

CTIM No.164/2012

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TO ALL MEMBERS

## TECHNICAL

### Direct Tax

Please be informed that the Inland Revenue Board (IRB) has uploaded Public Rulings [No.7/2012](#) and [No.8/2012](#) on 29 October 2012 and 2 November 2012 respectively. Both the Public Rulings (PR) have taken into account the comments submitted by CTIM earlier. Members may view the Public Rulings on the website of the Institute and the website of the IRB.

#### PR No.7/2012: [Taxation of Unit Holders of Real Estate Investment Trusts / Property Trust Funds](#)

The Public Ruling (PR) illustrates, with examples, the tax treatment of income from Real Estate Investment Trusts (REITs) or Property Trust Funds (PTFs) by the unit holders, and the circumstances for filing of the relevant Income Tax Return Form.

#### PR No.8/2012: [Real Estate Investment Trusts / Property Trust Funds – An Overview](#)

The objective of this PR is to provide an overview of REITs, PTFs and Islamic REITs.

- **Paragraph 4** explains what a REIT is, its purposes and functions and the types of income it receives.
- **Paragraph 5** of the PR sets out the regulatory framework governing REITs / PTFs in Malaysia, and the relevant Guidelines issued by the Securities Commission (SC).
- **Paragraph 6** explains that Islamic REITs are similar to conventional REITs/ PTFs except that the Islamic REITs invest through Syariah-compliant capital market instruments. For the establishment of Islamic REITs, a person must observe and comply with both the requirements under the Guidelines for Islamic REITs and the Guidelines on REITs.
- **Paragraph 7** sets out the key features and structure of Conventional REITs/PTFs and Islamic REITs. It illustrates the *types of authorized investment activities* as follows:

Type of authorised investment activities	
Conventional REITs/PTFs	Islamic REITs
(a) Real estate	(a) Acquiring real estate with existing client
(b) Single-purpose companies	(b) Investment, deposit and financing for Islamic REITs
(c) Real estate-related assets	(c) Insurance
(d) Non-real estate-related assets	(d) Forward sales or purchases of currency for risk management
(e) Cash, deposits, and money market instruments	
(f) Investment in foreign real estates and markets	

It also set out *non-permissible activities* of Conventional and Islamic REITs

- **Paragraphs 8 and 10** explain the difference in the tax treatment of rental income for a REIT/PTF and rental income from a unit trust. Rental income received by the REIT/PTF would be treated as a business income, subject to certain restrictions. Details on the restriction are further discussed in the forthcoming Public Ruling on *Taxation of Real Estate Investment Trust/Property Trust Fund*. Rental income of other property trusts is treated as Section 4(d) income with special deductions available under Sections 63A and 63.
- **Paragraph 11** illustrates, with an example, the determination of the basis periods and the due dates for filing of Income Tax Return Form (Form TR).

We would be pleased if you could let us have your feedback and/or enquiry, so that we may raise it to the IRB.

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