

## TECHNICAL

### Direct Taxation

#### PUBLIC RULING NO.7/2016 – BASIS PERIOD FOR COMPANIES UNDER LIQUIDATION

The above Public Ruling ([PR](#)) was issued on 7 October 2016.

The PR explains the determination of the basis period for companies under liquidation.

#### Definitions

The following words are defined in paragraph 3.

| Word         | Meaning   |
|--------------|---|
| Operations   | An activity which consists of: <ul style="list-style-type: none"> <li>the carrying on of a business;</li> <li>the making of investments;</li> <li>the carrying on of a business and the making of investments; or</li> <li>the making of investments prior to the commencement of a business or after the cessation of a business.</li> </ul> |
| Company      | A body corporate, including any body of persons established with a separate legal identity by or under the laws of a territory outside Malaysia and a business trust.   |
| Failure year | The year in which there is failure to close the accounts to the normal accounting date.   |

#### Determination of basis period of companies under liquidation

The contents of the [PR](#) are summarized below:

| Para No. in Ruling | Subject Matter & Summary   |
|--------------------|--|
| 4                  | <p><i>The liquidation process (introduction)</i></p> <ul style="list-style-type: none"> <li>Liquidation can happen in 2 ways: <ul style="list-style-type: none"> <li>(i) <b>Voluntary liquidation</b> initiated by the shareholders of the company by way of a special resolution to liquidate the company, or by creditors of the company, also through a special resolution to liquidate the company at a meeting attended by shareholders and creditors.</li> <li>(ii) <b>Liquidation by order of the Court</b> initiated from a liquidation or winding-up order issued by the Court on a petition made by any person who is entitled to file the petition for liquidation of the company.</li> </ul> </li> </ul> |

| 5                         | <p><i>Determination of basis period (BP)</i></p> <ul style="list-style-type: none"> <li>The governing provision is <a href="#">S21A(3)</a> of the ITA. The principles to apply are set out in <a href="#">PR No.8/2014</a> – <i>Basis Period of a Company, Limited Liability Partnership, Trust Body and Co-Operative Society</i>.</li> <li>From YA 2014, if a company which is in operations and has a 12-month accounting period ending on any day in a basis year, fails to close its accounts on the same day in the following basis year, the DGIR will determine the BP for the YA in which the failure occurs [the failure year (FY)] and the following YA. This applies whether the normal accounting year-end is 31 Dec or a date other than 31 Dec. and includes companies in liquidation.</li> <li>In the application of the above, the period of accounts prepared by the company in the failure year will generally be accepted by the DGIR, provided that – <ul style="list-style-type: none"> <li>i. there is no missing YA;</li> <li>ii. there should not be 2 or more sets of accounts which are closed in the same YA which will be taken as the basis period for the FY or the YA following the FY.</li> <li>iii. the first set of accounts that is closed in the FY will be the BP for the FY, or it will be combined with the next set of accounts and taken as the BP for the YA in the FY.</li> </ul> </li> <li>After the appointment of the liquidator, the Liquidator's Account of Receipts &amp; Payments and a Statement of the Position in the Winding-up (Form 75) must be prepared for a period of 6 months from the date of the liquidator's appointment and thereafter, for every subsequent period of 6 months. The 2 sets of accounts for their respective 6-month period may be combined and taken as the BP for a YA.</li> </ul> |         |           |                           |   |                   |   |                   |   |                   |   |
|---------------------------|--|---------|-----------|---------------------------|---|-------------------|---|-------------------|---|-------------------|---|
| 5.6                       | <ul style="list-style-type: none"> <li>Para. 5.6 provides examples that illustrate the determination of the BP of a company after liquidation in the following situations:</li> </ul> <table border="1"> <thead> <tr> <th data-bbox="359 1485 518 1552">Example</th><th data-bbox="518 1485 1463 1552">Situation</th></tr> </thead> <tbody> <tr> <td data-bbox="359 1552 518 1653"><a href="#">1 &amp; 2</a></td><td data-bbox="518 1552 1463 1653">New accounts are prepared for less than 12 months and ending in the same year as the accounts before liquidation.</td></tr> <tr> <td data-bbox="359 1653 518 1753"><a href="#">3</a></td><td data-bbox="518 1653 1463 1753">New accounts are prepared for less than 12 months and ending in the following year.</td></tr> <tr> <td data-bbox="359 1753 518 1854"><a href="#">4</a></td><td data-bbox="518 1753 1463 1854">New accounts are prepared for more than 12 months and ending in the following year.</td></tr> <tr> <td data-bbox="359 1854 518 1955"><a href="#">5</a></td><td data-bbox="518 1854 1463 1955">New accounts are prepared for more than 12 months and ending in the third year.</td></tr> </tbody> </table>  | Example | Situation | <a href="#">1 &amp; 2</a> | New accounts are prepared for less than 12 months and ending in the same year as the accounts before liquidation. | <a href="#">3</a> | New accounts are prepared for less than 12 months and ending in the following year. | <a href="#">4</a> | New accounts are prepared for more than 12 months and ending in the following year. | <a href="#">5</a> | New accounts are prepared for more than 12 months and ending in the third year. |
| Example                   | Situation  |         |           |                           |   |                   |   |                   |   |                   |   |
| <a href="#">1 &amp; 2</a> | New accounts are prepared for less than 12 months and ending in the same year as the accounts before liquidation.  |         |           |                           |   |                   |   |                   |   |                   |   |
| <a href="#">3</a>         | New accounts are prepared for less than 12 months and ending in the following year.  |         |           |                           |   |                   |   |                   |   |                   |   |
| <a href="#">4</a>         | New accounts are prepared for more than 12 months and ending in the following year.  |         |           |                           |   |                   |   |                   |   |                   |   |
| <a href="#">5</a>         | New accounts are prepared for more than 12 months and ending in the third year.  |         |           |                           |   |                   |   |                   |   |                   |   |
| 5.7.1                     | <p><i>Change of accounting period prior to YA 2014</i></p> <p>If the FY falls in a year prior to YA 2014, the BP is determined in accordance with S21A(3) (before amendment). The principles to be followed are set out in <a href="#">PR No.</a></p>  |         |           |                           |   |                   |   |                   |   |                   |   |

|       |  |
|-------|--|
|       | <p><a href="#">7/2001</a>. The following examples are provided:</p> <p><a href="#">Example 6</a> – Normal accounting year-end on 31 Dec.</p> <p><a href="#">Example 7</a> – Normal accounting year-end on a date other than 31 Dec.</p>  |
| 5.7.2 | <p><i>The accounting period in the FY is too short</i></p> <p><a href="#">Example 8</a> illustrates a situation where the accounts in the FY were made up for a period of 11 days. The DGIR will accept an accounting period of at least 3 months as the BP for a YA. As the accounting period is “too short” in this example, the accounts for the 6-month period after the appointment of the liquidator is combined with the accounts for the period of 11 days and taken as the BP for the YA in the FY.</p>   |
| 5.7.3 | <p><i>Where more than 1 liquidator are appointed (on different dates)</i></p> <p><a href="#">Examples 9, 10</a> and <a href="#">11</a> illustrate situations where more than 1 liquidator are appointed on different dates, resulting in more than 1 FY.</p>   |
| 5.7.4 | <p><i>Company under liquidation by court order</i></p> <p><a href="#">Examples 12</a> and <a href="#">13</a> are examples of cases where liquidation of the company is carried out under a liquidation order issued by the court.</p>  |
| 6     | <p><i>Submission of Income Tax Return Form (ITRF) by companies under liquidation</i></p> <p>The following are requirements relating to submission of returns by a company under liquidation :</p> <ul style="list-style-type: none"> <li>• It must submit its ITRF within 7 months from the date following the close of its accounting period.</li> <li>• It is exempted by the Companies Commission of Malaysia (CCM) from submitting audited accounts to the CCM. The company may report its income in the ITRF based on the Form 75 which are finalized.</li> <li>• For the purpose of application for a tax clearance letter, a company under liquidation must furnish Form C (and Form R including Form R31, if applicable) together with certain documents. Please refer to the table in <a href="#">paragraph 6.3</a> for the list of the documents (Forms) that must be submitted by companies under liquidation by – <ul style="list-style-type: none"> <li>i. members’ voluntary liquidation, and</li> <li>ii. creditors’ liquidation</li> </ul> </li> </ul> <p>After receipt of the tax clearance letter, Form 69 – ‘Return by liquidators relating to final meeting &amp; minutes of the final meeting’ must be submitted.</p> |

Members may view the PR at the websites of the [Institute](#) and the [LHDNM](#).

You may write to the Institute at [technical@ctim.org.my](mailto:technical@ctim.org.my) or [secretariat@ctim.org.my](mailto:secretariat@ctim.org.my) in respect of any concern or comments you may have on the above [PR](#).

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