

## **FINAL LEVEL REVENUE LAW**

### **OBJECTIVE:**

To examine the understanding, interpretation and application of legal issues and case law decisions and the provisions of the income tax statutes.

1. To understand the legal basis of the various tax issues
2. To apply case law principles in a given tax scenario to argue a case.
3. To compare and contrast conflicting case law decisions
4. To critically evaluate tax issues of form vs substances and deliberation of issues by the court

### **CONTENTS:**

**The following topics below are to be studied with reference to legal issues and case laws. Students are required to study the relevant cases listed in the \*List of Tax Cases\* provided below.**

#### **(A) The Basis of Malaysian Taxation**

1. Scope of charge—derived scope, world scope and its advantages and disadvantage
2. Derivation of Income Section 3 of the Income Tax Act (“the Act”)
3. Classes of Income Section 4, 4A, 4B and 4C of the Act

#### **(B) Employment Income:**

1. Determination of residence of individuals
2. Distinctions between profession and employment
3. Meaning of having or exercising an employment
4. Derivation of employment income
5. Gross income from employment
6. Deductible expenses
7. Exemptions

#### **(C) Business Income**

1. Business, trading and adventure in the nature of trade:
2. Meaning of adventure or concern in the nature of trade
3. Badges of trade
4. Mutual trading
5. Illegal activities – issues of law, ethics, moral and revenue considerations

#### **(D) Partnerships & Trusts**

1. Legal aspects of Partnership and Trust
2. Types of partners
3. Legal existence of partnerships
4. Tax aspects

#### **(E) Capital and Revenue Expenditure**

1. The Capital/Revenue distinction and related case laws
2. Deductible expenses (general rule and specific provisions)
3. Disallowed expenses

**(F) Deductions for Capital Expenditure**

1. The law on Capital Allowances and Charges:
  - i) Definition of qualifying capital expenditure on plant and machinery
  - ii) Special cases
2. Controlled sales:
3. Industrial Building Allowances (IBA):
  - i) Legal Definition of industrial building and activities that do not fall within the definition - manufacturing, processing and processing
  - ii) Study of litigated cases.
4. Reinvestment Allowance Intention of granting the allowances, principles and practice, study of recent cases on the related issues

**(G) Companies and bodies of persons**

1. Legal criteria in residence status and its significance for taxation
2. Transfer pricing and the rights of relevant countries to tax income
3. Anti-avoidance provisions - Court deliberations on form vs substances

**(H) Dividends, Interest, Royalties, Annuities, Rents, Premiums, Discounts, Periodical Gains and Other Gains or Profits**

1. Case law principles
2. Basis of assessment
3. Derivation
4. Gross income
5. Adjusted income
6. Exemptions

**(I) Real Property Gains Tax**

1. Principles and scope of charge
2. Chargeable assets (including leases & options) and persons
3. Exemptions
4. Computation of chargeable gains and allowable losses
5. Tax rates
6. Circumstances of 'disposal price deemed equal to acquisition price' & 'no loss & no gains' treatment
7. Connected persons
8. Circumstances to apply market value
9. Conditional contract
10. Returns and assessments
11. Payment and recovery of tax
12. Responsibilities of disposer/acquirer
13. Consequences of non-compliance
14. Real property company (RPC)

**(J) Double Taxation Agreements and the Legal Principles**

1. Double taxation and the role of tax conventions;
2. Purpose of tax treaties and avoidance of double taxation;
3. Concept of residence;
4. Permanent establishment;
5. Taxation of business profits;
6. Taxation of interest;
7. Taxation of royalties;
8. Taxation of dependent personal services;
9. Taxation of other income.

**(K) Returns, assessment and appeals**

1. Tax returns-Statutory duty of taxpayer and failure to submit tax returns
2. Assessments - Time bar assessments, service of notice
3. Penalties
4. Appeals
  - i) Special commissioners of Income Tax
  - ii) Relief for error or mistakes
  - iii) Fraud and time barred

**(L) Collection and recovery – legal aspects, conflict between payment and appeal against tax**

1. Liability to pay and the application of Section 103 of the Act
2. Tax installments
3. Recovery of unpaid tax and the application Section 106 of the Act
4. Prevention from leaving Malaysia
5. Withholding tax

**READING LIST – REVENUE LAW**

1. **Income Tax Act 1967.** (as amended)
2. **Public Rulings and Operational Guidelines.**
3. Veerinderjeet Singh. **Veerinder on Taxation.** (Latest edition)
4. Choong Kwai Fatt. **Malaysian Taxation Principles & Practice.** (Latest edition)
5. Choong Kwai Fatt. **Advanced Malaysian Taxation Principles & Practice.** (Latest edition)
6. DP Naban, S Saravana Kumar, Siti Fatimah Mohd Shahrom. **Malaysia and Singapore Tax Cases Digest.** (Latest edition)
7. Kasipillai, Jeyapalan. **A Guide to Malaysian Taxation.** (Latest edition)
8. Richard Thornton. **Thornton’s Malaysian Tax Commentaries.** (Latest edition)
9. CCH Tax Editors. **Malaysian Master Tax Guide.** (Latest edition)
10. **Tax Guardian**, Journal of the Chartered Tax Institute of Malaysia
11. **List of Tax Cases**

## Revenue Law – \*List of cases\*

Content	List of cases
<p style="text-align: center;"><b>(A)</b></p> <p><b>The Basis of Malaysian Taxation</b></p>	<p><u>Scope of charge</u></p> <ul style="list-style-type: none"> <li>i) Dickinson v Abel 45 TC 353</li> <li>ii) Van den Berghs Ltd v Clark 19 TC 390</li> <li>iii) CIR v British Salmson Aero Engines Ltd (1938) 2 KB 482</li> <li>iv) CIT, Bengal v Shaw Wallace &amp; Co (1932) 6 ITC 178</li> <li>v) Mamor Sdn Bhd v DGIR (1981) 1 MLJ 117 (HC)</li> </ul> <p><u>Derivation of Income</u></p> <ul style="list-style-type: none"> <li>i) OA Pte Ltd v KPHDN (1996) MSTC 2286</li> <li>ii) Willingale v International Commercial Bank Ltd 52 TC 242 (HL)</li> <li>iii) ROD Co Ltd v DGIR (1990) 1 MSTC 422</li> <li>iv) GBH v Ketua Pengarah Jabatan Hasil Dalam Negeri (1994) 2 MSTC 579</li> <li>v) KPHDN v Aneka Jasaramai Ekspres Sdn Bhd (2005) MSTC 4,095</li> <li>vi) Kyros International Sdn Bhd v KPHDN (2013) MSTC 30-056</li> </ul> <p><u>Classes of Income</u></p> <ul style="list-style-type: none"> <li>i) American Leaf Blending Co Sdn Bhd v DGIR (1950-1985) MSTC 33</li> <li>ii) DGIR v Pan Century Edible Oils Sdn Bhd (1998) MSTC 3675</li> <li>iii) GDPD Factory Sdn Bhd v KPHDN (1995) 2 MSTC 2264</li> <li>iv) CKB Ltd v KPHDN (1996) MSTC 2695</li> <li>v) SSBA v Minister of Finance (2001) MSTC 3851</li> <li>vi) Avos (Malaysia) Sdn Bhd v KPHDN (2010) MSTC 30-019</li> <li>vii) Petronas Penapisan (Terengganu) Sdn Bhd v KPHDN (2014) MSTC 30-078</li> <li>viii) PCMSB v KPHDN (2016) MSTC 10-056</li> </ul>
<p style="text-align: center;"><b>(B)</b></p> <p><b>Employment Income</b></p>	<p><u>Determination of residence of individuals</u></p> <ul style="list-style-type: none"> <li>i) RAS &amp; PAS v KPHDN (1997) MSTC 2933</li> <li>ii) KPHDN v Richard Allen Sonnet &amp; Anor (1998) MSTC 3714 (HC)</li> <li>iii) DGIR v Dr AMAQ (1998) 1 MSTC 3,068</li> <li>iv) National Land Finance Co-operative v DGIR (1993) 2 AMR 52</li> <li>v) LCC v KPHDN (2000) MSTC 3,381</li> </ul> <p><u>Distinctions between Profession and employment</u></p> <ul style="list-style-type: none"> <li>i) AMC Sdn Bhd v KPHDN (2004) MSTC 3595</li> <li>ii) Hall v Lorimer 66 TC 349</li> <li>iii) Collins v Hertfordshire County Council and Another (1947) KB 598</li> <li>iv) S Sdn Bhd v DGIR (1995) 2 MSTC 3,440</li> <li>v) FY v DGIR (1988) 1 MSTC 288</li> </ul> <p><u>Meaning of having or exercising an employment</u></p> <ul style="list-style-type: none"> <li>i) <i>DM v KPHDN (2001) MSTC 3215</i></li> <li>ii) <i>NYK &amp; Anor v Comptroller of Income Tax (2001) MSTC 5297</i></li> <li>iii) <i>X, Trustee of the Estate of Y (Deceased) v CIT States of Malaya (1967) 2 MLJ 166</i></li> <li>iv) <i>Calvert vs. Wainwright (27 TC 475)</i></li> <li>v) <i>Herbert vs. Mc Quade (4 TC 489)</i></li> <li>vi) <i>Cooper vs. Blackiston (5 TC 347)</i></li> </ul> <p><u>Derivation of employment income</u></p> <ul style="list-style-type: none"> <li>i) GBH v Ketua Pengarah Jabatan Hasil Dalam Negeri (1994) 2 MSTC 579</li> <li>ii) St Aubyn (LM) &amp; Others v AG (No. 2) (1951) 2 All ER 473</li> <li>iii) Pritchard v Arundale 47 TC 680</li> </ul>

	<ul style="list-style-type: none"> <li>iv) Hochstrasser v Mayes (1960) AC 376</li> </ul> <p><u>Gross income from employment</u></p> <ul style="list-style-type: none"> <li>i) H v Comptroller of Inland Revenue (1974) 2 MLJ 135</li> <li>ii) AJHH v KPHDN (2008) MSTC 3,699</li> <li>iii) Suasana Indah Sdn Bhd v KPHDN (2006) MSTC 4,208</li> <li>iv) KPHDN v Dato' Hanifah Noordin (2003) MSTC 4007</li> <li>v) KPHDN v Abdul Jalil bin Haji Hassan (2010) MSTC 30-009</li> </ul> <p><u>Deductible expenses</u></p> <ul style="list-style-type: none"> <li>i) DGIR v LTS (1974) 1 MLJ 187 (HC)</li> <li>ii) Ralli Estates Ltd v CIT (1961) 1 WLR 329 (PC)</li> <li>iii) Aspac Lubricants (Malaysia) Sdn Bhd v KPHDN (2007) MSTC 4,271</li> <li>iv) Commissioner for Inland Revenue v Lo &amp; Lo (1984) 1 WLR 986</li> <li>v) DGIR v KFY Co Ltd (1990) 1 MSTC 2,147</li> </ul> <p><u>Exemptions</u></p> <ul style="list-style-type: none"> <li>i) Frank Edward Noah v KPHDN (1998) 4 MLJ 205 (HC)</li> <li>ii) Ho Soon Guan v KPHDN (2002) MSTC 3887</li> <li>iii) H v Comptroller of Inland Revenue (1974) 2 MLJ 138</li> </ul>
<p><b>(C)</b> <b>Business Income</b></p>	<p><u>Meaning of adventure or concern in the nature of trade</u></p> <ul style="list-style-type: none"> <li>i) CIR v Maxse (CA 12 TC 41)</li> <li>ii) FY v DGIR (1988 1 MSTC 278)</li> <li>iii) Patridge v Mallandaine (HL 2 TC 179)</li> <li>iv) Billam v Griffith (23 TC 757)</li> <li>v) CIR v The Forth Conservancy Board (16 TC 103) (HL)</li> <li>vi) E v Comptroller General of inland Revenue [1970] 2 MLJ 177 (FC)]</li> <li>vii) Lim Foo Yong Sdn Bhd v CGIR [1986] 2 MLJ 161</li> <li>viii) Smith v Anderson [(1880) 15 Ch D 258] DEF v CIT (Singapore) [(1961) 21 MLJ 55]</li> <li>ix) Hesketh Estate Ltd v Craddock (25 TC 7)</li> <li>x) Ransom v Higgs [(1974) STC 539]</li> <li>xi) CIR v Forth Conservancy Board [(HIL) 16 TC 03]</li> <li>xii) Aditya Mills v Union of India [(1989) 73 STC 195]</li> <li>xiii) Leeming v Jones [(1930) 15 TC 333]</li> </ul> <p><u>Badges of Trade</u></p> <ul style="list-style-type: none"> <li>i) Lower Perak Co-operative Housing Society Bhd v Ketua Pengarah Hasil Dalam Negeri [(1994) 2 MLJ 713 SC]</li> <li>ii) Rutledge v CIR [(1929) 14 TC 490]</li> <li>iii) Cooke v Haddock (39 TC 64)</li> <li>iv) Mount Elizabeth (Pte) Ltd v Comptroller of Income Tax [(1987) 2 MLJ 130 (HC)]</li> <li>v) Wisdom v Chamberlain [(1968) 2 All ER 714]</li> <li>vi) Pickford v Quirke [13 TC 251]</li> <li>vii) Cape Brandy Syndicate v I.R. Commissioners (12 TC 358)</li> <li>viii) ALB Co Sdn Bhd v DGIR [1979] 1 MLJ 1 (PC)</li> <li>ix) International Investment Ltd v CGIR CGIR [1975] 2 MLJ 208 (FC)</li> <li>x) Martin v Lowry (11 TC 297)</li> <li>xi) KLE Sdn Bhd v Ketua Pengarah Hasil Dalam Negeri [(1995) 2 MSTC 2,245]</li> <li>xii) Bukit Yew Sdn Bhd v Director General Of Inland Revenue [1987] 2 MLJ 379</li> <li>xiii) SL Sdn Bhd v DGIR (1988) MSTC 198 (Sp Comm)</li> <li>xiv) California Copper Syndicate v Harris [(1904) 5 TC 159]</li> <li>xv) Kirkham v Williams [(1989) STC 333]</li> <li>xvi) SCL v CIT [(1991) 1 MSTC 5,032]</li> </ul>

	<p>xvii) Ketua Pengarah Hasil Dalam Negeri v Penang Reality Sdn Bhd [(2006) 3 MLJ 597] [(2007) 1 AMR 21] [(2006) 2 CLJ 835 (CA)]</p> <p>xviii) F Housing Sdn Bhd v Director General of Inland Revenue [(1976) 2 MLJ 183]</p> <p>xix) Penang Reality Sdn Bhd v Ketua Pengarah Hasil Dalam Negeri [(2006) MSTC 4,256]</p> <p>xx) Simmons v IRC [(1980) 1 WLR 1196 (HL)]</p> <p>xxi) Alf Properties Sdn Bhd v Ketua Pengarah Hasil Dalam Negeri [(2005) MSTC 4,155]</p> <p>xxii) CGIR v LFY Sdn Bhd [(1983) 1 MLJ 43 (FC)]</p> <p>xxiii) Steven v Hudson Bay Co.</p> <p>xxiv) HCM v DGIR [(1993) 2 MSTC 539]</p> <p><u>Mutual Trading</u></p> <p>i) Styles v New York Life Insurance Co. (2 TC 460)</p> <p>ii) Municipal Mutual Insurance Ltd v Hills (16 TC 430)</p> <p>iii) National Association Of Local Government Officers v Watkins (18 TC 506)</p> <p>iv) English and Scottish Joint Co-operative Wholesale Society v Assam Agriculture Income Tax Commissioner [(1948) AC 405]</p> <p>v) Glasgow Corporation Water Commissioners v Miller (2 TC 131)</p> <p>vi) Carlisle and Sillioth Golf Club v Smith (6 TC 48)</p> <p>vii) Ayshire Employees Mutual Insurance Association Ltd v CIR [HL (1946) 27 TC 33]</p> <p><u>Illegal Activities</u></p> <p>i) Mann v Nash (16 TC 523)</p> <p>ii) Hayes v Duggan [SC (I) 1928]</p> <p>iii) Southern v A.B. [(1933) 18 TC 59]</p> <p>iv) Lindsay, Woodward &amp; Hiscox v CIR (18 TC 43)</p>
<p><b>(D)</b> <b>Partnerships &amp; Trusts</b></p>	<p><u>Partnership &amp; Trusts</u></p> <p>i) K.A Abdul Gaffar v R.E. Mohd Kassim [(1931-1932) FMS Law Rep19]</p> <p>ii) SK v Ketua Pengarah (1996) MSTC 2670 (Sp Comm)</p> <p>iii) John Gardner and Bowring Hardy &amp; Co Ltd v CIR (15 TC 602)</p> <p>iv) Dickenson v Gross (11 TC 614)</p> <p>v) C.I.R v Williamson (14 TC 335)</p> <p>vi) Fenston v Johnstone (23 TC 29)</p> <p>vii) Comptroller of Income Tax v GB Roche [(1951 MLJ 87]</p> <p>viii) Re A (1953) FB XII</p>
<p><b>(E)</b> <b>Capital and Revenue Expenditure</b></p>	<p><u>The capital and revenue distinction</u></p> <p>i) Atherton v British Insulated and Helsby Cables Ltd</p> <p>ii) Vallambrosa Rubber Co Ltd v Farmer</p> <p>iii) John Smith and Son v Moore</p> <p>iv) Mitchel v B W Noble Ltd</p> <p>v) Tucker v Granada Motorways Services Ltd</p> <p>vi) CIR v Carron Company</p> <p>vii) Anglo Persian Oil Co Ltd v Dale</p> <p>viii) The Sun Newspaper Ltd v The Federal Commissioner of Taxation</p> <p>ix) Broken Hill Theatres Pty Ltd v The Federal Commissioner of Taxation</p> <p>x) CIR v The Granite City Steamship Co Ltd</p> <p><u>Deductible expense (general expenses and specific provisions)</u></p> <p>i) UHG v Director General of Inland Revenue</p> <p>ii) Port Elizabeth Electric Tramway Co Ltd v CIR</p> <p>iii) Ward &amp; Co Ltd v CIT</p>

	<ul style="list-style-type: none"> <li>iv) RB Bhd v Ketua Pengarah HDN</li> <li>v) Andermatt Investments Pte Ltd v CIT</li> <li>vi) SS construction Sdn Bhd v Ketua Pengarah Hasil Dalam Negeri</li> <li>vii) Ben Odeco Ltd v Powlson</li> <li>viii) Avos (Malaysia) Sdn Bhd v Ketua Pengarah HDN</li> <li>ix) Ketua Pengarah Hasil Dalam Negeri v Multi-Purpose Holdings Bhd</li> <li>x) Syarikat Pukin Ladang Kelapa Sawit Sdn Bhd v Ketua Pengarah HDN</li> <li>xi) The Law Shipping Co Ltd v CIR</li> <li>xii) Odeon Associated Theatres Ltd v Jones</li> <li>xiii) Lurcott v Wakely and Wheeler</li> <li>xiv) Bulcroft Main Collieries Ltd v O'Grady Samuel Jones &amp; Co v CIR</li> <li>xv) The North Borneo Timber Bhd v Ketua Pengarah Hasil Dalam Negeri</li> <li>xvi) Reynolds &amp; Gibson v Crompton</li> <li>xvii) Reid's Brewery Co Ltd v Male</li> <li>xviii) English Crown Spelter Co Ltd v Baker</li> <li>xix) Charles Marsden &amp; Sons Ltd v CIR</li> <li>xx) Allen v Farquharson Brothers &amp; Co</li> <li>xxi) CIR v Alexander von Glehn</li> <li>xxii) CIR v EC Warnes &amp; Co Ltd</li> <li>xxiii) Curtis v J &amp; C Oldfield Ltd</li> </ul> <p><u>Disallowed expenses</u></p> <ul style="list-style-type: none"> <li>i) Mallalieu v Drummond</li> <li>ii) Piramid Intan Sdn Bhd v Ketua Pengarah HDN</li> <li>iii) UDI Sdn Bhd v DGIR</li> <li>iv) NV Alliance Sdn Bhd v Ketua Pengarah HDN</li> <li>v) Ketua Pengarah HDN v Eli Lili (M) Sdn Bhd</li> <li>vi) Ampat Tin Dredging Ltd v DGIR</li> <li>vii) Sharikat KM Bhd v DGIR</li> <li>viii) FCD Sdn Bhd v Ketua Pengarah HDN</li> <li>ix) Fenrite Sdn Bhd v Ketua Pengarah HDN</li> </ul>
<p><b>(F)</b> <b>Deductions for Capital Expenditure</b></p>	<p><u>Capital allowances and charges</u></p> <ul style="list-style-type: none"> <li>i) Yarmouth v France</li> <li>ii) Daphne v Shaw</li> <li>iii) Dixon v Fitch Garage</li> <li>iv) Thomas v Reynolds</li> <li>v) Leeds v Permanent Building Society v Proctor</li> <li>vi) Cooke v Beach Station Caravan Ltd</li> <li>vii) MSDC Sdn Bhd v Ketua Pengarah HDN</li> <li>viii) Benson v Yard Arm club Sdn Bhd</li> <li>ix) Jerrold v John Good &amp; Sons Ltd</li> <li>x) J Lyons &amp; Co Ltd v Attorney General</li> <li>xi) CIR v Scottish &amp; Newcastle Breweries Ltd</li> <li>xii) Ketua Pengarah HDN v Tropiland Sdn Bhd</li> <li>xiii) Ketua Pengarah HDN v OKA Concrete Industries Sdn Bhd</li> <li>xiv) DGIR v Teo Tuan Kwee</li> </ul> <p><u>Controlled sales</u></p> <ul style="list-style-type: none"> <li>i) SEOD Co S. A v Ketua Pengarah Hasil Dalam Negeri</li> </ul> <p><u>Industrial building allowance</u></p> <ul style="list-style-type: none"> <li>i) DGIR v C company of Malaysia Bhd</li> <li>ii) SMT Sdn Bhd v DGIR</li> <li>iii) Vibroplant Ltd v Holland</li> <li>iv) Bourne v Norwich Crematorium Ltd</li> <li>v) Kilmarnock Equitable Co-operative Society Ltd v CIR</li> </ul>

	<ul style="list-style-type: none"> <li>vi) CIR v Lambhill Ironworks Ltd</li> <li>vii) Abbot Laboratories Ltd v Carmody</li> </ul> <p><u>Reinvestment allowance</u></p> <ul style="list-style-type: none"> <li>i) Success Electronics and Transformer Manufacturer Sdn Bhd (2012) MSTC 30-039</li> <li>ii) Syarikat Kion Hoong Cooking Oil Mills Sdn Bhd v KPHDN (2010) MSTC 30-006</li> <li>iii) KPHDN v OKA Concrete Industries Sdn Bhd (2015) MSTC 30-091</li> <li>iv) Penfabric Sdn Bhd v KPHDN (2013) MSTC 30-069</li> <li>v) KPHDN v Firgos (Malaysia) Sdn Bhd (2013) MSTC 30-065</li> <li>vi) KPHDN v Kualiti Alam (2017) MSTC 30-139</li> <li>vii) KPHDN v Marigold Industries (M) Sdn Bhd (2016) MSTC 30-116</li> <li>viii) Opto Sensors Sdn Bhd v KPHDN (2016) MSTC 30-121 (2012) MSTC 30-039</li> <li>ix) KPHDN v Bintulu Lumber Development Sdn Bhd (2016) MSTC 30-119</li> </ul>
<p><b>(G)</b></p> <p><b>Companies and bodies of persons</b></p>	<p><u>Residence status: Companies &amp; bodies of persons</u></p> <ul style="list-style-type: none"> <li>i) The Cesena Sulphur Co. Ltd v Nicholson (1 TC 88).</li> <li>ii) The Calcutta Jute Mills Co. Ltd v Nicholson (1 TC 83).</li> <li>iii) Swedish Central Railway Co Lts v Thompson (9 TC 342).</li> <li>iv) BW Noble Ltd v Mitchell (11 TC372).</li> <li>v) De Beers Consolidated Mines Ltd v Howe (5 TC 198).</li> <li>vi) Union Corporation Ltd v CIR (34 TC 207)</li> <li>vii) Waterloo Pastoral Co Ltd v FCT (3 AITR 329).</li> <li>viii) The North Australian Pastoral Co Ltd v FCT (3 AITR 314)</li> <li>ix) Koitaki Para Rubber Estates v CIT (2 AITR 136).</li> <li>x) Bullock v The Unit Construction Co Ltd (38 TC 712).</li> <li>xi) Stanley v The Gramophone and typewriter Ltd (5 TC 358).\</li> <li>xii) American Thread Co. V Joyce (6 TC 1).</li> <li>xiii) Todd v Egyptian Delta land &amp; Investment Co. Ltd (14 TC 119).</li> </ul> <p><u>Transfer pricing</u></p> <ul style="list-style-type: none"> <li>i) Philips Software Centre (P) Ltd v ACIT [(2008) 26 SOT 226 (Bang)].</li> <li>ii) UCB India Private Ltd v ACIT (2009)[TS-8-ITAT-2009(Mum)TP</li> <li>iii) DSG Retail Ltd v HMRC [2010] UKFTT 12 (TC).</li> <li>iv) Sony India v DCIT [2008] 114 ITD 448 (Delhi).</li> <li>v) E-Gain Communication v ITO [2008] 23 SOT 385 (Pune).</li> <li>vi) MM Sdn Bhd v KPHDN (2013) MSTC 10-046</li> </ul> <p><u>Anti-Avoidance</u></p> <ul style="list-style-type: none"> <li>i) CIT v A.B. Estate [1967] 1 M.L.J. 89.</li> <li>ii) C.E.C. v CIT [1971] 2 M.L.J. 43.</li> <li>iii) Lahat Datu Timber Sdn Bhd v DGIR [(1981) 2 M.L.J. 97].</li> <li>iv) Sabah Berjaya Sdn Bhd v KPHDN [(2000) MSTC 3771].</li> <li>v) CIR v Challenge Corporation Ltd [(1986) STC 548].</li> <li>vi) SBP Sdn Bhd v DGIR [(1988) 1 MSTC 243].</li> <li>vii) YEHHSB v KPHDN [(2010) MSTC 10-007].</li> <li>viii) Port Dickson Power Bhd v KPHDN [(2010) MSTC 30-045].</li> <li>ix) SPS v KPHDN [(2011) MSTC 10-030].</li> <li>x) Penny and Hooper v CIR [(2011) NZSC 95].</li> <li>xi) AQQ v The Controller of Income Tax [(2011] SGITBR 1).</li> <li>xii) IRC v Duke of Westminster [1936] AC 1.</li> <li>xiii) DGIR v Hup Cheong Tomber Sdn Bhd [(1985) 2 M.L.J.].</li> <li>xiv) Syarikat Ibraco-Peremba Sdn Bhd v KPHDN (2014) MSTC 30-084.</li> <li>xv) Ensco Gerudi Sdnbhd v KPHDN (2016) MSTC 30-131</li> </ul>



	<p>xvi) KPHDN v Bee Garden Sdn Bhd (2014) MSTC 30-077</p> <p>xvii) Bandar Utama City Corporation Sdn Bhd v. DGIR (1999) MSTC 3725</p>
<p><b>(H)</b></p> <p><b>Dividends, Interest, Royalties, Annuities, Rents, Premiums, Discounts, Periodical Gains and Other Gains or Profits</b></p>	<p><u>Dividend</u></p> <p>i) IRC v Trustees of Joseph Reid (Deceased) (30 TC 431).</p> <p>ii) Rae v Lazard Investments Co Ltd (41 TC 1).</p> <p>iii) IRC v Blott (8 TC 101).</p> <p>iv) Hill v Permanent Trustee Company of New South Wales [(1930) AC 720].</p> <p>v) Pool v The Guardian Investment Trust Co Ltd (8 TC 167).</p> <p>vi) CIR v Burrel (9 TC 27).</p> <p>vii) CIR v Greenwood (8 TC 101).</p> <p>viii) TPT v DGIR [(1988) 1 MSTC 2058].</p> <p><u>Interest</u></p> <p>i) CIR v Thomas Nelson &amp; Sons Ltd (22 TC 175).</p> <p>ii) Lomax v Peter Dixon &amp; Co Ltd (25 TC 353).</p> <p>iii) Westminster Bank v Riches (28 TC 159).</p> <p>iv) Schulze v Bensted (7 TC 30).</p> <p>v) Davies v Premier Investment Co Ltd (27 TC 27).</p> <p>vi) Hewetson v Carlyle (27 TC 27).</p> <p>vii) CIR v Ballantine (8 TC 595).</p> <p>viii) Avos (M) Sdn Bhd v KPHDN [(2010) MSTC 30-019].</p> <p>ix) I (M) Sdn Bhd v KPHDN [(2005) MSTC 3609].</p> <p>x) PPTSB v KPHDN [(2011) MSTC 10-015].</p> <p><u>Royalties</u></p> <p>i) Constantinesco v Rex (11 TC 73).</p> <p>ii) Mills v Jones (14 TC 769).</p> <p>iii) CIR v British Salmson Aero Engines Ltd (22 TC 29).</p> <p>iv) Jeffery v Rolls Royce Ltd (40 TC 443).</p> <p>v) Evans Medical Supplies Ltd v Moriarty (37 TC 540).</p> <p>vi) CIR v Longmans Green &amp; Co (17 TC 272).</p> <p>vii) Hobbs v Hussey (24 TC 153).</p> <p>viii) Lucent Technologies International Inc v DCIT (2009 TIOL 161 ITAT Delhi).</p> <p><u>Annuities</u></p> <p>i) Foley v Fletcher [(1843-60) All ER Rep 953].</p> <p>ii) The Trustee of the Will of HK Brodie v CIR (17 TC 432).</p> <p>iii) Dott v Brown [(1936) 1 All ER 543].</p> <p>iv) Sir Andrew Scoble &amp; Others v The Secretary of States of India (4 TC 618).</p> <p>v) CIR v Ramsay (20 TC 79).</p> <p>vi) CIR v Corporation of London (34 TC 293).</p> <p><u>Rents &amp; Premiums</u></p> <p>i) EK Sdn Bhd v DGIR [1977] 2 M.L.J. 263.</p> <p>ii) Syarikat KM Bhd v DGIR [1972] 1 M.L.J. 224.</p> <p>iii) ALB Co Sdn Bhd v DGIR [1979] 1 M.L.J. 1.</p> <p>iv) P Securities Sdn Bhd v DGIR [(1995) 2 MSTC 2256].</p> <p><u>Discounts</u></p> <p>i) Lomax v Peter Dixon &amp; Co Ltd (25 TC 353).</p> <p>ii) The National Provident Institution v Brown (8 TC 57).</p> <p>iii) Torren v CIR (18 TC 262).</p> <p>iv) Willingale v International Commercial Bank Ltd (52 TC 242).</p>
<p><b>(I)</b></p> <p><b>Real Property Gains Tax</b></p>	<p><u>Real Property Gains Tax</u></p> <p>i) ALF Properties Sdn Bhd V KPHDN (2005) MSTC 4,155</p> <p>ii) Binastra Holdings Sdn Bhd V KPHDN (2000) MSTC 3,897</p> <p>iii) KPHDN V The Pataling Rubber Estates Ltd (2011) MSTC 30-031</p>

	<ul style="list-style-type: none"> <li>iv) LCW V DGIR (1950-1985) MSTC 171</li> <li>v) Lower Perak Co-operative Housing Society Bhd V DGIR (1994) MSTC 3,407</li> <li>vi) M Corporation Sdn Bhd V KPHDN (1998) MSTC 2,983</li> <li>vii) Mount Pleasure Corporation Sdn Bhd V KPHDN (2005) MSTC 4,151</li> <li>viii) Multi-Purpose Holdings Bhd V KPHDN (2006) MSTC 4,218</li> <li>ix) MR Properties Sdn Bhd V KPHDN (2005) MSTC 4,119</li> <li>x) PPH V DGIR (1988) 1 MSTC 293</li> <li>xi) Teruntum Theatre V DGIR (2006) MSTC 4,250</li> <li>xii) Yong MF V KPHDN (2003) MSTC 3,503</li> <li>xiii) Yoon Lian Realty Sdn Bhd V DGIR (1994) MSTC 3,377</li> <li>xiv) Bee Garden Sdn Bhd v DGIR</li> <li>xv) Mudek Sdn Bhd v DGIR</li> </ul>
<p><b>(J)</b> <b>Double Taxation Agreements and the Legal Principles</b></p>	<p><u>Double Taxation Agreements</u></p> <ul style="list-style-type: none"> <li>i) WW(S) Pte Ltd V DGIR (1988) 1 MSTC 2104</li> <li>ii) TGRM V KPHDN (2015) MSTC 10-048</li> <li>iii) OA Pte Ltd V KPHDN (1996) MSTC 2,752</li> <li>iv) SGSS (Pte) Ltd V KPHDN (1998) MSTC 2,997</li> <li>v) LHDN V Alam Maritim (M) Sdn Bhd (2013) MSTC 30-068</li> <li>vi) KPHDN V Thomson Reuters Global Resources (2016) MSTC 30-124</li> <li>vii) KPHDN V Teraju Sinar Sdn Bhd (2014) MSTC 30-080</li> <li>viii) Damco Logistic Malaysia Sdn Bhd V KPHDN (2011) MSTC 30-033</li> <li>ix) Esso Production Malaysia Inc. V KPHDN (2003) MSTC 4,016</li> <li>x) KPHDN V Alcatel-Lucent Malaysia Sdn Bhd &amp; Anor (2016) MSTC 30-134</li> <li>xi) KPHDN V Mudah.my Sdn Bhd (2017) MSTC 30-137</li> <li>xii) KPHDN V Nilai Cipta Sdn Bhd (2012) MSTC 30-043</li> <li>xiii) DGIR v Euromedical Industries Ltd (1950-1985) MSTC 256</li> <li>xiv) Hock Heng Company Sdn Berhad v DGIR [1979] 1 LNS 30</li> <li><b>xv)</b> UOB Ltd v KPHDN (1997) MSTC 3632</li> </ul>
<p><b>(K)</b> <b>Returns, assessment and appeals</b></p>	<p><u>Statutory duty of taxpayer</u></p> <ul style="list-style-type: none"> <li>i) Ketua Pengarah Hasil Dalam Negeri v Lai Keng Chong &amp; Anor (2012) MSTC 30-042</li> <li>ii) CIT v Cheng Poh Seng [(1952) 18 MLJ 81]</li> </ul> <p><u>Failure to submit tax return</u></p> <ul style="list-style-type: none"> <li>i) Public Prosecutor v Choo Swee Huat (1950-1985) MSTC 292</li> <li>ii) Public Prosecutor v Lee Seng Seh (1950-1985) MSTC 311</li> <li>iii) Public Prosecutor v Oh Teng Kim (f) [(1975) 3 MTJ 61]</li> <li>iv) Public Prosecutor v Mohd Isa bin Din</li> <li>v) Choon Shin Cheong v. Public Prosecutor (1995) 2 MSTC 3,446</li> </ul> <p><u>Time barred assessments</u></p> <ul style="list-style-type: none"> <li>i) Society of La Salle Brothers v Ketua Pengarah Hasil Dalam Negeri (2017) MSTC 30-135</li> <li>ii) Infraquest Sdn Bhd v KPHDN (2016) MSTC 30-133</li> <li>iii) Pensonic Sales &amp; Services Sdn Bhd v Ketua Pengarah Hasil Dalam Negeri</li> <li>iv) Government of Malaysia v GCL &amp; Anor</li> <li>v) DD Dev Sdn Bhd v Ketua Pengarah Hasil Dalam Negeri (2008) MSTC 3, 726</li> </ul>

	<ul style="list-style-type: none"> <li>vi) EMSB v Ketua Pengarah Hasil Dalam Negeri (2010) MSTC 10-004</li> <li>vii) PSSSB v Ketua Pengarah Hasil Dalam Negeri (2010) MSTC 10-009</li> <li>viii) Integrated Credit &amp; Leasing Sdn Bhd v Kerajaan Malaysia [(2009) MSTC 4,371]</li> <li>ix) USS Sdn Bhd v Ketua Pengarah Hasil Dalam Negeri [(2009) MSTC 3,833]</li> </ul> <p><u>Service of notice</u></p> <ul style="list-style-type: none"> <li>i) Kerajaan Malaysia v Sun City Development Sdn Bhd [2007] AMTC 171</li> <li>ii) Kerajaan Malaysia v Kemayan Bina Sdn Bhd [(2008) MSTC 4334]</li> <li>iii) Kerajaan Malaysia v Neraca Untung Sdn Bhd [(2009) MSTC 4,452]</li> <li>iv) Wong Kuok Ming v Government of Malaysia (2009) MSTC 4,431</li> <li>v) Kerajaan Malaysia v Syarikat Muliajaya Sdn Bhd (2010) MSTC 30-017</li> <li>vi) Kerajaan Malaysia v Saratoga Sdn Bhd (2008) MSTC 4,343</li> </ul> <p><u>Special commissioners of Income Tax</u></p> <ul style="list-style-type: none"> <li>i) Malayan United Industries Berhad v Ketua Pengarah Hasil Dalam Negeri &amp; Kerajaan Malaysia (2005) MSTC 4,192</li> <li>ii) Ketua Pengarah Jabatan Hasil Dalam Negeri v Rheem (Far East) Pte Ltd 1998 2 CLJ supp 351</li> <li>iii) Comptroller of Income Tax v BC Co Ltd [1966] 1 MLJ 287</li> <li>iv) Ngee Tai Shipping Sdn Bhd v Ketua Pengarah Hasil Dalam Negeri (2008) MSTC 4,308</li> <li>v) Ketua Pengarah Jabatan Hasil Dalam Negeri v Dr Arunjit Dutt (1995) 2 MSTC 3454</li> <li>vi) Meton Properties Sdn Bhd v Ketua Pengarah Hasil Dalam Negeri (1998) MSTC 3691</li> <li>vii) SL Sdn Bhd v Ketua Pengarah Hasil Dalam Negeri (2000) MSTC 3830</li> <li>viii) Director General of inland Revenue v TCM (1988) 1 MSTC 3,006</li> <li>ix) Lower Perak Co-operative Housing Society Bhd v Ketua Pengarah Hasil Dalam Negeri (1994) 2 MSTC 3,406</li> <li>x) Edwards v Bairstow and Harrison [1956] AC 14</li> <li>xi) Chua Lip Kong v Director-General of Inland Revenue [1982] 1 CLJ 398</li> <li>xii) LFY Sdn Bhd v Comptroller General of Inland Revenue (1988) 1 MSTC 3059</li> <li>xiii) Norman v Golder 26 TC 293</li> </ul> <p><u>Relief for error or mistake</u></p> <ul style="list-style-type: none"> <li>i) J Sdn Bhd v Ketua Pengarah Hasil Dalam Negeri (1999) MSTC 3037</li> <li>ii) AQP v Comptroller of Income Tax (2011) MSTC 70-011</li> </ul>
<p><b>(L)</b>  <b>Collection and recovery – legal aspects, conflict between payment and appeal against tax</b></p>	<p><u>Liability to pay</u></p> <ul style="list-style-type: none"> <li>i) Government of Malaysia v TCS (1989) 1 MSTC 3,089</li> <li>ii) AP v Government of Malaysia (1950-1985) MSTC 224</li> <li>iii) Lim Tian Huat v KPHDN [(2003) MSTC 3998]</li> </ul> <p><u>Recovery of unpaid tax</u></p> <ul style="list-style-type: none"> <li>i) SMT Co Ltd v Government of Malaysia (1950-1985) MSTC 136</li> <li>ii) Kerajaan Malaysia v Abdul Rahim Mohd Aki (1995) 2 MSTC 3,437</li> <li>iii) Government of Malaysia v Dato' Mahindar Singh (1996) MSTC 3,515</li> </ul>

- iv) Connaught Housing Development Sdn Bhd v Kerajaan Malaysia [2003] 8 CLJ 144
- v) Kerajaan Malaysia v Sun City Development Sdn Bhd (2007) MSTC 4,269
- vi) Kerajaan Malaysia v Kemayan Bina Sdn Bhd (2008) MSTC 4,334
- vii) Integrated Credit & Leasing Sdn Bhd v Kerajaan Malaysia (2009) MSTC 4,371
- viii) The Government of Malaysia v Kamawang Enterprise Sdn Bhd (2009) MSTC 4,455
- ix) Kerajaan Malaysia v Promet (Langkawi) Resort Sdn Bhd & Anor (2012) MSTC 30-051
- x) Kerajaan Malaysia v United Axis Sdn Bhd (2009) MSTC 4,425

Prevention from leaving malaysia

- i) TCY v The Government of Malaysia & Ors (1994) 2 MSTC 3,373
- ii) Lim Moon Heng @ Lim Boon Siang v The Government of Malaysia & Anor (2002) MSTC 3957
- iii) Ong Bee Yam v pengarah Hasil dalam Negeri, Sarawak & Anor (2003) MSTC 3979
- iv) Goh Eng Hwa v Ketua Pengarah Lembaga Hasil Dalam Negeri & Satu Lagi (2008) MSTC 4,348
- v) Ronald Beadle v Hamzah HM Saman & Ors (2008) MSTC 4,275
- vi) Hamzah HM Saman & 2 Ors v Ronald Beadle (2010) MSTC 30-011

Withholding Tax

- i) *Ketua Pengarah Hasil Dalam Negeri v Alcatel-Lucent Malaysia Sdn Bhd & Anor* (2016) MSTC 30-134
- ii) *Lembaga Hasil Dalam Negeri Malaysia v Alam Maritim (M) Sdn Bhd* (2013) MSTC 30-068
- iii) *Ketua Pengarah Hasil Dalam Negeri v Mudah.My Sdn Bhd* (2017) MSTC 30-137
- iv) WW (S) Pte Ltd v Director General of Inland Revenue (1988) 1 MSTC 2104
- v) ES Pte Ltd v CTT Sdn Bhd (1989) 1 MSTC 3,075
- vi) BPS Ltd v Ketua Pengarah Hasil Dalam negeri (1997) MSTC 2847
- vii) Esso Production Malaysia Inc v Ketua Pengarah Hasil Dalam Negeri (2008) MSTC 4,016
- viii) TS Sdn Bhd v Ketua Pengarah Hasil Dalam Negeri (2008) MSTC 3,707; *Ketua Pengarah Hasil Dalam Negeri v Teraju Sinar Sdn Bhd* (2014) MSTC 30-080
- ix) Lembaga Hasil Dalam Negeri v Alam Maritim (M) Sdn Bhd (2012) MSTC 30-049
- x) *Ketua Pengarah Hasil Dalam Negeri v Alcatel Lucent Malaysia Sdn Bhd* (2015) MSTC 31-101
- xi) *Ketua Pengarah Hasil Dalam Negeri v Damco Logistic Malaysia Sdn Bhd* (2013)
- xii) *Ketua Pengarah Hasil dalam Negeri v Thomson Reuters Global Resources* (2016) MSTC 30-124
- xiii) EPM Inc v Ketua Pengarah HDN (2001) MSTC 3,306
- xiv) Erria shipping v Carra Timber Transport Sdn Bhd [(1989) 1 MSTC 3075
- xv) AIACL v KPHDN [(2002) MSTC 3438]