaklah ditentukan selepas memotong elaun-elaun yang boleh diberi mengikut Jadual 3 Akta meskipun tiada tuntutan bagi elaun-elaun itu yang telah dibuat.

(2) Amaun pendapatan berkanun perniagaan diluluskan yang dikecualikan dalam tempoh asas bagi suatu tahun taksiran semasa tempoh pengecualian hendaklah ditentukan mengikut cara yang berikut:

(a) tujuh puluh peratus (atau kadar lain yang ditetapkan oleh Menteri) daripada pendapatan berkanun;

(b) amaun pendapatan berkanun disebut di subsubperenggan (2)*(a)* hendaklah dikurangkan oleh—

(i) pertama, kerugian larasan tahun semasa daripada suatu perniagaan atau perniagaan-perniagaan selain daripada perniagaan perintis atau perniagaan-perniagaan perintis dan mana-mana perniagaan diluluskan yang dikecualikan di bawah Perintah ini, mengikut mana-mana yang berkenaan; dan

(ii) seterusnya, apa-apa kerugian larasan tidak diserap atau kerugian larasan tahun semasa daripada perniagaan perintis atau perniagaan-perniagaan perintis dan mana-mana perniagaan diluluskan yang dikecualikan di bawah Perintah ini, mengikut mana-mana yang berkenaan;

(c) sebanyak mana kerugian larasan yang disebut dalam subsubperenggan *(b)*(i) dan (ii) yang telah digunakan untuk mengurangkan pendapatan berkanun bagi perniagaan diluluskan untuk suatu tahun taksiran hendaklah tidak diambil kira bagi tujuan subseksyen 43(2) dan 44(2) Akta dan seksyen 21A Akta Penggalakan Pelaburan 1986, mengikut mana-mana yang berkenaan, dalam menentukan pendapatan perniagaan selain perniagaan perintis atau perniagaan-perniagaan perintis dan perniagaan diluluskan di bawah Perintah ini; dan

(d) apa-apa amaun kerugian larasan yang tidak diserap dan kerugian larasan tahun semasa daripada perniagaan diluluskan yang tidak digunakan untuk mengurangkan pendapatan berkanun semasa tempoh pengecualian yang disebut dalam subsubperenggan *(b)*(ii), mengikut mana-mana yang berkenaan, selain aktiviti penyelidikan dan kemajuan kontrak yang ditakrif di bawah seksyen 2 Akta Penggalakan Pelaburan 1986, hendaklah tidak sedia untuk mengurangkan jumlah pendapatan syarikat.

(3) Walau apa pun subsubperenggan (2), jika tempoh pengecualian perniagaan diluluskan tamat pada atau selepas 1 Oktober 2005, apa-apa amaun kerugian larasan yang tidak diserap dan kerugian larasan tahun semasa daripada perniagaan diluluskan yang tidak digunakan untuk mengurangkan pendapatan berkanun semasa tempoh pengecualian yang disebut dalam subsubperenggan *(b)*(ii), hendaklah sedia untuk mengurangkan jumlah pendapatan syarikat mengikut cara yang ditetapkan di bawah subseksyen 43(2) dan 44(2) Akta dalam tempoh asas berikutan berakhirnya tempoh pengecualian bagi tahun taksiran itu dan mana-mana tahun taksiran berikutnya.

Elaun modal

5. Bagi maksud Perintah ini, walau apa pun peruntukan Jadual 3 Akta—

(a) baki perbelanjaan bagi suatu aset yang digunakan sebelum tarikh permulaan tempoh pengecualian dan aset itu terus digunakan dalam tempoh asas bagi suatu tahun taksiran yang terjatuhnya hari permulaan tempoh pengecualian hendaklah disifatkan baki perbelanjaan aset itu pada hari permulaan tempoh pengecualian itu;

(b) apa-apa perbelanjaan modal yang dilakukan berkenaan dengan suatu aset dalam tempoh asas sebelum tarikh permulaan tempoh pengecualian dan aset itu terus digunakan dalam tempoh asas bagi suatu tahun taksiran yang terjatuhnya tempoh pengecualian hendaklah disifatkan telah dilakukan pada hari permulaan tempoh pengecualian itu;

(c) baki perbelanjaan bagi suatu aset yang digunakan semasa tempoh pengecualian dan aset itu terus digunakan dalam tempoh asas bagi suatu tahun taksiran yang terjatuhnya tarikh berakhirnya tempoh pengecualian hendaklah disifatkan baki perbelanjaan aset itu pada hari berikutan berakhirnya tempoh pengecualian itu;

(d) apa-apa perbelanjaan modal yang dilakukan berkenaan dengan suatu aset semasa tempoh pengecualian dan aset tersebut terus digunakan dalam tempoh asas bagi suatu tahun taksiran yang terjatuhnya tarikh berakhirnya tempoh pengecualian hendaklah disifatkan telah dilakukan pada hari berikutan berakhirnya tempoh pengecualian itu;

(e) jika suatu aset digunakan bagi tujuan perniagaan diluluskan digunakan juga bagi maksud selain daripada perniagaan itu—

(i) maka, elaun yang boleh diberi di bawah Jadual 3 Akta hendaklah dikurangkan sebagaimana yang munasabah memandangkan kepada setakat mana aset itu digunakan bagi maksud perniagaan yang pertama disebut; dan

(ii) baki perbelanjaan yang ditentukan di bawah subperenggan 4(1) dan (3) hendaklah dikurangkan oleh amaun apa-apa potongan yang dibuat di bawah subsubperenggan *(a)*;

(f) elaun modal tidak diserap sebelum permulaan tempoh pengecualian hendaklah diguna untuk mengurangkan pendapatan berkanun bagi perniagaan diluluskan dalam tempoh asas bagi suatu tahun taksiran tempoh pengecualian; dan

(g) elaun modal tidak diserap semasa tempoh pengecualian bagi perniagaan diluluskan itu hendaklah tidak digunakan untuk mengurangkan pendapatan berkanun bagi perniagaan diluluskan dalam tempoh asas berikutan berakhirnya tempoh pengecualian bagi tahun taksiran itu dan mana-mana tahun taksiran berikutnya:

Dengan syarat, jika tempoh pengecualian bagi perniagaan diluluskan tamat pada atau selepas 1 Oktober 2005, elaun modal tidak diserap itu hendaklah digunakan untuk mengurangkan pendapatan berkanun bagi perniagaan diluluskan dalam tempoh asas berikutan berakhirnya tempoh pengecualian bagi tahun taksiran atau mana-mana tahun taksiran berikutnya.

Penarikan balik pengecualian cukai bagi perniagaan diluluskan

6. Menteri boleh menarik balik pengecualian cukai atas pendapatan berkanun perniagaan diluluskan sekiranya syarikat itu gagal untuk mematuhi syarat-syarat yang ditetapkan oleh Menteri yang disebut dalam subperenggan 3(2).

Akaun berasingan

7. Syarikat hendaklah menyenggara suatu akaun berasingan bagi pendapatan yang diperoleh daripada perniagaan diluluskan dalam tempoh asas bagi setiap tahun taksiran semasa tempoh pengecualian.

Pemakaian potongan bagi penggalakan eksport

8. Suatu perbelanjaan yang dibenarkan sebagai suatu potongan bagi penggalakan eksport di bawah seksyen 41 Akta Penggalakan Pelaburan 1986 bagi tujuan mengira pendapatan daripada perniagaan diluluskan hendaklah dikumpul, dan amaun aggregat itu hendaklah dibenarkan sebagai potongan bagi tujuan menentukan pendapatan dalam tempoh asas bagi tahun taksiran pertama selepas tempoh pengecualian.

Pemakaian perenggan 5 dan 6 Jadual 7A

9. Perenggan 5 dan 6 Jadual 7A, Akta hendaklah terpakai, *mutatis mutandis*, bagi amaun pendapatan berkanun yang dikecualikan yang disebut di bawah perenggan 3.

Ketidakpakaian

10. Perintah ini tidak terpakai kepada syarikat dalam tempoh asas bagi suatu tahun taksiran yang telah diberikan—

(a) elaun pelaburan semula di bawah Jadual 7A Akta;

(b) elaun pelaburan semula bagi sektor perkhidmatan di bawah Jadual 7B Akta;

(c) elaun peningkatan eksport di bawah Kaedah-Kaedah Cukai Pendapatan (Elaun bagi Peningkatan Eksport) 1999 [*P.U. (A) 128/1999*];

(d) pengecualian bagi nilai peningkatan eksport di bawah Perintah Cukai Pendapatan (Pengecualian) (No. 17) 2005 [*P.U. (A) 158/2005*];

(e) pengecualian bagi nilai peningkatan eksport perkhidmatan di bawah Perintah Cukai Pendapatan (Pengecualian) (No. 2) 2001 [*P.U. (A) 154/2001*] dan Perintah Cukai Pendapatan (No. 9) 2002 [*P.U. (A) 57/2002*];

(f) potongan di bawah Kaedah-Kaedah Cukai Pendapatan (Potongan bagi Kos Mengambil Alih Syarikat Milik Asing) 2003 [*P.U. (A) 310/2003*]; atau

(g) apa-apa galakan (kecuali potongan bagi penggalakan eksport) di bawah Akta Penggalakan Pelaburan 1986 bagi perniagaan diluluskan.

Dibuat 27 Februari 2006
[Perb. CR(8.09)681/2-61 (SJ. 18) Vol. 5(SK. 13);
LHDN. 01/35/(S)/42/51/82-49; PN(PU²) 80/XLVI]

TAN SRI NOR MD BIN YAKCOP
Menteri Kewangan Kedua

[*Akan dibentangkan di Dewan Rakyat menurut subseksyen 127(4) Akta Cukai Pendapatan 1967*]

INCOME TAX ACT 1967

INCOME TAX (EXEMPTION) (NO. 11) ORDER 2006

IN exercise of the powers conferred by paragraph 127(3)*(b)* of the Income Tax Act 1967 [*Act 53*], the Minister makes the following order:

Citation and commencement

1. (1) This order may be cited as the **Income Tax (Exemption) (No. 11) Order 2006.**

(2) This Order is deemed to have effect from the year of assessment 1998.

Interpretation

2. In this Order—

"approved business" means any business approved by the Minister under the special incentive scheme;

"pioneer business" has the same meaning as defined in section 2 of the Promotion of Investments Act 1986 [*Act 327*];

"special incentive scheme" means a pre-package incentive scheme approved by the Minister;

"company" means a company incorporated under the Companies Act 1965 [*Act 125*].

Exemption

3. (1) The Minister exempts a company resident in Malaysia in the basis period for a year of assessment from the payment of income tax in respect of the statutory income derived from an approved business.

(2) The tax exemption on the statutory income of the approved business referred to in subparagraph (1) is subject to such conditions as stated by the Minister in the approval letter of the approved business.

(3) The statutory income of the approved business referred to in subparagraph (1) shall be exempt for a period as the Minister may determine (hereinafter referred to as "exempt period") and computed in the manner prescribed under paragraph 4.

(4) The commencement of the exempt period shall be determined by the Minister or the Minister of International Trade and Industry, as the case may be.

(5) Subject to the conditions stated in the approval letter as mentioned in subparagraph (2), the Promotion of Investments Act 1986 shall apply to any approved business which has been granted an exemption under this Order.

(6) In a case where the approved business is an extension of tax relief period of a pioneer business of a company granted under the Promotion of Investments Act 1986, then the approved business shall be deemed as an extension of the pioneer business of that company.

(7) Nothing in subparagraph (1) shall absolve or is deemed to have absolved that company from complying with any requirement to submit any return or statement of accounts or to furnish any other information under the Act.

Statutory income

4. (1) The statutory income of the approved business in the basis period for a year of assessment shall be determined after deducting allowances which fall to be made under Schedule 3 of the Act notwithstanding that no claim for such allowances have been made.

(2) The amount of statutory income of the approved business to be exempt in the basis period for a year of assessment during the exempt period shall be determined in the following manner:

(a) seventy percent (or any other rate as prescribed by the Minister) of the statutory income;

(b) the amount of statutory income referred to in subsubparagraph (2)*(a)* shall be reduced by—

(i) first, current year adjusted loss from a business or businesses other than a pioneer business or pioneer businesses and any approved business exempted under this Order, as the case may be; and

(ii) next, any unabsorbed adjusted loss or current year adjusted loss from a pioneer business or pioneer businesses and any approved business exempted under this Order, as the case may be;

(c) so much of the adjusted loss referred to in subsubparagraphs *(b)*(i) and (ii) which was utilised to reduce the statutory income of the approved business for a year of assessment shall not be taken into account for the purposes of subsections 43(2) and 44(2) of the Act and section 21A of the Promotion of Investments Act 1986, as the case may be, in determining the income of a business other than the pioneer business or pioneer businesses and the approved business under this Order; and

(d) any amount of unabsorbed adjusted loss and current year adjusted loss from the approved business that are not utilised to reduce the statutory income during the exempt period referred to in subsubparagraph *(b)*(ii), as the case may be, other than an activity of contract research and development defined under section 2 of the Promotion of Investments Act 1986, shall not be available to reduce the total income of the company.

(3) Notwithstanding subsubparagraph (2), where the exempt period of the approved business ceases on or after 1 October 2005, any amount of unabsorbed adjusted loss and current year adjusted loss, from the approved business that are not utilised to reduce the statutory income during the exempt period referred to in subsubparagraph *(b)*(ii), shall be available to reduce the total income of the company in accordance with subsections 43(2) and 44(2) of the Act in the basis period following the cessation of that exempt period for the year of assessment and subsequent years of assessment.

Capital allowance

5. For the purpose of this Order, notwithstanding the provision of Schedule 3 of the Act—

(a) the residual expenditure of an asset used prior to the date of commencement of exempt period and that asset continues to be used in the basis period for the year of assessment in which the day of

commencement of the exempt period falls shall be deemed to be the residual expenditure of that asset on the day of commencement of that exempt period;

(b) any capital expenditure incurred in respect of an asset in the basis period prior to the date of commencement of the exempt period and that asset continues to be used in the basis period for the year of assessment in which the exempt period falls shall be deemed to have been incurred on the day of commencement of that exempt period;

(c) the residual expenditure of an asset used in the exempt period and that asset continues to be used in the basis period for the year of assessment in which the date of cessation of the exempt period falls shall be deemed to be the residual expenditure of that asset on the day following the cessation of that exempt period;

(d) any capital expenditure incurred in respect of an asset during the exempt period and that asset continues to be used in the basis period for a year of assessment in which the date of cessation of exempt period falls shall be deemed to have been incurred on the day following the cessation of that exempt period;

(e) where an asset used for the purposes of the approved business is also used for the purposes of other than that business—

(i) then, the allowances which fall to be made under Schedule 3 of the Act shall be deducted as is reasonable having regard to the extent to which the asset is used for the purpose of the first-mentioned business; and

(ii) the residual expenditure arrived at under subparagraphs 4(1) and (3) shall be reduced by the amount of any deduction made under subsubparagraph *(a)*;

(f) unabsorbed capital allowance prior to the commencement of the exempt period shall be utilised to reduce the statutory income of the approved business in the basis period for the year of assessment of the exempt period; and

(g) unabsorbed capital allowance during the exempt period of that approved business shall not be utilised to reduce the statutory income of the approved business in the basis period following the cessation of that exempt period for the year of assessment and any subsequent years of assessment:

Provided that, the exempt period of the approved business ceases on or after 1 October 2005, that unabsorbed capital allowance shall be utilised to reduce the statutory income of the approved business in the basis period following the cessation of that exempt period for the year of assessment and subsequent years of assessment.

Withdrawal of tax exemption of approved business

6. The Minister may withdraw the tax exemption on the statutory income of the approved business if the company fails to comply with the conditions prescribed by the Minister referred to in subparagraph 3(2).

Separate account

7. The company shall maintain a separate account for the income derived from the approved business for the basis period for each year of assessment of the exempt period.

Application of deductions for promotion of exports

8. An expenditure which would be allowed as a deduction for promotion of exports under section 41 of the Promotion of Investments Act 1986 for the purpose of computing the income from the approved business shall be accumulated, and the aggregate amount thereof shall be allowed as a deduction for the purposes of ascertaining the income in the first basis period for the year of assessment after the exempt period.

Application of paragraphs 5 and 6 of Schedule 7A

9. Paragraphs 5 and 6 of Schedule 7A to the Act shall apply, *mutatis mutandis*, to the amount of statutory income exempted referred to under paragraph 3.

Non-application

10. This Order shall not apply to a company in the basis period for a year of assessment which has been granted—

(a) reinvestment allowance under Schedule 7A of the Act;

(b) reinvestment allowance for service sector under Schedule 7B of the Act;

(c) allowance for increased export under the Income Tax (Allowance for Increased Exports) Rules 1999 [*P.U. (A) 128/1999*];

(d) exemption on the value of increased export under the Income Tax (Exemption) (No. 17) Order 2005 [*P.U. (A) 158/2005*];

(e) exemption on the value of increased export of services under the Income Tax (Exemption) (No. 2) Order 2001 [*P.U. (A) 154/2001*] and the Income Tax (Exemption) (No. 9) Order 2002 [*P.U. (A) 57/2002*];

(f) deduction under the Income Tax (Deduction for Cost on Acquisition of a Foreign Owned Company) Rules 2003 [*P.U. (A) 310/2003*]; or

(g) any incentives (except deductions for promotion of exports) under the Promotion of Investments Act 1986 in respect of the approved business.

Made 27 February 2006
[Perb. CR(8.09)681/2-61 (SJ. 18) Vol. 5(SK. 13);
LHDN. 01/35/(S)/42/51/82-49; PN(PU²)80/XLVI]

TAN SRI NOR MD BIN YAKCOP
Second Minister of Finance

[*To be laid before the Dewan Rakyat pursuant to subsection 127(4) of the Income Tax Act 1967*]

P.U. (A) 113.

AKTA CUKAI PENDAPATAN 1967

PERINTAH CUKAI PENDAPATAN (PENGECUALIAN) (NO. 12) 2006

PADA menjalankan kuasa yang diberikan oleh perenggan 127(3)*(b)* Akta Cukai Pendapatan 1967 [*Akta 53*], Menteri membuat perintah yang berikut:

Nama dan permulaan kuat kuasa

1. (1) Perintah ini bolehlah dinamakan **Perintah Cukai Pendapatan (Pengecualian) (No. 12) 2006.**

(2) Perintah ini disifatkan telah berkuat kuasa mulai tahun taksiran 1998.

Tafsiran

2. Dalam Perintah ini—

"dilakukan " mempunyai erti sebagaimana yang diberikan kepadanya dalam perenggan 46 dan 55 Jadual 3 Akta;

"perbelanjaan modal yang layak" ertinya perbelanjaan modal yang dilakukan oleh syarikat atas suatu aset yang digunakan di Malaysia bagi tujuan perniagaan diluluskan—

(a) berhubung dengan perkilangan atau penyelidikan berasaskan perkilangan, mana-mana kilang atau bangunan yang digunakan bagi aktiviti penyelidikan dan pembangunan, loji dan jentera;

(b) berhubung dengan pertanian atau penyelidikan berasaskan pertanian, pembersihan dan penyelidikan tanah, menanam tanaman (tanaman pertama atau tanaman percubaan), penyediaan sistem pengairan dan saliran, penyediaan loji dan jentera, pembelian atau pembinaan suatu bangunan yang digunakan bagi aktiviti penyelidikan dan pembangunan, atau aktiviti pertanian (termasuk bangunan yang disediakan untuk kebajikan atau tempat kediaman orang-orang yang bekerja di ladang), pembinaan jalan akses, jambatan dan penambahbaikan struktur tetap atas tanah yang terbentuk sebagai sebahagian daripada tanah yang digunakan bagi perniagaan itu;

(c) berhubung dengan teknologi maklumat dan komunikasi atau penyelidikan berasaskan teknologi maklumat dan komunikasi, peralatan multimedia dan perisian (perisian dan perkakasan), loji dan jentera, bangunan dan landskap dan penghijauan sekeliling premis bangunan (terpakai kepada syarikat berstatus MSC sahaja); atau

(d) berhubung dengan penyediaan perkhidmatan, bangunan, loji dan jentera yang digunakan bagi aktiviti penyediaan perkhidmatan;

Dengan syarat bahawa perbelanjaan modal yang layak itu hendaklah tidak termasuk perbelanjaan modal yang dilakukan atas bangunan-bangunan yang digunakan sebagai tempat kediaman, loji dan jentera

yang diperuntukkan keseluruhannya atau sebahagiannya untuk kegunaan pengarah atau individu yang menjadi ahli pihak pengurusan, pentadbiran atau pekerja perkeranian;

"perniagaan diluluskan" ertinya apa-apa perniagaan diluluskan oleh Menteri di bawah skim galakan istimewa;

"skim galakan istimewa" ertinya suatu skim galakan pra-pakej yang diluluskan oleh Menteri;

"syarikat" ertinya suatu syarikat diperbadankan di bawah Akta Syarikat 1965 [*Akta 125*].

Pengecualian

3. (1) Menteri mengecualikan sesuatu syarikat bermastautin di Malaysia dalam tempoh asas bagi suatu tahun taksiran daripada pembayaran cukai pendapatan berkenaan dengan pendapatan berkanun yang diperoleh daripada suatu perniagaan diluluskan bersamaan dengan amaun elaun yang ditentukan dalam subperenggan (2).

(2) Amaun elaun yang disebut dalam subperenggan (1) hendaklah—

(a) pada kadar yang ditentukan oleh Menteri dalam surat kelulusan bagi perniagaan diluluskan; dan

(b) diberi berkenaan dengan perbelanjaan modal yang layak yang dilakukan dalam tempoh asas bagi tahun taksiran suatu tempoh sebagaimana yang diluluskan oleh Menteri.

(3) Pengecualian cukai atas pendapatan berkanun perniagaan diluluskan yang disebut dalam subperenggan (1) adalah tertakluk kepada syarat-syarat sebagaimana yang dinyatakan oleh Menteri dalam surat kelulusan bagi perniagaan diluluskan.

(4) Permulaan tempoh yang disebut dalam subsubperenggan (2)*(b)* hendaklah ditentukan oleh Menteri atau Menteri Perdagangan Antarabangsa dan Industri, mengikut mana-mana yang berkenaan.

(5) Tiada apa-apa jua dalam subperenggan (1) boleh melepaskan atau disifatkan telah melepaskan syarikat itu daripada mematuhi apa-apa kehendak bagi mengemukakan apa-apa penyata atau penyata akaun atau memberikan apa-apa maklumat lain di bawah peruntukan Akta.

Pendapatan berkanun

4. (1) Pendapatan berkanun dalam tempoh asas bagi suatu tahun taksiran disebut dalam subperenggan 3(1) bagi tempoh yang diluluskan yang disebut dalam subsubperenggan 3(2)*(b)* hendaklah ditentukan selepas memotong elaun-elaun yang boleh diberi mengikut Jadual 3 Akta meskipun tiada tuntutan bagi elaun-elaun itu yang telah dibuat:

Dengan syarat jika suatu aset digunakan bagi tujuan perniagaan diluluskan digunakan juga bagi maksud suatu perniagaan selain perniagaan itu, maka elaun yang boleh diberi di bawah Jadual 3 Akta hendaklah dikurangkan sebagaimana yang munasabah memandangkan kepada setakat mana aset itu digunakan bagi maksud perniagaan yang pertama disebut.

(2) Amaun pendapatan berkanun yang dikecualikan yang disebut dalam subperenggan 3(1) hendaklah tidak melebihi tujuh puluh peratus (atau kadar lain yang ditentukan oleh Menteri) bagi setiap tahun taksiran.

(3) Jika, oleh sebab ketiadaan atau ketidakcukupan pendapatan berkanun atau sekatan kadar yang ditentukan oleh Menteri, pengecualian tidak boleh diberikan atau tidak boleh diberikan sepenuhnya kepada amaun sebagaimana yang ditentukan yang berhak didapatkan oleh syarikat di bawah subperenggan 3(1) bagi tahun taksiran itu, maka sekian banyak daripada amaun itu yang tidak boleh dikecualikan bagi tahun taksiran itu hendaklah dikecualikan bagi tahun taksiran pertama yang berikutnya bagi tempoh asas yang terdapat pendapatan berkanun daripada perniagaan itu, dan bagi tahun-tahun taksiran berikutnya sehinggalah keseluruhan amaun yang ke atasnya ia berhak sedemikian dikecualikan.

Penentuan perbelanjaan modal yang layak

5. Jika perbelanjaan modal yang layak dilakukan ke atas aset dilupuskan pada bila-bila masa dalam tempoh dua tahun dari tarikh perolehan aset itu, amaun pendapatan yang dikecualikan berkenaan dengan elaun aset itu hendaklah disifatkan tidak dikecualikan kepada syarikat itu yang jika ia berhak mendapatnya.

Elaun modal

6. Bagi maksud Perintah ini, Jadual 3 Akta hendaklah terpakai.

Penarikan balik pengecualian cukai bagi perniagaan diluluskan

7. Menteri boleh menarik balik pengecualian cukai atas pendapatan berkanun perniagaan diluluskan sekiranya syarikat itu gagal untuk mematuhi syarat-syarat dinyatakan oleh Menteri dalam surat kelulusan bagi perniagaan diluluskan.

Akaun berasingan

8. Syarikat hendaklah menyenggara suatu akaun berasingan bagi pendapatan yang diperoleh daripada perniagaan diluluskan yang disebut dalam subperenggan 3(1) dalam tempoh asas bagi setiap tahun taksiran sehingga perniagaan itu mendapat keseluruhan elaun atau elaun-elaun yang ia berhak mendapatnya.

Pemakaian perenggan 5 dan 6 Jadual 7A

9. Perenggan 5 dan 6 Jadual 7A kepada Akta hendaklah terpakai, *mutatis mutandis,* bagi amaun pendapatan berkanun yang dikecualikan di bawah perenggan 3.

Ketidakpakaian

10. Perintah ini tidak terpakai kepada syarikat dalam tempoh asas bagi suatu tahun taksiran yang telah diberikan—

(a) elaun pelaburan semula di bawah Jadual 7A Akta;

(b) elaun pelaburan semula bagi sektor perkhidmatan di bawah Jadual 7B Akta;

(c) elaun peningkatan eksport di bawah Kaedah-Kaedah Cukai Pendapatan (Elaun bagi Peningkatan Eksport) 1999 [*P.U. (A) 128/1999*];

(d) pengecualian bagi nilai peningkatan eksport di bawah Perintah Cukai Pendapatan (Pengecualian) (No. 17) 2005 [*P.U. (A) 158/2005*];

(e) pengecualian bagi nilai peningkatan eksport perkhidmatan di bawah Perintah Cukai Pendapatan (Pengecualian) (No. 2) 2001 [*P.U. (A) 154/2001*] dan Perintah Cukai Pendapatan (No. 9) 2002 [*P.U. (A) 57/2002*];

(f) potongan di bawah Kaedah-Kaedah Cukai Pendapatan (Potongan bagi Kos Mengambil Alih Syarikat Milik Asing) 2003 [*P.U. (A) 310/2003*]; atau

(g) apa-apa galakan (kecuali potongan bagi penggalakan eksport) di bawah Akta Penggalakan Pelaburan 1986 [*Akta 327*] bagi perniagaan diluluskan.

Dibuat 27 Februari 2006
[Perb. CR(8.09) 681/2-61 (SJ.18) Vol. 5(SK.13); LHDN. 01/35/(S)/42/51/82-49; PN(PU²)80/XLVI]

TAN SRI NOR MD BIN YAKCOP
Menteri Kewangan Kedua

[*Akan dibentangkan di Dewan Rakyat menurut subseksyen 127(4) Akta Cukai Pendapatan 1967*]

INCOME TAX ACT 1967

INCOME TAX (EXEMPTION) (NO. 12) ORDER 2006

IN exercise of the powers conferred by paragraph 127(3)*(b)* of the Income Tax Act 1967 [*Act 53*], the Minister makes the following order:

Citation and commencement

1. (1) This order may be cited as the **Income Tax (Exemption) (No. 12) Order 2006.**

(2) This Order is deemed to have effect from the year of assessment 1998.

Interpretation

2. In this Order—

"incurred" has the same meaning assigned there to in paragraphs 46 and 55 of Schedule 3 to the Act;

"qualifying capital expenditure" means capital expenditure incurred by the company on an asset in Malaysia for the purpose of the approved business—

(a) in relation to manufacturing or manufacturing-based research, any factory or building used for the activity of research and development, plant and machinery;

(b) in relation to agriculture or agriculture-based research, the clearing and preparation of land, the planting of crops (first planting or planting of trial crops), the provision of irrigation or drainage system, the provision of plant and machinery, the purchase or construction of a building used for the activity of research and development, or the activity of agriculture (including those provided for the welfare or living accommodation of persons who are working in the farm), construction of access roads, bridge and any permanent structure improvement on land which formed as part of the land used for the business;

(c) in relation to information and communication technology or information and communication technology-based research, any multimedia and peripheral equipment (software and hardware), plant and machinery, building and landscaping and greening of the surrounding premises of the building (only applicable to MSC status company); or

(d) in relation to provision of services, any building, plant and machinery used for the activity of provision of services:

Provided that such qualifying capital expenditure shall not include capital expenditure incurred on buildings used as living accommodation, plant and machinery which are provided wholly or partly for the use of a director or an individual who is a member of the management, administrative or clerical staff;

"approved business" means any business approved by the Minister under the special incentive scheme;

"special incentive scheme" means a pre-package incentive scheme approved by the Minister;

"company" means a company incorporated under the Companies Act 1965 [*Act 125*].

Exemption

3. (1) The Minister may exempt a company resident in Malaysia in the basis period for a year of assessment from the payment of income tax in respect of the statutory income derived from an approved business which is equivalent to the amount of allowance as determined in subparagraph (2).

(2) The amount of allowance referred to in subparagraph (1) shall be—

(a) at a rate as determined by the Minister in the approval letter of the approved business; and

(b) given in respect of the qualifying capital expenditure incurred in the basis period for a year of assessment for a period as approved by the Minister.

(3) The tax exemption on the statutory income of the approved business referred to in subparagraph (1) is subject to such conditions as stated by the Minister in the approval letter of the approved business.

(4) The commencement of the period referred to in subsubparagraph (2)*(b)* shall be determined by the Minister or Minister of International Trade and Industry, as the case may be.

(5) Nothing in subparagraph (1) shall absolve or is deemed to have absolved that company from complying with any requirement to submit any return or statement of accounts or to furnish any other information under the provision of the Act.

Statutory income

4. (1) The statutory income in the basis period for a year of assessment referred to in subparagraph 3(1) for the period referred to in subsubparagraph 3(2)*(b)* shall be determined after deducting allowances which fall to be made under Schedule 3 of the Act notwithstanding that no claim for such allowances has been made:

Provided that where an asset used for the purpose of the approved business is also used for the purpose of a business other than that business, then the allowances which fall to be made under Schedule 3 to the Act shall be deducted as is reasonable having regard to the extent to which the asset is used for the purpose of the first-mentioned business.

(2) The amount of statutory income so exempt referred to in subparagraph 3(1) shall not exceed seventy percent (or any other rate as determined by the Minister) for each year of assessment.

(3) Where, by reason of the absence or insufficiency of the statutory income or restriction of the rate as determined by the Minister in subparagraph (2), effect cannot be given or cannot be given in full to the amount as determined to which the company is entitled under subparagraph 3(1) for that year of assessment, then so much of that amount as cannot be exempt for that year of assessment shall be exempted for the first subsequent year of assessment for the basis period for which there is statutory income from that business, and for subsequent years of assessment until the whole of the amount to which it is so entitled is exempted.

Determination of qualifying capital expenditure

5. Where qualifying capital expenditure incurred on an asset is disposed of at any time within two years from the date of acquisition of such asset, the amount of income exempted in respect of the allowance of that asset shall be deemed to have not been exempted to the company to which it would otherwise be entitled.

Capital allowance

6. For the purpose of this Order, Schedule 3 of the Act shall apply.

Withdrawal of tax exemption of the approved business

7. The Minister may withdraw the tax exemption on the statutory income of the approved business if the company fails to comply with the conditions as stated by the Minister in the approval letter of the approved business.

Separate account

8. The company shall maintain a separate account for the income derived from the approved business referred to in subparagraph 3(1) in the basis period for each year of assessment until the business received the whole of allowance or allowances to which it is so entitled.

Application of paragraphs 5 and 6 of Schedule 7A

9. Paragraphs 5 and 6 of Schedule 7A to the Act shall apply, *mutatis mutandis*, to the amount of statutory income exempted referred to in paragraph 3.

Non-application

10. This Order shall not apply to a company in the basis period for a year of assessment which has been granted—

(a) reinvestment allowance under Schedule 7A of the Act;

(b) reinvestment allowance for service sector under Schedule 7B of the Act;

(c) allowance for increased export under the Income Tax (Allowance for Increased Exports) Rules 1999 [*P.U. (A) 128/1999*];

(d) exemption on the value for increased export under the Income Tax (Exemption) (No. 17) Order 2005 [*P.U. (A) 158/2005*];

(e) exemption on the value of increased export of services under the Income Tax (Exemption) (No. 2) Order 2001 [*P.U. (A) 154/2001*] and the Income Tax (Exemption) (No. 9) Order 2002 [*P.U. (A) 57/2002*];

(f) deduction under the Income Tax (Deduction for Cost on Acquisition of A Foreign Owned Company) Rules 2003 [*P.U. (A) 310/2003*]; or

(g) any incentives (except deductions for promotion of exports) under the Promotion of Investments Act 1986 [*Act 327*] in respect of the approved business.

Made 27 February 2006
[Perb. CR(8.09) 681/2-61 (SJ.18) Vol. 5(SK.13); LHDN. 01/35/(S)/42/51/82-49; PN(PU²)80/XLVI]

TAN SRI NOR MD BIN YAKCOP
Second Minister of Finance

[*To be laid before the Dewan Rakyat pursuant to subsection 127(4) of the Income Tax Act 1967*]

P.U. (A) 114.

AKTA CUKAI PENDAPATAN 1967

PERINTAH CUKAI PENDAPATAN (PENGECUALIAN) (NO. 13) 2006

PADA menjalankan kuasa yang diberikan oleh perenggan 127(3)*(b)* Akta Cukai Pendapatan 1967 [*Akta 53*], Menteri membuat perintah yang berikut:

Nama dan permulaan kuat kuasa

1. (1) Perintah ini bolehlah dinamakan **Perintah Cukai Pendapatan (Pengecualian) (No. 13) 2006.**

(2) Perintah ini disifatkan telah mula berkuat kuasa mulai tahun taksiran 2002 hingga tahun taksiran 2004.

Pengecualian

2. (1) Menteri mengecualikan RosettaNet Malaysia Berhad daripada pembayaran cukai pendapatan berkenaan dengan pendapatan berkanun berhubung dengan semua punca pendapatannya selain pendapatan dividen mulai tahun taksiran 2002 hingga tahun taksiran 2004.

(2) Tiada apa-apa jua dalam subperanggan (1) boleh melepaskan atau disifatkan telah melepaskan RosettaNet Malaysia Berhad daripada mematuhi apa-apa

ATTACHMENT C-2

MIDA
MALAYSIAN INVESTMENT DEVELOPMENT AUTHORITY

ICA/JA-1
(21.10.2013)

www.mida.gov.my

APPLICATION FOR MANUFACTURING LICENCE AND/OR INCENTIVE AND/OR EXPATRIATE POSTS FOR A NEW MANUFACTURING PROJECT

(I) Type of application (Please tick (✓) where relevant):

(a) Manufacturing Licence ☐

(b) Incentive:

(i) Pioneer Status ☐

or

(ii) Investment Tax Allowance ☐

(c) Expatriate Posts ☐

(II)

Proposed products/activities	HS tariff code	Proposed factory location	Incentive/Grant Approved By Other Government Agencies

A. PARTICULARS OF APPLICANT/COMPANY

1. (a) Name of applicant/company:

_____

(b) Correspondence address:

_____

_____

_____

Contact person: _____ Designation: _____

Telephone no.: _____ Fax no.: _____

E-mail: _____ Website: _____

2. (a) Name of company which will undertake the manufacturing project:

_____

(b) Has the company been incorporated under the Companies Act, 1965?

☐ Yes ☐ No

If yes, please fill in the following:

(i) Date of incorporation: _____ (ii) Company registration no.: _____

(iii) Income tax reference no.: _____ (iv) Income tax branch office: _____

(c) Address of registered office:

_____

_____

_____

Telephone no.: _____ Fax no.: _____

E-mail: _____

3. If the above company has been incorporated, please provide a copy each of the following

(i) Form 9 or 13 (ii) Form 24 (iii) Form 44 (iv) Form 49 (v) M&A

B. PROJECT COST*

	Phase 1** RM	Phase 2** RM	Total RM
1. Fixed assets***			
(i) Land (Specify area in hectares): _____	_____	_____	_____
(ii) Factory building (Specify built-up area in m^2): _____	_____	_____	_____
(iii) Plant and machinery	_____	_____	_____
(iv) Other equipment	_____	_____	_____
Total fixed assets	_____	_____	_____
2. Pre-operational expenditure	_____	_____	_____
3. Working capital	_____	_____	_____
Total project cost	_____	_____	_____

*** If assets are rented/leased, please indicate the annual cost of rental/lease below:

	RM
(i) Land (Specify area in hectares): _____	_____
(ii) Factory building (Specify built-up area in m^2): _____	_____
(iii) Plant and machinery	_____
(iv) Other equipment	_____
Total rental/lease	_____

Note:

* If there is more than one factory location, please provide the same information on a separate sheet of paper

** To be filled if the second phase is implemented after 3 years

C. FINANCING

	RM	%
1. Authorised capital	_____	_____
2. Shareholders' funds		
(a) Paid-up capital		
(i) Malaysian individuals		
Bumiputera	_____	_____
Non-Bumiputera	_____	_____
(ii) Companies incorporated in Malaysia*		
_____	_____	_____
_____	_____	_____
(iii) Foreign nationals/companies (Specify name and nationality/ country of origin)		
_____	_____	_____
_____	_____	_____
Total of (i), (ii) and (iii)	_____	**100%**

* For 2(a)(ii), please provide equity structure as follows:

Name of company: _____

	%
Bumiputera	_____
Non-Bumiputera	_____
Foreign nationals/companies (Specify name and nationality/country of origin)	_____
_____	
Total	**100%**

Name of company: _____

	%
Bumiputera	_____
Non-Bumiputera	_____
Foreign nationals/companies (Specify name and nationality/country of origin)	_____
_____	
Total	**100%**

RM

3. Loan

Domestic _____

Foreign (Specify country of origin): _____

_____

Total _____

4. Other sources (Please specify):

_____ _____

_____ _____

Total _____

Total of 2, 3 and 4 _____

5. State the name of any other company in Malaysia manufacturing the same/similar products in which the applicant company or any shareholder of the applicant company has equity participation.

Company registration no.	Name of company

6. Particulars of Board of Directors*

Name and residential address	Nationality	% shares held in the company

Note:

* If the space provided is insufficient, please provide the information on a separate sheet of paper

D. MANPOWER*

Please fill in where relevant
Please note that the information is required to enable the government to undertake the appropriate manpower planning to meet the specific manpower needs of companies proposing to establish projects in Malaysia.

Category	Full-time employment						
	Malaysian			Foreign national			Total
	Degree	Diploma/ Certificate	Others	Degree	Diploma/ Certificate	Others	
1. Managerial staff with (a) Technical qualifications							
(i) Electrical & Electronics Engineering							
(ii) Mechanical Engineering							
(iii) Chemical Engineering							
(iv) Others (Please specify): _____							
(b) Science qualifications							
(i) Chemistry							
(ii) Physics							
(iii) Biotechnology / Microbiology							
(iv) Pharmacy							
(v) Computer Science							
(vi) Others (Please specify): _____							
(c) Other qualifications / experience (e.g. economics, marketing, finance & accounting. Please specify): _____							
2. Technical and supervisory staff with (a) Technical qualifications							
(i) Electrical & Electronics Engineering							
(ii) Mechanical Engineering							
(iii) Chemical Engineering							
(iv) Others (Please specify): _____							

Note:

* If there is more than one factory location, please provide the same information on a separate sheet of paper

Category	Full-time employment						
	Malaysian			Foreign national			Total
	Degree	Diploma/ Certificate	Others	Degree	Diploma/ Certificate	Others	
(b) Science qualifications							
(i) Chemistry							
(ii) Physics							
(iii) Biotechnology / Microbiology							
(iv) Pharmacy							
(v) Computer Science							
(vi) Others (Please specify): _____							
(c) Other qualifications / experience Craft skills							
(i) Plant maintenance mechanic							
(ii) Tool & die maker							
(iii) Machinist							
(iv) IT personnel (Including CAD/CAM designer & DCS operator)							
(v) Quality Controller							
(vi) Electrician							
(vii) Chargeman							
(viii) Welder							
(ix) Other special skills related to the sector (Please specify): a) _____							
b) _____							
c) _____							
d) _____							
e) _____							
f) _____							
g) _____							
3. (a) Sales and clerical							
(b) Other general workers							
4. Machine operators and assemblers**							
Total							

Note:
** Machine operators and assemblers are those involved in the production/assembly line who receive mainly on the job training for a period between 3 to 6 months,e.g. production operators

1. Percentage of science and technical staff having degrees or diplomas with a minimum of 5 years experience (of the total workforce)	:	%
2. Number of Staff with Post Graduate (ie. Masters/PhD etc) qualifications	:	

		Foreign	Domestic
3. In addition to the full-time employees as mentioned in the above tables, please provide the number of workers which are outsourced (not under the company's payroll)	:		

E. EMPLOYMENT BY INCOME

	Number of Persons Employed by Average Monthly Salary* (RM)							
	<3,000		3,000-<5,000		5,000-<10,000		10,000 and above	
	Malaysian	Foreign National	Malaysian	Foreign National	Malaysian	Foreign National	Malaysian	Foreign National
1. Managerial and Professional								
2. Technical and supervisory staff with (a) Engineering/Technical qualifications								
(b) Science qualifications								
(c) Other qualifications / experience Craft skills such as plant maintenance mechanic, tool & die maker, machinist, IT personnel (including CAD/CAM designer & DCS operator), Quality Controller, Electrician, Chargeman, Welder)								
3. (a) Sales and clerical								
(b) Other general workers								
4. Machine operators and assemblers**								
Total								

Note:

* include wages, salaries, bonuses, social insurance contribution and all employee benefits.

If there is more than one factory location, please provide the same information on a separate sheet of paper.

** Machine operators and assemblers are those involved in the production/assembly line who receive mainly on-the-job training for a period between 3 to 6 months,e.g. production operators.

1. Percentage of foreign workers with basic salary less than RM1,500 per month (of the total workforce)	:	%

F. MANUFACTURING PROCESS AND POLLUTION CONTROL

1. Please attach the manufacturing process flow chart and explain the major processes. Indicate processes according to type of machinery used as follows:

   R - robotic machinery

   A - automatic machinery

   S - semi-automatic machinery

   M - manual operation

2. From the manufacturing process flow chart, please provide details on emission of pollutants.

Point of emission	Type of pollutants	Quantity

G. SOURCES OF TECHNICAL KNOW-HOW

Name and address of supplier	Years of experience	Relationship with applicant (e.g. machinery supplier, parent company/associate company)

H. MAIN MACHINERY AND EQUIPMENT INCLUDING POLLUTION CONTROL EQUIPMENT

Description	Type*	Unit	Function	Country of origin	Cost (RM)

Note:

* Indicate:

R - robotic machinery A - automatic machinery S - semi-automatic machinery M - manual operation

I. MAIN RAW MATERIALS AND COMPONENTS

Raw materials and components	Quantity* per annum	Value per annum (RM)	Source			
			Local manufacturer		Import	
			% of value	Name and address	% of value	Country of origin

Note:
* Units as specified in the "Malaysian Trade Classification and Customs Duties Order"

J. PRODUCTION SCHEDULE*

Products/activities	Year 1		Year 2		Year 3		Maximum annual production capacity per 8-hour shift
	Quantity**	Ex-factory value (RM)	Quantity**	Ex-factory value (RM)	Quantity**	Ex-factory value (RM)	
Total							
Number of shifts							

Note:
* If there is more than one factory location, please provide the same information on a separate sheet of paper
** Units as specified in the "Malaysian Trade Classification and Customs Duties Order"

K. MARKET

Products/activities	% of market			
	Year 1	Year 2	Year 3	
For domestic market				Principal consumers
For FZ/LMW* market				
For export market				Destination

Note:
* Free Zone/Licensed Manufacturing Warehouse
** The information on market is for record purposes only and not a factor to be considered in the granting of incentives

L. PRODUCT PRICING

Item	% of ex-factory price for each product*		
	Product 1	Product 2	Product 3
(a) Cost of imported raw materials/components			
(b) Cost of local raw materials/components			
(c) Cost of energy and fuel			
(d) Cost of labour			
(e) Depreciation			
(f) Interest payments, indirect taxes, quit rent & etc.			
(g) Administrative and marketing costs			
(h) Cost of technology (including royalty, management services and other related costs)			
(i) Manufacturing profit			
Total	**100%**	**100%**	**100%**

Note:
* If there are more products, please provide the same information on a separate sheet of paper

M. ESTIMATED LABOUR COST AND EARNINGS

Year in Operation		Year 1	Year 2	Year 3
Estimated Labour Cost				
Salaries and Wages* (RM)				
Estimated Earnings				
(a)	Estimated Earnings before Interest, Tax, Depreciation & Amortization (EBITDA) (RM)			
(b)	Estimated Net Income After Tax (RM)			
	- Held in Malaysia as reserves (%)			
	- Remitted out of Malaysia (%)			
	- Reinvested in Malaysia (%)			

Note:
*Include wages, salaries, bonuses, social insurance contribution and all employee benefits

N. DETAILS OF EXPATRIATE POSTS

Please complete this section if the applicant is applying for expatriate posts. Please exclude the expatriate posts that have been directly applied for to the Immigration Department or any other department.

1. New/additional posts applied for

Designation*	Type of post (key/term post)	Number	Duration (years)	Proposed minimum salary (RM)

Note:
* Please list according to priority

For each expatriate post applied for, please submit the following details:

(a) Job function

(b) Minimum academic/professional qualification required

(c) Minimum period of experience required

(d) Justification for request

(e) Proposed training scheme for Malaysian personnel to fill the relevant posts

2. Existing/approved posts (if any)

Designation	Name and nationality	Duration approved	Date post filled	Expiry date	Basic salary paid (RM)

For each existing/approved expatriate post, please submit the following details:

(a) Name of Malaysian who has taken over/will take over the post

(b) If the post has not been/will not be Malaysianised, state reasons and the company's plan on the post.

3. Please attach the organisational structure of the company indicating the positions of the expatriate posts.

O. DECLARATION

I, _____, the Managing Director of

_____

(i) hereby declare that to the best of my knowledge, the particulars furnished in this application are true.

(ii)* have engaged/is planning to engage the services of the following consultant for my application :

Company Name : _____

Address : _____

_____

_____

Contact Person : _____

Designation : _____

Telephone no. : _____

Fax no. : _____

E-mail : _____

_____

I take full responsibility for all information submitted by the consultant(s).

_____ Date

_____ (Signature)

_____ (Company's Stamp or Seal)

*Please complete this section if the company has engaged/is planning to engage the services of consultant(s) to act on behalf of the company. Please provide information on a separate sheet of paper if space is insufficient

MIDA
MALAYSIAN INVESTMENT DEVELOPMENT AUTHORITY

ICA/JA-2
(21.10.2013)

www.mida.gov.my

APPLICATION FOR MANUFACTURING LICENCE AND/OR INCENTIVE AND/OR EXPATRIATE POSTS:

A. FOR AN EXPANSION AND/OR DIVERSIFICATION PROJECT BY A LICENSED MANUFACTURER

OR

B. BY AN EXISTING NON-LICENSED MANUFACTURER

(I) Type of application (Please tick (✓) where relevant):

(a) Manufacturing Licence ☐
(b) Expansion ☐
(c) Diversification ☐
(d) Incentive:
  (i) Pioneer Status ☐
  or
  (ii) Investment Tax Allowance ☐
(e) Expatriate Posts ☐

(II)

Existing products/activities	HS tariff code	Existing factory location

Proposed expansion/additional products/activities	HS tariff code	Proposed factory location	Incentive/ Grant Approved By Other Government Agencies

A. PARTICULARS OF COMPANY

1. (a) Name of company:

_____

Date of incorporation: _____

Company registration no.: _____

Income tax reference no: _____

Income tax branch office: _____

(b) Correspondence address:

_____

_____

_____

Contact person: _____

Designation: _____

Telephone no.: _____

Fax no.: _____

E-mail: _____

Website: _____

(c) Address of registered office :

_____

_____

_____

Telephone no.: _____

Fax no.: _____

E-mail: _____

2. Please provide a copy each of the following documents:

(i) Form 9 or 13 (ii) Form 24 (iii) Form 44 (iv) Form 49 (v) M&A

3. Date of commencement of operation: _____

4. Particulars of Manufacturing Licence and/or incentives approved, if any

   (a) Please provide a copy each of Manufacturing Licence and conditions and/or Incentive Letter and/or Pioneer Certificate and/or letter on effective date of Investment Tax Allowance granted to the company.

   (b) Products manufactured/activities undertaken

Products/activities	Date of commercial production	Location

5. Particulars of Board of Directors*

Name and residential address	Nationality	% shares held in the company

Note:

* If the space provided is insufficient, please provide the information on a separate sheet of paper

*B. PROJECT COST**

	Existing RM	Additional RM	**Total RM**
1. Fixed assets**			
(i) Land (Specify area in hectares) _____	_____	_____	_____
(ii) Factory building (Specify built-up area in m^2) _____	_____	_____	_____
(iii) Plant and machinery	_____	_____	_____
(iv) Other equipment	_____	_____	_____
Total fixed assets	_____	_____	_____
2. Pre-operational expenditure	_____	_____	_____
3. Working capital	_____	_____	_____
Total project cost	_____	_____	_____

** If assets are rented/leased, please indicate the annual cost of rental/lease below:

(i) Land (Specify area in hectares) _____	_____	_____	_____
(ii) Factory building (Specify built-up area in m^2) _____	_____	_____	_____
(iii) Plant and machinery	_____	_____	_____
(iv) Other equipment	_____	_____	_____
Total rental/lease	_____	_____	_____

Note:

* If there is more than one factory location, please provide the same information on a separate sheet of paper

C. FINANCING

	Existing RM	Additional RM	Total RM	%
1. Authorised capital				
2. Shareholders' funds				
(a) Paid-up capital				
(i) Malaysian individuals				
Bumiputera				
Non-Bumiputera				
(ii) Companies incorporated in Malaysia*				
(iii) Foreign nationals/ companies (Specify name and nationality/country of origin)				
Total of (i), (ii) and (iii)				**100%**
(b) Reserves (excluding capital appreciation)				
Total of (a) and (b)				

* For 2(a)(ii), please provide equity structure as follows:

Name of company: _____

	%
Bumiputera	
Non-Bumiputera	
Foreign nationals/companies (Specify name and nationality/country of origin)	
Total	**100%**

Name of company: _____

	%
Bumiputera	
Non-Bumiputera	
Foreign nationals/companies (Specify name and nationality/country of origin)	
Total	**100%**

	Existing RM	Additional RM	**Total RM**
3. Loan:			
Domestic	_____	_____	_____
Foreign (Specify country of origin) _____	_____	_____	_____
Total	_____	_____	_____
4. Other sources (Please specify)			
_____	_____	_____	_____
_____	_____	_____	_____
Total	_____	_____	_____
Total of 2, 3 and 4	_____	_____	_____

5. State the name of any other company in Malaysia manufacturing the same/similar products in which the applicant company or any shareholder of the applicant company has equity participation.

Company registration no.	Name of company

6. Please attach a copy of the latest audited accounts.

D. MANPOWER*

Please fill in where relevant

Please note that the information is required to enable the government to undertake the appropriate manpower planning to meet the specific manpower needs of companies proposing to establish projects in Malaysia.

Category	Full-time employment													
	Existing							Additional						
	Malaysian			Foreign national			Total	Malaysian			Foreign national			Total
	Degree	Diploma/ Certificate	Others	Degree	Diploma/ Certificate	Others		Degree	Diploma/ Certificate	Others	Degree	Diploma/ Certificate	Others	
1. Managerial staff with (a) Technical qualifications														
(i) Electrical & Electronics Engineering														
(ii) Mechanical Engineering														
(iii) Chemical Engineering														
(iv) Others (Please specify): _____														
(b) Science qualifications														
(i) Chemistry														
(ii) Physics														
(iii) Biotechnology / Microbiology														
(iv) Pharmacy														
(v) Computer Science														
(vi) Others (Please specify): _____														
(c) Other qualifications / experience (e.g. economics, marketing, finance & accounting. Please specify): _____														

Note:

* If there is more than one factory location, please provide the same information on a separate sheet of paper

Category	Full-time employment													
	Existing							Additional						
	Malaysian			Foreign national			Total	Malaysian			Foreign national			Total
	Degree	Diploma/ Certificate	Others	Degree	Diploma/ Certificate	Others		Degree	Diploma/ Certificate	Others	Degree	Diploma/ Certificate	Others	
2. Technical and supervisory staff with (a) Technical qualifications														
(i) Electrical & Electronics Engineering														
(ii) Mechanical Engineering														
(iii) Chemical Engineering														
(iv) Others (Please specify): _____														
(b) Science qualifications														
(i) Chemistry														
(ii) Physics														
(iii) Biotechnology / Microbiology														
(iv) Pharmacy														
(v) Computer Science														
(vi) Others (Please specify): _____														
(c) Other qualifications / experience Craft skills														
(i) Plant maintenance mechanic														
(ii) Tool & die maker														
(iii) Machinist														
(iv) IT personnel (Including CAD/CAM designer & DCS operator)														
(v) Quality Controller														
(vi) Electrician														
(vii) Chargeman														
(viii) Welder														

Category	Full-time employment													
	Existing							Additional						
	Malaysian			Foreign national			Total	Malaysian			Foreign national			Total
	Degree	Diploma/ Certificate	Others	Degree	Diploma/ Certificate	Others		Degree	Diploma/ Certificate	Others	Degree	Diploma/ Certificate	Others	
(ix) Other special skills related to the sector (Please specify):														
a) _____														
b) _____														
c) _____														
d) _____														
e) _____														
f) _____														
g) _____														
3. (a) Sales and clerical														
(b) Other general workers														
4. Machine operators and assemblers**														
TOTAL														

Note:
** Machine operators and assemblers are those involved in the production/assembly line who receive mainly on the job training for a period between 3 to 6 months,e.g. production operators

		Existing	Additional
1. Percentage of science and technical staff having degrees or diplomas with a minimum of 5 years experience (of the total workforce)	:	_____ %	_____ %
2. Number of Staff with Post Graduate (ie. Masters/PhD etc) qualifications	:	_____	_____
3. In addition to the full-time employees as mentioned in the above tables, please provide the number of workers which are outsourced (not under the company's payroll)		_____	_____

E. EMPLOYMENT BY INCOME

Category	Number of Persons Employed by Average Monthly Salary* (RM)															
	Existing								Additional							
	<3,000		3,000-<5,000		5,000-<10,000		10,000 and above		<3,000		3,000-<5,000		5,000-<10,000		10,000 and above	
	Malaysian	Foreign National	Malaysian	Foreign National	Malaysian	Foreign National	Malaysian	Foreign National	Malaysian	Foreign National	Malaysian	Foreign National	Malaysian	Foreign National	Malaysian	Foreign National
1. Managerial and Professional																
2. Technical and supervisory staff with (a) Engineering/Technical qualifications																
(b) Science qualifications																
(c) Other qualifications / experience Craft skills such as plant maintenance mechanic, tool & die maker, machinist, IT personnel (including CAD/CAM designer & DCS operator), Quality Controller, Electrician, Chargeman, Welder)																

Category	Number of Persons Employed by Average Monthly Salary* (RM)															
	Existing								Additional							
	<3,000		3,000-<5,000		5,000-<10,000		10,000 and above		<3,000		3,000-<5,000		5,000-<10,000		10,000 and above	
	Malaysian	Foreign National	Malaysian	Foreign National	Malaysian	Foreign National	Malaysian	Foreign National	Malaysian	Foreign National	Malaysian	Foreign National	Malaysian	Foreign National	Malaysian	Foreign National
3. (a) Sales and clerical																
(b) Other general workers																
4. Machine operators and assemblers**																
Total																

Note:

* include wages, salaries, bonuses, social insurance contribution and all employee benefits.

If there is more than one factory location, please provide the same information on a separate sheet of paper.

** Machine operators and assemblers are those involved in the production/assembly line who receive mainly on-the-job training for a period between 3 to 6 months,e.g. production operators.

F. MANUFACTURING PROCESS AND POLLUTION CONTROL

1. Please attach the manufacturing process flow chart and explain the major processes. Indicate processes according to type of machinery used as follows:

R - robotic machinery

A - automatic machinery

S - semi-automatic machinery

M - manual operation

2. From the manufacturing process flow chart, please provide details on emission of pollutants.

Point of emission	Type of pollutants	Quantity

G. SOURCES OF TECHNICAL KNOW-HOW

Name and address of supplier	Years of experience	Relationship with applicant (e.g. machinery supplier, parent company/associate company)

H. MAIN MACHINERY AND EQUIPMENT INCLUDING POLLUTION CONTROL EQUIPMENT

Description	Type*	Unit	Function	Country of origin	Cost (RM)
Existing					
Additional					

Note:

* Indicate:
R - robotic machinery A - automatic machinery S - semi-automatic machinery M - manual operation

I. MAIN RAW MATERIALS AND COMPONENTS

Raw materials and components	Quantity* per annum	Value per annum (RM)	Source			
			Local manufacturer		Import	
			% of value	Name and address	% of value	Country of origin
Existing products/activities						
Proposed additional products/ activities						

Note:

* Units as specified in the "Malaysian Trade Classification and Customs Duties Order"

J. PRODUCTION SCHEDULE*

1. Existing products/activities

Products/activities	Actual annual production		Installed production capacity	Additional production capacity
	Quantity**	Ex-factory value (RM)	Quantity**	Quantity**
Total				

Number of shifts: _____

Note:

* If there is more than one factory location, please provide the same information on a separate sheet of paper

** Units as specified in "The Malaysian Trade Classification and Customs Duties Order"

2. Proposed additional products/activities

Products/activities	Year 1		Year 2		Year 3		Maximum annual production capacity per 8-hour shift
	Quantity**	Ex-factory value (RM)	Quantity**	Ex-factory value (RM)	Quantity**	Ex-factory value (RM)	
Total							
Number of shifts							

Note:

** Units as specified in the "Malaysian Trade Classification and Customs Duties Order"

K. MARKET

Products/activities	% of market			Principal consumers/ export destination
	Year 1	Year 2	Year 3	
Existing products/activities For domestic market				
For FZ/LMW* market				
For export market				
Proposed additional products/activities For domestic market				
For FZ/LMW* market				
For export market				

Note:

* Free Zone/Licenced Manufacturing Warehouse
** The information on market is for record purposes only and not a factor to be considered in the granting of incentives

L. PRODUCT PRICING

Item	% of ex-factory price for each product*		
	Product 1	Product 2	Product 3
(a) Cost of imported raw materials/components			
(b) Cost of local raw materials/components			
(c) Cost of energy and fuel			
(d) Cost of labour			
(e) Depreciation			
(f) Interest payments, indirect taxes, quit rent & etc.			
(g) Administrative and marketing costs			
(h) Cost of technology (including royalty, management services and other related costs)			
(i) Manufacturing profit			
Total	**100%**	**100%**	**100%**

Note:
* If there are more products, please provide the same information on a separate sheet of paper

M. ESTIMATED LABOUR COST AND EARNINGS

Year in Operation		Year 1	Year 2	Year 3
Estimated Labour Cost				
Salaries and Wages* (RM)				
Estimated Earnings				
(a)	Estimated Earnings before Interest, Tax, Depreciation & Amortization (EBITDA) (RM)			
(b)	Estimated Net Income After Tax (RM)			
	- Held in Malaysia as reserves (%)			
	- Remitted out of Malaysia (%)			
	- Reinvested in Malaysia (%)			

Note:

*Include wages, salaries, bonuses, social insurance contribution and all employee benefits

N. DETAILS OF EXPATRIATE POSTS

Please complete this section if the applicant is applying for expatriate posts. Please exclude the expatriate posts that have been directly applied for to the Immigration Department or any other department.

1. New/additional posts applied for

Designation*	Type of post (key/term post)	Number	Duration (years)	Proposed minimum salary (RM)

Note:
* Please list according to priority

For each expatriate post applied for, please submit the following details:-

(a) Job function

(b) Minimum academic/professional qualification required

(c) Minimum period of experience required

(d) Justification for request

(e) Proposed training scheme for Malaysian personnel to fill the relevant posts

2. Existing/approved posts (if any)

Designation	Name and nationality	Duration approved	Date post filled	Expiry date	Basic salary paid (RM)

For each existing approved expatriate post, please submit the following details:

(a) Name of Malaysian who has taken over/will take over the post

(b) If the post has not been/will not be Malaysianised, state reasons and the company's plan on the post.

3. Please attach the organisational structure of the company indicating the positions of the expatriate posts.

O. DECLARATION

I, _____, the Managing Director of

_____

(i) hereby declare that to the best of my knowledge, the particulars furnished in this application are true.

(ii)* have engaged/is planning to engage the services of the following consultant for my application :

Company Name : _____

Address : _____

_____

_____

Contact Person : _____

Designation : _____

Telephone no. : _____

Fax no. : _____

E-mail : _____

_____

I take full responsibility for all information submitted by the consultant(s).

_____ Date

_____ (Signature)

_____ (Company's Stamp or Seal)

*Please complete this section if the company has engaged/is planning to engage the services of consultant(s) to act on behalf of the company. Please provide information on a separate sheet of paper if space is insufficient

MIDA
MALAYSIAN INVESTMENT DEVELOPMENT AUTHORITY

ICA/JA-3
(21.10.2013)

www.mida.gov.my

HIGH TECHNOLOGY / STRATEGIC PROJECT

APPLICATION FOR NEW MANUFACTURING LICENCE AND/OR INCENTIVE AND/OR EXPATRIATE POSTS

(I) Type of application (Please tick (✓) where relevant):

(a) Manufacturing Licence ☐

(b) Project:
(i) High Technology ☐ or (ii) Strategic ☐

(c) Incentive:
(i) Pioneer Status ☐ or (ii) Investment Tax Allowance ☐

(d) Expatriate Posts ☐

(II)

Proposed products/produce /activities	HS tariff code	Proposed factory location	Incentive/Grant Approved By Other Government Agencies

A. PARTICULARS OF APPLICANT/COMPANY

1. (a) Name of applicant/company:

_____

(b) Correspondence address:

_____

_____

_____

Contact person: _____ Designation: _____

Telephone no.: _____ Fax no.: _____

E-mail: _____ Website: _____

2. (a) Name of company which will undertake the manufacturing project:

_____

(b) Has the company been incorporated under the Companies Act, 1965?

☐ Yes ☐ No

If yes, please fill in the following:

(i) Date of incorporation: _____ (ii) Company registration no.: _____

(iii) Income tax reference no.: _____ (iv) Income tax branch office: _____

(c) Address of registered office:

_____

_____

_____

Telephone no.: _____ Fax no.: _____

E-mail: _____

B. PROJECT COST*

	Phase 1** RM	Phase 2** RM	Total RM
1. Fixed assets***			
(i) Land (Specify area in hectares): _____	_____	_____	_____
(ii) Factory/farm building (Specify built-up area in m^2): _____	_____	_____	_____
(iii) Plant and machinery	_____	_____	_____
(iv) Other equipment	_____	_____	_____
Total fixed assets	_____	_____	_____
2. Pre-operational expenditure	_____	_____	_____
3. Working capital	_____	_____	_____
Total project cost	_____	_____	_____

*** If assets are rented/leased, please indicate the annual cost of rental/lease below:

	RM
(i) Land (Specify area in hectares): _____	_____
(ii) Factory/farm building (Specify built-up area in m^2): _____	_____
(iii) Plant and machinery	_____
(iv) Other equipment	_____
Total rental/lease	_____

Note:

* If the fixed assets are located in more than one location, please provide the same information on a separate sheet of paper

** To be filled if the second phase is implemented after 3 years

C. FINANCING

	RM	%
1. Authorised capital	_____	
2. Shareholders' funds		
(a) Paid-up capital		
(i) Malaysian individuals		
Bumiputera	_____	_____
Non-Bumiputera	_____	_____
(ii) Companies incorporated in Malaysia*		
_____	_____	_____
_____	_____	_____
(iii) Foreign nationals/companies (Specify name and nationality/ country of origin)		
_____	_____	_____
_____	_____	_____
Total of (i), (ii) and (iii)	_____	**100%**

* For 2(a)(ii), please provide equity structure as follows:

Name of company: _____

	%
Bumiputera	_____
Non-Bumiputera	_____
Foreign nationals/companies (Specify name and nationality/country of origin)	_____
_____	
Total	**100%**

Name of company: _____

	%
Bumiputera	_____
Non-Bumiputera	_____
Foreign nationals/companies (Specify name and nationality/country of origin)	_____
_____	
Total	**100%**

RM

3. Loan

Domestic _____

Foreign (Specify country of origin): _____

_____

Total _____

4. Other sources (Please specify):

_____ _____

_____ _____

Total _____

Total of 2, 3 and 4 _____

5. State the name of any other company in Malaysia manufacturing the same/similar products in which the applicant company or any shareholder of the applicant company has equity participation.

Company registration no.	Name of company

6. Particulars of Board of Directors*

Name and residential address	Nationality	% shares held in the company

Note:

* If the space provided is insufficient, please provide the information on a separate sheet of paper

D. MANPOWER*

1. Please fill in where relevant
   Please note that the information is required to enable the government to undertake the appropriate manpower planning to meet the specific manpower needs of companies proposing to establish projects in Malaysia.

Category	Full-time employment													
	R&D activities							Other activities						
	Malaysian			Foreign national			Total	Malaysian			Foreign national			Total
	Degree	Diploma/ Certificate	Others	Degree	Diploma/ Certificate	Others		Degree	Diploma/ Certificate	Others	Degree	Diploma/ Certificate	Others	
1. Managerial staff with (a) Technical qualifications														
(i) Electrical & Electronics Engineering														
(ii) Mechanical Engineering														
(iii) Chemical Engineering														
(iv) Others (Please specify): _____														
(b) Science qualifications														
(i) Chemistry														
(ii) Physics														
(iii) Biotechnology / Microbiology														
(iv) Pharmacy														
(v) Computer Science														
(vi) Others (Please specify): _____														
(c) Other qualifications / experience (e.g. economics, marketing, finance & accounting. Please specify): _____														

Note:

* If there is more than one factory location, please provide the same information on a separate sheet of paper

Category	Full-time employment													
	R&D activities							Other activities						
	Malaysian			Foreign national			Total	Malaysian			Foreign national			Total
	Degree	Diploma/ Certificate	Others	Degree	Diploma/ Certificate	Others		Degree	Diploma/ Certificate	Others	Degree	Diploma/ Certificate	Others	
2. Technical and supervisory staff with (a) Technical qualifications														
(i) Electrical & Electronics Engineering														
(ii) Mechanical Engineering														
(iii) Chemical Engineering														
(iv) Others (Please specify): _____														
(b) Science qualifications														
(i) Chemistry														
(ii) Physics														
(iii) Biotechnology / Microbiology														
(iv) Pharmacy														
(v) Computer Science														
(vi) Others (Please specify): _____														
(c) Other qualifications / experience Craft skills														
(i) Plant maintenance mechanic														
(ii) Tool & die maker														
(iii) Machinist														
(iv) IT personnel (Including CAD/CAM designer & DCS operator)														
(v) Quality Controller														
(vi) Electrician														
(vii) Chargeman														
(viii) Welder														

Category	Full-time employment													
	R&D activities							Other activities						
	Malaysian			Foreign national			Total	Malaysian			Foreign national			Total
	Degree	Diploma/ Certificate	Others	Degree	Diploma/ Certificate	Others		Degree	Diploma/ Certificate	Others	Degree	Diploma/ Certificate	Others	
(ix) Other special skills related to the sector (Please specify):														
a) _____														
b) _____														
c) _____														
d) _____														
e) _____														
f) _____														
g) _____														
3. (a) Sales and clerical														
(b) Other general workers														
4. Machine operators and assemblers**														
TOTAL														

Note:
** Machine operators and assemblers are those involved in the production/assembly line who receive mainly on the job training for a period between 3 to 6 months,e.g. production operators

		R&D Activities		Other Activities	
1. Percentage of science and technical staff having degrees or diplomas with a minimum of 5 years experience (of the total workforce)	:	%		%	
2. Number of Staff with Post Graduate (ie. Masters/PhD etc) qualifications	:				
		Foreign	Domestic	Foreign	Domestic
3. In addition to the full-time employees as mentioned in the above tables, please provide the number of workers which are outsourced (not under the company's payroll)	:				

2. Job function of Research and Development staff

Designation	Job function

E. EMPLOYMENT BY INCOME

Category	Number of Persons Employed by Average Monthly Salary* (RM)															
	R&D activities								Other activities							
	<3,000		3,000-<5,000		5,000-<10,000		10,000 and above		<3,000		3,000-<5,000		5,000-<10,000		10,000 and above	
	Malaysian	Foreign National	Malaysian	Foreign National	Malaysian	Foreign National	Malaysian	Foreign National	Malaysian	Foreign National	Malaysian	Foreign National	Malaysian	Foreign National	Malaysian	Foreign National
1. Managerial and Professional																
2. Technical and supervisory staff with (a) Engineering/Technical qualifications																
(b) Science qualifications																
(c) Other qualifications / experience Craft skills such as plant maintenance mechanic, tool & die maker, machinist, IT personnel (including CAD/CAM designer & DCS operator), Quality Controller, Electrician, Chargeman, Welder)																

Category	Number of Persons Employed by Average Monthly Salary* (RM)															
	R&D activities								Other activities							
	<3,000		3,000-<5,000		5,000-<10,000		10,000 and above		<3,000		3,000-<5,000		5,000-<10,000		10,000 and above	
	Malaysian	Foreign National	Malaysian	Foreign National	Malaysian	Foreign National	Malaysian	Foreign National	Malaysian	Foreign National	Malaysian	Foreign National	Malaysian	Foreign National	Malaysian	Foreign National
3. (a) Sales and clerical																
(b) Other general workers																
4. Machine operators and assemblers**																
Total																

Note:

* include wages, salaries, bonuses, social insurance contribution and all employee benefits.

If there is more than one factory location, please provide the same information on a separate sheet of paper.

** Machine operators and assemblers are those involved in the production/assembly line who receive mainly on-the-job training for a period between 3 to 6 months,e.g. production operators.

1. Percentage of foreign workers with basic salary less than RM1,500 per month (of the total workforce)	:	%

F. MANUFACTURING PROCESS AND POLLUTION CONTROL

1. Please attach the manufacturing process flow chart and explain the major processes. Indicate the processes according to the type of machinery used as follows:

   R - robotic machinery

   A - automatic machinery

   S - semi-automatic machinery

   M - manual operation

2. From the manufacturing process flow chart, please provide details on emission of pollutants

Point of emission	Type of pollutants	Quantity

G. SOURCES OF TECHNICAL KNOW-HOW

Name and address of supplier	Years of experience	Name of other companies with similar projects in the world	Relationship with applicant (e.g. machinery supplier, parent company/associate company)

H. MAIN MACHINERY AND EQUIPMENT

1. Main machinery and pollution control equipment

Description	Type*	Unit	Function

Note:

* Indicate:

R - robotic machinery A - automatic machinery S - semi-automatic machinery

2. Main machinery and equipment for Research and Development

Description	Function	Unit	Cost (RM)
		Total	

I. RESEARCH AND DEVELOPMENT IN MALAYSIA

1. Research and Development activities

Title of project/activity	Objective	Date of commencement and duration

2. Operational expenditure for Research and Development*

Item	Year 1 (RM)	Year 2 (RM)	Year 3 (RM)
(i) Cost of raw material used in the R&D			
(ii) Payment for technical services			
(iii) Salary and allowance for personnel involved directly in the research project			
(iv) Other costs			
(a) Travelling cost of research personnel			
(b) Transportation cost of raw material			
(c) Rental and maintenance of buildings, machinery and equipment			
(d) Protyping of product			
Total			

Note:

* >From the date of commencement of R&D activity

J. MAIN RAW MATERIALS AND COMPONENTS

Raw materials and components	Quantity* per annum	Value per annum (RM)	Source			
			Local manufacturer		Import	
			% of value	Name and address	% of value	Country of origin

Note:

* Units as specified in the "Malaysian Trade Classification and Customs Duties Order"

K. PRODUCTION SCHEDULE*

Products/produce/activities	Year 1		Year 2		Year 3		Maximum annual production capacity per 8-hour shift
	Quantity**	Ex-factory value (RM)	Quantity**	Ex-factory value (RM)	Quantity**	Ex-factory value (RM)	
Total							
Number of shifts							

Note:

* If there is more than one factory location, please provide the same information on a separate sheet of paper

** Units as specified in the "Malaysian Trade Classification and Customs Duties Order"

L. SALES AND MARKET

1. Gross sales

Products/produce/activities	Gross sales		
	Year 1 (RM)	Year 2 (RM)	Year 3 (RM)
Total			

2. Market

Products/produce/activities	% of market			
	Year 1	Year 2	Year 3	
For domestic market				Principal consumers
For FZ/LMW* market				
For export market				Destination

Note:

* Free Zone/Licenced Manufacturing Warehouse
** The information on market is for record purposes only and not a factor to be considered in the granting of incentives

M. PRODUCT PRICING

Item	% of ex-factory price for each product/produce*		
	Product 1	Product 2	Product 3
(a) Cost of imported raw materials/components			
(b) Cost of local raw materials/components			
(c) Cost of energy and fuel			
(d) Cost of labour			
(e) Depreciation			
(f) Interest payments, indirect taxes, quit rent & etc.			
(g) Administrative and marketing costs			
(h) Cost of technology (including royalty, management services and other related costs)			
(i) Manufacturing profit			
Total	**100%**	**100%**	**100%**

Note:
* If there are more products/produce, please provide the same information on a separate sheet of paper

N. ESTIMATED LABOUR COST AND EARNINGS

Year in Operation		Year 1	Year 2	Year 3
Estimated Labour Cost				
Salaries and Wages* (RM)				
Estimated Earnings				
(a)	Estimated Earnings before Interest, Tax, Depreciation & Amortization (EBITDA) (RM)			
(b)	Estimated Net Income After Tax (RM)			
	- Held in Malaysia as reserves (%)			
	- Remitted out of Malaysia (%)			
	- Reinvested in Malaysia (%)			

Note:
*Include wages, salaries, bonuses, social insurance contribution and all employee benefits

O. DETAILS OF EXPATRIATE POSTS

Please complete this section if the applicant is applying for expatriate posts. Please exclude the expartriate posts that have been directly applied for to the Immigration Department or any other department.

1. New/additional posts applied for

Designation*	Type of post (key/term post)	Number	Duration (years)	Proposed minimum salary (RM)

Note:
* Please list according to priority

For each expatriate post applied for, please submit the following details:

(a) Job function

(b) Minimum academic/professional qualification required

(c) Minimum period of experience required

(d) Justification for request

(e) Proposed training scheme for Malaysian personnel to fill the relevant posts

2. Existing/approved posts (if any)

Designation	Name and nationality	Duration approved	Date post filled	Expiry date	Basic salary paid (RM)

For each existing/approved expatriate post, please submit the following details:

(a) Name of Malaysian who has taken over/will take over the post

(b) If the post has not been/will not be Malaysianised, state reasons and the company's plan on the post.

3. Please attach the organisational structure of the company indicating the positions of the expatriate posts.

P. DECLARATION

I, _____, the Managing Director of

_____

(i) hereby declare that to the best of my knowledge, the particulars furnished in this application are true.

(ii)* have engaged/is planning to engage the services of the following consultant for my application :

Company Name : _____

Address : _____

_____

_____

Contact Person : _____

Designation : _____

Telephone no. : _____

Fax no. : _____

E-mail : _____

_____

I take full responsibility for all information submitted by the consultant(s).

_____ Date

_____ (Signature)

_____ (Company's Stamp or Seal)

*Please complete this section if the company has engaged/is planning to engage the services of consultant(s) to act on behalf of the company. Please provide information on a separate sheet of paper if space is insufficient

MIDA
MALAYSIAN INVESTMENT DEVELOPMENT AUTHORITY

ICA/JA-4
(21.10.2013)

www.mida.gov.my

HIGH TECHNOLOGY / STRATEGIC PROJECT

APPLICATION FOR MANUFACTURING LICENCE AND/OR INCENTIVE FOR EXPANSION AND/OR DIVERSIFICATION AND/OR EXPATRIATE POSTS

(I) Type of application (Please tick (✓) where relevant):

(a) Manufacturing Licence:

(i) Expansion ☐ and/or (ii) Diversification ☐

(b) Project:

(i) High Technology ☐ or (ii) Strategic ☐

(c) Incentive:

(i) Pioneer Status ☐ or (ii) Investment Tax Allowance ☐

(d) Expatriate Posts ☐

(II)

Existing products/produce/activities	HS tariff code	Existing factory location

Proposed expansion/additional products/produce/activities	HS tariff code	Proposed factory location	Incentive/Grant Approved By Other Government Agencies

A. PARTICULARS OF COMPANY

1. (a) Name of company:

_____

Date of incorporation: _____

Company registration no.: _____

Income tax reference no: _____

Income tax branch office: _____

(b) Correspondence address:

_____

_____

_____

Contact person: _____

Designation: _____

Telephone no.: _____

Fax no.: _____

E-mail: _____

Website: _____

(c) Address of registered office:

_____

_____

_____

Telephone no.: _____

Fax no.: _____

E-mail: _____

2. Please provide a copy each of the following documents:
   (i) Form 24 (ii) Form 44 (iii) Form 49

3. Date of commencement of operation : _____

4. Particulars of Manufacturing Licence and/or incentives approved

   (a) Please provide a copy of Manufacturing Licence and conditions and/or Incentive Letter and/or Pioneer Certificate and/or letter on effective date of Investment Tax Allowance granted to the company.

   (b) Products manufactured/activities undertaken

Products/activities	Date of commercial production	Location

5. Particulars of Board of Directors*

Name and residential address	Nationality	% shares held in the company

Note:

* If the space provided is insufficient, please provide the information on a separate sheet of paper

*B. PROJECT COST**

	Existing RM	Additional RM	Total RM
1. Fixed assets**			
(i) Land (Specify area in hectares) _____	_____	_____	_____
(ii) Factory/farm building (Specify built-up area in m^2) _____	_____	_____	_____
(iii) Plant and machinery	_____	_____	_____
(iv) Other equipment	_____	_____	_____
Total fixed assets	_____	_____	_____
2. Pre-operational expenditure	_____	_____	_____
3. Working capital	_____	_____	_____
Total project cost	_____	_____	_____

** If assets are rented/leased, please indicate the annual cost of rental/lease below:

(i) Land (Specify area in hectares) _____	_____	_____	_____
(ii) Factory/farm building (Specify built-up area in m^2) _____	_____	_____	_____
(iii) Plant and machinery	_____	_____	_____
(iv) Other equipment	_____	_____	_____
Total rental/lease	_____	_____	_____

Note:

* If the fixed assets are located in more than one location, please provide the same information on a separate sheet of paper

C. FINANCING

	Existing RM	Additional RM	Total RM	%
1. Authorised capital				
2. Shareholders' funds				
(a) Paid-up capital				
(i) Malaysian individuals				
Bumiputera				
Non-Bumiputera				
(ii) Companies incorporated in Malaysia*				
(iii) Foreign nationals/ companies (Specify name and nationality/ country of origin)				
Total of (i), (ii) and (iii)				**100%**
(b) Reserves (excluding capital appreciation)				
Total of (a) and (b)				

* For 2(a)(ii), please provide equity structure as follows:

Name of company: _____

	%
Bumiputera	
Non-Bumiputera	
Foreign nationals/companies (Specify name and nationality/country of origin)	
Total	**100%**

Name of company: _____

	%
Bumiputera	
Non-Bumiputera	
Foreign nationals/companies (Specify name and nationality/country of origin)	
Total	**100%**

	Existing RM	Additional RM	Total RM
3. Loan			
Domestic	_____	_____	_____
Foreign (Specify country of origin): _____	_____	_____	_____
Total	_____	_____	_____
4. Other sources (Please specify):			
_____	_____	_____	_____
_____	_____	_____	_____
Total	_____	_____	_____
Total of 2, 3 and 4	_____	_____	_____

5. State the name of any other company in Malaysia manufacturing the same/similar products in which the applicant company or any shareholder of the applicant company has equity participation.

Company registration no.	Name of company

6. Please attach a copy of the latest audited accounts.

D. MANPOWER*

1. Please fill in where relevant
   Please note that the information is required to enable the government to undertake the appropriate manpower planning to meet the specific manpower needs of companies proposing to establish projects in Malaysia.

(a) Existing manpower

Category	Full-time employment													
	R&D activities							Other activities						
	Malaysian			Foreign national			Total	Malaysian			Foreign national			Total
	Degree	Diploma/ Certificate	Others	Degree	Diploma/ Certificate	Others		Degree	Diploma/ Certificate	Others	Degree	Diploma/ Certificate	Others	
1. Managerial staff with (a) Technical qualifications														
(i) Electrical & Electronics Engineering														
(ii) Mechanical Engineering														
(iii) Chemical Engineering														
(iv) Others (Please specify): _____														
(b) Science qualifications														
(i) Chemistry														
(ii) Physics														
(iii) Biotechnology / Microbiology														
(iv) Pharmacy														
(v) Computer Science														
(vi) Others (Please specify): _____														
(c) Other qualifications / experience (e.g. economics, marketing, finance & accounting. Please specify): _____														

Note:

* If there is more than one factory location, please provide the same information on a separate sheet of paper

Category	Full-time employment													
	R&D activities							Other activities						
	Malaysian			Foreign national			Total	Malaysian			Foreign national			Total
	Degree	Diploma/ Certificate	Others	Degree	Diploma/ Certificate	Others		Degree	Diploma/ Certificate	Others	Degree	Diploma/ Certificate	Others	
2. Technical and supervisory staff with (a) Technical qualifications														
(i) Electrical & Electronics Engineering														
(ii) Mechanical Engineering														
(iii) Chemical Engineering														
(iv) Others (Please specify): _____														
(b) Science qualifications														
(i) Chemistry														
(ii) Physics														
(iii) Biotechnology / Microbiology														
(iv) Pharmacy														
(v) Computer Science														
(vi) Others (Please specify): _____														
(c) Other qualifications / experience Craft skills														
(i) Plant maintenance mechanic														
(ii) Tool & die maker														
(iii) Machinist														
(iv) IT personnel (Including CAD/CAM designer & DCS operator)														
(v) Quality Controller														
(vi) Electrician														
(vii) Chargeman														
(viii) Welder														

Category	Full-time employment													
	R&D activities							Other activities						
	Malaysian			Foreign national			Total	Malaysian			Foreign national			Total
	Degree	Diploma/ Certificate	Others	Degree	Diploma/ Certificate	Others		Degree	Diploma/ Certificate	Others	Degree	Diploma/ Certificate	Others	
(ix) Other special skills related to the sector (Please specify):														
a) _____														
b) _____														
c) _____														
d) _____														
e) _____														
f) _____														
g) _____														
3. (a) Sales and clerical														
(b) Other general workers														
4. Machine operators and assemblers**														
TOTAL														

Note:
** Machine operators and assemblers are those involved in the production/assembly line who receive mainly on the job training for a period between 3 to 6 months,e.g. production operators

(b) Additional manpower

Category	Full-time employment													
	R&D activities							Other activities						
	Malaysian			Foreign national			Total	Malaysian			Foreign national			Total
	Degree	Diploma/ Certificate	Others	Degree	Diploma/ Certificate	Others		Degree	Diploma/ Certificate	Others	Degree	Diploma/ Certificate	Others	
1. Managerial staff with (a) Technical qualifications														
(i) Electrical & Electronics Engineering														
(ii) Mechanical Engineering														
(iii) Chemical Engineering														
(iv) Others (Please specify): _____														
(b) Science qualifications														
(i) Chemistry														
(ii) Physics														
(iii) Biotechnology / Microbiology														
(iv) Pharmacy														
(v) Computer Science														
(vi) Others (Please specify): _____														
(c) Other qualifications / experience (e.g. economics, marketing, finance & accounting. Please specify): _____														

Note:

* If there is more than one factory location, please provide the same information on a separate sheet of paper

Category	Full-time employment													
	R&D activities							Other activities						
	Malaysian			Foreign national			Total	Malaysian			Foreign national			Total
	Degree	Diploma/ Certificate	Others	Degree	Diploma/ Certificate	Others		Degree	Diploma/ Certificate	Others	Degree	Diploma/ Certificate	Others	
2. Technical and supervisory staff with (a) Technical qualifications														
(i) Electrical & Electronics Engineering														
(ii) Mechanical Engineering														
(iii) Chemical Engineering														
(iv) Others (Please specify): _____														
(b) Science qualifications														
(i) Chemistry														
(ii) Physics														
(iii) Biotechnology / Microbiology														
(iv) Pharmacy														
(v) Computer Science														
(vi) Others (Please specify): _____														
(c) Other qualifications / experience Craft skills														
(ix) Plant maintenance mechanic														
(x) Tool & die maker														
(xi) Machinist														
(xii) IT personnel (Including CAD/CAM designer & DCS operator)														
(xiii) Quality Controller														
(xiv) Electrician														
(xv) Chargeman														
(xvi) Welder														

Category	Full-time employment													
	R&D activities							Other activities						
	Malaysian			Foreign national			Total	Malaysian			Foreign national			Total
	Degree	Diploma/ Certificate	Others	Degree	Diploma/ Certificate	Others		Degree	Diploma/ Certificate	Others	Degree	Diploma/ Certificate	Others	
(x) Other special skills related to the sector (Please specify):														
h) _____														
i) _____														
j) _____														
k) _____														
l) _____														
m) _____														
n) _____														
3. (a) Sales and clerical														
(b) Other general workers														
4. Machine operators and assemblers**														
TOTAL														

Note:
** Machine operators and assemblers are those involved in the production/assembly line who receive mainly on the job training for a period between 3 to 6 months,e.g. production operators

		EXISTING		EXPANSION	
		R&D Activities	Other Activities	R&D Activities	Other Activities
1. Percentage of science and technical staff having degrees or diplomas with a minimum of 5 years experience (of the total workforce)	:	%	%	%	%
2. Number of Staff with Post Graduate (ie. Masters/PhD etc) qualifications	:				

		Total Workforce	
		Foreign	Domestic
3. In addition to the full-time employees as mentioned in the above tables, please provide the number of workers which are outsourced (not under the company's payroll)	:		

2. Job function of Research and Development staff

Designation	Job function
Existing	
Additional	

E. EMPLOYMENT BY INCOME

(a) Existing

Category	Number of Persons Employed by Average Monthly Salary* (RM)															
	R&D activities								Other activities							
	<3,000		3,000-<5,000		5,000-<10,000		10,000 and above		<3,000		3,000-<5,000		5,000-<10,000		10,000 and above	
	Malaysian	Foreign National	Malaysian	Foreign National	Malaysian	Foreign National	Malaysian	Foreign National	Malaysian	Foreign National	Malaysian	Foreign National	Malaysian	Foreign National	Malaysian	Foreign National
1. Managerial and Professional																
2. Technical and supervisory staff with (a) Engineering/Technical qualifications																
(b) Science qualifications																
(c) Other qualifications / experience Craft skills such as plant maintenance mechanic, tool & die maker, machinist, IT personnel (including CAD/CAM designer & DCS operator), Quality Controller, Electrician, Chargeman, Welder)																

Category	Number of Persons Employed by Average Monthly Salary* (RM)															
	R&D activities								Other activities							
	<3,000		3,000-<5,000		5,000-<10,000		10,000 and above		<3,000		3,000-<5,000		5,000-<10,000		10,000 and above	
	Malaysian	Foreign National	Malaysian	Foreign National	Malaysian	Foreign National	Malaysian	Foreign National	Malaysian	Foreign National	Malaysian	Foreign National	Malaysian	Foreign National	Malaysian	Foreign National
3. (a) Sales and clerical																
(b) Other general workers																
4. Machine operators and assemblers**																
Total																

Note:

* include wages, salaries, bonuses, social insurance contribution and all employee benefits.

If there is more than one factory location, please provide the same information on a separate sheet of paper.

** Machine operators and assemblers are those involved in the production/assembly line who receive mainly on-the-job training for a period between 3 to 6 months,e.g. production operators.

1. Percentage of foreign workers with basic salary less than RM1,500 per month (of the total workforce)	:	%

(b) Additional

Category	Number of Persons Employed by Average Monthly Salary* (RM)															
	R&D activities								Other activities							
	<3,000		3,000-<5,000		5,000-<10,000		10,000 and above		<3,000		3,000-<5,000		5,000-<10,000		10,000 and above	
	Malaysian	Foreign National	Malaysian	Foreign National	Malaysian	Foreign National	Malaysian	Foreign National	Malaysian	Foreign National	Malaysian	Foreign National	Malaysian	Foreign National	Malaysian	Foreign National
1. Managerial and Professional																
2. Technical and supervisory staff with (a) Engineering/Technical qualifications																
(b) Science qualifications																
(c) Other qualifications / experience Craft skills such as plant maintenance mechanic, tool & die maker, machinist, IT personnel (including CAD/CAM designer & DCS operator), Quality Controller, Electrician, Chargeman, Welder)																

Category	Number of Persons Employed by Average Monthly Salary* (RM)															
	R&D activities								Other activities							
	<3,000		3,000-<5,000		5,000-<10,000		10,000 and above		<3,000		3,000-<5,000		5,000-<10,000		10,000 and above	
	Malaysian	Foreign National	Malaysian	Foreign National	Malaysian	Foreign National	Malaysian	Foreign National	Malaysian	Foreign National	Malaysian	Foreign National	Malaysian	Foreign National	Malaysian	Foreign National
3. (a) Sales and clerical																
(b) Other general workers																
4. Machine operators and assemblers**																
Total																

Note:

* include wages, salaries, bonuses, social insurance contribution and all employee benefits.

If there is more than one factory location, please provide the same information on a separate sheet of paper.

** Machine operators and assemblers are those involved in the production/assembly line who receive mainly on-the-job training for a period between 3 to 6 months,e.g. production operators.

1. Percentage of foreign workers with basic salary less than RM1,500 per month (of the total workforce)	_____ %

F. MANUFACTURING PROCESS AND POLLUTION CONTROL

1. Please attach the manufacturing process flow chart and explain the major processes for the additional products/activities. Indicate processes according to type of machinery used as follows:

R - robotic machinery

A - automatic machinery

S - semi-automatic machinery

M - manual operation

2. From the manufacturing process flow chart, please provide details on emission of pollutants.

Point of emission	Type of pollutants	Quantity

G. SOURCES OF TECHNICAL KNOW-HOW

Name and address of supplier	Years of experience	Name of other companies with similar projects in the world	Relationship with applicant (e.g. machinery supplier, parent company/associate company)

H. MAIN MACHINERY AND EQUIPMENT

1. Main machinery and pollution control equipment

Description	Type*	Unit	Function	Country of origin	Cost (RM)
Existing					
Additional					

Note:

* Indicate:

R - robotic machinery A - automatic machinery S - semi-automatic machinery M - manual operation

2. Main machinery and equipment for Research and Development

Description	Function	Unit	Cost (RM)
Existing			
		Sub -Total	
Additional			
		Sub - Total	
		Total	

I. RESEARCH AND DEVELOPMENT IN MALAYSIA

1. Research and Development activities

Title of project/activity	Objective	Date of commencement and duration
Existing products/produce/activities		
Proposed additional products/produce/activities		

Note:

* From the date of commencement of R&D activity

2. Operational expenditure for Research and Development*

(a) Existing products/produce/activities

Item	Annual expenditure (RM)
(i) Cost of raw material used in the R&D	
(ii) Payment for technical services	
(iii) Salary and allowance for personnel involved directly in the research project	
(iv) Other costs	
(a) Travelling cost of research personnel	
(b) Transportation cost of raw material	
(c) Rental and maintenance of buildings, machinery and equipment	
(d) Prototyping of product	
Total	

(b) Proposed additional products/produce/activities

Item	Year 1 (RM)	Year 2 (RM)	Year 3 (RM)
(i) Cost of raw material used in the R&D			
(ii) Payment for technical services			
(iii) Salary and allowance for personnel involved directly in the research project			
(iv) Other costs			
(a) Travelling cost of research personnel			
(b) Transportation cost of raw material			
(c) Rental and maintenance of buildings, machinery and equipment			
(d) Prototyping of product			
Total			

Note:

* From the date of commencement of R&D activity

J. MAIN RAW MATERIALS AND COMPONENTS

Raw materials and components	Quantity* per annum	Value per annum (RM)	Source			
			Local manufacturer		Import	
			% of value	Name and address	% of value	Country of origin
Existing products/produce/activities						
Proposed additional products/ produce/activities						

Note:

* Units as specified in the "Malaysian Trade Classification and Customs Duties Order"

K. PRODUCTION SCHEDULE*

1. Existing products/produce/activities

Products/produce/activities	Actual annual production		Installed production capacity	Additional production capacity
	Quantity**	Ex-factory value (RM)	Quantity**	Quantity**
Total				

Number of shifts: _____

Note:

* If there is more than one factory/farm location, please provide the same information on a separate sheet of paper

** Units as specified in "The Malaysian Trade Classification and Customs Duties Order"

2. Proposed additional products/produce/activities

Products/produce/activities	Year 1		Year 2		Year 3		Maximum annual production capacity per 8-hour shift
	Quantity**	Ex-factory value (RM)	Quantity**	Ex-factory value (RM)	Quantity**	Ex-factory value (RM)	
Total							
Number of shifts							

Note:

** Units as specified in the "Malaysian Trade Classification and Customs Duties Order"

L. SALES AND MARKET

1. Gross sales
   (a) Existing products/produce/activities

Products/produce/activities	Annual gross sales (RM)
Total	

(b) Proposed additional products/produce/activities

Products/produce/activities	Gross sales		
	Year 1 (RM)	Year 2 (RM)	Year 3 (RM)
Total			

2. Market

Products/produce/activities	% of market			Principal consumers/ export destination
	Year 1	Year 2	Year 3	
Existing products/ produce/activities For domestic market				
For FZ/LMW* market				
For export market				
Proposed additional products/produce/activities For domestic market				
For FZ/LMW* market				
For export market				

Note:

* Free Zone/Licenced Manufacturing Warehouse
** The information on market is for record purposes only and not a factor to be considered in the granting of incentives

M. PRODUCT PRICING

Item	% of ex-factory price for each product/produce*		
	Product 1	Product 2	Product 3
(a) Cost of imported raw materials/components			
(b) Cost of local raw materials/components			
(c) Cost of energy and fuel			
(d) Cost of labour			
(e) Depreciation			
(f) Interest payments, indirect taxes, quit rent & etc.			
(g) Administrative and marketing costs			
(h) Cost of technology (including royalty, management services and other related costs)			
(i) Profit			
Total	**100%**	**100%**	**100%**

Note:

* If there are more products/produce, please provide the same information on a separate sheet of paper

N. ESTIMATED LABOUR COST AND EARNINGS

	Year in Operation	Year 1	Year 2	Year 3
Estimated Labour Cost				
Salaries and Wages* (RM)				
Estimated Earnings				
(a)	Estimated Earnings before Interest, Tax, Depreciation & Amortization (EBITDA) (RM)			
(b)	Estimated Net Income After Tax (RM)			
	- Held in Malaysia as reserves (%)			
	- Remitted out of Malaysia (%)			
	- Reinvested in Malaysia (%)			

Note:
* Include wages, salaries, bonuses, social insurance contribution and all employee benefits

O. DETAILS OF EXPATRIATE POSTS

Please complete this section if the applicant is applying for expatriate posts. Please exclude the expartriate posts that have been directly applied for to the Immigration Department or any other department.

1. New/additional posts applied for

Designation*	Type of post (key/term post)	Number	Duration (years)	Proposed minimum salary (RM)

Note:
* Please list according to priority

For each expatriate post applied for, please submit the following details:

(a) Job function

(b) Minimum academic/professional qualification required

(c) Minimum period of experience required

(d) Justification for request

(e) Proposed training scheme for Malaysian personnel to fill the relevant posts

2. Existing/approved posts (if any)

Designation	Name and nationality	Duration approved	Date post filled	Expiry date	Basic salary paid (RM)

For each existing/approved expatriate post, please submit the following details:

(a) Name of Malaysian who has taken over/will take over the post

(b) If the post has not been/will not be Malaysianised, state reasons and the company's plan on the post.

3. Please attach the organisational structure of the company indicating the positions of the expatriate posts.

P. DECLARATION

I, _____, the Managing Director of

_____

(i) hereby declare that to the best of my knowledge, the particulars furnished in this application are true.

(ii)* have engaged/is planning to engage the services of the following consultant for my application :

Company Name : _____

Address : _____

_____

_____

Contact Person : _____

Designation : _____

Telephone no. : _____

Fax no. : _____

E-mail : _____

_____

I take full responsibility for all information submitted by the consultant(s).

_____ Date

_____ (Signature)

_____ (Company's Stamp or Seal)

*Please complete this section if the company has engaged/is planning to engage the services of consultant(s) to act on behalf of the company. Please provide information on a separate sheet of paper if space is insufficient

MIDA Ref. :
Date : (Month & Year)

Messrs
Company's name
Company's address

Dear Sir,

Application from **...(Company's Name)...** for **Pre-Package Incentive** as Follows:-

Income Tax Exemption under P.U. (A) 112 Income Tax (Exemption) (No.11) Order 2006; Income Tax Act. 1967

Or

Income Tax Exemption Equivalent To Investment Tax Allowance Under P.U. (A) 113 Income Tax (Exemption) (No.12) Order 2006; Income Tax Act, 1967

To Produce / Undertake the Activity of '.....'

***Choose whichever related only**

I refer to your application with complete information received by MIDA on .....(date)..... regarding the above subject.

2. Please be informed that **the Government of Malaysia** has agreed to **approve** your application as follows:-

Income tax exemption of ...% of statutory income for a period of ..... years under P.U. (A) 112 Income Tax (Exemption) (No.11) Order 2006; Income Tax Act, 1967 *to produce / to undertake the activity of '.....' starting from the date to be determined by the Minister of International Trade and Industry subject to the following conditions:-

Or

Income tax exemption equivalent to Investment Tax Allowance of ...% on qualifying capital expenditure for a period of ..... years under P.U. (A) 113 Income Tax (Exemption) (No.12) Order 2006; Income Tax Act. 1967 *to produce / to undertake the activity of '**.....**' starting from the date to be determined by the Minister of International Trade and Industry. The allowance can be offset against ...% of the statutory income for each assessment year subject to the following conditions:-

(i) ***Fixed asset investment / additional fixed asset investment** (not including land cost) shall be at least **RM.....** within a period of **..... years** starting from **year of assessment .....** as proposed;

(ii) **Value added** for your company's *product/activity shall be at least **...%** as proposed;

(iii) **The number of staff at the managerial, technical and supervisory level** shall consist of at least **...%** of your company's overall manpower as proposed.

3. This pre-package approval is specifically for company ...(name of company)..... and must be treated as confidential and cannot be disclosed to any third parties. Any amendment on the proposed approval for Para (whichever related) might result in the reduction of incentive value offered.

4. Your company is required to apply for **the Effective Date (for approvals under P.U.(A) 112 & 113) of the tax incentive within twenty four (24) months** from the date of this letter. The application must be submitted to **the Licensing & Incentive Compliance and Monitoring Section, Malaysian Investment Development Authority (MIDA)**. Please use **Form *PIA '86 (PS) 96 / PIA '86 ITA- (I)** which can be downloaded from MIDA's website at **www.mida.gov.my**.

5. In the event your company is unable to submit the aforesaid application within the time stipulated, please apply for an extension before the expiry of the stipulated time limit to **Malaysian Investment**

Development Authority (MIDA). Otherwise, your failure may be a cause for revocation of the incentive.

6. For your information, MIDA also provides advice and follow-up assistance to help companies in implementing their projects. The Infrastructure & Industry Support Division and representatives from government departments / agencies are housed in MIDA, and are ready to provide guidance and assistance. Their contact details are in the Appendix.

Thank you.

Yours sincerely,

(DATO' AZMAN MAHMUD)
Chief Executive Officer
Malaysian Investment Development Authority

c.c.: Secretary
Ministry of International Trade and Industry (MITI)
Sectorial Policy Division
Level 28, Menara MITI
No. 7, Jalan Sultan Haji Ahmad Shah
50480 Kuala Lumpur
(Attn.:YBhg. Dato' Hj. Nik Rahmat Nik Taib
Deputy Secretary (Industry))

Secretary of Treasury
Ministry of Finance
Tax Analysis Division
Level 6 & 7, Middle Block, Precinct 2
Ministry of Finance Complex
Federal Government Administration Centre
62592 Putrajaya
(Attn.:Mrs. Khodijah Abdullah
Secretary, Tax Division)

Chief Executive
Inland Revenue Board (IRB)
Wisma Hasil
Persiaran Rimba Permai
Cyber 8, 63000 Cyberjaya
Selangor Darul Ehsan
(Attn.:Mrs. Noraini Jaafar
Director, Taxation Policy Department)

Director
Strategic Planning and Policy Advocacy Division
Malaysian Investment Development Authority

Head of Section
Licensing & Incentive Compliance and Monitoring Section
Malaysian Investment Development Authority

MIDA Ref. :
Date : (Month & Year)

Messrs
Company's name
Company's address

Dear Sir,

Application from **Company's Name** for:-

(I) * **Income Tax Exemption under *P.U. (A) 112 Income Tax (Exemption) (No.11) Order 2006; Income Tax Act. 1967**

Or

(II) * **Income Tax Exemption Equivalent to Investment Tax Allowance** under P.U. (A) 113 Income Tax (Exemption) (No.12) Order 2006; Income Tax Act. 1967

To Produce / To Undertake the Activity of '.....'

***Choose whichever related only**

I refer to your application with complete information received by MIDA on ...(date)..... regarding the above subject.

2. Please be informed that **the Government of Malaysia <u>has declined</u>** your application for ***...(types of application)....** *to produce / to undertake the activity of '.....'. It is with regret that your application does not fulfil the criteria for incentive / grant consideration.

Thank you.

Yours sincerely,

(DATO' AZMAN MAHMUD)
Chief Executive Officer
Malaysian Investment Development Authority

c.c.: Secretary
Ministry of International Trade and Industry (MITI)
Sectorial Policy Division
Menara MITI
No. 7, Jalan Sultan Haji Ahmad Shah
50480 Kuala Lumpur
(Attn.:Senior Director
Sectorial Policy Division)

Or

Secretary
Ministry of International Trade and Industry (MITI)
Level 28, Menara MITI
No. 7, Jalan Sultan Haji Ahmad Shah
50480 Kuala Lumpur
(Attn.:YBhg. Dato' Hj. Nik Rahmat Nik Taib
Deputy Secretary (Industry)
(applicable for pre-package approval only)

Secretary of Treasury
Ministry of Finance
Tax Analysis Division
Level 6 & 7, Middle Block, Precinct 2
Ministry of Finance Complex
Federal Government Administration Centre
62592 Putrajaya
(Attn.:Mrs. Khodijah Abdullah
Secretary, Tax Division)

Chief Executive
Inland Revenue Board (IRB)
Wisma Hasil
Persiaran Rimba Permai
Cyber 8, 63000 Cyberjaya
Selangor Darul Ehsan
(Attn.:Mrs. Noraini Jaafar
Director, Taxation Policy Department)

Director
Infrastructure and Industry Support Division
Malaysian Investment Development Authority

Or

Director
Strategic Planning and Policy Advocacy Division
Malaysian Investment Development Authority
(applicable for pre-package approval only)

Malaysia's Commitment in International Tax Standard

Friday, Aug 17 2018

MALAYSIA'S PARTICIPATION IN FORUM OF HARMFUL TAX PRACTICES (FHTP) THE ORGANIZATION FOR ECONOMIC COOPERATION AND DEVELOPMENT (OECD) TAXATION INITIATIVES

In order to address the issue of base erosion and profit shifting, the Organization of Economic Cooperation and Development (OECD) and the G20 countries introduced Base Erosion and Profit Shifting (BEPS) Action Plan as international taxation standard. The plan consists of 15 actions to address BEPS issues.

Malaysia in principal has committed to implement and to adhere to this standard. Under this commitment, Malaysia officially joined the OECD Inclusive Framework (IF) on BEPS as Associate Members. The IF emphasizes on the 4 minimum standards, namely:

No	Action Plan	Minimum Standard	Description
1.	*Action 5*	*Countering Harmful Tax Practices More Effectively, Taking into Account Transparency and Substance*	Identification of no or low preferential corporate tax rate (preferential regimes) that can be categorised as harmful tax practices. It focuses on improving transparency through the exchange of information on tax matters and requirement of substantial activities for any preferential regimes.
2.	*Action 6*	*Preventing the Granting of Treaty Benefits in Inappropriate Circumstances*	Measures to avoid treaty shopping activities to enjoy benefits under the DTAA by taxpayers.
3.	*Action 13*	*Guidance on Transfer Pricing Documentation and Country-by-Country Reporting*	Obligation to submit Country-by-Country Reporting by multinational companies with subsidiaries or branches for cross-border transactions.
4.	*Action 14*	*Making Dispute Resolution Mechanisms More Effective*	To ensure any tax-related disputes under the DTAA be resolved between treaty partners effectively.

Forum on Harmful Tax Practices (FHTP)

FHTP has identified jurisdictions which provide preferential regimes for mobile geographical services activities related to intellectual property (IP) and non-intellectual property (Non-IP). Malaysian incentives that have been identified for FHTP evaluation are as follows:

A. IP Incentives:

i. Principal Hub;
ii. Pioneer Status (High Technology);
iii. Biotechnology Industry (BioNexus); and
iv. MSC Malaysia

B. Non - IP Incentives:

i. Biotechnology Industry (BioNexus);

ii. MSC Malaysia;
iii. Principal Hub;
iv. Pioneer Status (Contract R&D);
v. Treasury Management Centre;
vi. Economic Development Regions:
    - Iskandar Malaysia (IM);
    - East Coast Economic Region (ECER);
    - Sabah Development Corridor (SDC);
vii. Approved Services Project;
viii. Green Technology Services;
ix. Labuan Financial Services;
x. Labuan Leasing Services;
xi. Foreign Fund Management;
xii. Inward re-insurance and offshore insurance; and
xiii. Malaysian International Trading Company.

Tax incentives are evaluated based on the following criteria:

IP Incentives	Non-IP Incentives
1. *Nexus Approach* Only R&D expenditures incurred in Malaysia are eligible for Income tax exemption. **2. *Transparency*** Incentives that comply with FHTP's requirement must be gazetted by 31st December 2018.	**1. *Ring Fencing*** No distinction on tax treatment including transaction and currency restrictions between residents and non-residents. **2. *Transparency*** Incentives that comply with FHTP's requirement must be gazetted by 31st December 2018. **3. *Substantial Activities*** Substantial activities requirements under FHTP are as follows: i. adequate investment amount or annual business operating expenses incurred in Malaysia; and ii. adequate number of full-time job employment in Malaysia.

Timelines for Implementing Tax Incentives Gazette under FHTP

a. IP Incentives

Action	Date
1. Legislation process to amend existing IP incentives.	To be gazetted latest by 31 December 2018.
2. Cut-off date for new entrants to an existing IP incentives.	Effective 1st July 2018, IP incentives are subject to Nexus Approach criteria. No new approval will be granted for existing IP incentives that do not comply with Nexus Approach criteria. Nexus Approach terms of reference can be found through: https://www.oecd-ilibrary.org/docserver/9789264283954-en.pdf?expires=1528445154&id=id&accname=guest&checksum=BCE5668395E0A9DEDA783979F2B4F6AA (https://www.oecd-ilibrary.org/docserver/9789264283954-en.pdf?expires=1528445154&id=id&accname=guest&checksum=BCE5668395E0A9DEDA783979F2B4F6AA)

3. Cut-off date to enjoy benefits from the existing IP incentives approved on or before 30th June 2018 that do not comply with FHTP criteria (grandfathering).	Grandfathering will be allowed until 30th June 2021 to the existing companies which currently enjoy the existing IP incentives except for IP assets acquired from related parties after 16 October 2017. Tax payers need to distinguish IP assets from related and non-related parties.

b. Non-IP Incentives

Amendments to legislation related to Non-IP incentives are to be gazetted latest by 31st December 2018. Grandfathering will be allowed to the existing companies which currently enjoy Non-IP incentive, as follows:

i. incentive approved on or before 16th October 2017
   - grandfathering period is up to 30th June 2021;
   - grandfathering is not allowed for new assets and new activities from existing entrants;
ii. incentive approved after 16th October 2017
   - grandfathering period is up to the date of gazette or 31st December 2018 whichever earlier.

The Ministry of Finance together with Inland Revenue Board of Malaysia and related ministries/agencies are currently reviewing Malaysian tax incentives in order to meet criteria set under FHTP.

For enquiries:

International Tax Policy Section (I)
Tax Division
Level 6, Centre Block
Ministry of Finance, Malaysia
03-8882 3345 / 03-8882 3348

INCOME TAX ACT 1967

INCOME TAX (DEDUCTIONS OF PREMIUMS FOR EXPORT CREDIT INSURANCE) RULES 1985

IN exercise of the powers conferred by *subsection (1) of section 154* of the Income Tax Act 1967, the Minister makes the following rules: Act 53.

1. These Rules may be cited as the **Income Tax (Deductions of Premiums for Export Credit Insurance) Rules 1985** and shall have effect for the year of assessment 1986 and subsequent years of assessment. Citation and commencement.

2. (1) For the purposes of ascertaining the adjusted income of a person from a business under the Act, there shall be allowed as a deduction any premium of a kind allowable under *section 33* of the Act payable in respect of export credit insurance insured with a company approved by the Minister. Deductions.

(2) The deduction under these Rules shall be in addition to any deduction allowable under *section 33* of the Act.

Made the 26th November 1985.
[CR (8.09) 294/6/4-14; PN. (PU^2) 80 Pt.]

DAIM ZAINUDDIN
Minister of Finance,

(To be laid before the Dewan Rakyat pursuant to subsection (2) of section 154 of the Income Tax Act 1967)

INCOME TAX ACT 1967

INCOME TAX (DEDUCTION FOR FREIGHT CHARGES FROM SABAH OR SARAWAK TO PENINSULAR MALAYSIA) RULES 2000

IN exercise of the powers conferred by paragraph 154(1)*(b)* of the Income Tax Act 1967 [Act 53], the Minister makes the following rules;

Citation and commencement

1. (1) These rules may be cited as the **Income Tax (Deduction for Freight Charges from Sabah or Sarawak to Peninsular Malaysia) Rules 2000.**

(2) These Rules shall have effect for the year of assessment 2000 in respect of the basis period ending in the year 2000 and subsequent years of assessment.

Interpretation

2. In these Rules, "freight charges" means ship freight charges incurred by manufacturers for the shipment of their manufactured goods from Sabah or Sarawak to any port in Peninsular Malaysia.

Deduction

3. For the purposes of ascertaining the adjusted income of a person from his business for the basis period for a year of assessment, there shall be allowed, in addition to any deduction allowable under section 33 of the Act, a further deduction equal to the amount of any freight charges incurred in that basis period.

Made 26 January 2000.
[Perb. R(8.20) 116/1-138 (2000) (SK. 11); LHDN. 01/35/(S)/42/51/82-35-1; PN(PU^2)80/XXVII]

On behalf and in the name of the Minister of Finance.

CHAN KONG CHOY
Deputy Minister of Finance

[To be laid before the Dewan Rakyat pursuant to subsection 154(2) of the Income Tax Act 1967)

INCOME TAX ACT 1967

INCOME TAX (DEDUCTIONS OF INSURANCE PREMIUMS FOR EXPORTERS) RULES 1995

IN exercise of the powers conferred by *subsection 154(1)* of the Income Tax Act 1967, the Minister makes the following rules: Act 53.

1. These rules may be cited as the **Income Tax (Deductions of Insurance Premiums for Exporters) Rules 1995** and shall have effect for the year of assessment 1995 and subsequent years of assessment. Citation and commencement.

2. (1) For the purposes of ascertaining the adjusted income of a person from a business under the Act, there shall be allowed as a deduction any premium allowable under *section 33* of the Act payable in respect of insurance of cargo exported by that person provided the risks are insured with any insurance company incorporated in Malaysia. Deduction.

(2) The deduction under these Rules shall be in addition to any deduction allowable under *section 33* of the Act.

Made the 22nd February 1995.
[Perb. CR (8.09) 248/6/4-9(SJ. 5); PN.(PU^2) 80/XXI.]

ANWAR IBRAHIM
Minister of Finance

[*To be laid before the Dewan Rakyat pursuant to subsection 154(1) of the Income Tax Act 1967*]

P.U. (A) 219.

INCOME TAX ACT 1967

INCOME TAX (DEDUCTIONS OF INSURANCE PREMIUMS FOR EXPORTERS) (REVOCATION) RULES 2012

IN exercise of the powers conferred by subsection 154(1) of the Income Tax Act 1967 [*Act 53*], the Minister makes the following rules:

Citation and commencement

1. (1) These rules may be cited as the **Income Tax (Deductions of Insurance Premiums for Exporters) (Revocation) Rules 2012.**

(2) These Rules shall have effect from the year of assessment 2016.

Revocation

2. The Income Tax (Deductions of Insurance Premiums for Exporters) Rules 1995 [*P.U. (A) 79/1995*] are revoked.

Made 10 July 2012
[0.3865/441 JLD.1(SK.1); LHDN 01/35/(S)/42/51/286-16; PN(PU^2)80/LXV]

DATO' SERI AHMAD HUSNI MOHAMAD HANADZLAH
Second Minister of Finance

[*To be laid before the Dewan Rakyat pursuant to subsection 154(2) of the Income Tax Act 1967*]

INCOME TAX ACT 1967

INCOME TAX (DEDUCTIONS OF INSURANCE PREMIUMS FOR IMPORTERS) RULES 1982

IN exercise of the powers conferred by subsection (1) of section 154 of the Income Tax Act 1967, the Minister makes the following Rules : *Act 53.*

1. These Rules may be cited as the **Income Tax (Deductions of Insurance Premiums for Importers) Rules 1982** and shall have effect for the year of assessment 1982 and subsequent years of assessment. Citation and commencement.

2. (1) For the purposes of ascertaining the adjusted income of a person from a business under the Act, there shall be allowed as a deduction any premium of a kind allowable under section 33 of the Act payable in respect of insurance of cargo imported by that person provided the risks are insured with any insurance company incorporated in Malaysia. Deductions.

(2) The deduction under these Rules shall be in addition to any deduction allowable under section 33 of the Act.

Made the 2nd March 1982.
[CR. (8.09) 294 / 6 / 4-15 (SJ. 1); PN. (PU^2) 80 / VII.]

TENGKU RAZALEIGH HAMZAH,
Minister of Finance

(To be laid before the Dewan Rakyat pursuant to subsection (2) of section 154 of the Income Tax Act 1967.)

P.U. (A) 220.

INCOME TAX ACT 1967

INCOME TAX (DEDUCTIONS OF INSURANCE PREMIUMS FOR IMPORTERS) (REVOCATION) RULES 2012

IN exercise of the powers conferred by subsection 154(1) of the Income Tax Act 1967 [*Act 53*], the Minister makes the following rules:

Citation and commencement

1. (1) These rules may be cited as the **Income Tax (Deductions of Insurance Premiums for Importers) (Revocation) Rules 2012.**

(2) These Rules shall have effect from the year of assessment 2016.

Revocation

2. The Income Tax (Deductions of Insurance Premiums for Importers) Rules 1982 [*P.U. (A) 72/1982*] are revoked.

Made 10 July 2012
[0.3865/441 JLD.1(SK.1); LHDN 01/35/(S)/42/51/286-16; PN(PU^2)80/LXV]

DATO' SERI AHMAD HUSNI MOHAMAD HANADZLAH
Second Minister of Finance

[*To be laid before the Dewan Rakyat pursuant to subsection 154(2) of the Income Tax Act 1967*]

ATTACHMENT C-12

INLAND REVENUE BOARD OF MALAYSIA

REINVESTMENT ALLOWANCE
PART I – MANUFACTURING ACTIVITY

PUBLIC RULING NO. 10/2020

Translation from the original Bahasa Malaysia text.

DATE OF PUBLICATION: 06 NOVEMBER 2020

INLAND REVENUE BOARD OF MALAYSIA

Public Ruling No. 10/2020
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REINVESTMENT ALLOWANCE
PART 1 – MANUFACTURING ACTIVITY

INLAND REVENUE BOARD OF MALAYSIA

Public Ruling No. 10/2020
Date Of Publication: 06 November 2020

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DIRECTOR GENERAL'S PUBLIC RULING

Section 138A of the Income Tax Act 1967 (ITA) provides that the Director General is empowered to make a Public Ruling in relation to the application of any provisions of the ITA.

A Public Ruling is published as a guide for the public and officers of the Inland Revenue Board of Malaysia. It sets out the interpretation of the Director General in respect of the particular tax law and the policy as well as the procedure applicable to it.

The Director General may withdraw this Public Ruling either wholly or in part, by notice of withdrawal or by publication of a new Public Ruling.

Director General of Inland Revenue,
Inland Revenue Board of Malaysia.

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1. Objective

The objective of this Public Ruling (PR) is to assist a company resident in Malaysia and engaged in manufacturing activities in ascertaining its eligibility to claim reinvestment allowance (RA) and provide clarification in relation to:

(a) projects that qualify for RA;

(b) expenditures that qualify for RA;

(c) period of eligibility;

(d) computation of RA; and

(e) limitation of maximum period to absorb RA balances.

2. Relevant Provisions of the Law

2.1 This PR takes into account laws which are in force as at the date this PR is published.

2.2 The provisions of the Income Tax Act 1967 (ITA) related to this PR are section 133A, Schedule 3 and Schedule 7A.

3. Interpretation

The words used in this PR have the following meaning:

3.1 "Operation" means an activity which consists of the carrying on of a business referred to in paragraph 8 of Schedule 7A of the ITA; and

3.2 "Ceased to be used" in relation to an asset includes an asset classified as held for sale under paragraph 61A of Schedule 3 of the ITA.

4. Eligibility to Claim Reinvestment Allowance

RA is a special tax incentive available to a company resident in Malaysia which:

(a) has been in operation for not less than 36 months; and

(b) has incurred in the basis period for a year of assessment (YA) capital expenditure on a factory, plant or machinery used in Malaysia for the

purposes of a qualifying project referred to in paragraph 8(*a*) of Schedule 7A of the ITA.

5. Minimum Period of Operation

A company has to be in operation for 36 months or more to be eligible to claim RA for a qualifying project. Period of operation is computed from the day the company commenced its business of manufacturing.

Example 1

Company A commenced the business of manufacturing plasticwares on 1.3.2015 and closes its accounts on 31 December each year. The company incurred capital expenditure of RM200,000 on 1.6.2018 on a few high technology machines for the purposes of a modernisation project.

The scenario is summarised as follows:

Year of Assessment				
2015	2016	2017	2018	2019

1.3.2015
Co. A commenced business of manufacturing of plasticwares

1.6.2018
Co. A incurred capital expenditure of RM200,000 for a qualifying project

39 months (in operation): 1.3.2015 to 1.6.2018

Company A is eligible to claim RA for the YA 2018 on the capital expenditure of RM200,000 as the company had been in operation for more than 36 months (i.e 39 months).

Example 2

Company B commenced manufacturing of glass bottles on 1.1.2016 and closes its accounts on 31 December each year. Company B incurred capital expenditure of RM300,000 for the purposes of a qualifying project on 1.7.2018.

The scenario is summarised as follows:

Year of Assessment			
2016	2017	2018	2019

1.1.2016
Co. B commenced business of manufacturing of glass bottles

1.7.2018
Co. B incurred capital expenditure for a qualifying project

30 months (in operation): 1.1.2016 to 1.7.2018

Company B is not eligible to claim RA for the YA 2018 on the capital expenditure of RM300,000 incurred because as at 1.7.2018, the company had been in the business of manufacturing of glass bottles for less than 36 months (i.e. 30 months).

Example 3

Company C commenced the business of manufacturing shoes on 1.3.2014 and closes its accounts on 31 December each year. On 1.9.2015, Company C started another business manufacturing personal care products such as hair shampoo, conditioner and hair styling products which are not related to the manufacturing of shoes. Company C diversified into a wider range of personal care products such as body shampoo and body lotion and incurred qualifying capital expenditure of RM130,000 on 1.5.2018 for that purpose.

The scenario is summarised as follows:

Year of Assessment				
2014	2015	2016	2017	2018

1.3.2014
Co. C commenced business 1 – manufacturing shoes

1.9.2015
Co. C commenced business 2 – manufacturing personal care products

1.5.2018
Co. C incurred capital of RM130,000 for a qualifying project – diversification of personal care products

32 months: 1.9.2015 to 1.5.2018

In determining whether Company C has been in operation for not less than 36 months, the period of operation is calculated from the day the company commenced the activity of manufacturing personal care products which is from 1.9.2015.

As the company has been in the business of manufacturing personal care products for less than 36 months (i.e 32 months), Company C is not eligible for RA on the capital expenditure of RM130,000 for the YA 2018.

6. Manufacturing

6.1 Meaning of manufacturing

Manufacturing for the purposes of RA means –

a) conversion by manual or mechanical means of organic or inorganic materials into a new product by changing the composition, nature or quality of such materials;

b) assembly of parts into a piece of machinery or products, or

c) mixing of materials by a chemical reaction process including biochemical process that changes the structure of a molecule by the breaking of the intra molecular bonds or by altering the spatial arrangement of atom in the molecule,

but does not include –

(i) the installation of machinery or equipment for the purpose of construction;

(ii) a simple packaging operations such as bottling, placing in boxes, bags and cases;

(iii) a simple fixing;

(iv) a simple mixing of any products;

(v) a simple assembly of parts;

(vi) any activity to ensure the preservation of products in good condition during transportation and storage;

(vii) any activity to facilitate shipment and transportation;

(viii) any activity of packaging or presenting goods for sale, or

(ix) any activity that may be prescribed by the Minister, notwithstanding the above interpretation. Please refer to **Appendix A** for the list of excluded activities as provided in the Income Tax (Prescription of Activity Excluded from the Definition of "Manufacturing") Rules 2012 - [P.U.(A) 23/2012].

For the purpose of RA, **simple** means an activity which does not need special skills, special machines, special apparatus or special equipment especially produced or installed for carrying out that activity.

Example 4

Company D imports fully disassembled furniture from China in completely knocked down (CKD) form. The staff at the company's factory assembles all the imported components into completed furniture. The activity of assembling the CKD parts into a piece of furniture does not require any special machine, apparatus, equipment or skills.

The activity done by the company does not fall within the definition of manufacturing for the purposes of RA.

Example 5

Company E has been in the business of supplying and fixing pipes since 1.3.2013 and closes its accounts on 31 August each year. The pipes are

cut and welded according to customers' specifications. Due to increasing demand of its products, Company E purchased a new building on 15.6.2018 and used it as a workshop for its business.

Company E is not eligible to claim RA on the cost of the new building as the activity of the company does not fall within the definition of manufacturing for the purposes of RA.

6.2 For the purposes of RA, manufacturing has been defined in paragraph 9 of Schedule 7A of the ITA. The manufacturing activity would be considered completed once the finished product can be identified.

Example 6

Company F has been in the business of manufacturing colour pencils since 1.2.2014 and closes its account on 30 September each year. On 1.6.2018, Company F acquired a new plant for an expansion project. Part of the plant comprises of machine A for folding the colourful boxes and putting the colour pencils into those boxes in which the colour pencils are sold. Another new machine (machine B) then packs these boxes into cartons.

For the purposes of RA, the manufacturing of colour pencils is completed after the process of putting the pencils into colourful boxes. Therefore, the capital expenditure incurred by Company F on machine A for folding the colourful boxes and putting the colour pencils into these boxes for its expansion project **would qualify for RA**.

However, as packing of the colourful boxes into cartons for marketing purposes does not fall within the manufacturing activity, the capital expenditure incurred on machine B would not qualify for RA.

6.3 Treatment of waste for use in manufacturing activity

6.3.1 Treatment of waste for reuse

Where, the waste material of a manufacturing activity is treated and recycled in the factory for use in the same manufacturing activity, treatment of the waste can be treated as part and parcel of the manufacturing activity for the purposes of RA.

Example 7

Company G, a manufacturing company producing hydrochloric acid had purchased and installed an equipment in the factory to

treat its toxic industrial waste water. This is not for the purpose of recycling the waste water to be reused in the manufacturing activity.

The equipment bought to treat the toxic industrial waste water does not qualify for RA incentive.

Example 8

Company H, a manufacturing company producing hydrochloric acid expanded its existing business by purchasing additional machines to increase its production capacity. The company also purchased and installed an equipment in the factory to treat the toxic industrial waste water to be recycled for reuse in the process of producing hydrochloric acid.

Company H has undertaken a qualifying project by expanding its existing business and since the treated water is reused in the process of producing hydrochloric acid, the company is eligible to claim RA on the cost of the: –

(i) additional new machines to increase its production capacity; and

(ii) equipment to treat the toxic industrial waste water to be recycled for reuse in the manufacturing activity.

6.3.2 Conversion of waste material and by-product

Instead of disposing of a treated waste or by-product, a company can convert the waste or by-product into a related product by way of bioconversion or other conversion methods. The activity involved in conversion is a manufacturing activity.

Note:

The conversion of the waste or by-product into a related product would qualify as a diversification project. Please refer to subparagraph 7.3.4 and Example 15 for further explanation.

6.3.3 Treatment of waste material before discharging from the factory

Treatment of waste material before discharging from the factory is not part of the manufacturing activity and not diversification for the

purposes of Schedule 7A of the ITA. However, the treatment of waste material by itself (as explained in subparagraph 6.3.1) may be a separate and distinct qualifying project if it meets the necessary criteria.

Example 9

Company J is a palm oil manufacturing company. It purchased equipment for toxic industrial waste water treatment to meet the requirements of the local authority in reducing pollution to the environment.

The treatment of industrial waste water is not part of the manufacturing activity but for the purpose of compliance with the relevant laws. Hence, the expenditure incurred was not eligible for RA incentive.

7. Qualifying Project

7.1 Meaning of qualifying project

Pursuant to paragraph 8 Schedule 7A of the ITA, a qualifying project means a project undertaken by a company in expanding, modernizing or automating its existing business in respect of manufacturing of a product or any related product within the same industry or in diversifying its existing business into any related product within the same industry.

A qualifying project should result in an increase in the production capacity or performance in the form of saving in the use of time, material or labour, or results in better quality products or any other improvement as compared to before undertaking the qualifying projects. This increase or improvement should be verified by the production engineer/technician or any other relevant person directly responsible or directly involved in production. For purposes of audit, the relevant documents/data that had enabled the engineer/technician to make a verification must be made available.

7.2 Meaning of project

7.2.1 A **project** in relation to a qualifying project for the purposes of Schedule 7A of the ITA undertaken by a company involved in manufacturing activity to implement a plan or a scheme. It is a well thought out plan or scheme designed to be implemented over a

specific period of time, with a specific budget and target of achievement.

7.2.2 Documents that can be used to substantiate a project are:

(a) project paper;

(b) feasibility study;

(c) market research;

(d) business plan indicating the course of action taken or to be taken;

(e) budget and financing arrangements;

(f) directors' resolution and/or minutes of meetings; or

(g) any other relevant documents relating to the project.

7.3 Expanding, modernizing, automating or diversifying

7.3.1 **Expanding** refers to an increase of a production capacity or expansion of factory area. This is often associated with an increase in demand for a product. This will result in increased production capacity for the manufacturing of a product or any related product within the same industry. This increased capacity should, under normal circumstances, be followed by increased capacity utilization, accompanied by a higher allocation and utilization of other resources. The result should be an increase in production output and sales in due course.

Example 10

Company K is a manufacturer of car components, installs 3 additional production lines for the purpose of increasing the production capacity of its existing manufacturing activity. Production capacity increased from 12,000 units to 20,000 units per month.

Company K is undertaking an expansion project for the purposes of RA.

Other examples of expansion are as follows:

Original Activity/Product	New Activity/Product
rubber gloves	cotton gloves, woollen gloves
tyres for motor vehicles	tyres for aircraft, rethreaded tyre, inner tubes
skin care products	cosmetic products
production of cooking oil	vegetable fats, butter, margarine
conventional TV	plasma TV, LCD TV
analogue camera	digital camera, video camera
mobile phones	mobile phones with photography and recording functions
costume jewellery, silver jewellery	gold jewellery, jewellery with crystals and precious stones

Expansion also includes backward integration. Backward integration involves production of components or raw materials used in an existing end product of the company.

Example 11

Company L is a manufacturer of garments, goes into manufacturing of fabric.

The manufacturing and production of fabric is a qualifying project as it is backward integration and it is an expansion project for the purposes of RA.

7.3.2 **Modernizing** refers to the upgrading of manufacturing equipment and processes. A modernization project is usually undertaken to achieve greater efficiency in production, improvement in quality of product and / or reduction in costs.

Example 12

Company M, a manufacturer of rubber gloves, installs new sophisticated machines to its existing production line which cut down on the number of processes, production time and labour costs and improve the quality of the products.

As such, Company M is undertaking a modernization project for the purposes of RA.

7.3.3 **Automating** is a process whereby manual operations are substituted by mechanical operations with minimal / reduced human judgement and control.

Example 13

Company N is a motorcycle manufacturer which invested in a robotic machine to do welding and spraying work previously done manually.

The welding and spraying work carried out by the robotic machine is an automation project for the purposes of RA.

7.3.4 **Diversifying** means undertaking a project to produce additional or new related products relating to the same industry. The additional or new products should be related or similar to the existing products in terms of the following characteristics:

(a) major raw materials

(b) main components;

(c) type, range, variety, class, category, group;

(d) features, characters;

(e) functions, purpose, usage; or

(f) manufacturing process.

Some examples of activities or products that would qualify as diversification projects are as shown in the table below:

Original Activity/Product	**New Activity/Product**
rubber gloves	rubber shoes, rubber seals
tyres for motor vehicles	metal rim for wheels
skin care products	toiletries e.g. hair and body shampoo, sun block lotion
production of cooking oil	soap, wax, grease
conventional TV	VCD and DVD players
costume jewellery, silver jewellery	silver, gold, crystal ornaments

Some examples of activities or products that would not qualify as diversification projects are as follows:

Original Activity/Product	New Activity/Product
rubber gloves	laboratory equipment
tyres for motor vehicles	plastic floats
skin care and cosmetic products	garments
cooking oil	kitchen utensils
conventional TV	air-conditioner
costume jewellery, silver jewellery	cosmetic products

7.3.4.1 Diversification also includes a forward integration project. Forward integration refers to moving from existing production of raw materials or intermediate products to the production of downstream products such as another intermediate product or an end product.

Example 14

Company O produces colouring and flavouring agents used in food and beverages. The company decides to go into manufacturing and production of cordials.

The production of cordials is a forward integration project and qualifies as a diversification for the purpose of RA.

7.3.4.2 Conversion of waste material or a by-product by way of manufacturing activity into a new product is diversification for the purposes of Schedule 7A of the ITA.

Example 15

Company P, a company producing palm oil embarks on a project to utilize the empty fruit bunches of oil palm

waste and converts the waste into palm-based fibreboard.

The manufacturing of this fibreboard from oil palm waste qualifies as a diversification project for the purpose of RA.

Example 16

Same facts as in Example 15 except that Company P decides to turn a by-product of palm oil refinery, namely palm fatty acid distillate, into animal feed.

The manufacturing of this animal feed qualifies as a diversification project for the purpose of RA.

8. Capital Expenditure

8.1 Capital expenditure for the purposes of a qualifying project

Capital expenditure refers to the capital expenditure on factory, plant or machinery incurred for the purposes of a qualifying project under Schedule 7A of the ITA. Such expenditure shall not include capital expenditure incurred on plant and machinery which is provided wholly or partly for the use of a director, or an individual who is a member of the management, or administrative or clerical staff.

8.2 Meaning of factory

8.2.1 A factory means –

(a) portion of the floor area of a building or an extension of a building used for the purposes of qualifying project to place or install plant or machinery or to store any raw material, or goods or materials manufactured prior to sale; and

(b) in respect of portion of the floor area of the building or extension of the building used for the storage of raw material, or goods or materials, or both, it shall not be more than one-tenth of the total floor area of that building or extension.

This is summarised in the following Diagram 1 and Diagram 2:

Diagram 1

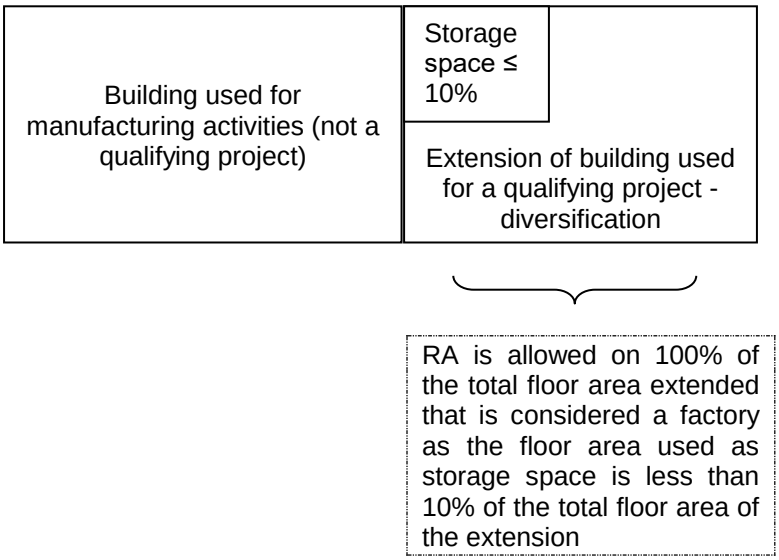
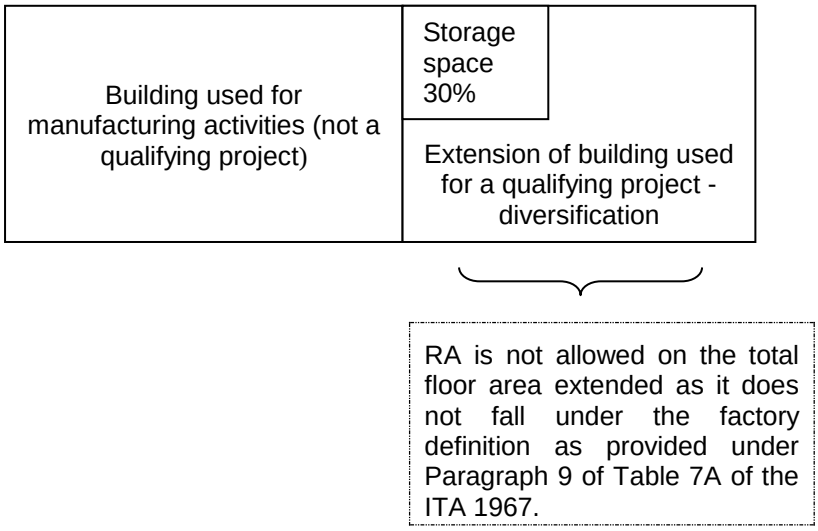


Diagram 2



8.2.2 A company renting a factory may claim RA on qualifying expenditure incurred on the cost of extension to the factory if the extension is done for the purposes of a qualifying project.

Example 17

Company Q rents out a factory to Company A1, a manufacturing company of plastic products. To accommodate new machines for an expansion project, Company A1 spent RM100,000 on extension to the rented factory.

The extension to the rented factory was to accommodate new machines for an expansion project. Therefore, the extension to the rented factory is a factory for purposes of RA.

8.2.3 A company moving from a rented factory to its own factory or buying over a factory which it previously rented, does not meet the eligibility as a factory for purposes of RA unless the factory is used for the purpose of a qualifying project.

Example 18

Company R has been doing manufacturing business in a rented factory in Klang for 3 years. In the fourth year of business the company decided to buy over that factory when the owner put it up for sale.

The building that was purchased is not a factory for purposes of RA as it is not used for a qualifying project.

Example 19

Same facts as in Example 18 except that Company R decided to relocate by buying a bigger factory nearby. The company did not increase its production capacity, upgrade plant or machinery, or diversify its products. The bigger building that was purchased is not a factory for purposes of RA as it is not used for a qualifying project.

Where a company is relocated to another factory (which may be bigger, smaller or of the same size as the existing one) and incurs qualifying expenditure on the new factory for the purposes of a qualifying project, the company is entitled to claim RA on the new factory. The capital expenditure that qualifies for RA would be the proportion of the floor area of the new factory that is utilised for the qualifying project calculated as follows:

$$\frac{\text{Portion of factory (additional floor area) used for qualifying project}}{\text{Total floor area of factory}} \times \text{Cost of new factory}$$

Example 20

Company S has been doing manufacturing business in their own factory in Rawang since 2014. The floor space used for manufacturing activity is 20,000 sq. metres. In the year 2018 the company decided to undertake an expansion project for which the company needed a factory twice as big as the old one. Company S bought a piece of land in Shah Alam to construct a new factory with floor space of 42,000 sq. metres for manufacturing at the cost of RM4 million.

Since Company S has undertaken a qualifying project, it is eligible for RA on the new factory. However, since the cost of the old factory would not have qualified for RA, the company would not be given RA on the whole cost of the new factory but only on the proportion of the new factory that is used for the qualifying project.

The qualifying expenditure eligible for RA would be:

$$\frac{42{,}000 - 20{,}000}{42{,}000} \times 100\ \% = 52.38\ \%$$

52.38% X RM4 million = RM2,095,238

Example 21

Company T has been doing manufacturing business in a rented factory of 15,000 sq. metres in Kuala Lumpur since the year 2011. In March 2015 the company diversified into a related product but scaled down on the production of the existing product. For that purpose the company bought a piece of land in Petaling Jaya to construct a new factory of the same size as the existing factory.

The new factory was completed in June 2018 at a cost of RM1.2 million, out of which only RM1 million relates to the portion of

factory used for manufacturing activity. The floor area used for manufacturing is the same as in the old rented factory but now only 40% of the floor area is for manufacturing of existing product and 60% for the new product.

As Company T has undertaken a qualifying project, it is eligible for RA on the new factory. The qualifying expenditure eligible for RA would be:

60% X RM1 million = RM600,000

Example 22

Same facts as in Example 21, except that instead of constructing a new factory, Company T bought over the rented factory for RM1 million. Out of the total floor area of the building, 40% is used for manufacturing of existing product and 60% for the new product.

As Company T has undertaken a qualifying project, it is eligible for RA on the newly acquired factory. The qualifying expenditure eligible for RA would be:

60% X RM1 million = RM600,000

8.3 Plant and machinery

8.3.1 Meaning of plant and machinery

(a) A plant means an apparatus used in respect of a manufacturing activity, which is directly used in carrying out that activity in a factory.

(b) A machinery means a device or apparatus consisting of fixed and moving parts that work together to perform function in respect of a manufacturing activity, which is directly used in carrying out that activity in a factory.

(c) The phrase “directly used in carrying out the manufacturing activity in a factory” means that during the manufacturing activity, the plant and machinery used in the factory must:

(i) effect a change in material to form a product to be sold;

(ii) have an active or necessary role in the manufacture of the product for sale;

(iii) be used in handling, storage, or conveyance of materials or the product to be sold; or

(iv) be used to package the product for sale.

Example 23

Company U, a manufacturer whose accounts ending on 31 December, embarked on an expansion project in 2018 and acquired two forklifts for this purpose. Forklift A is used to unload the raw materials from the lorry outside the factory building to be weighed and inspected before being placed in storage. Forklift B is used inside the factory to move the materials throughout the production line.

As Forklift A is not used inside the factory, it is not a machinery for the purposes of RA. Forklift B is used inside the factory for the conveyance of materials and product to be sold and would be considered a machinery for the purposes of RA.

Example 24

Same facts as in Example 23 and the manufacturer also purchased computer equipment that is directly linked to the production equipment used in the actual manufacturing activity.

The computers would be eligible for RA as they are linked to the production equipment and have an active and necessary role in the actual manufacturing activity.

Example 25

Same facts as in Example 23 and the company incurred capital expenditure on commercial vehicles for transporting the raw materials and products for sale. Capital expenditure incurred on commercial vehicles is not qualifying expenditure for the purpose of RA as these vehicles are not used in the factory.

8.3.2 Additional or replacement of plant and machinery

In carrying out manufacturing activities, a company may purchase a new plant or machinery in addition or replacement to existing plant and machinery. However, if the purchase of plant and machinery is not for a qualifying project, the company is not eligible to claim RA on the expenditure incurred. This includes replacement of the existing tools or machinery parts whereby the company is not eligible to claim RA on the expenses incurred in replacing the tools or machinery parts unless it can be shown that such capital expenditure resulting in expanding, modernizing, automating or diversifying of the existing business.

Example 26

Same facts as in Example 10. Company K replaced some existing machine parts that have worn out. Company K is **not eligible** for RA as the expenditure was incurred for replacement of machine parts and not for a qualifying project.

8.4 Meaning of 'incurred'

For the purposes of RA, the word **incurred** is defined in accordance with paragraphs 46 and 55 of Schedule 3 of the ITA.

8.4.1 Paragraph 46 of Schedule 3 of the ITA refers to capital expenditure on a plant or machinery acquired under a hire purchase agreement.

8.4.2 A person who acquires plant or machinery under a hire purchase agreement will be eligible for RA on the capital portion of installment payment. RA will be given for each YA where there is installment payment of hire purchase provided it does not exceed the period of entitlement of 15 years of assessment.

8.4.3 Paragraph 55 of Schedule 3 of the ITA refers to the date when capital expenditure on building, plant or machinery is deemed incurred. The expenditure is deemed incurred as follows:

(a) on a building, on the day the construction of the building is completed;

(b) on plant or machinery, on the day the plant or machinery is **capable of being used** for the purposes of a business;

Example 27

Company V**,** a rubber glove manufacturer imported a new machine for its expansion project in March 2018. The machine was installed in the factory in May 2018. The production commenced after a trial run of the installed machine which started on 1.6.2018. The time period for the trial run and trial production is three months. After the trial production period is over on 31.8.2018, the commercial production started on 1.9.2018.

The machine is capable of being used for the purposes of the rubber glove manufacturing business on 1.9.2018. Therefore the capital expenditure is deemed to have been incurred on 1.9.2018.

(c) in any other case, the day on which the amount of expenditure becomes payable; or

(d) for the purposes of a business of his which he is about to carry on, when he commences to carry on the business.

Example 28

Company W, a manufacturer of beverages, undertakes an expansion project which involves the construction of a new factory and installation of a new plant. Construction of the factory covers three (3) basis periods commencing in the basis period ending 30.6.2016. The construction of the factory was completed on 30.3.2018 and the new plant was installed in the new factory and capable of being used on 31.5.2018. Qualifying expenditure incurred is as follows:

Year Ended	On Factory (RM)	On Plant (RM)
30.6.2016	400,000	Nil
30.6.2017	700,000	Nil
30.6.2018	900,000	500,000
Total	2,000,000	500,000

As the factory and plant were completed and used in the same basis period ending 30.6.2018, the capital expenditure for the expansion project is deemed incurred in the same basis period. Company W is eligible to claim RA on the total capital expenditure of RM2,500,000 for the YA 2018.

Example 29

Company X (accounts ending on 31 December) embarked on an expansion project in the year 2015 and acquired a new machine on hire purchase for 36 instalments in October 2015. The company can claim RA on the capital portion of the hire purchase it incurred as follows:

Year of Assessment	No. of Instalments Paid	No. of Instalments that Qualify (Capital Portion)
2015	3	3
2016	12	12
2017	12	12
2018	9	9

8.5 Disposal of Assets

8.5.1 An asset is **disposed of** when it is sold, conveyed, transferred, assigned, ceased to be used or alienated with or without consideration. An asset that has ceased to be used in a business includes an asset classified as held for sale. With effect from YA 2016, once an asset has ceased to be used, it is considered as disposed of. In a case of a factory, if there is a change in the usage of the floor area, that floor area is considered as ceased to be used.

8.5.2 Disposal of asset within 5 years

Where an asset is disposed of at any time within 5 years from the date of acquisition of that asset, the RA claimed shall be withdrawn irrespective of whether the disposal is between related or non-related parties.

In view of the self-assessment system and for practical purposes, the relevant amount of RA shall be withdrawn in the year of disposal. Effective from YA 2015, the amount of RA withdrawn is deemed as part of the statutory income in the basis period for a YA in which the asset is disposed of. The RA withdrawn should be equal to the RA which has been claimed in the preceding years of assessment and any unabsorbed RA will not be available to be carried forward.

Example 30

Company Y has been in the business of manufacturing of wooden furniture since the year 2012 and closes its accounts on 31 December each year. On 1.1.2016 the company purchased a few new machines for RM200,000 for a qualifying project. RA claimed on the assets in the YA 2016 is RM120,000 (60% x 200,000). Statutory income of the company for the YA 2016 is RM1,100,000. In the YA 2018 the company suffered business loss of RM60,000 and sold the machine in that YA to a related company.

As the machine was sold within 5 years from the date of acquisition, RA claimed shall be withdrawn in the YA 2018.

Computation of chargeable income for the years of assessment 2016 to 2018 are as follows:

YA 2016	**RM**	**RM**
Statutory income	1,100,000	
Less: RA	120,000	
Statutory income	980,000	

YA 2017	**RM**	**RM**
Statutory income	NIL	(Loss RM20,000)
Statutory/Aggregate income	NIL	
Unabsorbed loss c/f RM20,000		

YA 2018	RM	RM
Statutory income	NIL	(Loss RM60,000)
Add: RA withdrawn	120,000	
Statutory income	120,000	
Less: Previous year loss	20,000	
	100,000	
Less: Current year loss	60,000	
Chargeable income	40,000	

Example 31

Same facts as in Example 30 except that Company Y incurred losses for years of assessment 2016 to 2018 consecutively and decides to dispose of the asset in the YA 2018.

Since the RA claimed on the asset of RM200,000 has not been utilised in the years of assessment 2016 to 2018 before the asset is disposed of in the YA 2018, Company Y should not include the total RA of RM120,000 as part of the statutory income in the YA 2018 and that unabsorbed RA will not be available to be carried forward.

8.5.3 For the purposes of Schedule 7A of the ITA, **disposal** does not include destruction by fire, flood or any other such disasters. RA claimed for the assets which are destroyed under such circumstances would not be withdrawn.

8.6 Controlled transfer

8.6.1 Where assets are acquired from related parties, provisions of **controlled transfer** under paragraph 1B of Schedule 7A of the ITA shall apply. If a disposer has incurred capital expenditure on an asset for the purposes of a qualifying project where RA is claimed, and the asset is subsequently disposed of, the acquirer is not eligible to claim RA on the asset.

8.6.2 Controlled transfer transactions occur under the following circumstances:

(a) the disposer of the asset is a person over whom the acquirer of the asset has control;
(b) the acquirer of the asset is a person over whom the disposer of the asset has control;

(c) some other person has control directly or indirectly over the disposer and acquirer of the asset, or

(d) the acquisition is effected in consequence of a scheme of reconstruction or amalgamation of companies.

Asset means a factory, plant or machinery referred to in paragraph 1 of Schedule 7A of the ITA. In the case of an agricultural project, asset means a plant, machinery or building referred to in the definition of **capital expenditure** in paragraph 9 of the same Schedule.

Control in relation to a company means the power of a person to secure, by means of the holding of shares or the possession of voting power in or in relation to that or any other company, or by virtue of any powers conferred by the articles of association or other document regulating that or any other company, that the affairs of the first mentioned company are conducted in accordance with the wishes of that person.

8.6.3 However, in the case where the disposer acquires an asset not for the purposes of a qualifying project and that asset is subsequently disposed of to a related company, the acquirer is eligible to claim RA on the same asset if the asset is used for a qualifying project. The qualifying capital expenditure for RA for the acquirer in respect of the asset is the market value of the asset on the date of acquisition. The provision of control transfer will not regard the amount paid to the related company as the capital expenditure incurred.

8.6.4 Where a company acquires an asset for a qualifying project but does not claim RA on the qualifying capital expenditure as the company chooses to claim a mutually exclusive incentive and subsequently disposes of the asset by way of controlled transfer, the acquirer is eligible to claim RA on the qualifying capital expenditure of the asset if it is used in a qualifying project of the acquirer. The qualifying capital expenditure is the residual expenditure of the asset.

Example 32

Company Z sold a machine to Company B1, a related company, for RM150,000 on 1.7.2018. Company B1 used the machine for its qualifying project. Both companies close their accounts on 31 December. Although Company Z was eligible to claim RA on the machine at the time of purchase on 2.6.2016 at a price of RM200,000 as the machine was acquired for a qualifying project, Company Z had not done so as it was granted an incentive mutually exclusive to RA.

In this case, Company B1 is eligible to claim RA on the machine. The qualifying capital expenditure for Company B1 is the residual expenditure of the asset as ascertained under Schedule 3 of the ITA.

Company Z

	RM	RM
Cost of machine		200,000
YA 2016		
Initial Allowance (20%)	40,000	
Annual Allowance (14%)	28,000	68,000
Residual Expenditure		132,000
YA 2017		
Annual Allowance		28,000
Residual Expenditure		104,000

The qualifying capital expenditure for Company B1 is the residual expenditure, that is RM104,000.

9. Qualifying Period

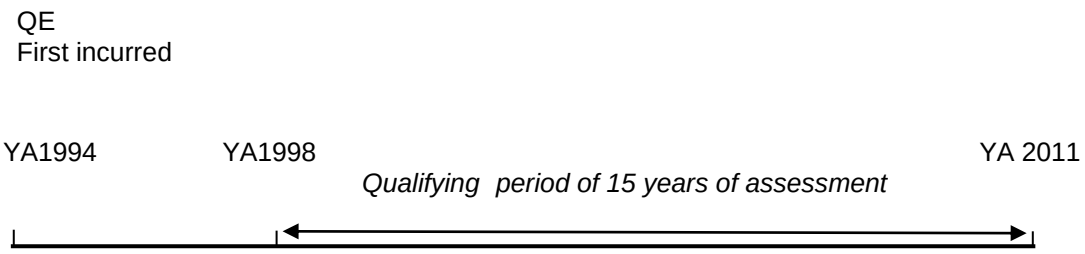
9.1 A company is entitled to claim RA for 15 consecutive years of assessment.

9.2 A company has to make a claim for RA in the income tax return form (ITRF) and the qualifying period of 15 consecutive years of assessment commences from the YA the company first makes the claim.

9.3 Prior to the YA 1998 (financial year ended 1997), RA was allowed only for the YA in which qualifying expenditure was incurred and RA was granted on a year-to-year basis.

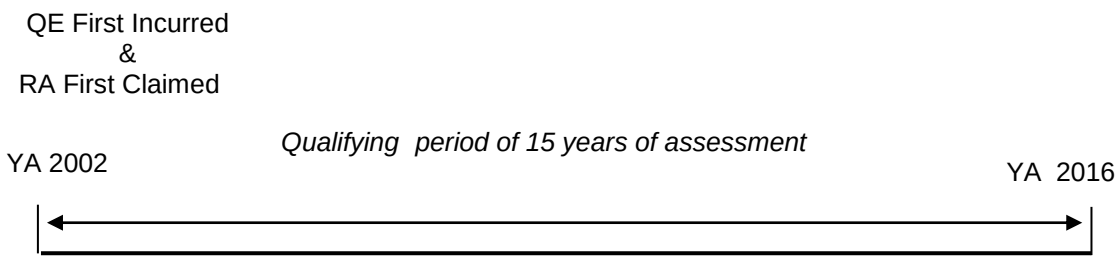
The concept of qualifying period was introduced and made effective from the YA 1998. A company which had been given RA before the YA 1998 is eligible to claim RA for a new qualifying period of 15 years of assessment beginning from the YA 1998.

Scenario 1 – First Qualifying Expenditure (QE) incurred before the YA 1998



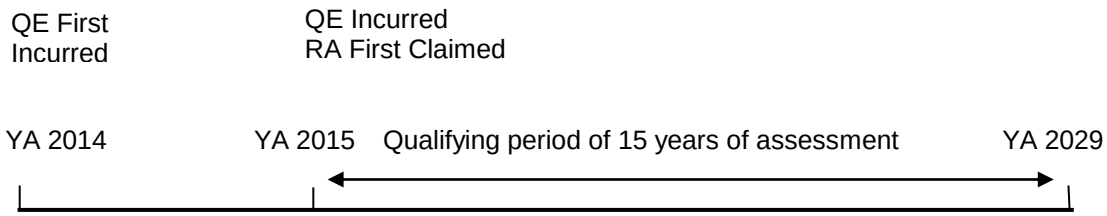
If a company incurred first QE for a qualifying project in the YA 1994, therefore YA 1994 is not part of the 15 years of assessment. The eligibility period for RA is calculated from YA 1998.

Scenario 2 – First QE incurred in the YA 2002



If a company **incurred** first QE in the YA 2002, the qualifying period of 15 years of assessment is calculated from YA 2002.

Scenario 3 – QE incurred in the YA 2014 and YA 2015 but RA first claimed in the YA 2015



If a company incurred first QE in the YA 2014 for a qualifying project but no RA claim is made, and chooses to make its first **claim** only in the YA 2015, the qualifying period of 15 years of assessment is calculated from YA 2015.

Example 33

Company AA (accounts ending on 31 December) undertook a qualifying project in the year 2017 and incurred qualifying expenditure of RM100,000 in the year 2017 and RM1.5 million in the year 2018. The company decided not to claim RA for the YA 2017 but made a claim only in the ITRF for the YA 2018.

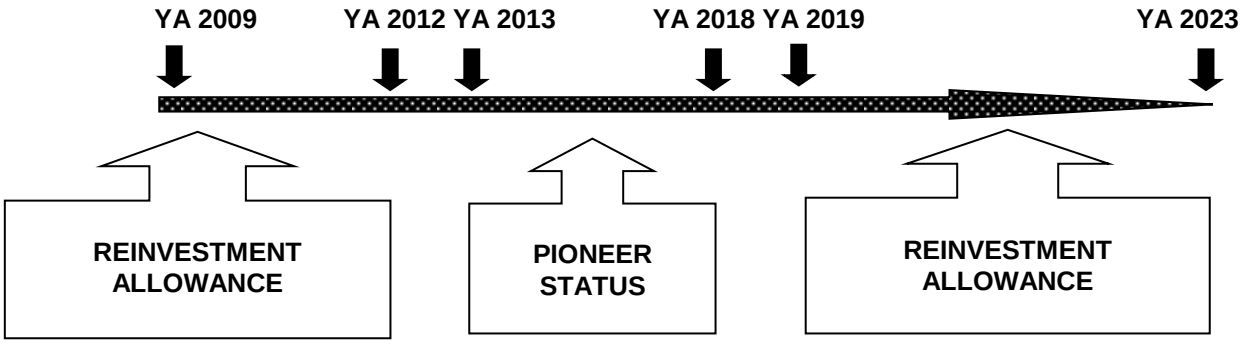
Hence the qualifying expenditure of RM100,000 incurred in year 2017 is forgone for purposes of RA. The qualifying period of 15 consecutive years of assessment starts from the YA 2018 to the YA 2032.

9.4 RA is given for a year of assessment. If the qualifying period of 15 consecutive years of assessment has commenced and the company wishes to enjoy a mutually exclusive incentive for any period of time during the qualifying period, then that period will lapse and the company will enjoy RA for the balance of the qualifying period.

Example 34

Company BB (accounts ending on 31 December), first incurred qualifying expenditure and claimed RA on capital expenditure for the purposes of a qualifying project in the year 2009. The qualifying period of 15 consecutive years of assessment commenced in the YA 2009 and will end in the YA 2023. The company was granted pioneer status for a promoted product for the period 1.7.2013 to 30.6.2018.

Since the company had enjoyed pioneer status for the YA 2013 to 2018, that period will lapse and the company can only continue to enjoy RA for the YA 2019 till 2023.



9.5 If a company has first made a claim for RA during the qualifying period of 15 consecutive years of assessment and the qualifying period ends in the year prior to YA 2015 or in the YA 2015, the company is entitled to make a further claim for RA in respect of capital expenditure incurred for a qualifying project undertaken in the basis period for the YA 2016 to 2018 as follows:

YA in which the RA Incentive Period of 15 Consecutive YA Ended	YA in which Capital Expenditure Incurred Qualifies for Further RA
YA 2015 or prior YA	YA 2016, YA 2017 and YA 2018
YA 2016	YA 2017 and YA 2018
YA 2017	YA 2018

Note:

In the event that plant and machinery are purchased through a hire purchase agreement (as described in paragraph 8.4.2 of this Public Ruling) the company is entitled to make further claims for RA in relation to the capital portion of instalment payments incurred for a qualifying project undertaken in the basis period for the YA 2016 to 2018.

10. Tax Treatment

10.1 An eligible company can claim RA of an amount equivalent to 60% of the capital expenditure incurred in the basis period for a year of assessment.

10.2 RA is to be deducted against the statutory income of a business but is restricted to 70% of the statutory income.

Example 35

Company CC commenced the business of manufacturing furniture on 1.1.2015 in a factory located in Muar, Johor. On 10.6.2018 the company incurred capital expenditure of RM200,000 on a few machines for the purposes of a qualifying project. The company closes its accounts on 31 December. The statutory income of the business for the YA 2018 is RM150,000. Company CC has no other sources of income.

The computation for RA for the YA 2018 is as follows:

		RM
Statutory income		150,000
Less:		
RA (60% X 200,000 = 120,000)		
RA restricted to (70% X 150,000)		105,000
Chargeable income		45,000
Unabsorbed RA carried forward	**RM15,000**	

10.3 The statutory income referred to in paragraph 10.2 is the amount of statutory income of a person from a source in respect of the related qualifying project.

Example 36

Company DD's business is selling of cosmetic products with the brand names Amy (A) and Bernie (B). Company DD manufactures brand A whereas it imports brand B from Korea.

Company DD carried out a modernization project for the manufacture of brand A and incurred capital expenditure of RM160,000 on machines for that purpose. The Profit & Loss accounts of Company DD for the YA 2018 are as shown below:

	Brand A	Brand B	Total
	RM	RM	RM
Sales	600,000	400,000	1,000,000
Less: Cost of sales	300,000	250,000	550,000
Gross profit	300,000	150,000	450,000
Less: Operating expenditure			200,000
Net profit before tax			**250,000**
Capital allowances (CA) claimed –			
• Exclusively for manufacture of brand A		79,000	
• Common assets		21,000	
		100,000	

Computation of statutory income and RA for brand A and B, and chargeable income for the YA 2018 are as follows:

	RM	RM
Net profit as per account	250,000	
Add:		
Non- allowable expenses	50,000	
Adjusted income		300,000
Less:		
Capital Allowance		100,000
Statutory income		200,000

Statutory income of brand B:			RM
Adjusted income	X	Cost of sales Brand B / Cost of sales Brand A & B	
RM300,000	X	RM250,000 / RM550,000	136,364

Less:

Portion of Capital Allowance on common assets

RM21,000	X	RM250,000 / RM550,000	9,545
Statutory income of Brand B			**126,819**

Statutory income of brand A:	**RM**
(Total statutory income – Statutory income of Brand B)	
RM200,000 – RM126,819	73,181
Less:	
RA	
(60% X RM160,000 = RM96,000)	
Restrict to 70% of RM73,181 = RM51,227	51,227
(RA c/f RM44,773)	
Statutory income of Brand A	**21,954**

Chargeable income (Statutory income of Brand A + Statutory income of Brand B)	**RM148,773**

Note:

The cost of sales is an acceptable basis in determining the portion of statutory income in relation to manufacturing of the goods. Any other allocation basis that is fair and reasonable in determining the statutory income may be used as long as it is consistently adopted.

10.4 RA may be deducted against 100% of statutory income if a qualifying project has achieved the level of productivity as prescribed by the Minister of Finance (MOF). The level of productivity will be measured by using a Process Efficiency (PE) ratio as shown in Appendix B and should be compared with the level prescribed by the MOF for the same year of assessment.

The percentage of statutory income that may be utilized for the deduction of RA is summarized as follows:

Activity of Company/Person	Percentage of Statutory Income to be Deducted	
Manufacturing	PE not achieved	PE achieved
	70%	100%
Agriculture	70%	Not applicable

10.5 Unabsorbed Reinvestment Allowance

10.5.1 Any unabsorbed RA in a year of assessment by reason of the restriction of the allowance to 70% of the statutory income or of an insufficiency or absence of statutory income of a business (i.e manufacturing or agricultural activities) which undertakes a qualifying project can be carried forward to subsequent years of assessment

10.5.2 This unabsorbed RA can be deducted against 70% of the statutory income of that business in the following years of assessment.

10.5.3 In the case whereby the current year RA is to be deducted up to 100% of the statutory income, the amount of RA brought forward may also be deducted up to 100% of the statutory income of the qualifying project.

10.5.4 A company that has met the prescribed level of productivity for a year of assessment, RA for the year of assessment is to be deducted up to 100% of the statutory income of the qualifying project. If the statutory income of the qualifying project is not sufficient to absorb the amount of RA, the amount that cannot be absorbed is carried forward to the subsequent years of assessment and will be deducted up to 70% of the statutory income of the qualifying project. However, the RA can be deducted up to 100% of the statutory income of the qualifying project in the relevant year if the company achieves the level of productivity.

Example 37

Company EE's main activity is manufacturing plastic wares and in the YA 2018, Company EE bought a plant and machinery worth RM400,000 for its expansion project. The company's PE ratio for Year 2018 is 1.51 while the level prescribed by MOF for that sector for Year 2018 is 1.45. In the Year 2019, the company's PE ratio is 1.62 as compared to 1.54, the level prescribed by MOF for that sector.

YA 2018	**RM**	**RM**	**RM**
Statutory income		200,000	
Less:			
Current RA (400,000 X 60%)	240,000		
RA allowed to be deducted (100% X 200,000)		200,000	
Chargeable income		**Nil**	
RA c/f (240,000 – 200,000)			40,000

YA 2019	**RM**	**RM**
Statutory income		150,000
Less:		
RA b/f allowed to be deducted (100% X 150,000)		40,000
Chargeable income		**110,000**

Note

If the company's PE ratio in Year 2019 is less that the level prescribed by MOF, the RA b/f can only be deducted up to 70% of the statutory income of the qualifying project in the YA 2019.

Example 38

The same facts as example 37 except the PE ratio is 1.32 which is lower than the level prescribed by MOF. The RA b/f can only be deducted up to 70% of the statutory income of the qualifying project in the YA 2019

TT 2019	**RM**	**RM**
Statutory income	50,000	
Less:		
RA b/f allowed to be deducted (70% X 50,000)	35,000	
Chargeable income	**15,000**	
RA c/f (40,000 – 35,000)		5,000

10.5.5 Prior to YA 2019, the unabsorbed RA can be carried forward to be absorbed in the subsequent years of assessment until it is fully absorbed. However, starting from YA 2019, the unabsorbed RA can only be carried forward to be absorbed for a maximum period of seven (7) consecutive years of assessment upon expiry of the qualifying period of that RA. Any balance of unabsorbed RA after the end of that seven (7) consecutive years of assessment will be disregarded.

Example 39

Company FF's business activity is manufacturing of frozen foods. Company FF first claimed its RA in the YA 2005. Hence the qualifying period of its RA ended in the YA 2019. In the YA 2018, Company FF bought a plant and machinery worth RM300,000 for its modernization project and has unabsorbed RA of RM2,700,000.

The computation for Company FF's taxable income for the YA 2018 and 2019 are as follow:

YA 2018	**RM**	**RM**	**RM**
Statutory income		100,000	
Less:			
Current RA (300,000 X 60%)	180,000		
RA b/f	2,700,000		
	2,880,000		
Restricted to (70% X 100,000)		70,000	
Chargeable income		**30,000**	
RA c/f (2,880,000 – 70,000)			2,810,000

YA 2019	**RM**	**RM**	**RM**
Statutory income		300,000	
Less:			
RA b/f – RM2,810,000			
Restricted to (70% X 300,000)		210,000	
Chargeable income		**70,000**	
RA c/f (2,810,000 –210,000)			2,600,000

Note:

The unabsorbed RA in YA 2019 of RM2,600,000 can be carried forward to be absorbed until YA 2026 (7th year period). Any RA balances that has not been absorbed in YA 2026 will be disregarded in the YA 2027.

10.5.6 For businesses that still have unabsorbed RA balances in the YA of 2018 even though the qualifying period (15 years) has ended, those balances can be carried forward to be absorbed in the YA of 2019 and subsequent years of assessment until the YA 2025 (7th year period).

Example 40

Company GG's business is manufacturing of frozen food. Company GG claimed its first RA in the YA 2001. As such, the qualifying period ended in the YA 2015.

In the YA 2018, the company has unabsorbed RA of RM2,700,000. The company's tax computation for the years of assessment 2018 until 2021 are as follows:

YA 2018	**RM**	**RM**	**RM**
Business statutory income		700,000	
Less:			
RA b/f	2,700,000		
Restricted to (70% X 700,000)		490,000	2,210,000 (RA c/f)
Chargeable income		210,000	
YA 2019			
Business statutory income		1,000,000	
Less:			
RA b/f	2,210,000		
Restricted to (70% X 1,000,000)		700,000	1,510,000 (RA c/f)
Chargeable income		300,000	
YA 2020			
Business statutory income		2,000,000	

Less:			
RA b/f	1,510,000		
Restricted to (70% X 2,000,000)		1,400,000	110,000 (RA c/f)
Chargeable income		600,000	
YA 2021			
Business statutory income		2,000,000	
Less:			
RA b/f		110,000	
Chargeable income		1,890,000	

Note :

The unabsorbed RA in the YA 2018 can only be carried forward to be absorbed in the YA 2019 until YA 2025 (7th year period). In the above case, Company GG is able to generate sufficient statutory income to absorb the RA by YA 2021. Therefore, there is no amount of RA to be disregarded.

Nevertheless, if Company GG is not able to generate sufficient income to absorb the unabsorbed RA balances within the period of YA 2019 until 2025, the unabsorbed RA balances if any will be disregarded in the YA 2026.

10.5.7 If the manufacturing activity ceases in a year of assessment, any unabsorbed RA brought forward cannot be deducted from the statutory income of the company.

Example 41

Same facts as in Example 36. Company DD discontinued manufacture of brand A on 1.1.2018 and solely imports brand B for sales.

The RA balances of RM44,773 cannot be carried forward and deducted from the statutory income of the company for the YA 2018 and subsequent years of assessment since the manufacturing ceased on 1.1.2018. Therefore, the RA balances is disregarded.

10.6 A company can claim RA for more than one qualifying project for the same year of assessment.

Example 42

Same facts as in Example 10 and Company K invests in a robotic machine to do welding and spraying work previously done manually. Company K qualifies for RA as it undertook 2 qualifying projects i.e. expansion and automation for its manufacturing of car component business.

Company K can claim RA against 70% of the statutory income of that business from the respective qualifying project.

11. Special Tax Treatment during Transitional Period

Following changes in the provision of law pertaining to the RA claims, there are a few concessions allowed during the relevant transitional period.

No.	Details	Current Law	Concession
1.	Definition of qualifying project	Effective from the YA 2009, the definition of qualifying project **excludes** the processing of a product or any related product within the same industry.	If a company which involved in a processing activity had made the first claim for RA prior to the YA 2009, the company may continue to claim RA until the end of the qualifying period of the 15 consecutive years of assessment.
2.	Definition of manufacturing	Effective from the YA 2009, the definition of manufacturing was	If a company involved in manufacturing activities prior to the YA 2009 and

		introduced. In addition to the introduction of manufacturing definition in the current law, the Minister may also prescribed any activities notwithstanding the definition of manufacturing. For example, a list of excluded activities as provided in the Income Tax [Prescription Of Activity Excluded From The Definition Of Manufacturing] Rules 2012 - P.U.(A) 23 (Appendix A) which deemed to have effect from YA 2009	had made the first claim for RA prior to the YA 2009, the company may continue to claim RA until the end of the qualifying period of 15 years of assessment even though the activities do not fall under the definition of manufacturing for the purposes of RA and the activities are part of excluded activities under the list prescribed by the Minister in Appendix A. Another concession is also given due to the fact that the Income Tax Rules 2012 P.U.(A) 23 were only issued on 9.1.2012. The concession is that RA claimed for the years of assessment 2009 to 2011 are to be allowed even though the RA is for a manufacturing activity which was later found to be an excluded activity listed in Appendix A. However, RA would no longer be allowed for the same activity from the YA 2012 onwards. Any unabsorbed RA can be carried forward to the YA 2012 and subsequent years of assessment.
3.	Limitation period for unabsorbed	Effective from YA 2019, the unabsorbed RA can only be carried forward for	The unabsorbed RA can be carried forward for a

	RA	a maximum period of 7 consecutive years of assessment upon expiry of qualifying period of the RA. Any unabsorbed RA balances after the end of the 7 consecutive years of assessment, will be disregarded.	maximum period of 7 consecutive years of assesment beginning from the YA 2019 although the qualifying period (15 years) has ended earlier. Any RA balance that has not been absorbed in the YA 2025 will be disregarded in the YA 2026.
4.	Mutually exclusive incentives	RA would not apply to a company for the period during which the company has been granted or enjoys the incentives as listed in subparagraph 12.1 below.	For a company with brought forward RA from the preceding year of assessment, the company is not precluded from claiming any other incentive that is mutually exclusive. Current year allowance has to be deducted before deducting any RA brought forward

12. Non-Application

12.1 Effective YA 2011, with the change from **period** to **basis period** in paragraphs 7(a) to 7(e) of Schedule 7A of the ITA, a company is only eligible to claim RA in the basis period for a year of assessment, after the end of that basis period for that year of assessment, during which the company has been granted or enjoys the following incentives:

(a) Pioneer status under the Promotion of Investments Act 1986 (PIA)

(i) a company granted pioneer status under the PIA and is applying for or intends to apply for a pioneer certificate; or

(ii) a company granted pioneer certificate under PIA and the pioneer period has not ended;

(b) Investment tax allowances (ITA) under the PIA

(i) a company has been granted ITA and ITA period has not ended; or

(ii) a company has been approved ITA and has not surrendered the ITA approval;

(c) Incentive under Investment Incentive Act 1968 (IIA)

(i) pioneer status approval, labour utilization or local incentives and investment tax credit (ITC) of the IIA and the tax relieve period has not ended; or

(ii) approval under ITC of the IIA and incurred capital expenditure which qualified for ITC even though the IIA has been repealed;

(d) Industrial adjustment allowance under the PIA in respect of a manufacturing activity or a manufactured product (approval granted prior to the coming into operation of section 27 of the Promotion of Investments (Amendment) 2007 Act [Act A1318];

(e) Group Relief for companies under section 44A of the ITA;

(f) Deductions under any rules made under section 154 of the ITA where the rules provide that RA shall not apply to that company or person; and

(g) Exemption from tax on income under exemption orders made under paragraph 127(3)(b) or exemption under subsection 127(3A) of the ITA where it provides that RA shall not apply to that company or person.

Example 43

Company HH commenced the business of manufacturing wooden furniture on 1.1.2009 and closes its account on 31 December every year. Company HH purchased a few machines for RM350,000 and a new factory building for RM800,000 for an expansion project in 2018. A related company in the group of companies had surrendered losses of RM1.5 million to Company HH in 2018 under the group relief for companies. Company HH claimed RA on the machine and factory in the YA 2018.

Even though Company HH is eligible to claim the group relief of RM1.5 million for the YA 2018 , Company HH will not enjoy the group relief as it has claimed RA in respect of the capital expenditure incurred for the expansion project for that year of assessment.

Example 44

Company JJ which closes its account on 31 December every year has been granted pioneer certificate and the pioneer period ends on 31.5.2018. The company purchases a few new machines for a qualifying project on 1.7.2018 and claims RA on the machines in the YA 2018. Company JJ is **not eligible** for RA for the YA 2018 as the company is enjoying pioneer status in the same year of assessment.

12.2 A company claiming RA in a year of assessment is allowed to utilize brought forward unabsorbed allowances arising from a mutually exclusive incentive. Similarly, where a company has brought forward RA from the preceding year of assessment, the company is not precluded from claiming any other incentive that is mutually exclusive in a year of assessment.

However, the company has to deduct the allowance claimed for the current year first before deducting any RA brought forward.

Example 45

Company KK is in the business of manufacturing frozen food. For the YA 2018, the company claimed an amount of RM70,000 as Allowance for Increased Export (AIE) [deduction against 70% of statutory income]. The company has brought forward unabsorbed RA of RM270,000 from the same business.

	RM	RM
Statutory income from business of frozen food	300,000	
Less: AIE (Claimed)	70,000	
	230,000	
Less: RA (b/f RM270,000) restricted to [(70% X 300,000) – AIE 70,000]	140,000	

Chargeable income	90,000	
RA c/f (270,000 – 140,000)		130,000

Example 46

Company LL is in the business of manufacturing automotive parts. The company incurred capital expenditure of RM450,000 for purposes of a qualifying project for the YA 2018. The company has brought forward unabsorbed AIE of 70,000 from the same business.

	RM	RM
Statutory income from business	300,000	
Less: RA (60% X 450,000 = 270,000) Restricted to (70% X 300,000)	210,000[1]	
	90,000	(RA c/f 60,000)
Less: AIE (b/f 70,000) [(70% X 300,000 = 210,000) - RA 210,000]	NIL[2]	(AIE c/f 70,000)
Chargeable income	90,000	

Example 47

Company MM which closes its accounts on 31 December has been granted pioneer status for product A for a period of 5 years and the pioneer period ended on 30.3.2018. The company has unabsorbed losses of RM150,000 during the pioneer period. In the year 2018, the company incurred capital expenditure of RM500,000 for a qualifying project for RA and achieved the level of productivity prescribed by the Minister. The company is eligible to deduct RA of up to 100% of the statutory income for the YA 2018.

[1] The restriction to 70% of statutory income is in line with the Income Tax Exemption Orders and Rules in relation to AIE.
[2] No AIE brought forward is deducted for the YA 2018 as the amount of the statutory income that can be deducted for AIE brought forward (70% X 300,000 = 210,000) has been fully utilized by RA. Unabsorbed AIE brought forward will be carried forward to the following year of assessment.

YA 2018	**RM**	**RM**
Statutory income from business	430,000	
Less:		
RA (60% X 500,000 = 300,000)	300,000	
	130,000	
Less: Pioneer period losses (RM150,000 restricted to)	130,000	
Chargeable income		**NIL**
Pioneer period losses c/f (RM150,000 – RM130,000)	20,000	

13. Claim Procedures

13.1 A claim for RA must be made in the related ITRF.

13.2 The claim made does not need a written approval from Inland Revenue Board Malaysia (IRBM). However, the claim must be recorded in the RA claim form which can be downloaded from IRBM's Official Portal (**Appendix C**).

13.3 The original copy of the RA claim form is to be kept by the claimant together with all relevant documents related to the claim.

14. Updates and Amendments

	Ammendments	
This PR replaces the PR No. 9/2017 dated 22 December 2017	Paragraph	Explanations
	1	Paragraph 1(e) inserted
	2	Sub paragraph 2.2 is ammended
	8	Sub paragraph 8.3.2 is ammended New Diagram 2 inserted

	9	Is amended and renumbered as paragraph 10 Inserted new sub paragraph 10.5.5. Previous Examples, 30, 31,32 and 33 are amended and renumbered as Example 35, 36, 41 and 42 respectively. New examples, 37, 38, 39 and 40 are inserted in relation to renumbered paragraph 10.
	10	Is ammended and renumbered as paragraph 9. Previous Examples, 34 and 35 are amended and renumbered as Example 33 and 34 respectively.
	11	Sub paragraph 11.1, 11.2 and 11.3 is amended and renumbered as sub paragraph 8.5.1, 8.5.2 and 8.5.3 respectively. Sub paragraph 11.4.1, 11.4.2, 11.4.3 and 11.4.4 renumbered as 8.6.1, 8.6.2, 8.6.3 and 8.6.4 respectively. Previous Examples, 36,37, and 38 are amended and renumbered as Example 30,31 and 32 respectively.
	12	Sub paragraph 12.2 deleted Sub paragraph 12.3 renumbered as subparagraph 12.2 Previous Examples, 39,40, 41, 42 and 43 are amended and renumbered as Example 43, 44, 45, 46 and 47 respectively.
	13	Is amended and renumbered as paragraph 14

	14	Is renumbered as paragraph 13 New sub paragraph 13.2 is inserted
	15	New paragraph is inserted

15. Disclaimer

The examples in this PR are for illustration purposes only and are not exhaustive.

Director General of Inland Revenue,
Inland Revenue Board of Malaysia

Appendix A

List of non-qualifying activities for RA under paragraph 9*(ii)* of Schedule 7A of the ITA

1. Ice making;
2. Cutting, sorting, cleaning, drying, grinding, mixing, grading or packaging herbs or spice, or any of its combination;
3. Production of aggregates, asphaltic concrete, pre-mix cement, ready mixed concrete or bitumen, or any of its combination;
4. Folding and shaping paper box, cardboard, plastic bag, envelopes or any other folding and shaping activity;
5. Laminating;
6. Quarrying,
7. Mining or extraction of mineral;
8. Processing of photograph, picture, slide or film, or any of its combination;
9. Baking except where the activity is carried on in a factory;
10. Distillation or filtration of water;
11. Treatment of waste water and solid waste;
12. Mixing or blending of petroleum product;
13. Cleaning, processing, packing or freezing of product, or any of its combination;
14. Painting, polishing or vanishing, or any of its combination;
15. Colouring, stamping or printing of logo on materials or clothing, or any of its combination;
16. Production of herbs and traditional medicine, or any of its combination;
17. Production of sawn timber, veneer, plywood including drying of the products, or any of its combination;
18. Photostatting;
19. Recycling activity which involves sorting, cutting or packaging, or any of its combination;
20. Ship building activity.

Appendix B

Computation of Process Efficiency (PE)

$$\text{PROCESS EFFICIENCY (PE)} = \frac{\text{TOTAL OUTPUT - BIMS}}{\text{TOTAL INPUT - BIMS}}$$

Note: BIMS is Bought-In Materials and Services

A	Total Output	Notes
1.	Net sales	Net sales = Gross sales less discounts, returns and rebates
2.	Closing stock of finished goods less opening stock of finished goods	
3.	Closing work-in-process less opening work-in-process	
4.	Own construction	Own construction is the total cost paid for any internal activity or project carried out by own resources for improvement or enhancement objective. Example: Upgrading tools for moulding activity
5.	Income from sale of goods purchased in the same condition	Example: Company XYZ is a tyre manufacturer. At the same time it acts as an agent for other tyre manufacturers and sell the tyres in the same condition to its clients
6.	Income from services rendered	The type of services rendered should be related to the main activity of the company as listed in the company's Memorandum of Association or its Constitution.

B	BIMS (Bought-In Materials and Services)	Notes
1.	Materials consumed	
2.	Supplies, consumables, printing and lubricants	Supplies: All related supplies such as stationary, packaging materials, accessories, tools, parts for repairs and maintenance etc. Consumables: All related items consumed in a production process
3.	Cost of goods sold in same condition	
4.	Utilities	Examples: Water, electricity and fuel
5.	Payment to contractors	Example: Payment for subcontracting works
6.	Payment for industrial work done by others, storages and supplies	Example: Payment for maintenance of parts and machinery and for storage of materials or purchased goods.
7.	Payments for non-industrial services	Example: Acquisition of trademark or patent, payment for royalties, advertising fees, audit fees, legal fees, professional charges, postage, consultancy fees etc.

C	Total Input	Notes
1.	Materials consumed	
2.	Supplies, consumable, printing and lubricants	Supplies: All related supplies such as lubricants stationery, packaging materials, accessories, tools, parts for repairs and maintenance etc. Consumable: All related items
3.	Cost of goods sold in same condition	
4.	Utilities	Example: Water, electricity and fuel
5.	Payment to contractors	Example: Payment for subcontracting works
6.	Payment for industrial work done by others, storages and supplies	Example: Payments for maintenance of parts and machinery and payments for storage of materials or purchased goods
7.	Payment for non-industrial services	Example: Acquisition of trademark or patent, payment for royalty, advertising fees, audit fees, legal fees, professional fees, postage, consultancy fees etc.
8.	Salaries and wages (paid employees), including payment / fees to working / non-working directors	
9.	Payment-in-kind to paid employees, EPF, SOCSO, free wearing apparel etc.	
10.	Total depreciation	
11.	Bank charges	Example: Interest or charge paid to financial institutions
12.	Other payments (grants / donation and other expenditures) but excluding direct taxes	Example of grant: Scholarship grant given to staff and their immediate family members. Donation subject to those from approved list issued by Inland Revenue Board Malaysia

1. (a) Other operating income should be included as part of Total Output. Example: Sales of scraps and by-products.

   (b) Non-operating income should not be included as part of Total Output. Examples of non-operating income are as listed below:

      I. Interest received

      II. Rent received

      III. Gain on investments

      IV. Gain on sale of properties

      V. Gain on sale or evaluation of securities, stock and bonds

      VI. Gain on foreign exchange transactions

      VII. Other income on transactions non-operating nature

2. Non-operating expenses should not be included as part of Total Input. Examples of non-operating expenses are as listed below:

   I. Bad debts

   II. Loss on sale of properties

   III. Loss on sale or evaluation of securities, stock and bonds

   IV. Loss on investments

   V. Stock written-off

   VI. Other losses on transactions non-operating in nature.

APPENDIX C

LHDN/BT/RA/2017

JABATAN DASAR PERCUKAIAN
IBU PEJABAT LEMBAGA HASIL DALAM NEGERI MALAYSIA
MENARA HASIL, ARAS 17
PERSIARAN RIMBA PERMAI
CYBER 8, 63000 CYBERJAYA
SELANGOR
www.hasil.gov.my

TUNTUTAN BAGI ELAUN PELABURAN SEMULA (EPS) BAGI PROJEK YANG LAYAK DI BAWAH JADUAL 7A, AKTA CUKAI PENDAPATAN 1967
CLAIM FOR REINVESTMENT ALLOWANCE (RA) FOR THE QUALIFYING PROJECT UNDER SCHEDULE 7A, INCOME TAX ACT 1967

NO. RUJUKAN CUKAI PENDAPATAN : .....
INCOME TAX REFERENCE NO.

CAWANGAN LEMBAGA HASIL DALAM NEGERI : .....
BRANCH OF INLAND REVENUE BOARD:

TAHUN TAKSIRAN : .....
YEAR OF ASSESSMENT :

TEMPOH ASAS : .....
BASIS PERIOD :

TAHUN TAKSIRAN PERTAMA EPS DITUNTUT : .....
(Berkuatkuasa mulai tahun taksiran 1998)
FIRST YEAR OF ASSESSMENT RA IS CLAIMED :
(With effect from the year of assessment 1998)

BAHAGIAN A: BUTIR-BUTIR SYARIKAT
PART A: DETAILS OF COMPANY

1. Nama dan alamat berdaftar:
Name and registered address:

.....
.....
.....
.....

LHDN/BT/RA/2017

2. Kategori pembayar cukai / *Category of taxpayer:*

a. **Syarikat perkilangan yang dilesenkan di bawah Akta Penyelarasan Perindustrian 1975.**
A manufacturing company licensed under the Industrial Co-ordination Act 1975. ☐

b. **Syarikat perkilangan yang tidak dilesenkan di bawah Akta Penyelarasan Perindustrian 1975.**
A manufacturing company not licensed under the Industrial Co-ordination Act 1975. ☐

c. **Syarikat di mana jumlah modal berbayar pada hari pertama tempoh asas tahun taksiran dituntut tidak melebihi RM 2.5 juta.**
A company where paid-up capital on the first day of a basis period for a year of assessment claimed is not more than RM2.5 million. ☐

d. **Syarikat, persatuan kerjasama berasaskan pertanian, persatuan peladang atau persatuan nelayan yang diluluskan yang menjalankan projek pertanian yang layak.**
A company, an agro-based co-operative society, approved farmers or fishermen association which undertakes qualifying agricultural project. ☐

3. Kategori Permohonan / *Category of Application:*

a. **Projek pembesaran bagi keluaran wujud.**
Expansion project on existing product. ☐

b. **Projek permodenan/automasi.**
Modernization/Automation project. ☐

c. **Projek pempelbagaian.**
Diversification project. ☐

4. Tarikh perniagaan dimulakan:
Date of commencement of business: .....

5. Struktur Ekuiti:
Equity structure:

Rakyat Malaysia/*Malaysian Citizen:* ..... (%)

Rakyat Asing/*Foreign Citizen*: ..... (%)

LHDN/BT/RA/2017

6. **Jenis galakan yang sedang dinikmati atau diluluskan secara prinsip di bawah Akta Penggalakan Pelaburan 1986 dan Akta Cukai Pendapatan 1967.**
Incentive currently enjoyed or had been approved in principle under the Promotion of Investments Act 1986 and Income Tax Act 1967

(a) **Jenis Galakan** / *Type of Incentive :* .....

(b) **Tarikh kelulusan** / *Date of approval:* .....

(c) **Tempoh** / *Period*: .....

(d) **Produk** / *Product* : .....

BAHAGIAN B: BUTIR-BUTIR PROJEK
PART B: PARTICULARS OF PROJECT

1. **Keterangan mengenai projek yang layak yang terlibat dalam aktiviti pengilangan atau pertanian dan kesan projek tersebut terhadap keluaran /operasi perniagaan sedia ada** / *Description of the qualifying project engaged in the activity of manufacturing or agriculture and the effect of that project on output/operation of the existing business.*

.....
.....
.....
.....
.....
.....
.....
.....

.....
.....

* Sediakan lampiran sekiranya perlu.
Provide attachment if necessary.

BAHAGIAN C: BUTIR-BUTIR PERBELANJAAN MODAL YANG LAYAK BAGI AKTIVITI PENGILANGAN ATAU PROJEK PERTANIAN

PART C : DETAILS OF QUALIFYING CAPITAL EXPENDITURE FOR MANUFACTURING PROJECT OR AGRICULTURAL PROJECT

1. Butir-butir perbelanjaan modal yang layak di mana EPS yang telah dituntut bagi tahun taksiran sebelumnya.
Detals of qualifying capital expenditure where RA was claimed in the preceding year of assessment.

(a) Loji dan jentera / *Plant and Machinery*

Jenis loji & jentera Types of plant & machinery	**EPS yang diberi** RA given	**Tahun taksiran dituntut** Year of assessment claimed	**Jumlah Kos** *Total cost* (RM) *	**Tarikh pemerolehan** Date of acquisition	**Tarikh pelupusan** Date of disposal

* Bagi aset yang diperolehi secara sewa beli, sila nyatakan jumlah bayaran modal yang telah dibuat bagi tempoh-tempoh asas sebelumnya di mana EPS telah diberi.
For assets acquired on hire purchase, please state the amount of capital payments made in the previous basis periods for which RA has been given

(b) Bangunan kilang (terpakai kepada aktiviti pengilangan)
Factory Building (applicable for manufacturing activity)

Lokasi/ Location	**Tarikh Perbelanjaan modal dilakukan/** *Date of capital expenditure incurred*	**Tarikh siap/** Date of completion	**Tarikh mula digunakan/** Date first put of use

(c) **Lain-lain jenis bangunan termasuk tempat tinggal atau kebajikan pekerja/ pembaikan struktur tanah / lain-lain struktur (terpakai kepada projek pertanian**
Other types of building including building for living accommodation or welfare of staff/improvement on land / other structures (applicable for agriculture project.

Lokasi Location	**Tarikh Dibeli/dibina (tidak termasuk kos tanah)** Date of purchase/ construction (excluding cost of land)	**Tarikh siap** Date of completion	**Tarikh mula digunakan** Date first put of use	**Jumlah kos** Total cost (RM)

2. Butir-butir aset berhubung EPS yang dituntut bagi tahun taksiran semasa.

Particulars of assets where RA is claimed in the current year of assessment.

(a) **Loji dan jentera**/*Plant & machinery*

Jenis loji dan jentera *Types of plant & machinery*	**Fungsi** *Function*	**Tarikh Diperolehi** *Date of acquisition*	**Jumlah kos** *Total cost* (RM)	**Cara pembayaran dan bayaran modal yang dibuat dalam tempoh asas** *Mode of payment and capital payment made in the basis period*		**Tarikh mula digunakan** *Date put to use*
				Sewa beli *hire purchase* (RM)	**Tunai** *Cash* (RM)	

(b) Bangunan kilang (terpakai kepada aktiviti pengilangan)
Factory building (applicable for manufacturing activity)

Lokasi *Location*	**Tarikh perbelanjaan modal dilakukan** *Date of capital expenditure incurred*	**Kos kilang** *Cost of factory*	**Tarikh mula digunakan** *Date first put of use*	**Keluasan kilang** *Area of factory*

(c) Lain-lain jenis bangunan termasuk tempat tinggal atau kebajikan pekerja/ pembaikan struktut tanah/ lain-lain struktur (terpakai kepada projek pertanian / *Other types of building including building for living accommodation or welfare of staff /improvement on land/other structure (applicable for agricultural project)*

Lokasi *Location*	**Tarikh Dibeli/dibina (tidak termasuk kos tanah)** *Date of purchase/ construction (excluding cost of land)*	**Tarikh siap** *Date of completion*	**Tarikh mula digunakan** *Date first put of use*	**Jumlah kos** *Total cost* (RM)

BAHAGIAN D : KECEKAPAN PROSES (KP)
PART D : PROCESS EFFICIENCY (PE)

Pengecualian sepenuhnya tuntutan EPS boleh dibenarkan jika syarikat pengilangan menunjukkan peningkatan produktiviti dalam tempoh asas bagi tahun taksiran tuntutan dibuat. Kelayakan untuk mendapat pengecualian sepenuhnya ke atas pendapatan statutori bergantung kepada pencapaian KP.

Full exemption of RA claim can be given if the manufacturing company has shown an increase in productivity in the basis period for the year of assessment the claim is made. The company's eligibility to claim full exemption of the statutory income will depend on its performance in respect of PE.

PENGIRAAN : KECEKAPAN PROSES (KP)
CALCULATION : PROCESS EFFICIENCY (PE)

(a) **KP bagi tahun taksiran yang dituntut :** .....
PE for the year of assessment the claim is made:

(b) **Kadar pertumbuhan bagi subsektor perkilangan :** .....
Growth rate for the manufacturing subsector :

Nota : Senarai kadar pertumbuhan tahunan bagi subsektor pengilangan yang dikeluarkan oleh Kementerian Kewangan setiap tahun taksiran boleh diperolehi daripada Lembaga Hasil Dalam Negeri Malaysia.
Note : The list of annual growth rate for the manufacturing subsectors issued by the Ministry of Finance for each year of assessment can be obtained from Inland Revenue Board of Malaysia.

BAHAGIAN E : PENGAKUAN OLEH PEMOHON
PART E: DECLARATION BY THE APPLICANT

Saya dengan ini / *I hereby* :

(a) **mengaku bahawa semua butir-butir yang diberikan dalam borang ini adalah benar dan betul** / *declare that all particulars furnished in this form are true and correct.*

(b) **mengaku bahawa perbelanjaan loji dan jentera yang dituntut tidak melibatkan penggantian alat gantian dan loji dan jentera berkenaan tidak digunakan oleh ahli pengurusan, pentadbiran atau staf perkeranian** / *declare that expenditure claimed for plant and machinery is not inclusive of replacement of parts and the plants and machinery are not used by the members of the management, administrative or clerical staff.*

(c) **mengaku bahawa borang ini dan semua dokumen-dokumen berkaitan dengan tuntutan ini disimpan dengan teratur dan boleh dikemukakan bagi tujuan audit** / *declare that this form and all documents relating this claim are properly kept and are available for audit purposes.*

LHDN/BT/RA/2017

(d) **memberi kebenaran kepada pegawai Lembaga Hasil Dalam Negeri Malaysia yang diberi kuasa sepenuhnya pada bila-bila masa untuk membuat pemeriksaan ke atas salinan resit dan dokumen-dokumen lain berkaitan dengan tuntutan ini** / *give permission to the authorized officers of Inland Revenue Board of Malaysia at any time to examine copies of receipts and other documents relating to this claim.*

Tandatangan / *Signature*	:	.....
Nama / *Name*	:	.....
Jawatan / *Designation*	:	.....
Cop Syarikat / *Company's Stamp*	:	.....
Tarikh / *Date*	:	.....

* Pengarah merujuk kepada mana-mana ahli Lembaga Pengarah syarikat pemohon.
Director refers to any member of the Board of Directors of the claimant company.

(Borang tuntutan beserta dokumen sokongan yang lengkap dinasihatkan disimpan oleh syarikat penuntut bagi tujuan audit. Borang tuntutan ini tidak perlu dikemukakan kepada Jabatan Dasar Percukaian, Ibu Pejabat Lembaga Hasil Dalam Negeri Malaysia. / *This claim form with the supporting documents are to be kept by the claimant company for audit purposes. This claim form need not be submitted to Tax Policy Department, Head Office of Inland Revenue Board of Malaysia)*

ATTACHMENT C-13

INLAND REVENUE BOARD OF MALAYSIA

REINVESTMENT ALLOWANCE PART II – AGRICULTURAL AND INTEGRATED ACTIVITIES

PUBLIC RULING NO. 11/2020

Translation from the original Bahasa Malaysia text.

DATE OF PUBLICATION: 10 NOVEMBER 2020

REINVESTMENT ALLOWANCE
PART II – AGRICULTURAL AND INTEGRATED ACTIVITIES

INLAND REVENUE BOARD OF MALAYSIA

Public Ruling No. 11/2020
Date Of Publicaton: 10 November 2020

Published by
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REINVESTMENT ALLOWANCE
PART II – AGRICULTURAL AND INTEGRATED ACTIVITIES

Public Ruling No. 11/2020

INLAND REVENUE BOARD OF MALAYSIA

Date Of Publicaton: 10 November 2020

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DIRECTOR GENERAL'S PUBLIC RULING

Section 138A of the Income Tax Act 1967 (ITA) provides that the Director General is empowered to make a Public Ruling in relation to the application of any provisions of the ITA.

A Public Ruling is published as a guide for the public and officers of the Inland Revenue Board of Malaysia. It sets out the interpretation of the Director General in respect of the particular tax law and the policy as well as the procedure applicable to it.

The Director General may withdraw this Public Ruling either wholly or in part, by notice of withdrawal or by publication of a new Public Ruling.

Director General of Inland Revenue,
Inland Revenue Board of Malaysia.

1. Objective

The objective of this Public Ruling (PR) is to assist a company resident in Malaysia which engaged in agricultural and integrated activities in ascertaining its eligibility to claim reinvestment allowance (RA) and provide clarification in relation to–

(a) projects that qualify for RA;

(b) expenditures that qualify for RA;

(c) period of eligibility;

(d) computation of RA; and

(e) limitation period to absorb RA balances.

2. Relevant Provisions of the Law

2.1 This PR takes into account laws which are in force as at the date this PR is published.

2.2 The provisions of the Income Tax Act 1967 (ITA) related to this PR are section 133A and Schedule 7A.

3. Interpretation

For the purposes of this Public Ruling, the word “operation” means an activity which consists of the carrying on of a business referred to in paragraph 8 of Schedule 7A of the ITA.

4. Eligibility to Claim Reinvestment Allowance

RA is a special tax incentive given to a company resident in Malaysia which–

(a) has been in operation for not less than 36 months; and

(b) has incurred in the basis period for a year of assessment (YA) capital expenditure for the purposes of qualifying projects referred to in subparagraph 8*(a)* or 8*(c)* or both of Schedule 7A of the ITA as follows:

(i) a project undertaken by a company, in expanding, modernising or automating its existing business in respect of manufacturing of a product or any related product within the same industry or in diversifying its existing business into any related product within the same industry;

(ii) an agricultural project undertaken by a company in expanding, modernising or diversifying its cultivation and farming business excluding the business of rearing chicken and ducks.

For the purpose of RA, companies engaged in agricultural activities would include agro-based co-operative society, an Area Farmers' Association, a National Farmers' Association, a State Farmers' Association, an Area Fishermen's Association, a National Fishermen's Association and a State Fishermen's Association.

5. Minimum Period of Operation

A company has to be in operation for 36 months or more to be eligible to claim RA for a qualifying project. Period of operation is calculated from the date the company commences its selected agricultural project.

6. Agricultural Projects

6.1 RA is given to any company which undertakes an agricultural project in expanding or modernizing or diversifying its cultivation and farming business, **excluding the business of rearing chicken and ducks**.

6.2 Capital expenditure in relation to an agricultural project means capital expenditure incurred in respect of–

(a) the clearing and preparation of land;

(b) the planting of crops;

(c) the provision of irrigation or drainage system;

(d) the provision of plant and machinery;

(e) the construction of access roads including bridges; or

(f) the construction or purchase of buildings (including those provided for the welfare of persons or as living accommodation for persons) and structural improvements on land or other structures,

for the purposes of food production on any of the following activities:

(i) cultivation of rice and maize;

(ii) cultivation of vegetables, tuber and roots;

(iii) cultivation of fruits;

(iv) livestock farming;

(v) spawning, breeding or culturing of aquatic products; and

(vi) any other activities approved by the Minister.

6.3 The activities described in paragraphs 6.2(i) to (vi) are to promote the production of food. Hence, spawning, breeding or culturing of ornamental fish, culturing of pearls and cultivation of flowers are **not included** and **do not qualify** for RA. Cultivation of oil palm, coffee, cocoa, coconut and other similar crops are **not included** as cultivation of fruits and therefore are not eligible for RA.

7. Integrated Project

A company may carry on both agricultural activity and manufacturing activity as an integrated project that constitutes one business source. If the agriculture produce used for the manufacturing activity of that integrated project is purchased from a third party, then any RA of that manufacturing activity can only be deducted from the statutory income of the manufacturing activity using purchased agriculture produce.

For the purposes of this paragraph, please refer to the PR No. 10/2020 entitled Reinvestment Allowance Part I – Manufacturing Activity which explains on RA given to a company which has incurred capital expenditure in relation to a manufacturing project under subparagraph 8(a) of Schedule 7A of the ITA.

Example 1

Company A closes its accounts on 31 December every year and has been carrying out the following activities since 2010:

(a)	Planting of pineapples; and	Integrated project
(b)	Manufacture of canned pineapple.	

The company has a 10-acre pineapple plantation. Fresh fruits will be sent from the plantation to the company's three (3) manufacturing plants to produce canned pineapple. To meet market demand for canned pineapple, the company has to purchase fresh fruits from nearby plantations and other small scale growers.

In 2018, Company A has undertaken the following activities:

(a) Agricultural activity

The company has decided to undertake a qualifying project by clearing and preparing an additional two (2) acres of land for growing pineapples with a cost of RM50,000[1].

(b) Manufacturing activity

The company purchased new machines for the second manufacturing plant at a cost of RM100,000[2] to increase production capacity of canned pineapple.

Total cost of production in 2018	**RM**
Total production cost of fresh pineapples from own plantation	1,000,000[3]
Total cost to purchase extra pineapples	350,000[4]
	1,350,000[5]

RA is allowed on capital expenditure incurred on a qualifying project.

Qualifying project	Capital expenditure RM	Qualifying capital expenditure for RA RM
1. Agricultural activity Clearing and preparing additional plantation land for growing pineapples (expansion of business)	50,000[1]	50,000 X 60% = 30,000[6]

2. Manufacturing activity New machines for second manufacturing plant to increase production capacity of canned pineapple (expansion of business)	100,000[2]	100,000 X 60% = 60,000[7]
Apportionment based on cost of pineapples from own plantation and cost of pineapples purchased:		
(a) Integrated project (agriculture and manufacturing using pineapples from own plantation)	$\frac{1{,}000{,}000^{3} \times 60{,}000^{7}}{1{,}350{,}000^{5}}$ = 44,444[8]	
(b) Manufacturing using pineapples purchased	$\frac{350{,}000^{4} \times 60{,}000^{7}}{1{,}350{,}000^{5}}$ = 15,556[9]	

Utilisation of RA for each qualifying project:

Description	Integrated project (agriculture and manufacturing using pineapples from own plantation) RM	Manufacturing activity using pineapples purchased RM
RA (clearing and preparing additional plantation land)	30,000[6]	Not applicable
RA (new machines for manufacture of canned pineapple)	44,444[8]	15,556[9]
Total RA	74,444	15,556
RA restricted to 70% of statutory income	(70% x 185,185[13] = 129,630 restricted to 74,444[10])	(70% x 64,815[14] = 45,371 restricted to 15,556[11])

Pursuant to paragraph 4A of Schedule 7A of the ITA, the company's claim for RA will be as follows:

Description	RM	Integrated project (agriculture and manufacturing using pineapples from own plantation) RM	Manufacturing activity using pineapples purchased RM
YA 2018			
Gross income	3,250,000		
Less: Expenses allowable under section 33 and Schedule 3 allowances	3,000,000		
Statutory income	250,000[12]	185,185[13]	64,815[14]
RA (clearing and preparing additional plantation land)	30,000[6]		
RA (new machines)	60,000[7]		
Apportionment of RA (restricted to 70% of statutory income)		74,444[10]	15,556[11]
Chargeable income	160,000	110,741	49,259

[12]**Statutory income is apportioned to the two (2) activities** above based on cost of pineapples from own plantation and cost of pineapples purchased and computed as follows:

Statutory income from manufacturing using pineapples from own plantation

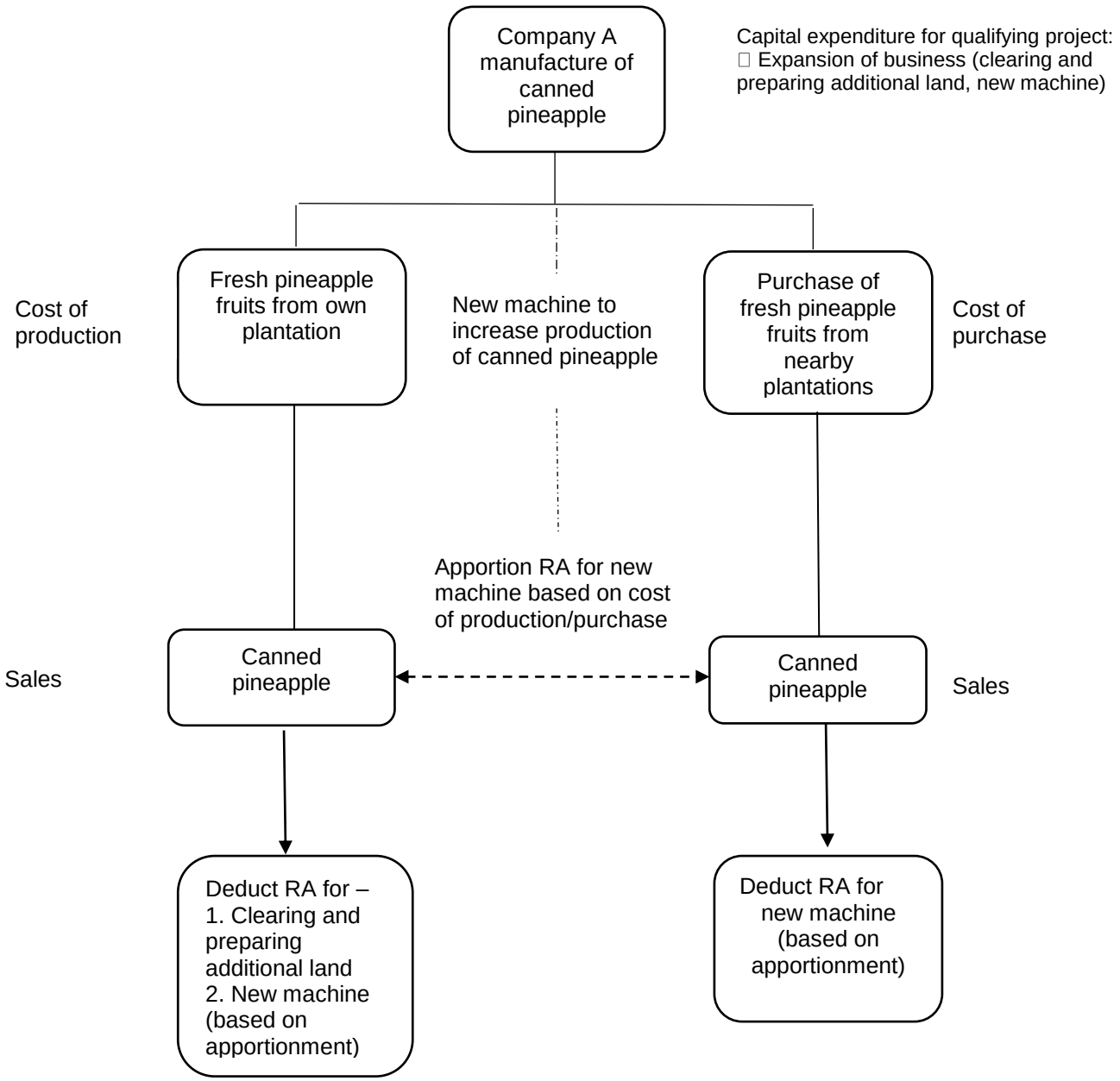
$$= \frac{1{,}000{,}000^{3} \times 250{,}000^{12}}{1{,}350{,}000^{5}}$$

$$= 185{,}185^{13}$$

Statutory income from manufacturing using pineapples purchased	=	$\frac{350{,}000^{4} \times 250{,}000^{12}}{1{,}350{,}000^{5}}$
	=	$64{,}815^{14}$

The cost of sales is an acceptable basis in determining the portion of statutory income in relation to manufacturing of the goods. Any other allocation basis that is fair and reasonable in determining the statutory income may be used as long as it is consistently adopted.

The apportionment of RA can be summarised as follows:



Example 2

Company B closes its accounts on 31 December every year and has been carrying out the following activities since 2010:

(a) Planting of pineapples;

(b) Manufacture of canned pineapple; and

} Integrated project

(c) Sale of imported canned lychee.

Company B has a 10-acre pineapple plantation. Fresh fruits will be sent from the plantation to the company's three (3) manufacturing plants to produce canned pineapple. To meet market demand for canned pineapple, Company B has to purchase fresh fruits from nearby plantations and other small scale growers.

Company B also imports canned lychee for sale to retailers in Malaysia. In 2018, Company B has undertaken the following activities:

(a) Agricultural activity

The company has decided to undertake a qualifying project by clearing and preparing an additional two (2) acres of land for growing pineapples with a cost of RM50,000[15].

(b) Manufacturing activity

(i) The company purchased new machines for the second manufacturing plant at a cost of RM100,000[16] to increase production capacity of canned pineapple.

(ii) The company has also decided to diversify the production into the manufacture of canned rambutan at the third manufacturing plant by purchasing a new machine at a cost of RM400,000[17]. The company has to purchase fresh rambutans for the diversified manufacturing activity from elsewhere.

Total cost of production in 2018	**RM**
Total production cost of fresh pineapples from own plantation	1,000,000[18]
Total cost to purchase extra pineapples	350,000[19]

Total cost to purchase fresh rambutans	500,000[20]
Total cost to purchase canned lychee	150,000[21]
	2,000,000[22]

RA is allowed on capital expenditure incurred on a qualifying project.

Qualifying project	Capital expenditure RM	Qualifying capital expenditure for RA RM
1. Agricultural activity Clearing and preparing additional plantation land for growing pineapples (expansion of business)	50,000[15]	50,000 X 60% = 30,000[23]
2. Manufacturing activity New machines for second manufacturing plant to increase production capacity of canned pineapple (expansion of business)	100,000[16]	100,000 X 60% = 60,000[24]
Apportionment based on cost of pineapples from own plantation and cost of pineapples purchased:		
(a) Integrated project (agriculture and manufacturing using pineapples from own plantation)		1,000,000[18] / 1,350,000[18 & 19] X 60,000[24] = 44,444[25]
(b) Manufacturing using pineapples purchased		350,000[19] / 1,350,000[18 & 19] X 60,000[24] = 15,556[26]

3. Manufacturing activity New machines for third manufacturing plant to manufacture canned rambutan (diversification of product)	400,000[17] X 60% = 240,000[27]

Utilisation of RA for each qualifying project:

Description	Integrated project (agriculture and manufacturing using pineapples from own plantation) RM	Manufacturing activity using pineapples and rambutans purchased RM
RA (clearing and preparing additional plantation land)	30,000[23]	Not applicable
RA (new machines for manufacture of canned pineapple)	44,444[25]	15,556[26]
RA (new machines for manufacture of canned rambutan)	Not eligible	240,000[27]
Total RA	74,444	255,556
RA restricted to 70% of statutory income	(70% x 125,000[31] = 87,500 restricted to 74,444[28])	(70% x 106,250[32]= 74,375 restricted to 74,375[29])

Pursuant to paragraph 4A of Schedule 7A of the ITA, the company's claim for RA will be as follows:

Description	RM	Integrated project (agriculture and manufacturing using pineapples from own plantation) RM	Manufacturing activity using pineapples and rambutans purchased RM	Sale of imported canned lychee RM
YA 2018				
Gross income	3,500,000			
Less: Expenses allowable under section 33 and Schedule 3 allowances	3,250,000			
Statutory income	250,000[30]	125,000[31]	106,250[32]	18,750[33]
RA (clearing and preparing additional plantation land)	30,000[23]			
RA (new machines)	300,000[24&27]			
Apportionment of RA (restricted to 70% of statutory income)		74,444[28]	74,375[29]	
Chargeable income	101,181	50,556	31,875	18,750

[30]**Statutory income is apportioned to the three (3) activities** above based on cost of pineapples from own plantation, cost of pineapples and rambutans purchased and cost of imported canned lychee and computed as follows:

Statutory income from manufacturing using pineapples from own plantation $= \frac{1{,}000{,}000^{18}}{2{,}000{,}000^{22}} \times 250{,}000^{30}$

$= 125{,}000^{31}$

Statutory income from manufacturing using pineapples and rambutans purchased	=	$\frac{850,000^{19\&20}}{2,000,000^{22}} \times 250,000^{30}$
	=	106,250[32]
Statutory income from trading of imported canned lychee	=	$\frac{150,000^{21}}{2,000,000^{22}} \times 250,000^{30}$
	=	18,750[33]

8. Unabsorbed Reinvestment Allowance

8.1 Prior to the YA 2019, if the qualifying project has been completed, RA carried forward (if any) is allowed to be deducted against the portion of statutory income from the business in respect of the qualifying project until all the RA is fully absorbed. The apportioned statutory income from the business related to the qualifying project continues until the full amount of RA is fully absorbed.

8.2 However, starting from the YA 2019, the balance of unabsorbed RA can only be carried forward to be absorbed for a maximum period of seven (7) consecutive YAs. The calculation of the maximum period of seven (7) consecutive YAs begins immediately after the expiry of the qualifying period for RA. Any RA balances that is unabsorbed after the end of that seven (7) consecutive YAs will be disregarded.

Example 3

Company C main business activities are planting rambutans and manufacturing canned rambutans. The company claimed RA for the first time in the YA 2005. Hence, the RA qualifying period for RA starts from the YA 2005 until the YA 2019.

In the YA 2019, the company bought a plant and machinery worth RM1,500,000[34] for its automation project for manufacturing canned rambutans.

Total cost of production in 2019	RM
Total production cost of fresh rambutans from its plantation	1,200,000[35]
Total cost to purchase extra rambutans	800,000[36]
	2,000,000[37]

RA is allowed on capital expenditure incurred on a qualifying project.

Qualifying project	Capital expenditure RM	Qualifying capital expenditure for RA RM
Manufacturing activity New machines for manufacturing canned rambutans (automation project)	1,500,000[34]	1,500,000 X 60% = 900,000[38]
Apportionment based on cost of rambutans from own plantation and cost of rambutans purchased:		
(a) Integrated project (agriculture and manufacturing using rambutans from own plantation) (b) Manufacturing using rambutans purchased	$\frac{1,200,000^{35}}{2,000,000^{37}}$ X 900,000[38] = 540,000[39] $\frac{800,000^{36}}{2,000,000^{37}}$ X 900,000[38] = 360,000[40]	

Utilisation of RA for each qualifying project:

Description	Integrated project (agriculture and manufacturing using rambutans from own plantation) RM	Manufacturing activity using rambutans purchased RM
RA (new machines for manufacture of canned rambutans)	540,000[39]	360,000[40]
RA restricted to 70% of statutory income[43]	(70% x 420,000[44] = 294,000 restricted to 294,000[41])	(70% x 280,000[45] = 196,000 restricted to 196,000[42])

RA carried forward	246,000 (540,000 – 294,000)	164,000 (360,000 – 196,000)

Pursuant to paragraph 4A of Schedule 7A of the ITA, the company's claim for RA will be as follows:

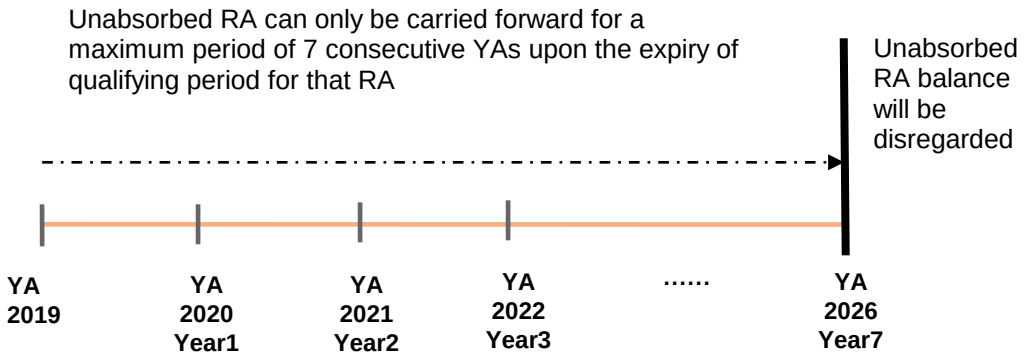
Description	RM	Integrated project (agriculture and manufacturing using rambutans from own plantation) RM	Manufacturing activity using rambutans purchased RM
YA 2019			
Statutory income	700,000[43]	420,000[44]	280,000[45]
Less: Apportionment of RA (restricted to 70% of statutory income)	900,000[39&40]	294,000[41]	196,000[42]
Chargeable income		126,000	84,000
RA carried forward	410,000[46]	246,000	164,000

[43]**Statutory income is apportioned to the two (2) activities** above based on cost of rambutans from own plantation and cost of rambutans purchased and computed as follows:

Statutory income from manufacturing using rambutan from own plantation	=	$\frac{1{,}200{,}000^{35}}{2{,}000{,}000^{37}} \times 700{,}000^{43}$
	=	420,000[44]
Statutory income from manufacturing using rambutans purchased	=	$\frac{800{,}000^{36}}{2{,}000{,}000^{37}} \times 700{,}000^{43}$
	=	280,000[45]

Note

The unabsorbed RA in the YA 2019 of RM410,000[46] can be carried forward to be absorbed until the YA 2026 (the 7th year). Any RA balances that has not been absorbed in the YA 2026 will be disregarded in the YA 2027.



8.3 In a situation where there is unabsorbed RA in the YA 2018 and the amount is to be carried forward into the YA 2019, that amount will be allowed to be carried forward for a maximum period of seven (7) consecutive YAs beginning from the YA 2019 although the RA qualifying period (15 years) has ended. Any unabsorbed RA after the end of that seven (7) consecutive YAs i.e. YA 2025 will be disregarded.

Example 4

Company D main business activities are planting rambutans and manufacturing canned rambutans since 2000. The company had claimed RA for the first time in the YA 2003. Hence, the RA qualifying period for the company started from the YA 2003 until the YA 2017.

In the YA 2018, the company has unabsorbed RA brought forward from the YA 2017 of RM350,000 and RM650,000 for both agricultural and manufacturing activity respectively although the RA qualifying period has ended.

Total cost of production in 2018	**RM**
Total production cost of fresh rambutans from own plantation	980,000[47]
Total cost to purchase extra rambutans	420,000[48]
	1,400,000[49]

Total cost of production in 2019	**RM**
Total production cost of fresh rambutans from own plantation	1,080,000[50]
Total cost to purchase extra rambutans	720,000[51]
	1,800,000[52]

Total cost of production in 2020	**RM**
Total production cost of fresh rambutans from own plantation	900,000[53]
Total cost to purchase extra rambutans	600,000[54]
	1,500,000[55]

Utilisation of RA for each qualifying project:

Description	**Integrated project (agriculture and manufacturing using rambutans from own plantation) RM**	**Manufacturing activity using rambutans purchased RM**
YA 2018		
RA brought forward	350,000	650,000
RA restricted to 70% of statutory income	(70% x 350,000 = 245,000 restricted to 245,000[56])	(70% x 150,000 = 105,000 restricted to 105,000[57])
RA carried forward	105,000 (350,000 – 245,000)	545,000 (650,000 – 105,000)
YA 2019		
RA brought forward	105,000	545,000

RA restricted to 70% of statutory income	(70% x 420,000 = 294,000 restricted to RA brought forward 105,000[58])	(70% x 280,000 = 196,000 restricted to 196,000[59])
RA carried forward	Nil (105,000 – 105,000)	349,000 (545,000 – 196,000)
YA 2020		
RA brought forward	Nil	349,000
RA restricted to 70% of statutory income	Nil	(70% x 480,000 = 336,000 restricted to 336,000[60])
RA carried forward	Nil	13,000 (349,000 – 336,000)

Pursuant to paragraph 4A of Schedule 7A of the ITA, the company's claim for RA will be as follows:

Description	RM	Integrated project (agriculture and manufacturing using rambutans from own plantation) RM	Manufacturing activity using rambutans purchased RM
YA 2018			
Statutory income	500,000[61]	350,000[62]	150,000[63]
RA brought forward • 350,000 (plantation) • 650,000 (manufacturing)	1,000,000		
Less: Apportionment of RA (restricted to 70% of statutory income)		245,000[56]	105,000[57]

Chargeable income		105,000	45,000
RA carried forward		105,000	545,000
YA 2019			
Statutory income	700,000[64]	420,000[65]	280,000[66]
RA brought forward • 105,000 (plantation) • 545,000 (manufacturing)	650,000		
Less: Apportionment of RA (restricted to 70% of statutory income)	490,000	105,000[58]	196,000[59]
Chargeable income		315,000	84,000
RA carried forward		Nil (105,000 – 105,000)	349,000 (545,000 – 196,000)
YA 2020			
Statutory income	1,200,000[67]	720,000[68]	480,000[69]
RA brought forward (manufacturing)	349,000		
Less: Apportionment of RA (restricted to 70% of statutory income)			336,000[60]
Chargeable income		720,000	144,000
RA carried forward			13,000

Statutory income is apportioned to the two (2) activities above based on cost of rambutans from own plantation and cost of rambutans purchased and computed as follows:

YA 2018

Statutory income from manufacturing using rambutan from own plantation = $\frac{980{,}000^{47}}{1{,}400{,}000^{49}} \times 500{,}000^{61}$

= $350{,}000^{62}$

Statutory income from manufacturing using rambutans purchased = $\frac{420{,}000^{48}}{1{,}400{,}000^{49}} \times 500{,}000^{61}$

= $150{,}000^{63}$

YA 2019

Statutory income from manufacturing using rambutan from own plantation = $\frac{1{,}080{,}000^{50}}{1{,}800{,}000^{52}} \times 700{,}000^{64}$

= $420{,}000^{65}$

Statutory income from manufacturing using rambutans purchased = $\frac{720{,}000^{51}}{1{,}800{,}000^{52}} \times 700{,}000^{64}$

= $280{,}000^{66}$

YA 2020

Statutory income from manufacturing using rambutan from own plantation = $\frac{900{,}000^{53}}{1{,}500{,}000^{55}} \times 1{,}200{,}000^{67}$

= $720{,}000^{68}$

Statutory income from manufacturing using rambutans purchased = $\frac{600{,}000^{54}}{1{,}500{,}000^{55}} \times 1{,}200{,}000^{67}$

= $480{,}000^{69}$

Note

RA that cannot be absorbed in the YA 2018 can be carried forward to be absorbed in the YA 2019 until the YA 2025 (the 7th year). In the above

example, Company D is able to generate statutory income to absorb all the RA until the YA 2019 for the integrated project. As such, no unabsorbed RA is to be disregarded for that project.

However, for the manufacturing activity, the unabsorbed RA of RM13,000 in the YA 2020 can be carried forward to be absorbed in the subsequent YAs until the YA 2025. If the company is unable to generate sufficient statutory income to absorb the unabsorbed RA, the unabsorbed RA balances will be disregarded in the YA 2026.

9 Claim Procedure

4.1 A claim for RA must be made in the related Income Tax Return Forms.

4.2 No written approval from the Inland Revenue Board of Malaysia (IRBM) is required for companies to claim the RA. However, the claim must be recorded in the RA claim form which can be downloaded from the IRBM Official Portal.

4.3 The original copy of the RA claim form is to be kept by the claimant together with all relevant documents related to the claim.

10 Updates and Amendments

<table>
<tr><th></th><th>Amendments</th></tr>
<tr><td>This PR replaces PR No. 10/2017 which was issued on 22 December 2017 and should be read together with PR No. 10/2020 entitled Reinvestment Allowance Part 1 – Manufacturing Activity</td><td>The contents of this PR have been amended and updated as follows:
<table>
<tr><th>Paragraph</th><th>Explanation</th></tr>
<tr><td>8</td><td>The previous paragraph 8 is updated and renumbered as paragraph 10.</td></tr>
<tr><td colspan="2">New paragraphs 8,9 and 11 are inserted.</td></tr>
</table></td></tr>
</table>

11 Disclaimer

The examples in this PR are for illustration purposes only and are not exhaustive.

Director General of Inland Revenue,
Inland Revenue Board of Malaysia.

Unilateral credit

13. Subject to paragraphs 14 and 15, unilateral credit shall be allowed in the same way as bilateral credit, and paragraphs 1 to 12 shall apply accordingly.

14. The unilateral credit allowed in respect of any foreign income for a year of assessment shall not exceed half the foreign tax payable on that income for that year.

15. Where an employee pays Malaysian tax and foreign tax in respect of income from an employment exercised outside Malaysia, then, whether or not he was resident for the basis year for the year of assessment for which the Malaysian tax was paid, unilateral credit may be allowed for foreign tax.

Interpretation

16. In this Schedule—

"bilateral credit" means credit in respect of foreign tax which, by virtue of any arrangements having effect under section 132, is to be allowed as a credit against Malaysian tax;

"foreign income" means income derived from outside Malaysia or in the case of bilateral credit, includes income derived from Malaysia charged to foreign tax;

"Malaysian tax" means tax imposed by this Act;

"unilateral credit" means credit in respect of foreign tax payable under the laws of a territory outside Malaysia with respect to which no arrangements under section 132 are in force.

SCHEDULE 7A

[Section 133A]

Reinvestment Allowance

1. Subject to this Schedule, where a company which is resident in Malaysia—

(a) has been in operation for not less than thirty- six months; and

(b) has incurred in the basis period for a year of assessment capital expenditure on a factory, plant or machinery used in Malaysia for the purposes of a qualifying project referred to under subparagraph 8*(a)*;

(c) (*Deleted by Act 591*),

there shall be given to the company for that year of assessment a reinvestment allowance of an amount equal to sixty per cent of that expenditure:

Provided that such expenditure shall not include capital expenditure incurred on plant or machinery which is provided wholly or partly for the use of a director, or an individual who is a member of the management, or administrative or clerical staff.

1A. Subject to this Schedule, where a company which has been in operation for not less than thirty-six months and is resident in Malaysia for the basis year for a year of assessment has incurred in the basis period for that year of assessment, capital expenditure in relation to an agricultural project in Malaysia for the purposes of any qualifying project referred to under subparagraph 8*(c)* there shall be given to the company for that year of assessment a reinvestment allowance of sixty per cent of that expenditure.

1B. (1) Where a company has incurred capital expenditure in respect of an asset for the purposes of a qualifying project and that asset is acquired by a person (in this paragraph referred to as the "the acquirer") from that company or from any other person (in this paragraph referred to as "the disposer") and at the time of the acquisition—

(a) the disposer of the asset is a person over whom the acquirer of the asset has control;

(b) the acquirer of the asset is a person over whom the disposer of the asset has control;

(c) some other person has control directly or indirectly over the disposer and acquirer of the asset; or

(d) the acquisition is effected in consequence of a scheme of reconstruction or amalgamation of companies,

this Schedule shall not apply to the acquirer in respect of the asset.

(2) In this paragraph—

"asset" means a factory, plant or machinery referred to in paragraph 1, or plant, machinery or building referred to in the definition of "capital expenditure" in paragraph 9;

"control", in relation to a company, means the power of a person to secure, by means of the holding of shares or the possession of voting power in or in relation to that or any other company, or by virtue of any powers conferred by the articles of association or other document regulating that or any other company, that the affairs of the first mentioned company are conducted in accordance with the wishes of that person.

1C. (*Deleted by Act 755*).

2. An allowance under paragraph 1 or 1A shall be given in respect of capital expenditure incurred in the basis periods for fifteen consecutive years of assessment beginning from the year of assessment for the basis period in which a claim for that allowance was first made in the return of his income in respect of that capital expenditure.

2A. (1) Where an asset is disposed of at any time within five years from the date of acquisition of that asset, an allowance given under paragraph 1 or 1A in respect of that asset shall be deemed to have not been given to the person to which it would otherwise be entitled.

(2) The allowance which is deemed to have not been given under subparagraph (1) shall be part of the person's statutory income in the basis period for the year of assessment in which such asset is disposed of.

3. Where an allowance is given to a person under paragraph 1 or 1A for a year of assessment, so much of the statutory income of that business of that person for that year of assessment as is equal to the amount of the allowance (or to the aggregate amount of any such allowances as the case may be) but not exceeding seventy per cent of the statutory income shall be exempt from tax for that year of assessment:

Provided that where the qualifying project has achieved the level of productivity as prescribed by the Minister, the amount to be exempt shall be equal to the allowance (or to the aggregate amount of any such allowances as the case may be) but not exceeding the statutory income for that year of assessment.

4. Where, by reason of the restriction of the allowance to seventy per cent of the statutory income or of an insufficiency or absence of statutory income from a business of the person for the basis period for a year of assessment, effect cannot be given or cannot be given in full to any allowance or allowances to which the person

is entitled under this Schedule for that year of assessment in relation to the source consisting of that business, so much of the allowance or allowances as cannot be given for that year shall be given to the person under this Schedule for the first subsequent year of assessment for the basis period for which there is statutory income from that business, and for subsequent years of assessment until the person has received the whole of the allowance or allowances to which it is so entitled.

4A. Statutory income referred to in paragraphs 3 and 4 shall be construed as the amount of statutory income of a person from a source consisting of a business in respect of a qualifying project referred to in paragraph 8.

5. (1) In the case of a company as soon as any amount of income has become exempted under paragraph 3, that amount shall be credited to an account to be kept by that company for the purposes of this paragraph (that account and company being in this paragraph and paragraph 6 referred to as the exempt account and the relevant company respectively).

(2) Where the exempt account is in credit at the date on which any dividends are paid by the relevant company out of income which has been exempted under paragraph 3, an amount equal to those dividends or that credit, whichever is the less, shall be debited to the exempt account.

(3) So much of the amount of any dividends debited to the exempt account under subparagraph (2) as is received by a shareholder in the relevant company shall, if the Director General is satisfied with the entries in the exempt account, be exempt from tax in the hands of that shareholder.

(4) Any dividends debited to the exempt account under subparagraph (2) shall be treated as having been distributed to the shareholders (or any particular class of shareholders) of the relevant company in the same proportions as those in which the shareholders in question were entitled to payment of the dividends giving rise to the debit.

(5) Until the Director General is satisfied that there is no further need to maintain the exempt account, the relevant company shall deliver to the Director General a copy of the exempt account made up to a date specified by him whenever it is called upon to do so by notice in writing sent by the Director General to the company's registered office.

(6) Where—

(a) an amount is received by way of dividend from the relevant company by a shareholder;

(b) that amount is exempt from tax under subparagraph (3); and

(c) that shareholder is a company,

any dividends paid by that shareholding company to its shareholders shall, to the extent that the Director General is satisfied that the dividends so paid are paid out of that amount, be exempt from tax in the hands of those shareholders.

(7) (*Deleted by Act 683*).

6. Notwithstanding any other provisions of this Schedule, where paragraph 2A applies or where it appears to the Director General that any income of the relevant company exempted under paragraph 3 or any dividend exempted in the hands of a shareholder under paragraph 5 ought not to have been exempted, he may at any time within five years after the expiration of the year of assessment for which the exemption was given make such assessment or additional assessment upon any person as appears to him to be necessary in order to counteract any benefit obtained from the exemption, or direct the relevant company to debit the exempt account with such amount as the circumstances require.

6A. Where in the case of a business of a person the basis periods for two years of assessment overlap, the period common to those periods shall be deemed for the purposes of this Schedule to fall into the earlier of those periods and not into the later of those periods.

7. This Schedule shall not apply to a company—

(a) for the basis period during which the company—

(i) has been granted pioneer status under the Promotion of Investments Act 1986 in respect of a promoted activity or promoted product and which is applying or intends to apply for the grant of a pioneer certificate; or

(ii) has been granted pioneer certificate under the Promotion of Investments Act 1986 in respect of a promoted activity or promoted product and whose tax relief period has not ended or ceased;

(b) for the basis period for which the company has been granted approval for investment tax allowance under the Promotion of Investments Act 1986 in respect of a promoted activity or promoted product for the period prescribed under the relevant provisions of that Act;

(c) (*Deleted by Act 578*);

(d) for the basis period during which that company, notwithstanding the repeal of the Investment Incentives Act 1968—

(i) has been given approval under section 5, 12A or 12B of that Act and whose tax relief period has not ended; or

(ii) has been given approval under section 26 of that Act and incurs capital expenditure which qualifies for investment tax credit; or

(e) for the basis period for which the company has been granted approval under section 31C of the Promotion of Investments Act 1986 prior to the coming into operation of section 37 of the Promotion of Investments (Amendment) Act 2007 [*Act A1318*] in respect of a manufacturing activity or manufactured product for the period prescribed under paragraph 31E(2)*(b)* of that Act.

(f) (*Deleted by Act 683*).

8. In this Schedule, "qualifying project" means—

(a) a project undertaken by a company, in expanding, modernizing or automating its existing business in respect of manufacturing of a product or any related product within the same industry or in diversifying its existing business into any related product within the same industry;

(b) (*Deleted by Act 693*);

(c) an agricultural project undertaken by a company in expanding, modernizing or diversifying its cultivation and farming business excluding the business of rearing chicken and ducks; or

(d) (*Deleted by Act 755*).

9. In this Schedule—

"capital expenditure", in relation to an agricultural project referred to in paragraphs 1A and 1C, means capital expenditure incurred in respect of—

(a) the clearing and preparation of land;

(b) the planting of crops;

(c) the provision of irrigation or drainage systems;

(d) the provision of plant and machinery;

(e) the construction of access roads including bridges;

(f) the construction or purchase of buildings (including those provided for the welfare of persons or as living accommodation for persons) and structural improvements on land or other structures; or

(g) (*Deleted by Act 755*),

for the purposes of any of the following activities:

(aa) cultivation of rice and maize;

(bb) cultivation of vegetables, tuber and roots;

(cc) cultivation of fruits;

(dd) livestock farming;

(ee) spawning, breeding or culturing of aquatic products;

(ff) any other activities approved by the Minister; and

(gg) (*Deleted by Act 755*);

"disposed of" means sold, conveyed, transferred, assigned, or alienated with or without consideration;

"factory" means portion of the floor areas of a building or an extension of a building used for the purposes of qualifying project to place or install plant or machinery or to store any raw material, or goods or materials manufactured prior to sale:

Provided that in respect of portion of the building or extension of the building used for the storage of raw material, or goods or materials, or both, it shall not be more than one-tenth of the total floor areas of that building or extension;

"incurred" has the same meaning assigned thereto in paragraphs 46 and 55 of Schedule 3;

"manufacturing" means—

(a) conversion by manual or mechanical means of organic or inorganic materials into a new product by changing the size, shape, composition, nature or quality of such materials;

(b) assembly of parts into a piece of machinery or products; or

(c) mixing of materials by a chemical reaction process including biochemical process that changes the structure of a molecule by the breaking of the intra molecular bonds or by altering the spatial arrangement of atom in the molecule,

but does not include—

(aa) the installation of machinery or equipment for the purpose of construction;

(bb) a simple packaging operations such as bottling, placing in boxes, bags and cases;

(cc) a simple fixing;

(dd) a simple mixing of any products;

(ee) a simple assembly of parts;

(ff) any activity to ensure the preservation of products in good condition during transportation and storage;

(gg) any activity to facilitate shipment and transportation;

(hh) any activity of packaging or presenting goods for sale; or

(ii) any activity that may be prescribed by the Minister, notwithstanding the above interpretation;

"operation" means an activity which consists of the carrying on of a business referred to in paragraph 8;

"simple" generally describes an activity which does not need special skills, machines, apparatus or equipment especially produced or installed for carrying out the activity.

10. Except for paragraphs 1 and 5, this Schedule shall also apply to an agro-based co-operative society (within the meaning assigned to it under the Farmers' Organization Act 1973 [*Act 109*]), an Area Farmers' Association, a National Farmers' Association, a State Farmers' Association (within the meanings assigned to them under the Farmers' Organization Act 1973), an Area Fishermen's Association, a National Fishermen's Association and a State Fishermen's Association (within the meanings assigned to them under the Fishermen's Association Act 1971 [*Act 44*]).

11. For the purpose of paragraph 1c, where—

(a) a company or a partnership (hereinafter referred to in this subparagraph as "new partnership") commences to carry on a business of rearing chicken and ducks; and

(b) that business is a continuation of a business carried out by a sole proprietor or a partnership (hereinafter referred to in this subparagraph as "old partnership") for a period of not less than thirty-six months prior to that commencement,

that period, in relation to that company and the new partnership, shall be taken into account in ascertaining the period of not less than thirty-six months referred to in that paragraph:

Provided that the sole proprietor or any of the partners in the old partnership holds any share in that company or is the partner of the new partnership, as the case may be.

12. Where a person has a source within the meaning of sections 55 to 58, the rules prescribed under paragraph 74 of Schedule 3 shall apply, *mutatis mutandis*, in ascertaining the allowance to be made to that person for a year of assessment under this Schedule.

SCHEDULE 7B

[Section 133A]

Investment Allowance for Service Sector

1. Where a company which is resident in Malaysia for the basis year for a year of assessment has incurred in the basis period for that year of assessment capital expenditure for the purpose of an approved service project, there shall be given to the company for that year of assessment an investment allowance of an amount approved by the Minister, such allowance being not less than sixty per cent of that expenditure.

2. The Minister may grant approval in respect of an application made in writing for an investment allowance under this Schedule on such terms and conditions as he deems fit.

3. An allowance for expenditure given under paragraph 1 shall be given in respect of expenditure incurred within five years from the date from which the approval is to take effect.