

**TECHNICAL**

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**Direct Taxation**

**[IRB ANNOUNCEMENT RELATING TO SECTIONS 77A\(4\) AND 140B OF THE INCOME TAX ACT 1967 \(ITA\)](#)**

**Background**

Included among the proposals made in Budget 2014 were the following:

1. A company's return furnished to the Director General of Inland Revenue under S77A must be based on accounts audited by a professional accountant, together with a report by that accountant in accordance with the S174(1) and 174(2) of the Companies Act 1965 (CA 1965). (A new S77A(4) is inserted in the ITA for this purpose.)
2. A company providing any loans or advances from its internal funds to its directors shall be deemed to derive interest income from such loans or advances. The interest income for the basis period for a year of assessment (YA) shall be the aggregate sum of monthly interest in the basis period. The sum of monthly interest is calculated in accordance with a specified formula. (A new S140B is introduced to give effect to this proposal.)

**IRB's announcement**

The Tax Policy Department of the Inland Revenue Board of Malaysia (IRB) made an announcement relating to the above mentioned (new) provisions of the ITA on 19 March 2014. The following are some salient points in the announcement:

*Section 77A(4) of the ITA*

- The above provision is in line with the provisions of the CA 1965, which requires every company to submit audited accounts to the Companies Commission of Malaysia (CCM) within 6 months after its accounts are closed.
- If there are provisions in the CA 1965 which state that a company is not required to submit audited accounts to the CCM, then S77A(4) does not apply to that company. However, the company must submit its income tax return based on information in the final accounts.

*Section 140B*

- Under this section, a company which provides loans or advances to its directors without interest, or with interest which is below "arm's length rate", is deemed to have received interest on such loans and advances, which income is taxable under S4(c) of the ITA.
- The determination of the amount of interest income is based on the formula provided in S140B(2).
- The provision is applicable to directors of the company as defined in S75A(2) of the ITA, and to loans or advances which are financed by the company's internal funds only. It does not apply to loans/advances funded from external loans or loans from third parties.
- The provision is effective from YA 2014. However, if the basis period of the company for the YA 2014 began in 2013, the computation of interest income is based on outstanding loans/ advances from 1 Jan 2014.
- An example of the calculation of interest income is provided. Interest charged is based on the Average Lending Rate (ALR) published by Bank Negara Malaysia on its website.

Please read the following [announcements](#) at the IRB website:

- **Announcement Regarding The Application Of Subsection 77A (4) And Section 140B Of The Income Tax Act (ITA) 1967**
- **Schedule of Average Lending Rate Bank Negara Malaysia (ALR) - Section 140B**  
(Please click on the XL file in item 2.1 "Interest Rates: Banking Institutions")

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