



**LEMBAGA HASIL DALAM NEGERI  
INLAND REVENUE BOARD**

**PUBLIC RULING**

**TRADE ASSOCIATION**

*Translation from the original Bahasa Malaysia text.*

**PUBLIC RULING NO. 6/2005**

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**DIRECTOR GENERAL'S PUBLIC RULING**

A Public Ruling is issued for the purpose of providing guidance for the public and officers of the Inland Revenue Board. It sets out the interpretation of the Director General of Inland Revenue in respect of the particular tax law, and the policy and procedure that are to be applied.

A Public Ruling may be withdrawn, either wholly or in part, by notice of withdrawal or by publication of a new ruling which is inconsistent with it.

**Director General of Inland Revenue,  
Malaysia**

1. This Ruling explains:
  - (i) the tax treatment accorded to trade associations; and
  - (ii) the application of relevant Income Tax Exemption Orders relating to trade associations.
2. The specific provision applicable to trade associations is section 53 of the Income Tax Act, 1967 (ITA). Income Tax Exemption Orders pertaining to a trade association are Income Tax (Exemption) (No. 8) Order 2002 and Income Tax (Exemption) (No. 19) Order 2005.
3. The words used in this Ruling have the following meanings:
  - 3.1 "Trade association" is defined under subsection 53(3) of the ITA as any association of persons, of partnerships or of persons and partnerships formed with the main object of safeguarding or promoting the businesses of its members; and, notwithstanding any other provision of the ITA, a trade association shall be deemed to be a body of persons and not a partnership.
  - 3.2 "Business" includes profession, vocation and trade and every manufacture, adventure or concern in the nature of trade, but excludes employment.
  - 3.3 "Body of persons" means an unincorporated body of persons (not being a company) including a Hindu joint family but excluding a partnership.
  - 3.4 "Basis period" for a year of assessment for the business of a trade association is the basis year for that year of assessment in which the association is resident.
  - 3.5 "Year of assessment" means a calendar year.
  - 3.6 "Gross income", "adjusted income", "adjusted loss" and "statutory income" refer to income or loss as determined under Chapters 3, 4 and 5 of Part III of the ITA.
  - 3.7 "Resident" means resident in Malaysia as determined under paragraphs 8(1)(b) and 8(1)(c) of the ITA.

#### **4. Trade association**

- 4.1 Based on the definition of "trade association" under subsection 53(3) of the ITA, an organization would be regarded as a trade association if it fulfills the following conditions:
  - (a) all of its members must carry on a business; and
  - (b) its objective must be that of safeguarding or promoting the businesses of its members.

Some examples of trade associations are the Chinese Chamber of Commerce, the Rubber Growers Association, the Malaysian Insurance Institute, the Malaysian Association of Tours and Travel Agents and the Asset Financing and Leasing Association of Malaysia.

- 4.2 However, where an organization's membership is open not only to those who are in business but also to those who are under employment, the organization will not be regarded as a trade association. An example of such an organization is a professional organization where the membership is not confined exclusively to those who are in practice but is also open to those who are employed.
- 4.3 Where a trade association is resident for the basis year for a year of assessment, the gross income from a business of the trade association would include any amount receivable on revenue account by the trade association for that basis year including entrance fees and subscriptions.

## **5. Residence status of a trade association**

The residence status of a trade association is determined based on tests laid down under paragraphs 8(1)(b) and 8(1)(c) of the ITA. These tests are similar to those used to determine the residence status of a company, that is, a trade association 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 affairs are exercised in Malaysia by its controlling authority. Once the residence status has been established for the basis year for a year of assessment, it shall be presumed until the contrary is proved that the trade association is resident in Malaysia for the purposes of the ITA for the basis year for every subsequent year of assessment.

## **6. The tax treatment of income and expenditure of a trade association**

- 6.1 Income derived from business, rent, etc. (classes of income under section 4 of the ITA) by a trade association is assessed in the same manner as that of any other person.
- 6.2 In addition to those classes of income chargeable under section 4 of the ITA, a trade association resident in Malaysia is deemed to have a business source in respect of any amount receivable which is of a revenue nature including entrance fees and subscriptions. The basis year (which is the calendar year) is taken to be the basis period for the deemed business income.
- 6.3 All outgoings and expenditure connected with the revenue receipts in respect of the deemed business source are regarded to have been incurred in the production of the gross income from that business. These outgoings and revenue expenditure will be allowable in arriving at the adjusted income or loss, subject to specific disallowance under section 39 of the ITA.

***Example 1***

A trade association's profit and loss account for the year ended 31 December 2005 is as follows:

	<b>RM</b>	<b>RM</b>
Members' subscriptions		44,000
Entrance fees		1,000
Fixed deposit interest		<u>800</u>
		45,800
Less: Expenditure		
Salaries	20,000	
Rent	10,000	
Electricity and water	1,300	
Meeting expenses	500	
Donation (approved)	200	
Calculator	<u>300</u>	<u>32,300</u>
Net profit		<u>13,500</u>

*The adjusted income from the "deemed" business source for the year of assessment (Y/A) 2005 (basis year ended 31 December 2005) is calculated as follows:*

	<b>RM</b>	<b>RM</b>
<i>Net profit as per account</i>		13,500
<i>Less: interest income (separate source)</i>		<u>800</u>
		12,700
<i>Add: Donation</i>	200	
<i>Calculator</i>	<u>300</u>	<u>500</u>
<i>Adjusted income from business</i>		<u>13,200</u>
<i>Adjusted income / statutory income from interest</i>		800
<i>(With regard to capital allowances, refer to Example 3)</i>		

- 6.4 Trade associations also receive special donations or subscriptions for specific purposes such as building or anniversary funds. In deciding whether the receipt is to be included as gross income from the deemed business and the deductibility of the expenditure incurred, the general principles of revenue and capital must be applied to such donations and subscriptions. Thus, special donations to a building fund for altering or reconstructing a building would be regarded as capital receipts and expenditure incurred thereon would be regarded as capital expenditure. On the other hand, special subscriptions to

an anniversary fund would normally be of an income nature and the expenditure relating to the anniversary festivities would be treated as a revenue expenditure.

**Example 2**

The following are accounts relating to the operations of a trade association for the year ended 31 December 2005:

<b>i. Profit and loss account</b>	<b>RM</b>		<b>RM</b>
Administrative expenses	14,400	Entrance fees	27,000
Salaries	22,000	Subscriptions	48,000
Anniversary account	4,700	Donations (general)	10,000
Building account	7,700		
Net profit	<u>36,200</u>		
	<u>85,000</u>		<u>85,000</u>
<b>ii. Building account</b>	<b>RM</b>		<b>RM</b>
Additions and alterations	54,400	Donations	46,700
		Profit & loss A/c	<u>7,700</u>
	<u>54,400</u>		<u>54,400</u>
<b>iii. Anniversary account</b>	<b>RM</b>		<b>RM</b>
Expenses - dinner, drinks, floor show, etc.	144,700	Contributions	140,000
		Profit & loss A/c	<u>4,700</u>
	<u>144,700</u>		<u>144,700</u>

*The statutory income from business for the year of assessment 2005 (year ended 31 December 2005) is computed as follows:*

	<b>RM</b>
<i>Business : Net profit as per a/c</i>	36,200
<i>Add: Building account (capital)</i>	<u>7,700</u>
<i>Adjusted income / Statutory income</i>	<u>43,900</u>

*Note: (i) No adjustment for Anniversary Account as it is revenue in nature.*

*(ii) The Income Tax (Exemption) (No.19) Order 2005 is not applied in Example 2. Application of the Order is shown in Example 5.*

## 7. Capital Allowance

Since a trade association is deemed to have a business source, it is thus eligible for capital allowance in respect of qualifying assets used for its deemed business activities.

### **Example 3**

Following the facts in Example 1, the statutory income of the “deemed” business of the trade association is as follows:

	<b>RM</b>	<b>RM</b>	<b>RM</b>
<i>Net profit as per account</i>			13,500
<i>Less: Interest income</i>			<u>800</u>
			12,700
<i>Add: Donation</i>		200	
<i>Calculator</i>		<u>300</u>	<u>500</u>
<i>Adjusted income</i>			13,200
<i>Less: Capital Allowance on</i>			
<i>Calculator</i>			
20% x 300	60		
10% x 300	<u>30</u>	90	
<i>Other assets</i>			
<i>Annual allowance (say)</i>		<u>410</u>	<u>500</u>
<i>Statutory income from business</i>			<u>12,700</u>

*Note: With effect from Year of Assessment 2006, a trade association can claim for 100% capital allowance on small value assets not exceeding RM1,000 each to the total value of RM10,000 for a year of assessment.*

## 8. Tax rate

A trade association resident in Malaysia will be taxed at scale rates similar to those applicable to a resident individual as specified in Part I of Schedule 1 of the ITA. A non-resident trade association will be taxed in accordance with the general provisions of the ITA applicable to non-residents and the rate of tax is 28% similar to the rate applicable to a non-resident individual.

## 9. Registration procedure

9.1 While most trade associations are established and registered under the Societies Act 1966, there may be some trade associations which are incorporated as a company limited by guarantee under the Companies Act 1965. For income tax purposes, such associations will also be accorded the

tax treatment under section 53 of the ITA if they fall within the definition of a "trade association".

- 9.2 For administrative purposes, all trade associations should be registered with a tax file reference number commencing with the alphabet "F". The tax return applicable to a trade association is Form TF.
- 9.3 A trade association which is a company limited by guarantee, formed with the main object of safeguarding or promoting the businesses of its members, is also required to apply for an "F" number from the Assessment Branch instead of a "C" number which is normally given to a company. It must submit a Form TF instead of a Form C.

### **10. Income tax exemption orders pertaining to a trade association**

10.1 The exemption orders directly applicable to a trade association made and revoked are as follows:

- Income Tax (Exemption) (No.14) Order 1996 was revoked by Income Tax (Exemption) (No 8) Order 2002.
- Income Tax (Exemption) (No.7) Order 2002 which was effective from the year of assessment 2002 to the year of assessment 2004 was revoked by Income Tax (Exemption) (No.19) Order 2005.

10.2 The exemption orders directly applicable to a trade association made and still in force are as follows:

- Income Tax (Exemption) (No.8) Order 2002; and
- Income Tax (Exemption) (No.19) Order 2005.

10.3 Below is a summary of the exemption orders still in force:

#### **Income Tax (Exemption) (No.8) Order 2002**

<b>Commencement</b>	With effect from Y/A 1996.
<b>Applicable to</b>	Resident trade association established on or after 1/1/1996 until 31/12/2001.
<b>Exemption</b>	50% of the Statutory Income from all sources for a maximum period of 5 years of assessment from the year of assessment in the basis period in which the trade association is established.

#### **Example 4 - Income Tax (Exemption) (No.8) Order 2002**

Using the facts as in Example 2, and assuming the trade association was registered on 1 March 2001 and accounts are closed on 31 December each year, the calculation of tax payable for Y/A 2005 in respect of the trade

association which has elected for exemption under the Income Tax (Exemption) (No.8) Order 2002 is as follows:

<b>Statutory income</b>	<b>RM</b>
<i>Business</i> <i>RM43,900 - RM21,950 (50% x RM43,900)</i>	<i>21,950</i>
<i>Interest (say)</i> <i>RM500 - RM250 (50% x RM500)</i>	<i><u>250</u></i>
<i>Chargeable income</i>	<i><u>22,200</u></i>
<i>Tax on the first RM20,000</i>	<i>475.00</i>
<i>Tax on the balance RM2,200 x 7%</i>	<i><u>154.00</u></i>
<i>Tax payable</i>	<i><u>629.00</u></i>

**Income Tax (Exemption) (No.19) Order 2005**

<b>Commencement</b>	With effect from Y/A 2005
<b>Applicable to</b>	Resident trade association
<b>Exemption</b>	<p>(1) Statutory income derived from members' subscription fees in the basis period for a year of assessment;</p> <p>(2) The amount of statutory income referred to in subparagraph (1) shall consist of the amount of gross income from the trade association's members' subscription fees in the basis period for a year of assessment, reduced -</p> <p style="padding-left: 20px;">(a) first, by any amount of expenses incurred in the production of that income; and</p> <p style="padding-left: 20px;">(b) next, by any allowance falling to be made pursuant to Schedule 3 to the ITA in respect of that income;</p> <p>(3) The amount of expenses and allowances referred to in subparagraph (2) above shall include an amount of expenses and allowances which are common to the income exempt under subparagraph (1) and other non-exempt income which amount shall be determined -</p> <p style="padding-left: 20px;">(i) in relation to expenses, in accordance with the following formula:</p> $A \quad \times \quad \frac{B}{C}$

	<p>where A is the amount of common expenses; B is the amount of gross income from its members' subscription fees; and C is the amount of gross income from its business sources; and</p> <p>(ii) in relation to allowances, in accordance with the following formula:</p> $D \times \frac{B}{C}$ <p>where D is the amount of common allowances; B is the amount of gross income from its members' subscription fees; and C is the amount of gross income from its business sources.</p> <p>(4) The amount of common expenses and common allowances that has been determined under subparagraph (3) for the purpose of subparagraph (2) shall be disregarded for the purposes of other income not exempted under this Order.</p>
<b>Non-application</b>	This exemption is not applicable for the year of assessment in which the trade association has claimed an exemption under the Income Tax (Exemption) (No.8) Order 2002.

**Example 5 - Income Tax (Exemption) (No.19) Order 2005**

The profit and loss account of a trade association for the year ended 31 December 2005 is as follows:

<b>Income</b>	<b>RM</b>
Members' subscription fees	1,000,000
Seminar fees	500,000
Trade association activities	300,000
Contributions	<u>200,000</u>
	2,000,000

<b>Expenditure</b>	<b>RM</b>
Director's fees	100,000
Employees remuneration	50,000
Consultant fee (incurred for the trade association's activities)	100,000
Rental of seminar hall	150,000
Food (for seminars)	50,000
Transport	25,000
Stationery	25,000
Surplus of income over expenditure	<u>1,500,000</u>

*The calculation of tax payable for Y/A 2005 of the trade association is as follows:*

	<b>RM</b>	<b>RM</b>	<b>RM</b>
<i>Members' subscription fees</i>		1,000,000	
<i>Less: Common expenses<sup>1</sup></i>		<u>100,000</u>	
<i>Adjusted income</i>		900,000	
<i>Less: Common capital allowance<sup>2</sup></i>		<u>250,000</u>	
<i>Statutory income from members' subscription fees (exempted from tax)</i>			650,000
<i>Seminar fees</i>		500,000	
<i>Less: Expenses</i>			
<i>Rental of seminar hall</i>	150,000		
<i>Food</i>	50,000		
<i>Common expenses<sup>1</sup></i>	<u>50,000</u>	<u>250,000</u>	
<i>Adjusted income</i>		250,000	
<i>Less: Common capital allowance<sup>2</sup></i>		<u>125,000</u>	
<i>Statutory income from seminar fees</i>			125,000
<i>Trade association activities</i>		300,000	
<i>Less: Expenses</i>			
<i>Consultant fees</i>	100,000		
<i>Common expenses<sup>1</sup></i>	<u>30,000</u>	<u>130,000</u>	
<i>Adjusted income</i>		170,000	
<i>Less: Common capital allowance<sup>2</sup></i>		<u>75,000</u>	
<i>Statutory income from trade association activities</i>			95,000
<i>Contributions</i>		200,000	
<i>Less: Common expenses<sup>1</sup></i>		<u>20,000</u>	
<i>Adjusted income</i>		180,000	
<i>Less: Common capital allowance<sup>2</sup></i>		<u>50,000</u>	
<i>Statutory income from contributions</i>			<u>130,000</u>
<i>Statutory income from business</i>			1,000,000

	<b>RM</b>
Statutory income from business b/f	1,000,000
Less: Amount exempted from tax in respect of members' subscription fees	<u>650,000</u>
Total income/Chargeable income	<u>350,000</u>
Tax on the first RM250,000	54,975.00
Tax on the balance RM100,000 @ 28%	<u>28,000.00</u>
Tax payable	<u>82,975.00</u>

<b><sup>1</sup> Common Expenses</b>	<b>RM</b>
Director's fees	100,000
Employees remuneration	50,000
Transport	25,000
Stationery	<u>25,000</u>
	<u>200,000</u>

	<b>RM</b>		<b>RM</b>
Attributable to members' subscription fees:	200,000	$\times \frac{1,000,000}{2,000,000} =$	100,000
Attributable to seminar fees:	200,000	$\times \frac{500,000}{2,000,000} =$	50,000
Attributable to trade association activities:	200,000	$\times \frac{300,000}{2,000,000} =$	30,000
Attributable to contributions:	200,000	$\times \frac{200,000}{2,000,000} =$	20,000

<b><sup>2</sup> Common capital allowances (say)</b>	<b>500,000</b>
Attributable to members' subscription fees:	500,000 $\times \frac{1,000,000}{2,000,000} =$ 250,000
Attributable to seminar fees:	500,000 $\times \frac{500,000}{2,000,000} =$ 125,000
Attributable to trade association activities:	500,000 $\times \frac{300,000}{2,000,000} =$ 75,000



## TRADE ASSOCIATION

**LEMBAGA HASIL DALAM NEGERI  
MALAYSIA**

**Public Ruling No: 6/2005  
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$$\begin{array}{rcccl} & & \textit{RM} & & \textit{RM} & & \textit{RM} \\ & & 500,000 & \times & \frac{200,000}{2,000,000} & = & 50,000 \\ \textit{Attributable to contributions} & & & & & & \end{array}$$

11. This Ruling is effective for the year of assessment 2005 and subsequent years of assessment.

**Director General  
of Inland Revenue**