

# HIGHLIGHTS Budget 1995

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Civil Servants

Budget benefits  
all parties

EPF withdrawal  
for Helath Care

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## TAX NASIONAL

OFFICIAL JOURNAL OF THE  
MALAYSIAN INSTITUTE OF TAXATION  
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Tax Planning For International  
Licensing And Royalty Flows

What's New In The 1995 Budget

1995 Budget Activities

Special Commissioners' Decisions

Tax Adjustments To Be Made And  
Particulars To Be Furnished  
With Tax Computation

Real Property Gains Tax

New Development at the Stamp Duty  
Office

Unitary Tax

Schedular Tax Deduction Table

Tax Glossary



Malaysian Institute Of Taxation



# TAX NASIONAL

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The Malaysian Institute of Taxation (MIT) is a company limited by guarantee incorporated on October 1, 1991 under Section 16(4) of the Companies Act, 1965.

The objectives of the Institute are, inter alia:

- To provide an organisation for persons interested in or concerned with taxation matters in Malaysia.
- To advance the status and interest of the taxation profession and to work in close co-operation with the Malaysian Institute of Accountants (MIA).
- To exercise professional supervision over the members of the Institute and frame and establish rules made herein for observance in matters pertaining to professional conduct.
- To provide examination for persons interested in or concerned with the taxation profession.

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# What's New In The 1995 Budget

Prepared by:

RICHARD THORNTON

Visiting Associate Professor  
Universiti Kebangsaan Malaysia

In his opening remarks when introducing the 1995 Budget in parliament on 28th October 1994, The Honourable Minister of Finance said that prospects for the future are indeed bright. He was seen to be a man of his words because the Budget this year contains good news for everybody and bad news for nobody. Substantial reductions in income tax as well as in direct taxes should leave all of us better off and the Government still expects to balance its budget.

The main changes covered in this article have been grouped under a few different headings to make it easier to remember them. All changes are effective from year of assessment 1995 unless otherwise stated.

## CHANGES AFFECTING INDIVIDUALS

### 1. REDUCTION IN TAX RATES

All tax rates, from the lowest to the highest, are to be reduced by 2% or 3%. As a result, the first RM2,500 will no longer be liable to tax. This does not mean that the chargeable income will be reduced, just that the first RM2,500 of it will be taxed at a nil rate. A further rate band of RM50,000, where tax will be chargeable at 31%, will be inserted at the top so that the highest tax, reduced from 34% to 32%, will now apply to chargeable incomes in excess of RM150,000. The new rates, and a comparison with the 3 previous years are shown in the table.

### 2. INCREASE IN TAX REBATES

An individual with a chargeable income not exceeding RM10,000 is given a basic tax rebate plus a further

amount where he has been allowed a personal deduction from income in respect of a wife. Rebates are to be increased as follows:

	from RM	to RM
basic	90	110
addition for wife	50	60

Although the increases seem small, they represent chargeable income of RM333 (single) and RM500 (married). When added to the nil rate band of RM2,500, it can be seen that, for those in the lower income range, the threshold level below which they pay no tax has been raised considerably. This is why the Finance Minister was able to say that about 380,000 people will be removed from the tax paying category. The graph shows how the tax paying threshold has moved up during the last 3 years.

### 3. DISABLED PERSONS

An individual is able to claim a tax deduction of RM1,600 for a disabled child and up to RM3,000 for the purchase of supporting equipment for his own use or for the use of his wife, children or parents who are disabled.

The Budget introduces a special relief for the individual himself. A disabled person will now be given a deduction of RM5,000 in addition to the normal personal relief and RM2,500 for a disabled wife where the individual is eligible for the normal personal relief for a wife.

### 4. CHILDREN

An individual is given deductions for

children maintained by him up to a total of 5 children. The basic deduction is RM800 per child with increased deductions according to circumstances. From year of assessment 1995 there will be no limit on the number of children who can be claimed for.

### 5. PERSONAL STUDY COSTS

At present, no income tax relief is given for study costs borne personally. A deduction of up to RM2,000, in addition to the normal personal deduction, is now to be given in respect of fees paid for a course of study undertaken for the purpose of acquiring technical, vocational or industrial skills in any institution in Malaysia which is recognized by the Government.

Furthermore, loan agreements for education, which are now subject to ad valorem stamp duty of RM2.50 for every RM500 or part thereof, will from Budget day be charged with a maximum of RM6 regardless of whether the education is provided by the government or the private sector.

### 6. TAX EXEMPTION FOR ANNUITIES

Annuities granted under annuity contracts with Malaysian life insurers, which are presently taxable as income in the hands of the recipient, are to be exempted from tax.

This relieves the unfairness of the present system under which the annuitant bears tax on the whole annuity, which includes an element in respect of the return of the annuitant's own



purchase money as well as a part arising from income and gains generated by the insurance company on investing that purchase money.

## 7. CONTRIBUTIONS TO LIBRARIES

A deduction of up to RM2,000 will be given to an individual, in arriving at his total income under section 44, for any gift of money made to provide library facilities which are open to the public or by way of contribution to a public library or the library of a school or institution of higher learning.

The new deduction is an alternative to the one introduced last year, which provided for a deduction from business income of up to RM100,000 in respect of expenditure on providing library facilities. It will be useful where there is no business income source and is wider in scope since the deduction is available against all types of income.

## CHANGES AFFECTING COMPANIES

### 1. REDUCTION IN THE TAX RATE

The tax rate applicable to companies, which was reduced to 32% with effect from year of assessment 1994, is now to be reduced to 30%.

Dividends paid by companies during 1994 will be treated as paid after deducting tax at 30% even though the actual deduction was at 32%.

Where tax has been deducted at 32%, the dividend will need to be recalculated.

Example:

	Actual RM	Revised RM
Gross Dividend	100.00	97.14
Tax Deduction		
32% of 100.00	32.00	
30% of 97.14		29.14
Net amount paid	68.00	68.00

The amount to enter into the company's dividend franking account

(Section 108) is the recalculated amount (RM29.14). Consequently, the shareholder is deemed to have received a gross dividend of RM97.14 from which tax of RM29.14 was deducted.

### 2. EXEMPTION FOR OVERSEAS INCOME OF COMPANIES

In general there is a difference in tax treatment between income accruing in or derived from Malaysia and income arising overseas. The latter is only liable to tax when it is received in Malaysia. For resident companies, income derived from overseas will no longer be liable to tax when it is received in Malaysia. The change does not apply to income derived from banking, insurance, shipping and air transport business which is already liable to tax on a worldwide basis.

There is no exemption for income received by individuals or other bodies and no provision for the exempt company income to be used to pay exempt dividends. On distribution the exemption is effectively lost.

Example:

	RM
Overseas income before overseas tax	100,000
Overseas tax at 35%	35,000
Amount received in Malaysia	65,000
Gross dividend, if fully distributed	65,000
Malaysian tax deducted at 30%	19,500
Net income to shareholder	45,500

It is assumed that the company has no other income and no section 108 balance so that the tax deducted from the dividend will have to be paid to the Inland Revenue.

## TAX REDUCTIONS FOR OTHERS

### 1. COOPERATIVES

The present rates of income tax for

cooperatives, which run from the lowest rate of 2% to the top rate of 34% for chargeable income in excess of RM500,000 and have been effective since year of assessment 1993, are to be reduced by 1% or 2% resulting in a lowest rate of 1% and a top rate of 32% for incomes in excess of RM500,000. The new rates, and a comparison with the 3 previous years are shown in the table.

In addition, the amount which a cooperative is allowed to deduct in arriving at its chargeable income is to be increased from 6% to 8%. This is in addition to the deduction of up to 25% of audited net profits in respect of transfers or payments to other funds or bodies, which remains unchanged.

### 2. OTHER BODIES

The reduction in the rate of tax for companies from 32% to 30% also applies to (i) trust bodies, (ii) executors of non domiciled individuals and (iii) receivers.

### 3. NON-RESIDENTS

The rates at which tax is required to be deducted and accounted for to the Government on certain types of payments to non-residents are to be reduced as follows:-

	From %	To %
Interest	20	15
Royalties	15	10
Services in connection with the use of property or rights or the installation of plant etc., payments for technical advice, assistance or services and rent of moveable property (special classes of income)	15	10

Where a double taxation agreement applies the rate stipulated in the agreement will prevail if it is lower. For non-resident public entertainers the tax rate remains unchanged at 15%. The rate of tax on chargeable income of non residents not falling within these categories is reduced from 32% to 30%.



## CHANGES AFFECTING INSURANCE COMPANIES

### 1. TAXATION OF LIFE INSURANCE AND TAKAFUL BUSINESS

Companies carrying on life insurance in Malaysia, including non resident companies, now pay tax at the normal company rate on the income from their life business which is calculated in a special way. Basically the rules of calculation are designed to tax income from investments of the life business and also gains from the disposal of such investments. Limited deductions are allowed for management expenses and commission.

No distinction is made between income which is passed on to policyholders and income which is retained for the benefit of shareholders of the company. Income and gains from investments which are not immediately required to support existing policies, and which could therefore be regarded as a reserve attributable to shareholders, is included in the adjusted income of the life business.

All of the provisions relating to companies carrying on insurance business apply to a takaful business carried on pursuant to the Takaful Act 1984.

As a result of the Budget changes, a distinction will be made between the life fund (that is the fund held for policyholders) and the shareholders' fund related to the life business. They are to be treated as separate sources of income. The chargeable income of the life fund will be taxable at 8% whilst income from the shareholders' fund will continue to be taxable at the normal company rate (now reduced to 30%) as part of the overall business income of the company.

The adjusted income of the separated life fund and shareholders' funds will continue to be calculated by including income from the investments of each respective fund and gains from the disposal of such investments. Furthermore, in each year, the actuarially ascertained surplus on the life fund will be transferred to the shareholders' fund and treated as part of the income of that fund.

In calculating the adjusted income of the life fund no deductions will be allowed for management expenses or commissions.

The separation of the funds is maintained in respect of set off of losses and capital allowances. Losses or capital allowances arising from life business unabsorbed in previous years due to insufficient income will only be available for carry forward against income of the life fund. Current capital allowances in respect of life business will only be deductible against adjusted income of the life fund.

The change is intended to create a life insurance environment which is more attractive to policyholders by reducing tax on underlying income and gains to only 8%. However, it seems that shareholders will effectively be taxed twice because there is no provision for the surplus which is included in the shareholders' fund to be deducted in arriving at the adjusted income of the life fund.

### 2. TAXATION OF GENERAL INSURANCE BUSINESS - IBNR CLAIMS

Claims under policies may take some time to become fully formulated and examined after the first notification of an event. Within this category comes IBNR claims i.e. Claims Incurred but not Reported. At present, only claims which have been admitted are deductible for tax purposes.

Deductibility is to be extended so as to apply to claims which have been incurred in the basis period for a year of assessment. This will include IBNR claims which have been confirmed by Bank Negara.

## CHANGES RELATING TO RESEARCH AND DEVELOPMENT

### 1. COMPANIES QUALIFYING FOR INCENTIVES

Incentives may be granted under the Promotion of Investments Act 1986 to a research and development company or a contract research and development company as defined under the Act ("a PI company").

A double deduction will now be given for payments to use the services of a PI company. However, where the payer is a related company of the recipient, no deduction is to be given before the end of the recipient's prescribed incentive period. Double deduction for costs of research is already given for research approved by the Minister of Finance and research undertaken by an approved research institute or an approved research company.

Also, industrial buildings allowance is now to be given for qualifying expenditure on buildings used for research undertaken by a PI company. Such buildings when used for research approved by the Minister of Finance already qualify.

### 2. GIFTS OF ASSETS FOR RESEARCH

Assets used for business purposes, which qualify for capital allowances as plant, may attract a balancing charge on disposal by way of gift because the disposal is deemed to take place at market value. If the residential value of the asset is less than market value a balancing charge will arise.

As a result of the Budget, such a disposal is to be treated as taking place for no consideration if the gift is made to an approved research institute. The proposal could also result in a balancing allowance on disposal, thus giving the disposer a gratuitous tax relief.

## CHANGES RELATING TO TRAINING

### 1. MONEY GIFTS

A cash gift to an institution approved by the Director-General of Inland Revenue is deductible in arriving at total income under section 44. A technical or vocational training institute established and maintained by a statutory body, which is not presently covered, is to be included in the definition. Consequently a gift to such an institute will be able to qualify for deduction.



## 2. BUILDINGS USED FOR TRAINING

Industrial buildings allowance is already given for qualifying expenditure on buildings used for industrial training approved by the Minister of Finance. Technical or vocational training approved by the Minister is now to be included for this purpose.

## 3. GIFTS OF ASSETS FOR TRAINING

Gifts of assets which qualify for capital allowances are to be treated in the same way as gifts of assets to be used for the purposes of approved research if given to (i) a technical or vocational training institute established and maintained by the government or a statutory body; or (ii) a technical or vocational training institute approved by the Minister of Finance.

## 4. INCENTIVE FOR TRAINING

Investment Tax Allowance under the Promotion of Investments Act 1986 is to be extended to companies participating in or intending to participate in technical or vocational training. The allowance will be at the rate of 100% for qualifying capital expenditure incurred within a period of 10 years from the date of approval on buildings or plant and machinery used in Malaysia in connection with and for the purposes of an activity relating to training.

Also, companies providing technical or vocational training will be given exemption from import duty, sales tax and excise duty on machinery / equipment, materials, raw materials and samples used for purposes of training.

## CHANGES FOR OPERATIONAL HEADQUARTERS COMPANIES

The incentive for such companies now comprises a concessionary tax rate of 10% on income from qualifying services and exemption for dividends received from subsidiary and associated companies overseas.

Following the Budget:-

- (1) the incentive will be made available to locally controlled as well as foreign controlled companies.
- (2) dividends received from a related company outside Malaysia will no longer be exempt from tax. (Overseas income remitted by resident companies is to be exempted as mentioned above and abolition of the exemption for dividends will therefore have no effect)
- (3) qualifying services will include the procurement of finished goods as well as raw materials and components for use in the business of the company or a related company outside Malaysia.

The qualifying services are to be extended to all economic sectors including manufacturing, services, agriculture, construction and mining and restructured into 5 broad classifications:

- (1) management and administrative services
- (2) treasury and fund management services
- (3) other financial services
- (4) research and development
- (5) training and personnel management

These changes are accompanied by a relaxation of exchange control regulations to allow OHQ companies to borrow freely in foreign currency, to borrow freely up to RM 10 million, to open foreign currency accounts in Malaysia, to invest in foreign securities and to lend to related companies outside Malaysia.

## BUSINESS AND OTHER DEDUCTIONS

### 1. TAX DEDUCTION FOR PROMOTIONAL GIFTS

At present, no tax deduction is given for the cost of items given away except for promotional gifts made outside Malaysia or of samples of business products. A deduction will now be given for the cost of articles incorporating a conspicuous advertisement

or logo of the business which are used as promotional gifts within Malaysia.

### 2. DONATIONS TO THE LOW COST HOUSING FUND

A cash gift made to the Government is deductible in arriving at total income under section 44. Last year's Budget introduced a further (or double) deduction for donations made to the Government low-cost housing fund between 1st January 1993 and 31st January 1994. The time limit for the double deduction is now to be extended to 30th June 1994.

### 3. DOUBLE DEDUCTION FOR INSURANCE PREMIUM ON EXPORT

Insurance premiums paid for insurance of cargo exported are allowable as deductions from business income in the normal way. A double deduction is now to be given for premiums for insurance of cargo exported which are paid by exporters to local insurance companies.

## PENALTIES UNDER THE INCOME TAX ACT

The normal penalties provided for various offences and omissions under the Act are to be extended to matters dealt with under rules made by the Minister of Finance. This will have timely application to the proposed scheme of monthly tax deductions from employment income to be operated from 1st January 1995.

## CHANGES AFFECTING PETROLEUM COMPANIES

For income tax purposes, the limitation on deducting employers' contributions to the Employees Provident Fund or other approved schemes was raised from 15% to 16% last year. The limit remained at 15% for petroleum income tax (PIT). The deduction limit for PIT is now to be increased to 16%.

Another change relates to cash gifts made to the Government low-cost housing fund. Last year's Budget introduced a further (or double) deduction for income tax for donations between 1st January 1993 and 31st January 1994 but the deduction remained



at its normal rate for PIT. A further deduction is now to be given for PIT but limited to one-half making a total deduction of one and a half times the amount of the gift. The time limit will be 30th June 1994.

Both of these changes are effective from year of assessment 1994.

## CHANGE IN STAMP DUTY

An instrument of conveyance either on sale or by way of gift or settlement which operates to vest or transfer an undivided interest in real property is subject to ad valorem duty. From 1st January, 1993 ad valorem duty applying to single instruments of transfer was increased so the duty rate is 3% on values over RM500,000 up to RM2,000,000 and 4% on the excess over RM2,000,000.

Where the transaction concerned forms part of a larger transaction, duty is calculated on the aggregate consideration or market value of the separate parts or parcels being conveyed. The duty rate on such transactions remained at 2% on the excess over RM100,000 for multiple instruments. From Budget day such instruments will attract ad valorem duty calculated on the aggregate of the consideration or market value of the separate part or parcels being conveyed, whichever is higher, at the same rates as for single instruments.

## CHANGES IN INDIRECT TAXES

There were many detailed changes, particularly in import duty, which we cannot cover in the space available to us. All are effective from Budget day. The following is a brief summary of some of them:-

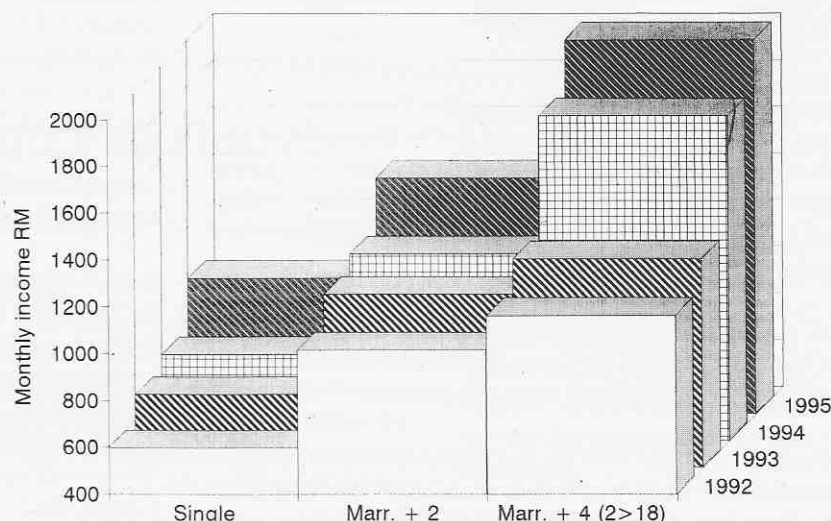
1. Some specified machine component parts are freed from Sales Tax.
2. Excise duty is abolished on goods vehicles and on some other locally manufactured goods such as water and beverages, petroleum oils and products, rubber tyres and tubes and primary cells and batteries.
3. Import duty on passenger vehicles, previously imposed at 6 different rates on a progressive basis, will be charged at only a single rate based on engine capacities on imported petrol driven and used diesel passenger vehicles and at 120% on new diesel passenger vehicles.

4. The import duty is reduced or abolished on an extensive list raw materials, components and consumer items.
5. Import duty at 5% or 10% and sales tax at 10% previously imposed on certain heavy machinery used in the construction sector is abolished.

## RATES OF INCOME TAX FOR THE LAST 4 YEARS

CHARGEABLE INCOME		RATE OF TAX			TAX PAYABLE (CUMULATIVE)		
BAND	TOTAL	1995	1993 1994	1992	1995	1993 1994	1992
RM	RM	%	%	%	RM	RM	RM
<b>Resident individuals</b>							
2500	2500	0	2	4	0	50	100
2500	5000	3	5	7	75	175	275
5000	10000	6	8	10	375	575	775
10000	20000	7	10	12	1075	1575	1975
15000	35000	12	15	17	2875	3825	4525
15000	50000	18	21	22	5575	6975	7825
20000	70000	23	26	27	10175	12175	13225
30000	100000	28	31	32	18575	21475	22825
50000	150000	31	34	35	34075	38475	40325
excess		34	34	35			
<b>Cooperatives</b>							
10000	10000	2	2	4	200	200	400
10000	20000	4	4	6	600	600	1000
10000	30000	7	7	9	1300	1300	1900
10000	40000	10	10	12	2300	2300	3100
10000	50000	13	13	15	3600	3600	4600
25000	75000	17	17	19	7850	7850	9350
25000	100000	22	22	23	13350	13350	15100
50000	150000	26	26	27	26350	26350	28600
100000	250000	29	29	30	55350	55350	58600
250000	500000	32	32	33	135350	135350	141100
excess		34	34	35			

## TAX FREE LEVEL (allowing for EPF)





MIT/MIA - NSTP

# 1995 BUDGET

## A C T I V I T I E S

As in the previous years, the Malaysian Institute of Taxation (MIT) and Malaysian Institute of Accountants (MIA) organised a Budget Hotline Service in collaboration with The New Straits Times Group (NSTP) on 29th October 1994, a day after the 1995 Budget was presented by the honourable Deputy Prime Minister who is also the Minister of Finance, YAB Dato' Seri Anwar Ibrahim.

A panel of tax professionals started taking calls from 9.30 a.m. and only stopped at the last caller at 12.30 p.m. Questions were received from wage earners, small businessmen and informed individuals who sought clarification on EPF's new withdrawal facilities, the abolition of import duties on specific items like fruits, machinery, chemicals, paper and luxury cars. Enquiries were also made on the changes in the personal tax payable.

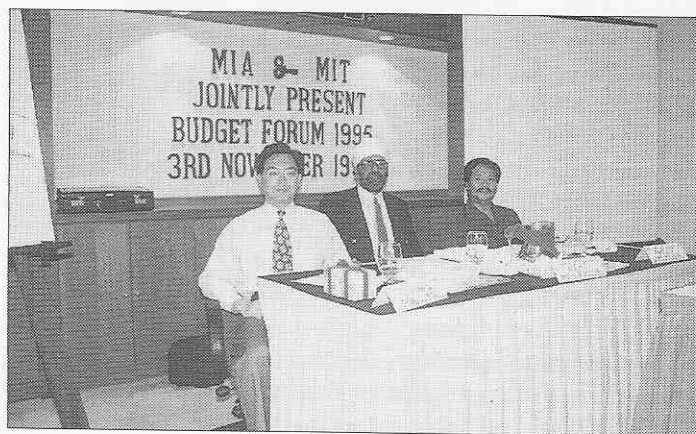
The Institute would like to express its gratitude to the following Hotline handlers who not only volunteered their time but shared their expertise with the public and therefore making the 1995 Budget Hotline another successful event.

Name	Firm
Lai Yong Tiam	Kassim Chan Tax Services Sdn Bhd
Patrick Chan	KPMG Peat Marwick Tax Services
Chen Lock Ing	Price Waterhouse
Leow Mui Lee	Arthur Andersen
Chang Lock Sin	Arthur Andersen
Phoon Sow Cheng	MK Taxpro Services Sdn Bhd
Gwenda Leong	Coopers & Lybrand
Patsy Choong	Ernst & Young

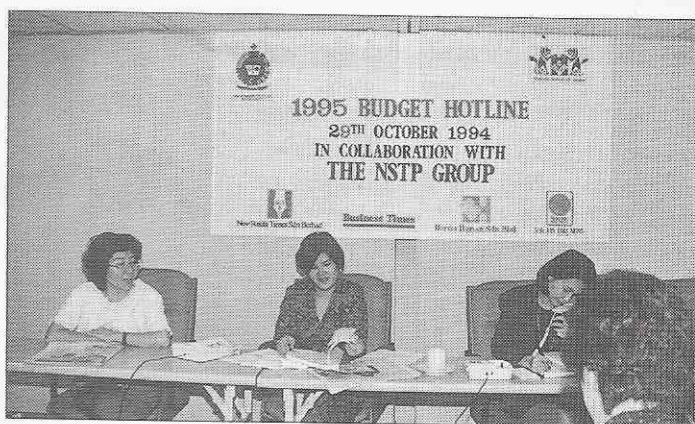
At an exclusive post-budget press conference with the NSTP Group reporters held on Budget day, the Presidents of both Institutes, Y Bhg Dato' Hanifah Noordin and En Ahmad Mustapha Ghazali, expressed their common view that the 1995 Budget was strategically crafted to sustain strong economic growth, reduce inflation, develop skilled manpower and build a progressive and balanced society.

Council Members from both Institutes, Mr. Lee Hwa Beng, Mr. Neoh Chin Wah, Mr. Lee Yat Kong, Mr. Michael Loh, Mr. Quah Poh Keat and Mr. Ranjit Singh were also present.

In conjunction with the 1995 Budget, both Institute's arranged various activities with Sistem Televisyen Malaysia Berhad (TV3). The MIA President, Y Bhg Dato' Hanifah Noordin, gave his views on the 1995 Budget which was aired during the 8 o'clock Bulletin



MIT Council Member, Mr Harpal Singh (Centre) together with Mr Chow Yu Ming (left) and Mr Jimmy MF Leow (right) at one of the Budget Forums



Budget Hotline handlers answering queries on the 1995 Budget from members of the public

Utama and the 10.30 p.m. Evening News. The Institute's Council Member, Tn Syed Amin Aljefri appeared 'live' in a pre and post Budget discussion which was aired during TV3 'live' telecast of the Budget Presentation on Budget Day. MIA's Technical Consultant, Mr. Richard Thornton and a member of MIA, Pn Narimah Mohd Perai, participated on 'live' post Budget discussions on 'Money Matters' and 'Nona' programmes respectively. Both programmes were aired on 30th October 1994.

Both Institutes also held a series of forums on the 1995 Tax Budget for members to brief and clarify on the tax implications of the Budget and the application of the recent amendments to tax legislations announced by the Honourable Minister of Finance.

The forums were held at all MIA branches including Miri, Sibu Tawau and Sandakan. The speakers involved in the forums were Mr. Harpal Singh Dhillon, Mr. Richard Thornton, Mr. Chin Chee Kong, Mr. Titus Tsen, Dato' Sheik Othman and Mr. Su Lim.



# SPECIAL COMMISSIONERS' DECISION

## Executive Summaries

### Rayuan No. 584

MP Sdn. Bhd. Lwn  
Ketua Pengarah Hasil Dalam Negeri

#### FACTS

MP Sdn. Bhd. a property development company also owned a cinema which was built and completed in 1979. On 1.6.79, MP Sdn Bhd entered into an agreement with SME Sdn. Bhd, to screen films to be supplied by SME. The agreement was for 15 years with an option for SME to extend it for another 10 years. Under the agreement, MP Sdn Bhd was guaranteed a minimum monthly income. SME was to be the exclusive supplier of films to be exhibited in the cinema owned by MP Sdn Bhd.

Subsequently, the cinema declined and the agreement was terminated on 19.10.83 with SME making a compensation payment of RM250,000 to MP Sdn Bhd. This sum was assessed to income tax for the year of assessment 1984. MP Sdn Bhd appealed against the assessment. The statement of accounts of SME for the year ending 31 December 1984 showed receipts of RM81,819 from the sale of cinema tickets.

The appeal was scheduled for hearing on 5 August 1994 at 9.00 a.m. Neither the appellant nor its representatives were present and no explanation for their absence was available. In accordance with paragraph 17(1)(b) of Schedule 5 to the Income Tax Act 1967, the Special Commissioners proceeded to hear and decide the appeal in the absence of the appellant.

#### DECISION

The Special Commissioners noted that the onus of proving that an assessment is excessive or erroneous is on the appellant. Compensation received will be a capital receipt if it relates to the profit-making apparatus of the appellant. This conclusion is extremely rare and the normal rule is that compensation for the non-performance of

a business contract is taxed on the same footing as the profits for the loss of which the compensation is paid.

On the statement of facts it was held that the RM250,000 was income liable to tax under the Income Tax Act 1967. The appeal was dismissed and the assessment confirmed.

#### FOOTNOTE

The appellants required the Special Commissioners to state a case for the opinion of the High Court, and a case has been stated on the following questions:-

- (i) whether the procedure adopted by the Special Commissioners was correct in law; and
- (ii) whether on the facts found by the Special Commissioners, their decision was correct in law.

**S. Augustine Paul**

*Pengerusi,  
Pesuruhanjaya Khas Cukai Pendapatan*

**Mohd. Ali bin Kamaruddin**

*Pesuruhanjaya Khas Cukai Pendapatan*

**Toong Chooi Poh**

*Pesuruhanjaya Khas Cukai Pendapatan*

### Rayuan No. PKR 522

HEH Sdn Bhd lwn  
Ketua Pengarah Hasil Dalam Negeri

#### FACTS

HEH Sdn Bhd was assessed to tax for the years of assessment 1982 and 1983 by disallowing certain payments to two executive directors on the ground that the payments constituted bonus payments subject to restriction under section 39(1)(h) of the Income Tax Act 1967.

HEH Sdn Bhd was in the business of selling engineering hardware, hand tools and lifting equipment as a wholesaler. The Board of Directors of the company had seven members of whom two were also executive directors.

Prior to 1978, the company had only one salesman and the volume of sales was very low. Because of its limited capital, the company could not afford to employ more salesmen though for 1981 there were one salesman and an apprentice salesman for Kuala Lumpur and one salesman for the east coast of West Malaysia.

All the directors were paid directors' fees. The staff of the company were paid salaries and bonuses and the salesmen were paid salaries, bonuses and travelling allowances. The two executive directors were paid salaries as Managing Director and Finance Director. In addition they were also paid bonuses like other staff of the company.

In 1978, the Board of Directors entrusted the two executive directors with the task of improving the performance of the company by 2.5 times the sales results in 1977 and increasing the profit margin of the company by shortening the terms of payment to creditors. For this the Board agreed to pay them "additional sales commission" of 25% based on the net profit before tax to be shared equally by both of them (each 12.5%) provided the targets were met within two years i.e. by the year 1980. The two directors were not paid salaries for doing the work of salesmen.

The company's sales did increase substantially, the targets were met and the payment of 12.5% each was accordingly made to them. The said payment was declared as "incentive allowance" and "profit commission" in the Income Tax forms EA of the two directors for the relevant years of assessment.



## ARGUMENTS

The appellant contended that the payment was not a bonus payment on the grounds that it was paid for doing extra services beyond the call of the normal duties of the two directors, the payment was based on sales and was given only to the two directors who actually did the extra job and they were not paid salaries for performing the job of salesmen. In addition, the decisions in the Supreme Court cases of *DGIR v. Highlands Malaya Plantations Ltd.* (1988) 2 MLJ 99 and *DGIR v. Harrison & Crossfield (M) Sdn Bhd* (1988) 2 MLJ could be distinguished on the ground that in those cases, the payments were for performing normal duties and not for doing any extra work.

The Respondent contended that the payment was a bonus payment because the two directors were not appointed salesmen, although they did extra work the payment was based on performance and profits and commission is only paid to agents.

## DECISION

That the payment made to the two directors of the company was a commission amounting to deductible expenditure within the meaning of section 33 of the Act and was not a bonus payment subject to restriction under section 39(1)(h) of the Act.

The distinction between a "bonus" and a "commission" is that the former is a payment in addition to salary for performing a specified duty while the latter is a payment for performing duties for which no other remuneration is received. The facts of the present case are clearly and conspicuously different from the facts of the *Highlands* and *Harrison* cases in that in those two cases the "additional remuneration" paid to the managerial staff was not given for performing any extra work or services rendered beyond the letter of their bond.

The appeal was allowed and the assessment discharged.

## FOOTNOTE

The Respondent required the Special Commissioners to state a case for the opinion of the High Court and a case has accordingly been stated on the question whether on the facts found by the Special Commissioners their decision was correct in law.

**S. Augustine Paul**

*Pengerusi,*

*Pesuruhanjaya Khas Cukai Pendapatan*

**Dato' Haji Mohd. Ghazali bin Haji Mohd. Hanafiah**  
*Pesuruhanjaya Khas Cukai Pendapatan*

**Mohd. Ali bin Kamaruddin**  
*Pesuruhanjaya Khas Cukai Pendapatan*

## Rayuan No. 521

**MD Sdn Bhd lwn**  
**Ketua Pengarah Hasil Dalam Negeri**

## FACTS

MD Sdn Bhd was assessed to income tax for the year of assessment 1983 on the profit on disposal of a property which had earlier been "withdrawn for its own use" in 1979.

MD Sdn Bhd had been incorporated in 1975 and the principal object of the company as stated in its Memorandum and Articles of Association was property and housing development.

The company had three development projects in Penang between 1976 and 1981. On 29 July 1975, the company purchased a piece of vacant land with the intention of erecting 6 units of 4-storey shoplots on the land and at the same time retaining a corner lot (Lot No. 70) for its own use to house the company's office and business operations. Prior to completion of the project, the company's office was located at some other rented premises.

For accounting purposes, when the land was acquired, it was shown under "Land & Development Expenditure Account" under Current Assets. All subsequent development expenditure and loan interest was also shown under the same account. On completion of the project, the cost related to Lot No. 70 was transferred to "Freeland Land & Building Account" under Fixed Assets in the accounts for the year ended 31 July 1979. The gain from the subsequent sale of Lot No. 70 on 31 January 1982 was treated as profit on disposal of a fixed asset.

When the property was transferred to the Freehold Land & Building Account in 1979, the Appellant did not declare the gross income accruing from the alleged transfer to the Respondent for tax purposes; there was no company resolution to effect the alleged transfer; and the subsequent sale of the property was voluntary (because there was a need to repay the loan

taken to finance the construction of the project) and not for the purposes of reinvestment.

## ARGUMENTS

The Appellant contended that the property was transferred from current asset to fixed asset in the annual accounts for the year ended 31 July 1979 and that therefore the property was withdrawn for their own use within the meaning of section 24(2) of the Income Tax Act 1967 at the time. The sum realised from the subsequent sale of the property must therefore be treated as a profit on the disposal of a fixed asset.

The Respondent contended that the Appellant is engaged in housing development and as such the property was not withdrawn for their own use within the meaning of the said section 24(2). There should also be more evidence that a mere entry in the account books to show that it was withdrawn.

## DECISION

The onus is on the Appellant to prove that the transfer of the property in the accounts satisfies the requirements of the said section 24(2). As the principal object of the company is that of property and housing development, it is *prima facie* carrying on the business of property development for sale and not for investment or for both. The answer to the problem does not lie in the intention of the Appellant but whether their acts and conduct in relation to the business amount to trading.

Based on the facts it was decided that the transfer of the property from current assets to fixed assets in the accounts of the Appellant did not amount to the property being "withdrawn for own use" under section 24(2)(a) of the Income Tax Act 1967. The appeal was therefore dismissed and the assessment confirmed.

## FOOTNOTE

The Appellant required the Special Commissioners to state a case for the opinion of the High Court and a case has accordingly been stated on the question whether on the facts found by the Special Commissioners their decision was correct in law.

**S. Augustine Paul**

*Pengerusi,*

*Pesuruhanjaya Khas Cukai Pendapatan*

**Mohd. Ali bin Kamaruddin**

*Pesuruhanjaya Khas Cukai Pendapatan*



**Dato' Haji Mohd. Ghazali bin Haji Mohd. Hanafiah**

*Pesuruhanjaya Khas Cukai Pendapatan*

## Rayuan No. PKR 544

MLtd lwn

Ketua Pengarah Hasil Dalam Negeri

### FACTS

MLtd was assessed to income tax for the year of assessment 1986 without allowing deductions for the adjusted losses and capital allowances brought forward from the preceding years of assessment up to and including the year of assessment 1976 and without reliefs under section 65A(1)(a) and (b) of the Income Tax Act 1967 (the Act).

The Appellant is a co-operative society registered on 2 August 1954. Up to the year of assessment 1967, it was exempted from income tax under the provisions of section 13(1)(f)(ii) of the Income Tax Ordinance 1947 (the Ordinance). For the years of assessment 1968 to 1976, it was exempted from income tax in accordance with the provisions of paragraph 12 Schedule 6 to the Act. Thereafter, the said paragraph 12 was amended and as a result, the Appellant became liable to tax.

At the hearing before the Special Commissioners, the Respondent conceded that the reliefs under section 65A(1)(a) and (b) will be allowed.

### ARGUMENTS

The Appellant contended that the exemption from income tax granted under the Ordinance was preserved by paragraph 33 Schedule 9 to the Act. The exemption should therefore continue till the year of assessment 1986 and thereafter. Reference was made to the earlier decision of the Special Commissioners in the case of NLFC

v. Director General of Inland Revenue (N. PKR 256) on a similar issue which was decided in favour of the appellant and not appealed. On the same issue of exemption from income tax, reference was also made to the Supreme Court decision in NLFC v DGIR (1993) 2 AMR 3581 which had the effect of invalidating the retrospective effect of the proviso (introduced by Act A471) to the said paragraph 33 of Schedule 9.

On the issues of the entitlement to deductions and allowances for losses and capital allowances brought forward, the appellant contended that there are two types of exemption: one is exemption from the provisions of the Act and the other is exemption from income tax. In the present case there was no mention of exemption from the provisions of the Act. Losses and capital allowances should therefore still be computed during the period of exemption to be carried forward for set-off.

The Respondent contended that on the issue of exemption, Act A471 which introduced the proviso to paragraph 33 of Schedule 9 applies prospectively from the year of assessment 1981. The appellant is therefore not entitled to exemption for the year of assessment 1986.

On the second and third issues, deductions and allowances are not possible as income is to be disregarded to section 127(5) of the Act. As income is to be disregarded, then all the sections dealing with computation should also be disregarded.

### DECISION

On the issue of exemption from tax, the Special Commissioners decided that the amended paragraph 12 Schedule 6 to the Act is applicable to the Appellant and it is therefore not exempt from tax for the year of assessment 1986. Even if the Appellant is only bound by paragraph 33 Schedule 9, the prospective effect of its proviso would

produce the same liability. The Special Commissioners therefore found for the Respondent.

As to the entitlement to carry forward adjusted losses and capital allowances, The Special Commissioners decided that the word "income" in section 127(5) of the Act refers to chargeable income. In the event that there is no chargeable income, the allowable losses and capital allowances can be carried forward to the following year just as in any other case. They therefore found for the Appellant on this point.

### FOOTNOTE

Both the Respondent and the Appellant required the Special Commissioners to state a case for the opinion of the High Court and a case has accordingly been stated on the question whether on the facts found by the Special Commissioners, their decision was correct in law.

**S. Augustine Paul**

*Pengerusi,*

*Pesuruhanjaya Khas Cukai Pendapatan*

**Kamarudin bin Mohd. Noor**

*Pesuruhanjaya Khas Cukai Pendapatan*

**Toong Chooi Poh**

*Pesuruhanjaya Khas Cukai Pendapatan*

Q U O T E

'We ought not to look back unless it is to derive useful lessons from past errors, and for the purpose of profiting by dear-bought experience.'

**George Washington**

The case stated for the above Special Commissioners' Decisions will be published in the future issues of the TAX NASIONAL.



# Tax Planning For International Licensing And Royalty Flows

(This article will be published in four parts)

## PART A - LICENSING AGREEMENTS

### GENERAL INTRODUCTION

With the globalization of business and enterprises, cross-border transfers of technology and other intangibles, particularly brandnames, become ever more important.

This is especially true for multinational enterprises. In order to operate in foreign markets through local subsidiaries they will be confronted with the necessity of transferring brandnames to their subsidiaries and to take measures to avoid infringement of these brandnames.

In order to produce in foreign countries, it will be necessary to transfer patents and technological know-how. The trend to have more and more R & D carried out outside of the "home country" further increases the importance of licensing agreements in international business.

Licensing is the general term to describe agreements whereby one party grants another party the right to use certain intangibles owned by the former. Licensing agreements differ in principle from R & D cost sharing agreements, as in a typical licensing agreement the right to use an existing intangible will be transferred between parties, whilst in a R & D cost sharing agreement, parties will jointly undertake to develop the intangible. Where a license is granted, the transferor will already, at his own risk, have developed the intangible concerned.

The subject of a licensing agreement will typically be a patent, a brandname, a copy-

Difference in opinion between legal systems as whether a payment constitutes a royalty, is a problem which may be avoided by consulting local experts in advance

right or know-how. Agreements involving the transfer of good will are usually considered to fall outside of the scope of licensing agreements, as they will usually involve the transfer of a whole business. The same goes for franchising agreements which will usually include supplies, training of staff and other technical assistance. This is not to say however that these types of agreements do not include aspects of licensing.

### 1. TAX BARRIERS

A cross-border transfer of an intangible will usually trigger some sort of taxation. The tax matters typically encountered are:

- withholding taxes on royalties;
- taxes upon the transfer to affiliates;
- transfer pricing adjustments;
- incentives for the local development of technology;
- difference in opinion on what is a "royalty".

Withholding taxes on royalties, i.e. a tax on the payment made by the licensee to the licensor, will often be

greatly reduced through double tax treaties between two countries. A carefully planned structure may minimise this burden.

Most countries are eager to encourage R & D activities on their soil through incentives. These incentives can be taken into consideration when planning new activities. For existing activities, this type of planning is virtually useless as the cost of transferring personnel and facilities to another country will usually prove to be prohibitive, something which may often even be true for new activities.

Transfer pricing matters will offer the least opportunity for advance planning, except when the countries involved allow advance rulings on this subject.

In a typical transfer pricing dispute, the tax authorities of for example the country of the licensee will deem the royalty paid to a foreign affiliate too high and refuse deduction, whilst the licensor is unable to obtain a corresponding adjustment in its country of residence, or even face an upward adjustment because the local tax authorities deem the royalty too low.

Although most double tax treaties contain mutual agreement clauses to offer some way out of these problems, the procedure is usually laborious and time consuming in the extreme. Though there is no way to avoid these problems with certainty, carefully drawn up contracts, careful foundation of the royalty etc. will greatly help to minimise their incidence.

The arbitration clause in newer US treaties, and the proposed EC Treaty



on arbitration, may - in the future - prove a somewhat easier way to resolve transfer pricing disputes between states.

Difference in opinion between legal systems as to whether a payment constitutes a royalty, is a problem which may be avoided by consulting local experts in advance. If encountered in an existing situation, this type of problem may prove very difficult to resolve.

## 2. LEGAL BARRIERS

In addition to the tax matters one must face in cross-border licensing, there are also numerous legal pitfalls.

Licensing agreements will typically be concerned with exclusivity, for instance allowing the exclusive use of a certain piece of know-how. Thus, licensing agreements offer ample opportunity to seal off a market. Where the transfer of know-how is especially concerned with maintaining the secrecy of the knowledge thus transferred, this type of agreement will be especially open to abuse, for example by using an agreement transferring an insignificant piece of know-how between companies to enforce monopolist clauses.

This type of practice would contravene the anti cartel and trust legislation as maintained by most developed countries, but less far fetching clauses may also lead to a collision with this type of legislation.

A completely different but no less strenuous matter is the protection of intangibles in different countries, a matter which is especially acute where patents and copyrights are involved. Although there is a certain amount of international harmonisation through multilateral treaties, the national law of each country will have its own idiosyncrasies in respect of procedures and time periods of legal protection.

## 3. SCOPE OF LICENSING AGREEMENTS

The word "Licensing" is derived from the Latin "licentia", meaning "leave" or "permission". Therefore, if one

acquires a license, one acquires the right to use an intangible which one was not allowed (or able) to use prior to the acquiring of the license.

Licensing agreements are generally considered to involve themselves with the transfer and exploitation of intangibles which are transferable by themselves. Licensing agreements are therefore generally not considered to encompass the transfer of goodwill etc., which would usually involve the transfer of a complete business activity, or franchising agreements, which will usually have a much wider scope. Licensing clauses may however constitute a part of both types of agreement.

Closely related to licensing agreements are R & D cost-sharing agreements. They differ from licensing agreements however in that the latter are aimed at jointly creating an intangible whilst the former concern themselves with the transfer of an existing intangible.

### Secrecy clauses will constitute an essential part of the agreement.

The types of intangibles with which licensing agreements are concerned will basically fall into two categories:

- intangibles which are legally protected, e.g. patents, copyrights etc.; and
- intangibles that do not enjoy legal protection, e.g. know-how.

A basic licensing agreement will grant the licensee the right to use or exploit the intangible concerned for a consideration. The consideration is usually conditional, e.g. dependent on the turnover of the product utilising the intangible. Lumpsum payments also are not uncommon, especially in the field of copyrights.

Where non-legally protected tangibles are concerned, secrecy clauses will constitute an essential part of the agreement.

Although territorial and time period

clauses are common, they do not constitute an essential element of licensing agreements.

Though a strict legal discernment can be made between legally protected and non-legally protected intangibles, in a typical technological license the two will be combined. For example, if a license is granted in respect of the production of a certain chemical, the agreement will involve both the transfer of the patented formulas and the non-patentable know-how in respect of the production procedures.

## 4. LICENSING VERSUS COST-SHARING

When drawing up an effective group R & D strategy, it is essential to compare intra-group licensing with intra-group cost-sharing arrangements.

This requires examination of three questions:

- where will the R & D be performed;
- how will it be financed;
- who will exploit the resulting intangible, if any.

### i. Location

A successful R & D effort will depend firstly on the availability of facilities, qualified personnel, infrastructure, proximity to market etc. Usually, one will have to work with existing facilities, which cannot reasonably be moved. Therefore, although theoretically tax and legal considerations can be taken into account when determining where R & D will be performed, in practice these considerations will play a marginal role at best only.

### ii. Financing

As R & D efforts will usually involve a substantial risk of failure it is important to immediately address the question who will bear the risk. This is important not only from a financial point of view but also from a tax point of view.



If one single group company, usually in a high tax country, is continually saddled up with R & D losses, the local tax authorities are likely to intervene. Directly related to this matter is the question which of the group companies will be entitled to the results of a (successful) R & D effort.

Another issue to be addressed in this respect is that of financing the ongoing expenditures of the R & D effort, as the ongoing cost can be very substantial indeed. Here tax considerations become acute when the R & D effort will result in initial tax losses which cannot be consolidated with other taxable income.

### iii. Exploitation

Although the question which group company will exploit the results of an R & D effort is closely related to the financing question, it is not the same. It is conceivable that one group company will finance the R & D and, upon termination, transfer the resulting intangible to another group company for exploitation.

As numerous tax and legal barriers can be encountered in such a transfer and significant tax burdens can result from a mismatching of costs and revenues it is important to address this issue from the start.

Obviously, a comparison between the effects of cost sharing and transfer of intangibles is possible only when the intangible is still to be developed. Where, as in many cases, an existing intangible is to be transferred, this choice is no longer relevant.

## LICENCES - A JURIDICAL APPROACH

### 1. INTRODUCTION

In this chapter some legal aspects of licensing agreements will be dealt with from the point of view of the various intellectual property rights.

For the sake of convenience these rights will be treated as a whole, but it should be realized that the mutual differences in character and the attaching legal effects entail consequences for the structure of the licensing agreement.

Therefore, it is important to realize beforehand what right is licensed before concluding a licensing agreement.

Licensing agreements should, generally, be to the satisfaction of both parties and both parties have a considerable interest in such an agreement.

### Licences may be granted for valuable consideration or free of charge.

The character of a durable agreement is commensurate with the time invested in the cooperation and the commercial interest.

Licensing agreements formalize and regulate a durable relationship and it is, therefore, important that as many as possible of the numerous bottlenecks that the parties may find on their way should be regulated. It is evident that it is difficult, if not impossible, fully to regulate the future developments, the execution and the completion of the legal relationship in an agreement.

In view of the varying nature of the subjects, licensing agreements should be customized rather than be standard.

In spite of the multitude of differences it is, however, possible to map out a few essential features of licensing agreements and to stop at some crossing that the parties will have to pass when entering into a licensing agreement.

### 2. DEFINITIONS

As mentioned above, licences may cover a great variety of things. And the field of licences is not restricted to

the rights of intellectual property. Also specific know-how is capable of being licensed.

#### i. Licenses

*Licensing agreements provide a right of use by a party having such a right or such know-how to another party who wishes to use, apply or operate such rights.*

Licences may be granted for valuable consideration or free of charge.

Before the purpose of the licensing agreement and its essential features are entered into, each individual right of intellectual ownership for which licences are granted will be roughly typified and its contours shown.

The definitions below will, therefore, give very general typifications as they are generally recognised in the civilized legal systems. It should, however, be borne in mind that there are large and numerous differences between the several legal systems.

#### ii. Patent

*A patent is an exclusive right recognised and granted by the Government affording the title-holder the exclusive possibility to operate an invention for the duration of the patent.*

#### iii. Copyright

*Copyright is the exclusive right of the maker or author, or third person to whom such right has been assigned, in respect of a literary, scientific or artistic work.*

Therefore, copyright is typified as a prohibitive right.

#### iv. Trademark right

*A trademark is a sign or indication serving to distinguish and individualize goods or services in a certain respect.*

#### v. Right to a trade name

*The right to a trade name entitles the title-holder to act against the same or similar names in which enterprises are conducted if and*



to the extent that confusion about the identity of the enterprises is caused.

The right to a trade name is no absolute and exclusive right. It solely affords the possibility to claim a prohibition under certain circumstances.

#### vi. Know-how

Know-how may be defined as *all information in the field of engineering, application and commerce of a confidential nature not belonging to the public domain*. The information referred to as know-how has many facets, mostly linked to a product or production process not being the object of any intellectual property right and to which no absolute right is attached. The confidentiality of the information stands foremost and should, therefore, be guaranteed through a licence.

## LICENSING AGREEMENT

The licensing agreement should, in general, contain the same essentials as other agreements. That is to say that, among other things, the subject matter of the agreement and the performances which are to be made under the agreement must be laid down in detail.

Moreover, the duration of the agreement, the range, fees, responsibilities and, last but not least, the manner of, and grounds for, termination of the agreement should be regulated.

### 1. Parties and ratio

It is a matter of course that the parties to the agreement and the reason for each party to enter into the agreement should be fully stated in the beginning of the agreement.

### 2. Subject matter

As stated above, the description of the subject matter and the exact definition of rights granted under the agreement are of paramount importance. The description of the subject matter may, in some cases, even be a requirement for the existence of the licensing

agreement or be important for obtaining an exemption from the obligation to report in relation with the EC. In this respect we especially point at the so-called Know-how Regulation.

### 3. Duration of the agreement

Under the statutory provisions licensing agreements may be subject to a maximum duration. This is especially the case with patents. Patents have a limited life in most countries, varying from 15 to 20 years.

**Patents have a limited life in most countries, varying from 15 to 20 years.**

Important, too, is that the validity of certain stipulations will have to continue after the termination of the agreement, in particular those in respect of secrecy.

### 4. Scope of the agreement

According to the nature and the subject matter of the agreement it should be exactly described in what manner the agreement will be valid between the parties and which applications will be covered by the licence.

Limitations may be made geographically, economically and technically. In view of the territorial scope of the rights of industrial property, it should, first of all, be determined for which areas the licence is granted.

Economically, the principal stipulation is the exclusivity of the licensee. In this respect there are some possibilities:

- the licence is granted under exclusivity, in a sense that neither the licensor will display any activities in the area of the licence;
- the exclusivity refers solely to third parties and the licensor keeps the right to display activities in the contract area independently.

In the case of a non-exclusive licence the licensor will be at liberty to have

also third parties operate in a certain contract area. Also the licensor may, in that case, independently display activities besides the licensee.

Other limitations of an economic nature are those of the licensee's right to export or licensee's obligation to allow imports from countries outside his area.

To the extent that they are relevant, especially the provisions of EC competition law in this field should be borne in mind.

As will be discussed below, it should be realized that the licensing agreement in itself, or together with a distribution system, may be the subject matter of a special EC regulation, such as, specifically, the EC Regulation on sole-sale agreements.

In a technical respect a differentiation may be made in the possibilities of application, separate licences being granted for each application.

Moreover, production, sale and other forms of operation may, economically, be separated and the licence accordingly be limited.

In laying down the obligations and rights of the licensor and the licensee some recurring stipulations should be observed.

### 5. Obligations of the licensee

Where a licence is granted, the licensee will have to be under the obligation to use the licence. This is necessary because the underlying right of intellectual property may lapse in the case of non-use, which will evidently be the case if the licence is an exclusive one.

Of course, the use of the right granted to the licensee, and the way in which he should exercise it, influence the interests of the licensor. It is, therefore, important to the licensor painstakingly to supervise the use in all its forms, for instance through an obligation imposed on the licensee to observe certain quality standards.

Also the way in which the use is made may have implications for the licen-



sor, which applies especially to the use of the trademark. Not only the use, but also the way how it is used should ultimately be controlled by the licensor and be agreed as an obligation of the licensee.

In the case of know-how, but also in the case of other licences it may be important that the licensee should take on the obligation to observe secrecy in respect of the know-how obtained (also after the expiration of the agreement) and that he, in his turn, passes on this obligation to his employees or third parties whom may have, or obtain, knowledge of the confidential data.

## 6. Infringements

A special chapter is formed by the concerted action of licensor and licensee when third parties infringe the rights of the licensor or blame the licensor/licensee for infringing their rights by using the licence. As licences come under the freedom of contract, the agreements of the parties in that respect may be made in a variety of forms. Yet the licensor will be the key figure in legal proceedings, if any, as he is the source from which the right has originated. Moreover, the fact that in some legal systems solely the licensor may sue plays a part.

Further, it is recommendable anyhow to oblige the licensor to assist the licensee in legal proceedings.

## 7. Obligations of the licensor

The licensor should enable the licensee to exercise the rights under the licence and, if necessary, assist him. Often the licensee undertakes to maintain the intellectual proprietary rights or their registration.

## 8. Liability

In addition to the rights and obligations, the licensing agreements should contain liability arrangements and, more particularly, any exclusion or limitation of liability for losses incurred due to improper performance under the licensing agreement or any infringements of the intellectual proprietary rights of third parties.

Important, too, is a careful formulation of the way in which any damage will be settled. This requires an accurate delimitation, in view of possible statutory restrictions in the regulation of liability. Also in respect of consequential damage, the regulation of liability will have to provide for an adequate solution.

## 9. Licence fee

If it is provided that the licence is granted for a consideration, there will be several forms in which payments may be made. The amount of the royalty and the method of computation may be determined in a variety of ways. The most current and best-known form is the sales-related royalty, but also a fixed amount (lump sum) may be agreed between the parties. Intermediate forms are imaginable as well.

When establishing the amount of the royalty a minimum and/or a maximum may be included, in which case the minimum royalty may act as a kind of threshold to stimulate the actual use.

The computation of the fee will have to be linked to adequate supervision possibilities, with periodical supervisions to verify the data supplied.

Moreover, the more general stipulations, such as currency, place and time of payment will have to be agreed.

## 10. Termination

An important item is, finally, the termination of the agreement. The termination of the agreement is the tail-piece of a good licensing agreement. It should contain adequate stipulations for the case that the agreement ends for whatever reason. First of all, an exhaustive enumeration of the grounds for termination should be included, such as:

Non-fulfilment, bankruptcy of either party to the contract or the lapse of the intellectual proprietary right on which the licence is based.

Where the licence brings about a complex of interests, the grounds should,

accordingly, be carefully weighed and only momentous grounds should give rise to termination.

Of a more formal nature is the manner of termination (for instance by registered letter or in another way laid down in the agreement).

## 11. The legal effects of the termination

It does not suffice to establish that the agreement has been terminated. With due observation of the interests involved, the consequences of the termination to the parties should be regulated in a practical (and acceptable) way. This may be done by, for instance, taking over the remaining quantity of products produced under the licence, or by informing the customers. Moreover, there is the continuing obligation of secrecy already mentioned and the returning of confidential information made available.

## 12. Miscellaneous

For some specific stipulations a number of important provisions is finally included in this chapter of Miscellaneous, such as: the choice of the law governing the agreement, the way in which disputes arising from, or connected with, the agreement will be settled (arbitration or court of justice) and the way in which additions and amendments to the agreements will be possible.

### IN THE FOLLOWING ISSUES:

Part B: Consideration /  
Remuneration for  
Licensing  
**March 1995 issue**

Part C: Tax Treatment of  
Licensing  
**June 1995 issue**

Part D: Tax Planning Considerations, Opportunities and Pitfalls  
**December 1995 issue**



# - Unitary Tax -

## It's Impact On Companies Operating In Malaysia And California

### 1. INTRODUCTION

In a recent decision, Barclays Bank International Ltd. lost its case in the US Supreme Court against imposition of unitary tax by California.

The British Government has legislated in the UK tax legislation retaliatory power which can be triggered to deny the tax credit which would otherwise be payable to US companies in unitary states.

It would be interesting to watch the next move by the UK authorities on the outcome of the Barclays decision. This article is a background to the dispute and its effect on multinational companies operating in Malaysia.

### 2. RIGHTS OF TAX JURISDICTIONS

All tax jurisdictions in which multinationals operate are faced with the problem of determining the amount of income properly attributable to their jurisdiction.

The internationally accepted method, which underlies tax treaties, is known as the separate accounting or arm's length method.

This method applies the principle that each taxing authority should levy tax only on the income arising within the borders of its jurisdiction.

To enable jurisdiction to access corporation tax liability, multinational corporations operating within those jurisdictions are asked to provide separate accounts as if they were independent corporations operating at arm's length from other parts of their business.

### 3. ABUSE

Multinational companies can, in effect, transfer profits between different taxing jurisdictions, by manipulating the prices at which different constituent parts of their multinational business sell goods or services to each other.

### 4. REMEDY

Each taxing authority reserves the right, when assessing the extent of a corporation's earnings attributable to their jurisdiction, to adjust for tax purposes any transfer prices that have been manipulated, so that they reflect the true market price that would be paid between two independent corporations.

Tax treaties, specifically allow the contracting states to make adjustments.

Unitary taxation is an alternative way of dealing with the same problem.

### 5. WHAT IS UNITARY TAXATION

Instead of taxing the income earned within its taxing jurisdiction, a tax authority using unitary tax assesses the overall income of the group, and then levies tax on a certain proportion of that income. That proportion might be calculated be reference to the company's sales, employment or assets within one taxing jurisdiction.

The unitary method is used fairly widely by different states in the US in respect of income earned within the US. The method works reasonably well where each of the taxing authorities have broadly similar accounting rules and standards and where the tax

regimes and formulae used are compatible. These conditions are moderately well satisfied in varying degrees in the different states within the US.

### 6. WORLDWIDE UNITARY TAX (WUT)

California has chosen to use the same method in respect of worldwide income. In this context the necessary conditions for the successful use of the unitary method are clearly not fulfilled. Accounting standards in different taxing authorities throughout the world vary very considerably from those within the US. Equally importantly, no country adopts such a method.

### 7. DEFECTS IN WUT

#### a. Burden

A multinational company which has to provide accounts to each taxing authority in whose jurisdiction it operates, according to the accounting standards and tax regime of that authority, then has to recalculate its worldwide earnings according to the accounting standards and tax regime of California. This is a major and costly burden.

#### b. Arbitrary Assumptions

In practice, determining what constitutes a unitary multinational group in some cases involves highly questionable and arbitrary assumptions. A multinational company which comes to a different judgment from that of the Californian tax authorities could find itself forced to make the burdensome calculation described in one above, several times over.



**c. Double Taxation**

There is no reason in principle why the proportion of a multinational corporation's earnings which are properly attributable to any one taxing authority should necessarily be the same as the proportion of its sales, employment or assets in that taxing authority. If California uses worldwide unitary and other countries use separate accounting / arm's length, a multinational corporation could well end up being taxed on more than 100% of its worldwide income; it could also be taxed much less than 100% of its worldwide income. The risk of double taxation or double exemption is very real;

**d. Tax in Tax Loss Years**

A multinational company which had assets, sales and payroll in California, but which happened to make a loss in any one year, could find itself paying tax on non-existent (or even negative) income. Or, alternatively, a multinational corporation which improved its profitability in, say, Malaysia, by reducing costs in that Malaysia, would, under the unitary method, find itself paying more tax in California (which would levy tax on a proportion of any increase in profits) even although there had been no change in the income earned in California;

**e. Unacceptable Formula**

The narrow circumstances which

may justify an internationally agreed formulary apportionment of income (for example, for 24-hour, global trading of a single book of securities) do not exist in the majority of cases which California applies the worldwide combined reporting method of unitary tax.

**8. CONCLUSION**

The worldwide combined reporting method of unitary taxation in the circumstances in which it is applied by California remains contrary to internationally agreed standards embodied in the arm's length principle and that the ultimate goal should be the elimination of the worldwide combined reporting method of unitary taxation.

# New Development At The Stamp Duty Office

GENUINE STAMP DUTY IMPRINT



By  
CHUAH SOONGUAN,  
MIT Council Member

In recent months members in Kuala Lumpur have reported to the Institute about a change in the basis of valuation of shares involved by the local Stamp Duty Office. Previously these shares of private limited companies when transferred are assessed based on their net tangible asset value. However, of late, for a transfer of 50,000 or more shares the Stamp Duty Office uses a price earning ratio of 18. This resulted in big increases in the stamp duty payable for many transfers.

On October 25, 1994 the representatives of the Institute met with the acting Collector of Stamp Duty, Mr. Ong Kok San to discuss the new development in the valuation of shares for stamp duty assessment. He informed us that the figure of 18 was based

on the average price earning ratio of all listed counters on the KLSE discounted for 30 percent. He explained that such a basis is consistent with valuation principles and that he has increased the price earning ratio from 18 even though the same for KLSE counters has increased. We argued that such a basis should only be used for a company involved in initial public offers (IPO) are one that has the potential to be ready for IPO. Companies that do not intend to be listed should not be applied on this basis.

In conclusion Mr. Ong agreed that he will look into our appeal.

## GENUINE STAMP DUTY IMPRINT

We have been informed that there have been fraudulent stamping of stamp duty payable organised by some syndicates. In order to combat these fraudulent practises the Stamp Duty Office has issued some guidelines to identify the genuine stamp. The following are the guidelines:-

- (i) Margin is thin and does not smudge.
- (ii) Date number is precise, small and thin. The spaces between the day, month and year are equal.
- (iii) Stamp is imprinted always 1 cm. from the margin.



# TAX ADJUSTMENTS

## TO BE MADE AND PARTICULARS TO BE FURNISHED WITH

# TAX COMPUTATION

### A. TAX ADJUSTMENTS

1. Capital expenditure charged to the profit and loss account.

Examples:

- (a) Incorporation expenses of companies with authorised capital exceeding \$250,000.
- (b) Expenditure relating to changes in authorised and paid-up capital.
- (c) Expenditure (including professional fees) in connection with the acquisition or disposal of fixed assets including stocks and shares.
- (d) Renovation and improvements.

2. Expenditure not incurred in the production of income.

Examples:

- (a) Remuneration (including EPF contributions) and other benefits to partners and proprietors.
- (b) Personal and domestic expenses in whatever manner charged (e.g. local or overseas travel, motor vehicle maintenance).
- (c) Expenses relating to maintenance of shareholders' register and issue of dividends in whatever manner charged.

- (d) Basic expenses such as annual reports for distribution to shareholders for annual general meetings and extraordinary general meetings.

- (e) Stock Exchange listing expenses.

- (f) Expenses prior to commencement or in connection with cessation of business.

- (g) Provisions for doubtful debts, stock, retirement benefits, leave passage, exchange losses, future expenses, etc.

- (h) Legal fees - capital or private.

- (i) Miscellaneous and sundry expenses - capital or private.

- (j) Donations and subscriptions (except those allowed).

3. Expenditure specifically disallowed or restricted by law.

Examples:

- (a) Lease rental of motor vehicles in excess of \$50,000 for each vehicle.

- (b) Interest restriction.

- (c) Entertainment expenses (other than those specifically allowed).

- (d) Expenses relating to leave passage.

- (e) Payment to unapproved scheme or contribution to approved scheme in excess of 15 % of the employee's remuneration.

4. Other Items

Examples:

- (a) Bad debts.
- (b) Profit / loss on disposal of fixed assets / investments and other capital transactions.
- (c) Exchange gains / losses arising from capital transactions.

- (d) Extraordinary items.

- (e) Renewals of implements & utensils.

5. Deduction for qualifying mining expenditure - Schedule 2.

6. Additional and special deductions given as incentives:

Examples: export allowance, deduction for promotion of exports / tourism / research and development / training.

7. Incentives under Promotion of Investments Act 1986 / Income Tax Act 1967:

Examples: exempt pioneer income, investment tax allowance, abatement of adjusted income for exports / small-scale compa-



nies, industrial adjustment allowance and reinvestment allowance, etc.

**8 Computation of Capital Allowance**

**9. Deductions in respect of qualifying prospecting / farm / pre-operational business expenditure - Schedules 4, 4A and 4B.**

**PARTICULARS RELATING TO TAX ADJUSTMENTS**

**1. Contract / sub-contract payments (above \$30,000), commissions and rental (above \$10,000) and other contractual payments to residents (excluding management fees).**

(a) In respect of each tax adjustment the basis for such adjustment should be shown supported by analysis, copies of subsidiary accounts, receipts, etc. as appropriate.

(b) In respect of incentives claimed copies of approval letter, pioneer certificate, exempt account should be attached.

(c) In respect of bad debts written off (exceeding \$5,000 for companies and \$1,000 for others) particulars of the debtor, nature of the debt and reasons for writing off should be given.

(d) In respect of capital allowances schedules to show additions, hire-purchases, disposals / write-off should be attached.

**B. ADDITIONAL PARTICULARS**

**1. Contract / sub-contract payments (above \$30,000), commissions and rental (above \$10,000) and other contractual payments to residents (excluding management fees).**

- (a) Name, address, I.C. no. and amount in respect of each recipient.
- (b) Type / nature of contract / commission and location / nature of asset rented, as applicable.

**2. Receipts by non-resident contractors - Section 107A**

- (a) Location, nature and duration of project.
- (b) Name, address, tax reference no. / I.C. no. of non-resident contractor or the payer, as applicable.
- (c) Total contract sum and the service portion thereof.
- (d) Contract sum and the service portion thereof payable / receivable for the relevant basis period, as applicable.

(e) Particulars of withholding tax showing:

- date of paying / crediting of contract sum due.
- date of payment and amount of withholding tax.
- receipt number(s).

**3. Managements fees to residents**

- (a) Name, address, I.C. no. and amount in respect of each recipient.
- (b) Indicate relationship with recipient, if any.
- (c) Basis for payment of fees supported by copy of management agreement, if any.

**4. Professional / technical / management fees and rents to non-residents (Special Classes of Income - Section 4A).**

- (a) Professional / technical / management fees.

(i) Name, address and amount in respect of the recipient

(ii) Nature of services rendered

(iii) Particulars of withholding tax showing:

- date of paying / crediting of fees due.
- date of payment and amount of withholding tax.
- receipt number(s).

(iv) If the whole or part of any payment is considered not to be a payment under section 4A state reasons and attach a copy of the relevant agreement.

**(b) Rental in respect of movable property.**

(i) Nature of movable property.

(ii) Particulars as in (a) above as applicable.

**5. Expenses charged by head-office / parent company**

(a) In respect of direct expenses state the nature of the expenses charged, basis of charging and how it has benefitted the branch / subsidiary.

(b) Whether Section 109B is applicable and if so give particulars as in 4(a)(iii).

(c) In respect of common expenses allocated to the branch / subsidiary give an analysis of the expenses and state the basis of allocation and how it has benefitted the branch / subsidiary.



6. Overseas trips (not required for public companies)

- (a) Names and designations of persons involved.
- (b) Dates, destination and purpose of the trip.
- (c) Details of expenditure, indicating non-business element.

7. Partnerships

Where a partnership business has ceased submit copy of notification to Registrar of Businesses (Form C) and a copy of the realisation account and particulars of person(s) taking over the business.

8. Real Property Gains Tax

- (a) Particulars of acquisition / disposal of assets which are chargeable assets under the Real Property Gains Tax Act 1976 if such acquisition / disposal has not been notified.

- (b) Form CKHT 19 (giving particulars of a real property company) if applicable.

### C. SPECIAL INDUSTRIES

1. Housing Development

- (a) For new projects / schemes.
  - (i) Copy of the approved layout plan and expected date of completion of each phase.
  - (ii) Location of the property being developed.
  - (iii) Cost / market value of the land and its use at the time of acquisition.

(b) For all projects / schemes

- (i) Details as in (a) above if not provided previously or if there have been any changes.
- (ii) Analysis of cost of development of each phase on a cumulative basis.

- (iii) Computation of profits on progress payments basis if the method of accounting is other than the percentage of completion method.

2. Leasing

- (a) Computation of income from leasing operations as required by the Income Tax Leasing Regulations 1986.
- (b) Identify special purpose / leaseback assets, if any.

This is only a checklist and is meant to assist taxpayers and tax agents in:

- the preparation of tax computations and
- the furnishing of particulars relating to the accounts

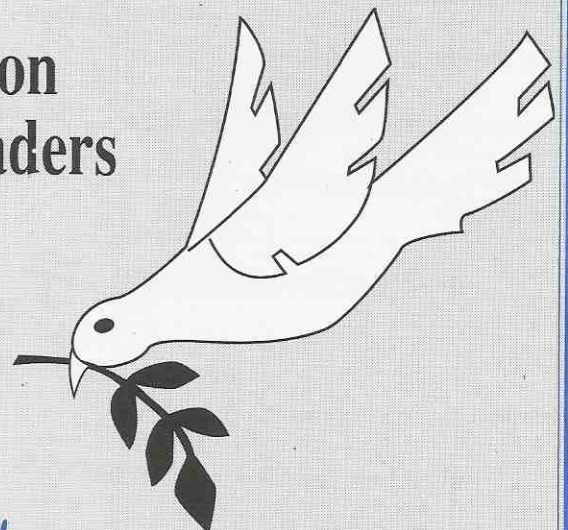
which are submitted with tax returns. The facts in a particular case will determine which of the items listed are applicable or whether other adjustments should be made or other particulars given.

A correct tax computation with relevant particulars saves time and expense.

**The Council of the  
Malaysian Institute of Taxation  
wishes all our members and readers**

**a**

**A MERRY CHRISTMAS  
&  
A VERY HAPPY NEW YEAR!**





# Procedure For Application For Pioneer Status/Investment Tax Allowance of 100% For Contract Research And Development Companies and Application for Investment Tax Allowance of 100% for Research and Development Companies Under the Promotion of Investments Act, 1986

- (a) Applications should be made in accordance with the attached format in 5 copies and submitted to:-

Director-General  
Malaysian Industrial Development Authority (MIDA)  
4th Floor, Wisma Damansara  
Jalan Semantan, P.O. Box 10618  
50720 Kuala Lumpur

- (b) All applications will be acknowledged within two weeks of receipt. If acknowledgement is not received, please contact MIDA at:

Telephone No. : 03-2553633  
Fax No. : 03-2557970

- (c) Details on the incentives and guidelines for application are attached as Appendix.

## APPLICATION FOR PIONEER STATUS/INVESTMENT TAX ALLOWANCE FOR RESEARCH AND DEVELOPMENT UNDER THE PROMOTION OF INVESTMENTS ACT, 1986

### Application for:

Tick (3) whichever is relevant:

Contract Research and Development Company

☐ Pioneer Status

☐ Investment Tax Allowance 100%

Research and Development Company

☐ Investment Tax Allowance 100%

### PART I : PARTICULARS OF COMPANY

- Name of Company: \_\_\_\_\_
- Address of Registered Office:  
  
Telephone No: \_\_\_\_\_  
Fax No: \_\_\_\_\_
- Address of Operating Premises: \_\_\_\_\_  
  
Telephone No: \_\_\_\_\_  
Fax No: \_\_\_\_\_
- Date of Incorporation: \_\_\_\_\_

### PART II : PARTICULARS OF DIRECTORS

Name	Nationality	Residential Address



**PART III : CAPITAL EXPENDITURE****1. (a) Manufacturing-based Research**

	(RM)
(i) Land (Specify area)	
(ii) Buildings (Specify covered area)	
(iii) Plant and machinery	
(iv) Other equipment	
(v) Pre-operational expenditure	
(vi) Working capital	
<b>Total</b>	

Note: Where the land, plant and machinery are to be rented / leased, indicate the annual cost of rental / lease.

**(b) Agriculture-based Research**

	(RM)
(i) Land (specify area)	
(ii) Clearing and preparation of land	
(iii) Planting of trial crops	
(iv) Provision of irrigation or drainage systems	
(v) Construction of access roads and bridges	
(vi) Buildings (specify covered area)	
(vii) Structural improvements / other structures (e.g. ponds etc.)	
(viii) Plant and machinery	
(ix) Other equipment	
(x) Pre-operational expenditure	
(xi) Working capital	
<b>Total</b>	

Note: Where the land, building, plant and machinery are to be rented / leased, indicate the annual cost of rental / lease.

**2. Items of Machinery and Equipment Required**

Items of Machinery and Equipment	Function	Estimated Cost (RM)

**PART IV : FINANCING**

1. Authorised Capital (RM):	XX,XXX.XX	XXX
2. Paid-up Capital:	Amount (RM)	%
Malaysian	XX,XXX.XX	X.XX
Foreign Nationals (Specify country)	XX,XXX.XX	X.XX
<b>Total</b>	<b>XX,XXX.XX</b>	<b>X.XX</b>
3. Loan (RM):		
(a) Foreign:	XX,XXX.XX	
(b) Local:	XX,XXX.XX	
4. Other sources of funds:	XX,XXX.XX	

**PART V : RESEARCH PROJECTS/ACTIVITIES**

- List down the products and industries for which research projects / activities will be carried out.
- List down the types of research projects / activities that will be undertaken. Explain the methodology and the potential for such activities.
- State the names of related companies for whom the R & D projects / activities would be undertaken.

**PART VI : EMPLOYMENT**

Employment Category	Full-time Employment		
		Malaysian	Non-Malaysian
1. Managerial, Research and Supervisory Staff	Technical		
	Non-Technical		
2. General Workers			
3. Sales, Clerical & Other Workers			
<b>Total</b>			



## Details on Technical Staff for R & D Activities

Position	No. of Posts		Qualification and Experience	Responsibility
	Malaysian	Non-Malaysian		

## PART VII: DECLARATION

I hereby declare that to the best of my knowledge and belief all the particulars furnished in this application are true.

\_\_\_\_\_  
Signature of Applicant

\_\_\_\_\_  
Name in Block Letters

Date: \_\_\_\_\_

\_\_\_\_\_  
Designation in Company

## Appendix

### INCENTIVES FOR CONTRACT RESEARCH AND DEVELOPMENT COMPANIES/RESEARCH AND DEVELOPMENT COMPANIES

- Contract Research and Development Companies** which provide research and development services to companies other than its related companies are eligible to apply for Pioneer Status for a period of 5 years or Investment Tax Allowance of 100% on the qualifying capital expenditure incurred within a period of 10 years. In the case of Pioneer Status, full tax exemption at statutory income will be granted while for Investment Tax Allowance, the allowance will be abated from the statutory income and abatement for each year of assessment will be limited to 70% of the statutory income.
- Research and Development Companies** which provide research and development services both for its related companies or any other companies are eligible to apply for Investment Tax Allowance of 100% on the qualifying capital expenditure incurred within a period of 10 years. This allowance will be abated from the statutory income and abatement for each year of assessment will be limited to 70% of the statutory income.
- The related companies** concerned will not enjoy double deduction for payments made to the research and develop-

ment company. (However the research and development company may opt not to avail itself for the Investment Tax Allowance in which case, its related companies will enjoy doubled deduction incentive for payments made for research and development carried out by the research and development company).

### GUIDELINES FOR APPLICATION FOR PIONEER STATUS/INVESTMENT TAX ALLOWANCE OF 100% FOR CONTRACT RESEARCH AND DEVELOPMENT COMPANIES AND APPLICATION FOR INVESTMENT TAX ALLOWANCE OF 100% FOR RESEARCH AND DEVELOPMENT COMPANIES UNDER THE PROMOTION OF INVESTMENTS ACT, 1986

#### Criteria for Eligibility

- Contract research and development company** means a company which provides research and development services in Malaysia only to a company other than its related company.
- Research and development company** means a company which provides research and development services in Malaysia to its related company or to any other company.
- Related company** means a company which is the holding company of that company, a subsidiary of that company or a subsidiary of the holding company of that company.
- Research and development** means any systematic or intensive study carried out in the field of science or technology with the object of using the results of the study for the production or improvement of materials, devices, products, produce or processes but does not include:-
  - quality control or routine testing of materials, devices, products or produce;
  - research in the social sciences or the humanities;
  - routine data collections;
  - efficiency surveys of management studies; and
  - market research or sales promotion.
- The research undertaken should be in accordance with the needs of the country and bring benefit to the Malaysian economy.
- At least 70% of the income of the company should be derived from research and development activities.
- For manufacturing-based research and development, at least 50% of the workforce of the company must be appropriately qualified personnel performing research and technical functions. For agriculture-based research and development, at least 5% of the workforce of the company must be appropriately qualified personnel performing research and technical functions.



- (h) Foreign researchers may be employed by the research company. The company should however endeavour to train Malaysians.

### Pioneer Status Tax Relief Period

The 5 year tax relief period will commence from the Production Day which is the first day the income is received by the company.

### Qualifying Capital Expenditure

- (a) For the purpose of Investment tax Allowance in relation to manufacturing-based research, qualifying capital expenditure means capital expenditure incurred on factory or any plant and machinery used in Malaysia in connection with and for the purposes of an activity relating to research and development.
- (b) For the purpose of Investment Tax Allowance in relation to agriculture-based research, qualifying capital expenditure means capital expenditure incurred in respect of the clearing and preparation of land, the planting of trial crops, the

provision of irrigation or drainage systems, the provision of plant and machinery used in Malaysia in connection with and for the purposes of an activity relating to research and development, the construction of access roads including bridges, the construction or purchase of buildings (excluding those provided for the welfare of persons or as living accommodation for persons) and structural improvements on land for the purposes of activity relating to research and development.

### UPDATE

The Institute has been notified by the Finance Ministry that the time period for application of double deduction for expenses incurred on research have been extended from three to six months from year end.

Therefore, with immediate effect, all applications for this deduction can be made within six months from year end where expenses have been incurred

### ADMISSION TO MEMBERSHIP

The following persons have been admitted as associate members of the Institute as of 3 November 1994.

Christie A/L Galister George	713	Lee Peng Khoon	751
Chung Lee Foong	714	Yeoh Chin Han	752
Geng Mun Mooi	715	Tio Khek Leong	753
Krishnan A/L Ramasamy	716	Lim John @ Lim Wan Show	754
Lee Pak Lee	717	Chong Lin	755
Lim Kheng Huat	718	Ng Seng Kee	756
Pang Ah Kow	719	Ng Lan Kheng	757
Tan Jit Ming @ Tan Jit Ken	720	Wong Nyok Har	758
Tan Leong Teck	721	Kam Chai Hong	759
Tan Peng Sam @ Cheng Peng Sam	722	Chai Moi Kim	760
Wu Wai Hong	723	Wong Chi Tieng	761
Ho Chee Siong	724	Chieng Tiong Lee	762
Lou Juan Suan	725	Sek Ying Hong	763
Tan Kok Liang	726	Yeang Hoong On	764
Kong Yun Chee @ Joshua Kong	727	Lim Soo Kiong	765
Lim Chong Wee	728	Ho Kok Loon	766
Zaini bt Ahmad	729	Lim Boon Kiat	767
Mohd Johari bin Mohd Alwi	730	Sim Sie Lee	768
Tan Seng Jin	731	Sia Tiong Guan	769
Li Lai Sin	732	Arunasalam A/L Muthusamy	770
Regina ak Saliman	733	Thong Mun Ling	771
Tay Jin Tsan	734	Wong Lai Faen	772
Yong Swee Cheong	735	Tan Ah Goo	773
Choong Shiau Yoon	736	Timothy Oliver Sylvester	774
Liew Tip Chan	737	Lee Ah Leck	775
Leong Wing Seng	738	Tuang See Moy	776
Arthur Law Hian Tat	739	Edward Jong Jee-Shee	777
Lam Weng Liong	740	Jong Li Joon	778
Tan Boon Jin	741	Mohamed Alipah bin Ahmad Jaseh	779
Hashim bin Taib	742	Ruthranesan A/L M Gurusamy	780
Lew Pek Hing	743	Yew Chin	781
Ong Tiang Lock	744	Lin Ee Nah	782
Yeo Han Gee	745	Lim Beng Hin	783
Lim Kien Hock	746	Chee Chin Boon	784
Kee Yang Khiaw	747	Loo Swee Jo	785
Karimah binti Abu Bakar	748	Lim Toh Kiew	786
Hussain Ahmad bin Abdul Kader	749	Goh Lee Hwa	787
Sarina binti Mohamad	750		

### MEMBERSHIP STATUS OF MIT AS AT 3 NOVEMBER 1994

Honorary Fellows	4
Fellows (Founder Council Members)	15
Associate Members*	806
	<hr/> 821
<b>* Associate Members</b>	
Public Accountants of MIA	539
Registered Accountants of MIA	69
Licensed Accountants of MIA	16
Advanced Course Exam of IRD	79
Advocates & Solicitors	5
Approved Tax Agents	97
Others	1
	<hr/> 806

### CONTRIBUTION

Tax Nasional invites readers to contribute articles for publication. By contributing to the Tax Nasional, you will gain valuable recognition and our readers will benefit from sharing your experience. An honorarium will be paid for articles which are published.



# SCHEDULAR TAX DEDUCTION TABLE

**JADUAL POTONGAN CUKAI BULANAN**  
SCHEDULE OF MONTHLY TAX DEDUCTIONS

B = Bujang / Bersuami  
KA1 = Berkahwin dan mempunyai 1 orang anak  
KA2 = Berkahwin dan mempunyai 2 orang anak  
KA3 = Berkahwin dan mempunyai 3 orang anak  
KA4 = Berkahwin dan mempunyai 4 orang anak  
KA5 = Berkahwin dan mempunyai 5 orang anak  
Single Person/Married Woman  
Married, with 1 child  
Married, with 2 children  
Married, with 3 children  
Married, with 4 children  
Married, with 5 children  
K = Kahwin  
KA6 = Berkahwin dan mempunyai 6 orang anak  
KA7 = Berkahwin dan mempunyai 7 orang anak  
KA8 = Berkahwin dan mempunyai 8 orang anak  
KA9 = Berkahwin dan mempunyai 9 orang anak  
KA10 = Berkahwin dan mempunyai 10 orang anak  
Married  
Married, with 6 children  
Married, with 7 children  
Married, with 8 children  
Married, with 9 children  
Married, with 10 children

Jumlah Saraan Bulanan  Total Monthly Remuneration RM	POTONGAN CUKAI BULANAN MONTHLY TAX DEDUCTIONS																			
	Kategori 1 Category 1										Kategori 2 Category 2									
	Di mana isteri tidak bekerja Where wife is NOT in employment										Kategori 3 Category 3									
	B RM	K RM	KA1 RM	KA2 RM	KA3 RM	KA4 RM	KA5 RM	KA6 RM	KA7 RM	KA8 RM	KA9 RM	KA10 RM	K RM	KA1 RM	KA2 RM	KA3 RM	KA4 RM	KA5 RM	KA6 RM	KA7 RM
951 - 1000	7	-	-	-	-	-	-	-	-	-	-	-	7	-	-	-	-	-	-	-
1001 - 1050	10	-	-	-	-	-	-	-	-	-	-	-	10	6	-	-	-	-	-	-
1051 - 1100	13	-	-	-	-	-	-	-	-	-	-	-	13	9	-	-	-	-	-	-
1101 - 1150	16	-	-	-	-	-	-	-	-	-	-	-	16	12	8	-	-	-	-	-
1151 - 1200	19	-	-	-	-	-	-	-	-	-	-	-	19	15	11	7	-	-	-	-
1201 - 1250	22	-	-	-	-	-	-	-	-	-	-	-	22	18	14	10	6	-	-	-
1251 - 1300	35	-	-	-	-	-	-	-	-	-	-	-	35	21	17	13	9	-	-	-
1301 - 1350	38	8	-	-	-	-	-	-	-	-	-	-	38	34	20	16	12	8	-	-
1351 - 1400	42	11	7	-	-	-	-	-	-	-	-	-	42	37	32	19	15	11	7	-
1401 - 1450	45	14	10	6	-	-	-	-	-	-	-	-	45	41	36	22	18	14	10	6
1451 - 1500	49	17	13	9	-	-	-	-	-	-	-	-	49	44	39	35	21	17	13	9
1501 - 1550	52	35	16	12	8	-	-	-	-	-	-	-	52	48	43	38	34	20	16	12
1551 - 1600	56	38	34	15	11	7	-	-	-	-	-	-	56	51	46	42	37	32	19	15
1601 - 1650	59	42	37	32	14	10	6	-	-	-	-	-	59	55	50	45	41	36	22	18
1651 - 1700	63	45	41	36	17	13	9	-	-	-	-	-	63	58	53	49	44	39	35	21
1701 - 1750	66	49	44	39	35	16	12	8	-	-	-	-	66	62	57	52	48	43	38	34
1751 - 1800	70	52	48	43	38	34	15	11	7	-	-	-	70	65	60	56	51	46	42	37
1801 - 1850	73	56	51	46	42	37	32	14	10	6	-	-	73	69	64	59	55	50	45	41
1851 - 1900	77	59	55	50	45	41	36	17	13	9	-	-	77	72	67	63	58	53	49	44
1901 - 1950	80	63	58	53	49	44	39	35	16	12	8	-	80	76	71	66	62	57	52	48
1951 - 2000	84	66	62	57	52	48	43	38	34	15	11	7	84	79	74	70	65	60	56	51
2001 - 2050	87	70	65	60	56	51	46	42	37	32	14	10	87	83	78	73	69	64	59	55
2051 - 2100	92	73	69	64	59	55	50	45	41	36	17	13	92	86	81	77	72	67	63	58
2101 - 2150	98	77	72	67	63	58	53	49	44	39	35	16	98	90	85	80	76	71	66	62
2151 - 2200	104	80	76	71	66	62	57	52	48	43	38	34	104	96	88	84	79	74	70	65
2201 - 2250	110	84	79	74	70	65	60	56	51	46	42	37	110	102	94	87	83	78	73	69
2251 - 2300	116	87	83	78	73	69	64	59	55	50	45	41	116	108	100	92	86	81	77	72
2301 - 2350	122	92	86	81	77	72	67	63	58	53	49	44	122	114	106	98	90	85	80	76
2351 - 2400	128	96	90	85	80	76	71	66	62	57	52	48	128	120	112	104	96	88	84	79
2401 - 2450	134	104	96	88	84	79	74	70	65	60	56	51	134	126	118	110	102	94	87	83
2451 - 2500	140	110	102	94	87	83	78	73	69	64	59	55	140	132	124	116	108	100	92	86

**JADUAL POTONGAN CUKAI BULANAN**  
SCHEDULE OF MONTHLY TAX DEDUCTIONS

Jumlah Saraan Bulanan  Total Monthly Remuneration RM	POTONGAN CUKAI BULANAN MONTHLY TAX DEDUCTIONS																						
	Kategori 1 Category 1	Kategori 2 Category 2										Kategori 3 Category 3											
		Di mana Isteri tidak bekerja Where wife is NOT in employment										Di mana Isteri bekerja Where wife IS in employment											
		B RM	K RM	KA1 RM	KA2 RM	KA3 RM	KA4 RM	KA5 RM	KA6 RM	KA7 RM	KA8 RM	KA9 RM	KA10 RM	K RM	KA1 RM	KA2 RM	KA3 RM	KA4 RM	KA5 RM	KA6 RM	KA7 RM	KA8 RM	KA9 RM
2501 - 2550	146	116	108	100	92	86	81	77	72	67	63	58	146	138	130	122	114	106	98	90	85	80	76
2551 - 2600	152	122	114	106	98	90	85	80	76	71	66	62	152	144	136	128	120	112	104	96	88	84	79
2601 - 2650	158	128	120	112	104	96	88	84	79	74	70	65	158	150	142	134	126	118	110	102	94	87	83
2651 - 2700	164	134	126	118	110	102	94	87	83	78	73	69	164	156	148	140	132	124	116	108	100	92	86
2701 - 2750	170	140	132	124	116	108	100	92	86	81	77	72	170	162	154	146	138	130	122	114	106	98	90
2751 - 2800	176	146	138	130	122	114	106	98	90	85	80	76	176	168	160	152	144	136	128	120	112	104	96
2801 - 2850	182	152	144	136	128	120	112	104	96	88	84	79	182	174	166	158	150	142	134	126	118	110	102
2851 - 2900	188	158	150	142	134	126	118	110	102	94	87	83	188	180	172	164	156	148	140	132	124	116	108
2901 - 2950	194	164	156	148	140	132	124	116	108	100	92	86	194	186	178	170	162	154	146	138	130	122	114
2950 - 3000	200	170	162	154	146	138	130	122	114	106	98	90	200	192	184	176	168	160	152	144	136	128	120
3001 - 3050	206	176	168	160	152	144	136	128	120	112	104	96	206	198	190	182	174	166	158	150	142	134	126
3051 - 3100	212	182	174	166	158	150	142	134	126	118	110	102	212	204	196	188	180	172	164	156	148	140	132
3101 - 3150	218	188	180	172	164	156	148	140	132	124	116	108	218	210	202	194	186	178	170	162	154	146	138
3151 - 3200	224	194	186	178	170	162	154	146	138	130	122	114	224	216	208	200	192	184	176	168	160	152	144
3201 - 3250	230	200	192	184	176	168	160	152	144	136	128	120	230	222	214	206	198	190	182	174	166	158	150
3251 - 3300	236	206	198	190	182	174	166	158	150	142	134	126	236	228	220	212	204	196	188	180	172	164	156
3301 - 3350	243	212	204	196	188	180	172	164	156	148	140	132	243	234	226	218	210	202	194	186	178	170	162
3351 - 3400	252	218	210	202	194	186	178	170	162	154	146	138	252	240	232	224	216	208	200	192	184	176	168
3401 - 3450	261	224	216	208	200	192	184	176	168	160	152	144	261	249	238	230	222	214	206	198	190	182	174
3451 - 3500	270	230	222	214	206	198	190	182	174	166	158	150	270	258	246	236	228	220	212	204	196	188	180
3501 - 3550	279	236	228	220	212	204	196	188	180	172	164	156	279	267	255	243	234	226	218	210	202	194	186
3551 - 3600	288	243	234	226	218	210	202	194	186	178	170	162	288	276	264	252	240	232	224	216	208	200	192
3601 - 3650	297	252	240	232	224	216	208	200	192	184	176	168	297	285	273	261	249	238	230	222	214	206	198
3651 - 3700	306	261	249	238	230	222	214	206	198	190	182	174	306	294	282	270	258	246	236	228	220	212	204
3701 - 3750	315	270	258	246	236	228	220	212	204	196	188	180	315	303	291	279	267	255	243	234	226	218	210
3751 - 3800	324	279	267	255	243	234	226	218	210	202	194	186	324	312	300	288	276	264	252	240	232	224	216
3801 - 3850	333	288	276	264	252	240	232	224	216	208	200	192	333	321	309	297	285	273	261	249	238	230	222
3851 - 3900	342	297	285	273	261	249	238	230	222	214	206	198	342	330	318	306	294	282	270	258	246	236	228
3901 - 3950	351	306	294	282	270	258	246	236	228	220	212	204	351	339	327	315	303	291	279	267	255	243	234
3951 - 4000	360	315	303	291	279	267	255	243	234	226	218	210	360	348	336	324	312	300	288	276	264	252	240
4001 - 4050	369	324	312	300	288	276	264	252	240	232	224	216	369	357	345	333	321	309	297	285	273	261	249
4051 - 4100	378	333	321	309	297	285	273	261	249	238	230	222	378	366	354	342	330	318	306	294	282	270	258
4101 - 4150	387	342	330	318	306	294	282	270	258	246	236	228	387	375	363	351	339	327	315	303	291	279	267
4151 - 4200	396	351	339	327	315	303	291	279	267	255	243	234	396	384	372	360	348	336	324	312	300	288	276
4201 - 4250	405	360	348	336	324	312	300	288	276	264	252	240	405	393	381	369	357	345	333	321	309	297	285
4251 - 4300	414	369	357	345	333	321	309	297	285	273	261	249	414	402	390	378	366	354	342	330	318	306	294
4301 - 4350	423	378	366	354	342	330	318	306	294	282	270	258	423	411	399	387	375	363	351	339	327	315	303
4351 - 4400	432	387	375	363	351	339	327	315	303	291	279	267	432	420	408	396	384	372	360	348	336	324	312
4401 - 4450	441	396	384	372	360	348	336	324	312	300	288	276	441	429	417	405	393	381	369	357	345	333	321
4451 - 4500	450	405	393	381	369	357	345	333	321	309	297	285	450	438	426	414	402	390	378	366	354	342	330



# SCHEDULAR TAX DEDUCTION TABLE



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## JADUAL POTONGAN CUKAI BULANAN SCHEDULE OF MONTHLY TAX DEDUCTIONS

Jumlah Saraan Bulanan  Total Monthly Remuneration RM	POTONGAN CUKAI BULANAN MONTHLY TAX DEDUCTIONS																							
	Kategori 1 Category 1	Kategori 2 Category 2										Kategori 3 Category 3												
		Di mana isteri tidak bekerja Where wife is NOT in employment										Di mana isteri bekerja Where wife IS in employment												
		B RM	K RM	KA1 RM	KA2 RM	KA3 RM	KA4 RM	KA5 RM	KA6 RM	KA7 RM	KA8 RM	KA9 RM	KA10 RM	K RM	KA1 RM	KA2 RM	KA3 RM	KA4 RM	KA5 RM	KA6 RM	KA7 RM	KA8 RM	KA9 RM	KA10 RM
4501 - 4550	459	414	402	390	378	366	354	342	330	318	306	294	459	447	435	423	411	399	387	375	363	351	339	
4551 - 4600	468	423	411	399	387	375	363	351	339	327	315	303	468	456	444	432	420	408	396	384	372	360	348	
4601 - 4650	480	432	420	408	396	384	372	360	348	336	324	312	480	465	453	441	429	417	405	393	381	369	357	
4651 - 4700	491	441	429	417	405	393	381	369	357	345	333	321	491	476	462	450	438	426	414	402	390	378	366	
4701 - 4750	503	450	438	426	414	402	390	378	366	354	342	330	503	488	472	459	447	435	423	411	399	387	375	
4751 - 4800	514	459	447	435	423	411	399	387	375	363	351	339	514	499	484	468	456	444	432	420	408	396	384	
4801 - 4850	526	468	456	444	432	420	408	396	384	372	360	348	526	511	495	480	465	453	441	429	417	405	393	
4851 - 4900	537	480	466	453	441	429	417	405	393	381	369	357	537	522	507	491	476	462	450	438	426	414	402	
4901 - 4950	549	491	476	462	450	438	426	414	402	390	378	366	549	534	518	503	488	472	459	447	435	423	411	
4951 - 5000	560	503	488	472	459	447	435	423	411	399	387	375	560	545	530	514	499	484	468	456	444	432	420	
5001 - 5050	572	514	499	484	468	456	444	432	420	408	396	384	572	557	541	526	511	495	480	465	453	441	429	
5051 - 5100	583	526	511	495	480	465	453	441	429	417	405	393	583	568	553	537	522	507	491	476	462	450	438	
5101 - 5150	595	537	522	507	491	476	462	450	438	426	414	402	595	580	564	549	534	518	503	488	472	459	447	
5151 - 5200	606	549	534	518	503	488	472	459	447	435	423	411	606	591	576	560	545	530	514	499	484	468	456	
5201 - 5250	618	560	545	530	514	499	484	468	456	444	432	420	618	603	587	572	557	541	526	511	495	480	465	
5251 - 5300	629	572	557	541	526	511	495	480	465	453	441	429	629	614	599	583	568	553	537	522	507	491	476	
5301 - 5350	641	583	568	553	537	522	507	491	476	462	450	438	641	626	610	595	580	564	549	534	518	503	488	
5351 - 5400	652	595	580	564	549	534	518	503	488	472	459	447	652	637	622	606	591	576	560	545	530	514	499	
5401 - 5450	664	606	591	576	560	545	530	514	499	484	468	456	664	649	633	618	603	587	572	557	541	526	511	
5451 - 5500	675	618	603	587	572	557	541	526	511	495	480	465	675	660	645	629	614	599	583	568	553	537	522	
5501 - 5550	687	629	614	598	583	568	553	537	522	507	491	476	687	672	656	641	626	610	595	580	564	549	534	
5551 - 5600	698	641	626	610	595	580	564	549	534	518	503	488	698	683	668	652	637	622	606	591	576	560	545	
5601 - 5650	710	652	637	622	606	591	576	560	545	530	514	499	710	695	679	664	649	633	618	603	587	572	557	
5651 - 5700	721	664	649	633	618	603	587	572	557	541	526	511	721	706	691	675	660	645	629	614	599	583	568	
5701 - 5750	733	675	660	645	629	614	599	583	568	553	537	522	733	718	702	687	672	656	641	626	610	595	580	
5751 - 5800	744	687	672	656	641	626	610	595	580	564	549	534	744	729	714	698	683	668	652	637	622	606	591	
5801 - 5850	756	698	683	668	652	637	622	606	591	576	560	545	756	741	725	710	695	679	664	649	633	618	603	
5851 - 5900	767	710	695	679	664	649	633	618	603	587	572	557	767	752	737	721	706	691	675	660	645	629	614	
5901 - 5950	779	721	706	691	675	660	645	629	614	599	583	568	779	764	748	733	718	702	687	672	656	641	626	
5951 - 6000	790	733	718	702	687	672	656	641	626	610	595	580	790	775	760	744	729	714	698	683	668	652	637	
6001 - 6050	802	744	729	714	698	683	668	652	637	622	606	591	802	787	771	756	741	725	710	695	679	664	649	
6051 - 6100	813	756	741	725	710	695	679	664	649	633	618	603	813	798	783	767	752	737	721	706	691	675	660	
6101 - 6150	825	767	752	737	721	706	691	675	660	645	629	614	825	810	794	779	764	748	733	718	702	687	672	
6151 - 6200	836	779	764	748	733	718	702	687	672	656	641	626	836	821	806	790	775	760	744	729	714	698	683	
6201 - 6250	848	790	775	760	744	729	714	698	683	668	652	637	848	833	817	802	787	771	756	741	725	710	695	
6251 - 6300	862	802	787	771	756	741	725	710	695	679	664	649	862	844	829	813	798	783	767	752	737	721	706	
6301 - 6350	876	813	798	783	767	752	737	721	706	691	675	660	876	857	840	825	810	794	779	764	748	733	718	
6351 - 6400	890	825	810	794	779	764	748	733	718	702	687	672	890	871	853	836	821	806	790	775	760	744	729	
6401 - 6450	904	836	821	806	790	775	760	744	729	714	698	683	904	885	867	848	833	817	802	787	771	756	741	
6451 - 6500	918	848	833	817	802	787	771	756	741	725	710	695	918	899	881	862	844	829	813	798	783	767	752	

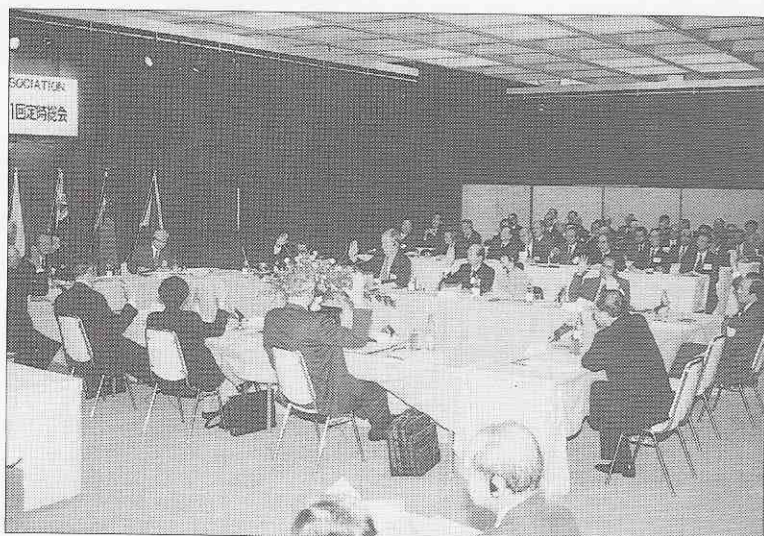
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## JADUAL POTONGAN CUKAI BULANAN SCHEDULE OF MONTHLY TAX DEDUCTIONS

Jumlah Saraan Bulanan	POTONGAN CUKAI BULANAN MONTHLY TAX DEDUCTIONS																						
	Kategori 1 Category 1	Kategori 2 Category 2										Kategori 3 Category 3											
		Di mana Isteri tidak bekerja Where wife is NOT in employment										Di mana Isteri bekerja Where wife IS in employment											
		B RM	K RM	KA1 RM	KA2 RM	KA3 RM	KA4 RM	KA5 RM	KA6 RM	KA7 RM	KA8 RM	KA9 RM	KA10 RM	K RM	KA1 RM	KA2 RM	KA3 RM	KA4 RM	KA5 RM	KA6 RM	KA7 RM	KA8 RM	KA9 RM
Total Monthly Remuneration RM	932	862	844	829	813	798	783	767	752	737	721	706	932	913	895	876	857	840	825	810	794	779	764
6501 - 6550	946	876	857	840	825	810	794	779	764	748	733	718	946	927	909	890	871	853	836	821	806	790	775
6601 - 6650	960	890	871	853	836	821	806	790	775	760	744	729	960	941	923	904	885	867	848	833	817	802	787
6651 - 6700	974	904	885	867	848	833	817	802	787	771	756	741	974	955	937	918	899	881	862	844	829	813	798
6701 - 6750	988	918	899	881	862	844	829	813	798	783	767	752	988	969	951	932	913	895	876	857	840	825	810
6751 - 6800	1002	932	913	895	876	857	840	825	810	794	779	764	1002	983	965	946	927	909	890	871	853	836	821
6801 - 6850	1016	946	927	909	890	871	853	836	821	806	790	775	1016	997	979	960	941	923	904	885	867	848	833
6851 - 6900	1030	960	941	923	904	885	867	848	833	817	802	787	1030	1011	993	974	955	937	918	899	881	862	844
6901 - 6950	1044	974	955	937	918	899	881	862	844	829	813	798	1044	1025	1007	988	969	951	932	913	895	876	857
6951 - 7000	1058	988	969	951	932	913	895	876	857	840	825	810	1058	1039	1021	1002	983	965	946	927	909	890	871
7001 - 7050	1072	1002	983	965	946	927	909	890	871	853	836	821	1072	1053	1035	1016	997	979	960	941	923	904	885
7051 - 7100	1086	1016	997	979	960	941	923	904	885	867	848	833	1086	1067	1049	1030	1011	993	974	955	937	918	899
7101 - 7150	1100	1030	1011	993	974	955	937	918	899	881	862	844	1100	1081	1063	1044	1025	1007	988	969	951	932	913
7151 - 7200	1114	1044	1025	1007	988	969	951	932	913	895	876	856	1114	1095	1077	1058	1039	1021	1002	983	965	946	927
7201 - 7250	1128	1058	1039	1021	1002	983	965	946	927	909	890	871	1128	1109	1091	1072	1053	1035	1016	997	979	960	941
7251 - 7300	1142	1072	1053	1035	1016	997	979	960	941	923	904	879	1142	1123	1105	1086	1067	1049	1030	1011	993	974	955
7301 - 7350	1156	1086	1067	1049	1030	1011	993	974	955	937	918	890	1156	1137	1119	1100	1081	1063	1044	1025	1007	988	969
7351 - 7400	1170	1100	1081	1063	1044	1025	1007	988	969	951	932	902	1170	1151	1133	1114	1095	1077	1058	1039	1021	1002	983
7401 - 7450	1184	1114	1095	1077	1058	1039	1021	1002	983	965	946	913	1184	1165	1147	1128	1109	1091	1072	1053	1035	1016	997
7451 - 7500	1198	1128	1109	1091	1072	1053	1035	1016	997	979	960	925	1198	1179	1161	1142	1123	1105	1086	1067	1049	1030	1011
7501 - 7550	1212	1142	1123	1105	1086	1067	1049	1030	1011	993	974	936	1212	1193	1175	1156	1137	1119	1100	1081	1063	1044	1025
7551 - 7600	1226	1156	1137	1119	1100	1081	1063	1044	1025	1007	988	948	1226	1207	1189	1170	1151	1133	1114	1095	1077	1058	1039
7601 - 7650	1240	1170	1151	1133	1114	1095	1077	1058	1039	1021	1002	959	1240	1221	1203	1184	1165	1147	1128	1109	1091	1072	1053
7651 - 7700	1254	1184	1165	1147	1128	1109	1091	1072	1053	1035	1016	971	1254	1235	1217	1198	1179	1161	1142	1123	1105	1086	1067
7701 - 7750	1268	1198	1179	1161	1142	1123	1105	1086	1067	1049	1030	982	1268	1249	1231	1212	1193	1175	1156	1137	1119	1100	1081
7751 - 7800	1282	1212	1193	1175	1156	1137	1119	1100	1081	1063	1044	994	1282	1263	1245	1226	1207	1189	1170	1151	1133	1114	1095
7801 - 7850	1296	1226	1207	1189	1170	1151	1133	1114	1095	1077	1058	1005	1296	1277	1259	1240	1221	1203	1184	1165	1147	1128	1109
7851 - 7900	1310	1240	1221	1203	1184	1165	1147	1128	1109	1091	1072	1017	1310	1291	1273	1254	1235	1217	1198	1179	1161	1142	1123
7901 - 7950	1324	1254	1235	1217	1198	1179	1161	1142	1123	1105	1086	1028	1324	1305	1287	1268	1249	1231	1212	1193	1175	1156	1137
7951 - 8000	1338	1268	1249	1231	1212	1193	1175	1156	1137	1119	1100	1040	1338	1319	1301	1282	1263	1245	1226	1207	1189	1170	1151
8001 - 8050	1352	1282	1263	1245	1226	1207	1189	1170	1151	1133	1114	1051	1352	1333	1315	1296	1277	1259	1240	1221	1203	1184	1165
8051 - 8100	1366	1296	1277	1259	1240	1221	1203	1184	1165	1147	1128	1063	1366	1347	1329	1310	1291	1273	1254	1235	1217	1198	1179
8101 - 8150	1380	1310	1291	1273	1254	1235	1217	1198	1179	1161	1142	1074	1380	1361	1343	1324	1305	1287	1268	1249	1231	1212	1193
8151 - 8200	1394	1324	1305	1287	1268	1249	1231	1212	1193	1175	1156	1086	1394	1375	1357	1338	1319	1301	1282	1263	1245	1226	1207
8201 - 8250	1408	1338	1319	1301	1282	1263	1245	1226	1207	1189	1170	1097	1408	1389	1371	1352	1333	1315	1296	1277	1259	1240	1221
8251 - 8300	1422	1352	1333	1315	1296	1277	1259	1240	1221	1203	1184	1109	1422	1403	1385	1366	1347	1329	1310	1291	1273	1254	1235
8301 - 8350	1436	1366	1347	1329	1310	1291	1273	1254	1235	1217	1198	1120	1436	1417	1399	1380	1361	1343	1324	1305	1287	1268	1249
8351 - 8400	1450	1380	1361	1343	1324	1305	1287	1268	1249	1231	1212	1132	1450	1431	1413	1394	1375	1357	1338	1319	1301	1282	1263
8401 - 8450	1464	1394	1375	1357	1338	1319	1301	1282	1263	1245	1226	1144	1464	1445	1427	1408	1389	1371	1352	1333	1315	1296	1277
8451 - 8500	1478	1408	1389	1371	1352	1333	1315	1296	1277	1259	1240	1155	1478	1459	1441	1422	1403	1385	1366	1347	1329	1310	1291



# AOTCA DELEGATES MEET IN TOKYO



The AOTCA General Meeting of Members in progress.

The Asia Oceania Tax Consultants' Association (AOTCA) held its 2nd Meeting of the General Council on 9 November 1994 followed by the 1st General Meeting of Members on 10 November 1994.

President of the Institute, En Ahmad Mustapha Ghazali who is also one of the Vice Presidents of AOTCA attended both Meetings. The Meetings were chaired by President of AOTCA, Mr. Teruaki Kataoka which were attended by a total of 102 delegates from the Asia Oceania region. Also present at the Meetings were the following Vice-Presidents of AOTCA or their nominees\*:

**Mr. Rehan Hasan Naqvi**  
All Pakistan Tax Bar Association

**Mr. Terry Rooney\***  
Australian Society of Certified Practising Accountants

**Ms Winnie Chi Woon Cheung\***  
Hong Kong Society of Accountants

**Mr. Ian Langford-Brown\***  
Institute of Chartered Accountants in Australia

**Mr. Bang, Hyo-Sun**  
Korean Association of Certified Public Tax Accountants

**En Ahmad Mustapha Ghazali**  
Malaysian Institute of Taxation

**Mr. Huang Yun-Huan**  
Tax-Accountancy Association of Republic of China

**Mr. German F. Martinez, Jr.**  
Tax Management Association of the Philippines

**Mr. David Russell, QC**  
Taxation Institute of Australia

During both the Council and General Meetings, a deliberation and approval of amendments to the AOTCA statutes was held. The Meetings also saw the admission of the Taxation Institute of Hong Kong and Japan Tax Research Institute into AOTCA.

At the Meeting of the General Council, the Council discussed the proposal by an Australian delegate to hold an AOTCA seminar in Vietnam in 1996. En Ahmad Mustapha however expressed his concern that this venue may not be appropriate due to difficulty in attracting participants. He then offered Malaysia as a possible host. This offer is being taken into consideration by the Council.

The next General Meeting of the Members is scheduled to be held in 1996 in Tokyo.



En. Ahmad Mustapha Ghazali and his wife Puan Narimah Mohd. Perai (left) with Mr Ken-ichi Nakamura, Director of Hokuriku CPTA Association, Japan (centre).



# IBFD

## REPRESENTATIVES VISIT INSTITUTE

On 18 November 1994, the Chief Executive of International Bureau of Fiscal Documentation (IBFD), Professor Hubert Hamaekers and the Director of IBFD's International Tax Academy, Dr William Kuiper visited the Institute. Mr Michael Loh, Mr Chow Kee Kan, Mr Quah Poh Keat and Mr Chuah Soon Guan were on hand to receive them.

IBFD was founded in 1938 as an independent, non-profit research foundation. Its objective is to research, develop, process and disseminate information in the field of international and comparative taxation and foreign investment legislation. IBFD is managed by a Chief Executive who is supervised by a Board of Trustees and

assisted by an Advisory Council comprising of leading tax experts from around the world. The results of IBFD's research programmes are published in a wide range of printed and electronic publications. IBFD boasts of being the only organisation in the world with the largest collection of international tax materials. The International Tax Academy is a division of IBFD specialising in education and training in international and Comparative Law.

Professor Hamaekers explained that the purpose of their visit was to discuss on a possible cooperation between the Institute and IBFD such as organising joint seminars and mutual exchange of information on taxation matters.



Discussing on areas of co-operation.  
(left to right) Professor Hubert Hamaekers, Mr Chuah Soon Guan, Mr Quah Poh Keat, Mr Michael Loh and Mr Chow Kee Kan

Deputy President, Mr Michael Loh (right) presenting Professor Hamaekers (left) a souvenir whilst Dr William Kuiper (centre) looks on.





# Dialogue With Colleges On MIT Examination

On 2 September 1994, a number of private colleges were invited to a special dialogue session held to discuss on the forthcoming MIT Examinations. About thirteen private colleges from around the Klang Valley came for the dialogue. The dialogue was chaired by both the Chairman of the Examinations Committee, Mr Michael Loh and the Chairman of the Education and Training Committee, Mr Lee Lee Kim. Committee members of both Committees were also on hand to answer queries from representative of the private colleges.

During the dialogue, questions were received on the syllabus, the duration of the course and also on the recognition of the examinations by the Government. On the recognition of the examinations, Mr Michael Loh explained that the Institute hopes that the private sector will take the lead in hiring MIT graduates and in time the Government will recognise the quality of our graduates and hence recognising the examinations.

The following colleges were represented at the dialogue:

1. Akademi Bintang,
2. Emile Woolf College,
3. FTMS Tutors,
4. Kolej Aman,
5. Kolej Damansara Utama,
6. Mahkota College,
7. Metropolitan College,
8. PAAC Management,
9. SAL College,
10. Sunway College,
11. Systematic Business Training Centre (P.J.),
12. Systematic College,
13. Tunku Abdul Rahman College.



Chairman of Examination Committee, Mr Michael Loh (fifth from left) briefing representatives from the private colleges



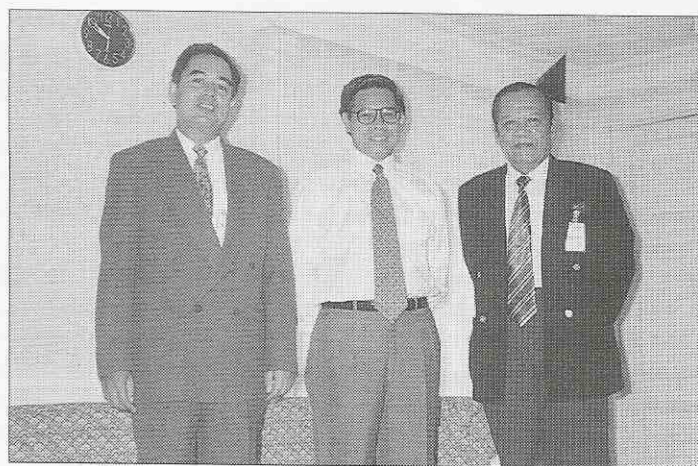
A cross-section of representatives from the private colleges who attended the dialogue



# Institute Pays Courtesy Call On Deputy Finance Minister

On 12 September 1994, the President and Vice President of the Institute, Encik Ahmad Mustapha Ghazali and Encik Hamzah HM Saman respectively paid a courtesy visit to YB Senator Dato' Mustapa Mohamed.

During the visit, Encik Ahmad Mustapha briefed YB Senator Dato' Mustapa on the establishment and the current development of the Institute including the forthcoming examinations. En Ahmad Mustapha also informed the Deputy Finance Minister on the Institute's membership in the Asia-Oceania Tax Consultants' Association and the annual Budget Hotline service held jointly with MIA as part of the Institute's service to the public.



YB Senator Dato' Mustapa Mohamed flanked by MIT President, En. Ahmad Mustapha Ghazali (left) and MIT Vice President, En Hamzah HM Saman

## COURTESY VISIT To Director General Of Education Ministry

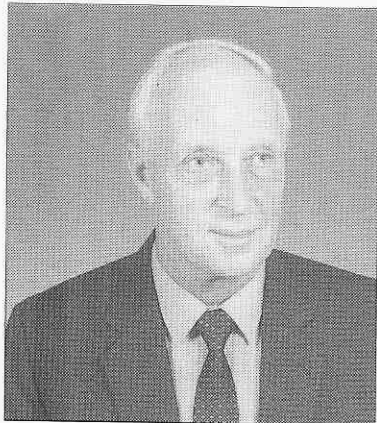
On 5 September 1994, a delegation from the Institute comprising Deputy President, Mr Michael Loh, Vice President, En Hamzah HM Saman and Council Member, Mr Lee Lee Kim paid a courtesy call on Y Bhg Tan Sri Dato' Wan Mohd Zahid bin Mohd Noordin, the Director-General of the Ministry of Education.

During the visit, Mr Michael Loh briefed the Director-General on the establishment of the Institute, its objectives and its past and present activities. He then informed that owing to a present shortage of qualified tax practitioners, the Institute has developed the MIT Examinations. The Director-General was also informed that the Institute will act as an examination board with courses leading to the examination being conducted by private colleges. In this connection, the delegation enquired on the requirement and time frame for permits to be issued. The Director-General replied that the Ministry is concerned about colleges which issue certificates on completion of courses. However as MIT will be issuing certificates, the quality of the examination will be maintained by the said board. The Colleges will be able to obtain the permit if they are able to show that they have the necessary facilities for students such as classroom amenities and the required and qualified staff.

Among other matters discussed was the intention of MIT forming a category to admit Tax Technicians for those who choose not to further their studies after completing Level II of the MIT examinations.



# REAL PROPERTY GAINS TAX



## *Taxation On Disposal of Shares In Real Property Companies*

Prepared by:

RICHARD THORNTON

Visiting Associate Professor, Universiti Kebangsaan Malaysia

### BACKGROUND

Real property gains tax was introduced in 1976 as a tax on gains resulting from transactions in land. One of the objectives was to curb speculative activities.

Every person whether resident or not resident is chargeable in respect of gains made on the disposal of a chargeable asset. A 'person' includes a company, a partnership, a body of persons and a corporation sole.

A chargeable asset (otherwise referred to as an asset) is real property which in turn is defined as 'any land situated in Malaysia and any interest option or right over such land'.

The rates of tax vary with the period of ownership. See inset.

#### RATES OF TAX

For a disposal within the following period after acquisition:

	%
First and second years	20
Third year	15
Fourth year	10
Fifth year	5
Thereafter	
Companies	5
Others	5

A common way to avoid the tax was to place the land interest inside a company. In that way the shares in the company could be sold instead of the land interest and no tax would be payable. Of course the company itself could become liable to tax if the

company, under its new ownership, disposed of the land. Usually, the objective was to ensure that the company would hold the land for long enough to reduce the rate of tax to only 5%.

To overcome this form of avoidance the share transfer tax was introduced in 1984. Its purpose was to ensure that tax would be paid on a disposal of shares in a company owning land.

The new tax proved to be unsatisfactory and it was replaced in 1988 by an extension of the real property gains tax. From 21st October 1988, an acquisition or disposal of shares in a real property company (referred to as a RPC) is deemed to be an acquisition or disposal of a chargeable asset. Such a disposal can give rise to a chargeable gain on which real property gains tax will be payable.

### WHAT IS A REAL PROPERTY COMPANY

A RPC is a controlled company (see below) which satisfies the prescribed test as to ownership of land. It makes no difference whether the company holds the land as an investment or as trading stock. A company which is not a controlled company cannot become a RPC.

The prescribed test is based on the company's ownership of real property and of shares in other RPCs as a proportion of its total tangible assets. A company is a RPC if this proportion is not less than 75%.

A controlled company becomes a RPC by satisfying this test on 21st October 1988 or at a later date by acquiring real property or shares or both. It will cease to be a RPC if it disposes of real property or shares so that the proportion falls below 75%.

#### EXAMPLE 1

ABC Sdn. Bhd. a controlled company, had the following net assets position on 21st October 1988:

	RM
Assets:	
Real Property at market value	1,200,000
Tangible assets at market value	400,000
Non tangible assets	1,600,000
	<hr/>
Liabilities	3,200,000
	<hr/>
Net Assets	2,400,000

ABC Sdn Bhd, is a RPC as from 21st October 1988. The value of real property and shares in RPC's (RM1,200,000) is not less than 75% of the value of real property plus the value of tangible assets (RM1,600,000).



Liquidation of a RPC will extinguish the asset, i.e. the shares, without any disposal taking place.

In making the test the values to be used at each relevant date are:

- for real property and shares in RPCs - the 'defined value' - consisting of the market value of real property and the calculated acquisition price of shares
- for total tangible assets - the defined value plus the value of other tangible assets

'Tangible assets' is not defined but the Inland Revenue seem to accept that it includes items such as book debts.

The acquisition price of shares entering into the 'defined value' is calculated by using an artificial formula:

$$\frac{A}{B} \times C$$

where

- A = the number of shares in the company which are deemed to be a chargeable asset
- B = the total number of shares issued by the company at the date of acquisition of A
- C = the value of real property or shares or both (determined as above) owned by the company at the date of acquisition of A

### WHAT IS A CONTROLLED COMPANY?

A controlled company is one having not more than 50 members which is controlled, in the way described below, by not more than 5 persons. Any two or more persons satisfying the requirements are taken to have control of the company.

For this purpose, the following rights and powers are to be attributed to a person:

- of a nominee for him
- of any associate of his or any two or more of them, associates being (i) husband, wife, parent or remoter forebear, child or remoter issue, brother, sister and partner and the trustees of any settlement made by

him or by such a relative, or (ii) co beneficiaries of any trust or estate which is interested in any shares of a company

- of any company of which he or he and his associates have control or of any two or more such companies

#### Control means:

- the exercise of or ability to exercise or entitlement to acquire control (whether direct or indirect) over the company's affairs
- possession of or entitlement to acquire (i) the greater part of the share capital or voting power of the company; (ii) the greater part of the issued share capital of the company; (iii) such part of that capital as would, if the whole of the income of the company were in fact distributed to the members, entitle him to receive the greater part of the amount so distributed, or (iv) such redeemable share capital as would entitle him to receive on its redemption the greater part of the assets which, in the event of a winding up, would be available for distribution among members

- entitlement, in the event of a winding up, to the greater part of the assets available for distribution among members

For winding up purposes a loan creditor of the company (other than for ordinary banking loans) can be regarded as a member.

### ACQUISITION OF SHARES IN A REAL PROPERTY COMPANY

Shares are deemed to be acquired on the date when the company becomes a RPC, if held then, or on the actual date of acquisition if later.

An exception is where the company subsequently acquires further real property or shares in RPCs or both which increase the 'defined value' of all of its real property and shares in RPCs by at least 50%. In that case the acquisition date of the shares in the company is advanced to the date of acquisition of that real property or shares in RPCs.

The actual cost of acquisition is ignored and the acquisition price is deemed to be the amount arrived at by using the formula given above under WHAT IS A REAL PROPERTY COMPANY.

#### EXAMPLE 2

On 1st May 1989, ABC Sdn Bhd., acquired 30,000 shares in the capital of XYZ Sdn Bhd. at a cost of RM1,500,000. XYZ Sdn Bhd., was then a RPC. For ABC Sdn Bhd., the position after the acquisition was:

	RM
Real property at market value	1,800,000
Tangible assets at market value	300,000
	<hr/>
	2,100,000
Share in XYZ Sdn Bhd. at acquisition value calculated under the Act, RM40 per share	1,200,000
	<hr/>
	3,300,00

On 31st December 1989, ABC Sdn. Bhd., sold its real property for RM2,000,000 and used the proceeds to buy a tangible asset which was not real property. The market value of other assets was unchanged but the calculated value of shares in XYZ Sdn. Bhd. was then RM50 per share.

ABC Sdn Bhd., continued to be a real property company at 1st May 1989 but, as the acquisition caused the defined value of real property and shares in other RPC's (RM3,000,000) to increase by more than 50%, holders of shares in ABC Sdn Bhd., have a new acquisition date for their shares, that is 1st May 1989.

The sale on 31st December 1989 caused the combined value of real property and shares in other RPC's (RM1,500,000 i.e. 30,000 x RM50) to fall to less than 75% of the total of that value and the total value including tangible assets (RM3,800,000 i.e. RM1,500,000 + RM300,000 + RM2,000,000). ABC Sdn Bhd. ceased to be a RPC from that date.



Shares which have been acquired in exchange for the transfer of real property to a controlled company, with the benefit of the no gain/no loss basis, will be a chargeable asset already and are ignored for this purpose.

The meaning of shares includes loan stock and debentures, a member's interest in a company not limited by shares and any option or other right in or relating to shares as defined.

### DISPOSAL OF SHARES

The meaning of a disposal is comprehensively defined so as to catch every possible means of transferring ownership. Dispose means 'to sell, convey, transfer, assign, settle or alienate whether by agreement or by force of law'. Furthermore, 'every method, scheme or arrangement by which the ownership of an asset is transferred from one person to another shall constitute an acquisition of the asset by the transferee and a disposal of the asset by the transferor'.

#### EXAMPLE 3

ABC Sdn Bhd., had an issued capital of 200,000 shares on 21st October 1988, of which Encik Ismail held 40,000. A bonus issue of 3 for 1 was given on 30th September 1989. Encik Ismail sold his shares as follows:

1. 1st April 1989  
10,000 for RM150,000
2. 1st August 1989  
12,000 for RM210,000
3. 1st April 1993  
72,000 for RM750,000

Encik Ismail has a chargeable disposal on each occasion and his acquisition dates are:

1. 21st October 1988
2. 1st May 1989
3. 1st May 1989

Shares in a RPC acquired at a time when the company was a RPC continue to be chargeable assets even after the company has ceased to be a RPC and any subsequent disposal of the shares is the disposal of a chargeable asset.

The time of disposal will be the date of the agreement for sale or, where no agreement is made, on the earlier of two dates; the date of the last act necessary for legal

transfer of ownership and the date on which the whole of the sale consideration has been received by the disposer.

The whole of the gain is taken to accrue at the date of disposal even if a part of the consideration is payable by instalments.

Where disposal takes place under a conditional agreement, the disposal is normally regarded as taking place on the date when the agreement is made. The exception is where the amount of the consideration depends wholly or partly on the value of the shares at the time when the condition is satisfied. In that case the date of disposal is the date when the condition is satisfied.

The disposal price is the amount or value of the sale consideration in money or money's worth. However, in the following situations disposal of the shares is deemed to take place at market value:

- disposals by way of gift or otherwise than by a bargain made at arms length
- disposals (i) for a consideration that cannot be valued; (ii) in connection with loss of employment or diminution of emoluments of the disposer or another person, or (iii) in consideration for or recognition of the disposer's or another's services in any office or employment or of any other service rendered or to be rendered by him or another
- transfers of assets to a trustee for creditors of any person in full or part satisfaction of any debt due from that person or by a trustee to creditors in full or part satisfaction of any debt disposals in a transaction for the transfer of a business for a lump sum consideration

Any corresponding acquisition is deemed to take place at the same price.

A transaction made between connected persons is not regarded as a bargain made at arms length and the market value of the asset transferred will be deemed to be the disposal price.

The following are regarded as connected persons:

- a husband with his wives and vice versa

a person with his relative and the husband or wives of his relative and with a relative of his or her husband or wives (relative means child, brother, sister, uncle, aunt, nephew, niece, cousin, ancestor or lineal descendant)

- a trustee with the settlor of a trust or a person connected with the settlor
- a person with his partner and the husbands and wives and relatives of his partner
- a company with another company if one person controls both or if the person controls one and he or persons connected with him or both control the other or if both are controlled by two or more identical groups or by groups which could be regarded as identical by substituting for any person, a person with whom he is connected
- a company with a person controlling it either alone or with persons connected with him
- in relation to the company concerned, any two or more persons acting together to secure or exercise control of the company and with any person acting on the directions of any of them to control the company

### CHARGEABLE GAINS

On disposal the chargeable gain is calculated in the normal way except that:

- the acquisition price is the price calculated under the formula stated above
- no further adjustment can be made to either the acquisition price or the disposal price for incidental or enhancement costs etc or for extraneous receipts in respect of the shares
- a loss is not an allowable loss

Tax on the chargeable gain is calculated in the normal way having regard to the period of ownership and to any exemptions or reliefs which may apply to the disposer.

The provisions of the Act in relation to RPCs are not very detailed and can give rise to some uncertainty as to how to



**EXAMPLE 4**

Encik Ismail had 40,000 shares in ABC Sdn Bhd. initially deemed to be acquired on 21st October 1988 for:

$$\frac{40,000}{200,000} \times \text{RM}1,200,000 = \text{RM}240,000 \text{ of RM6 per share}$$

His chargeable gain on the 1st April 1989 disposal is;

Sale proceeds	150,000
less: Acquisition price 10,000 x RM6	60,000
	<u>90,000</u>

Subject to any exemptions or relief tax will be charged at 20%, that is the rate appropriate for less than 2 years of ownership.

Fro 1st May 1989, he is deemed to have acquired the balance of his shares at the date for a consideration of:

$$\frac{30,000}{200,000} \times \text{RM}3,000,000 = \text{RM}450,000 \text{ or RM15 per share}$$

His chargeable gain on the 1st August 1989 disposal is;

Sale proceeds	210,000
less: Acquisition price 12,000 x RM15	180,000
	<u>30,000</u>

Subject to any exemptions or relief tax will be again be charged at 20%.

His chargeable gain on the 1st April 1993 disposal is;

Sale proceeds	750,000
less: Acquisition price 72,000 x $\frac{\text{RM}15}{4}$	270,000
	<u>580,000</u>

Subject to any exemptions or relief tax will be charged at 10% (within 4 years of acquisition).

compute the gain when shareholdings are complicated by rights issues, takeovers and amalgamations etc.

Although some guidance may be obtained from the tax systems of other countries which use a full capital gains tax, including gains from the realisation of shares, this would not be binding on Malaysian courts. So far no cases have been reported dealing with these issues.

**E R R A T A****MIA/MIT 1995 TAX AND BUSINESS INFORMATION BUDGET NEWS**

We regret to inform that there are certain errors in the booklet. Accordingly, we have printed the errata information below for your necessary action.

- Page 2 Table 2 of Section One in column 'Tax payable (cumulative)' under year 1995 of band 2500 should read '0' instead of '50'.
- Page 5 Paragraph A02 of Section One in the second line on "additions: For wife" should read '3000' for each of years 1992 - 1995 instead of '2000'.
- Page 6 of Section One in the first line of "EPF etc payments, standard deduction" for year 1994 should read '5000' instead of '3500'.

Cont from page .... / 25

**NOTES**

- The total monthly remuneration in respect of which monthly deductions are to be made under this Schedule are remuneration of every description paid during the month to the employee, including director's fees, less any money paid to the employee by way of refund for bona fide out-of-pocket expenses incurred in respect of travelling or subsistence in the performance of the duties of the employment and less the employee's compulsory contributions to Employees Provident Fund or to any approved pension fund, subject to a maximum of RM416 per month of RM5,000 per year.
- Where a bonus, gratuity, commission or other similar payment is made to an employee, additional to normal monthly

remuneration, the amount of additional tax to be deducted in the month in which that bonus, gratuity, commission or other similar payment (the "additional payment") is made shall be calculated as follows:-

12x deduction on notional monthly remuneration

less

12x deduction on normal monthly remuneration.

The notional monthly remuneration shall be calculated as the normal monthly remuneration plus one-twelfth of the additional payment.

- "Child", in relation to an employee, means

as unmarried dependent legitimate child or stepchild or adopted child of his, under the age 18 years. If above 18 years old, the child must be:

- receiving full-time instruction at any university, college, school or other similar educational establishment;

or

- serving under articles or indentures with a view to qualify in a trade or profession.

- Where an employee is a divorcee, a widow, or a widower, and pays for the maintenance of the children, Category 3 of the schedular monthly tax deduction applies. Where that employee has no children, Category 1 applies.



## ISTILAH PERCUKAIAN

BAHASA INGGERIS	TAKRIF	BAHASA MELAYU
film hire duty	Duti yang dikenakan ke atas penayang filem.	duti sewa filem
final and conclusive	Keadaan di mana sesuatu taksiran tidak boleh dipinda kerana hak rayuan telah tamat.	akhir dan muktamad
fixed base	Tempat di mana operasi biasanya dijalankan berkaitan dengan person yang tidak bermastautin.	tapak tetap
flat rate	Sesuatu kadar cukai yang tetap dikenakan ke atas pendapatan tanpa mengambil kira amaunnya.	kadar tetap
forest allowance	Elaun yang diberi ke atas perbelanjaan layak untuk aktiviti pembalakan.	elaun hutan
forest charge	Penarikan elaun hutan apabila berlaku pelupusan.	caj hutan
fraud	Salah nyata maklumat kewangan yang disengajakan, misalnya manipulasi akaun, pemalsuan maklumat, pemindaan rekod atau dokumen.	fraud
free zone	Zon yang dibebaskan daripada cukai tidak langsung.	zon bebas
further source	Benefisiari yang menerima pendapatan amanah di luar negeri dan di bawa masuk ke Malaysia. Amaunnya dikira berdasarkan formula tertentu.	sumber tambahan
gains	<ol style="list-style-type: none"> <li>Lebih harga lupus daripada harga perolehan bagi maksud Cukai Keuntungan Harta Tanah.</li> <li>Lebih yang diperolehi daripada sesuatu sumber pendapatan.</li> </ol>	laba
graduated rates	Kadar peratusan yang menaik yang dikenakan ke atas tahap pendapatan yang tertentu.	kadar bersengat
gratuity	Hadiah kepada pekerja untuk perkhidmatan yang diberikan sama ada ketika berkhidmat atau apabila bersara.	ganjaran
gross income	Jumlah yang diterima oleh pembayar cukai daripada sumber tertentu termasuk perniagaan, penggajian, dividen, faedah dan lain-lain.	pendapatan kasar
gross-up	Perkiraan untuk menentukan pendapatan kasar di mana cukai telah dipotong pada sumber.	kira kasar
group relief	Keadaan di mana kerugian sesebuah syarikat boleh diserap oleh keuntungan syarikat yang lain dalam kumpulan syarikat yang sama.	pelepasan kumpulan
Hindu joint family	Satu sistem kekeluargaan mengikut adat Hindu.	keluarga sekutu Hindu
honorarium	Bayaran sagu hati kerana perkhidmatan di luar tugas hakiki.	bayaran kehormat
immovable property	Harta yang tidak boleh bergerak, contohnya tanah dan bangunan.	harta tidak alih
import duty	Duti yang dikenakan ke atas barangan import.	duti import
imputation system	Sistem di mana cukai yang dikenakan kepada sesebuah syarikat dialihkan kepada pemegang saham melalui dividen.	sistem imput
imputed value	Nilai yang ditaksir bagi sesuatu manfaat.	nilai terimput
in specie	Dividen yang tidak berbentuk wang.	in specie
incapacitated person	Individu yang di bawah umur atau kurang siuman.	person tidak upaya
incidental cost	Perbelanjaan yang berkaitan dengan kos perolehan atau pelupusan sesuatu harta atau aset.	kos sampingan
incidental gross income	Pendapatan kasar yang diperolehi daripada kegiatan yang tidak berkait rapat dengan kegiatan utama.	pendapatan kasar sampingan
income receivable	Pendapatan yang diperolehi tetapi belum diterima dalam tempoh berkenaan.	pendapatan belum terima



## ISTILAH PERCUKAIAN

BAHASA INGGERIS	TAKRIF	BAHASA MELAYU
income tax	Cukai yang dikenakan ke atas pendapatan.	cukai pendapatan
incorporation expenses	Perbelanjaan yang dikenakan untuk menubuhkan sesebuah syarikat.	belanja penubuhan
increased assessment	Taksiran ditambah selepas persetujuan di antara Ketua Pengarah dengan pembayar cukai atau selepas perbicaraan oleh Pesuruhjaya Khas Cukai Pendapatan.	taksiran naik
indigenous raw material	Bahan mentah mengikut takrif di bawah Akta Penggalakkan Pelaburan 1986 sebagai satu dorongan eksport.	bahan mentah asli
indirect tax	Cukai atau duti yang dikenakan ke atas barangan atau perkhidmatan tertentu. Contohnya duti import, duti eksport, cukai perkhidmatan dan lain-lain.	cukai tidak langsung
industrial adjustment allowance	Elaun yang ditolak daripada pendapatan di bawah Akta Penggalakkan Pelaburan.	elaun pelarasan perindustrian
industrial building	Bangunan yang layak diberi elaun modal mengikut peruntukan Akta Cukai Pendapatan.	bangunan industri
initial allowance	Elaun modal yang diberikan ke atas perbelanjaan layak pada tahun pertama sahaja.	elaun mula
instrument	Dokumen seperti perjanjian pajakan, jual beli dan sebagainya bagi maksud duti setem.	surat cara
intangible expenses	Belanja bagi maksud penggerudian yang diberi potongan di bawah Akta Cukai Pendapatan Petroleum.	belanja tidak ketara
inter-company pricing	Harga yang dikenakan dalam urus niaga antara syarikat-syarikat dalam kumpulan syarikat yang sama.	harga antara syarikat
interest restriction	Proses menghadkan faedah yang boleh dibenarkan sebagai potongan.	had faedah
investment holding company	Syarikat yang hanya memegang pelaburan seperti saham, harta dan lain-lain.	syarikat pemegang pelaburan
investment incentive	Dorongan yang diberi kepada pelabur.	galakan pelaburan
investment income	Pendapatan yang diperolehi daripada pelaburan seperti sewa, dividen dan lain-lain.	pendapatan pelaburan
investment tax allowance	Sejenis elaun ke atas perbelanjaan layak yang diberi di bawah Akta Penggalakan Pelaburan 1986.	elaun cukai pelaburan
investment tax credit	Sejenis kredit ke atas perbelanjaan layak yang diberi di bawah Akta Galakan Pelaburan 1968.	kredit cukai pelaburan
inward reinsurance business	Perniagaan di mana polisi daripada insurans atau reinsurans lain diterima untuk direinsuranskan.	perniagaan reinsurans alir masuk
isolated transaction	Urus niaga yang dijalankan sesekali.	urus niaga terpencil
joint assessment	Taksiran pendapatan suami isteri yang digabungkan.	taksiran bersama
leave passage	Satu kemudahan yang diberi oleh majikan kepada pekerjaanya.	tambang cuti
locational incentive	Galakan yang diberikan berdasarkan tempat kedudukan kilang.	galakan penempatan
loss brought forward	Kerugian perniagaan yang tidak dapat diserap sepenuhnya yang di bawa dari tahun sebelumnya.	rugi bawa ke hadapan
loss carried forward	Kerugian perniagaan yang tidak dapat diserap sepenuhnya yang dibawa ke tahun berikutnya.	rugi hantar ke hadapan
management and control	Asas yang digunakan bagi menentukan taraf mastautin sesebuah syarikat atau badan.	pengurusan dan kawalan



## ISTILAH PERCUKAIAN

BAHASA INGERRIS	TAKRIF	BAHASA MELAYU
marginal tax rate	Kadar cukai bagi setiap ringgit pendapatan tambahan. Kadar cukai sut ini meningkat disebabkan struktur kadar cukai pendapatan yang progresif.	kadar cukai sut
market value	Nilai dalam urus niaga selengan.	nilai pasar
means test	Satu kaedah untuk menentukan keupayaan seseorang pembayar cukai memperolehi aset dalam sesuatu tempoh.	uji upaya
members' fund	Jumlah modal, rezab dan lain-lain bagi sebuah syarikat kerjasama, seperti yang diperuntukkan di Jadual 6 Akta Cukai Pendapatan.	dana ahli
moveable property	Harta yang boleh dialih-alihkan, contohnya kenderaan, mesin, saham dan lain-lain.	harta alih
mutuality principle	Kegiatan urusniaga seperti yang dijalankan oleh sebuah kelab ahli atau institusi lain bagi manfaat ahli-ahlinya. Urusniaga ini tidak dianggap sebagai perniagaan.	prinsip bersama
mutually exclusive	Keadaan di mana satu pilihan saja boleh dipakai. Contohnya, jika telah memilih taraf perintis maka tidak boleh mendapat galakan lain.	saling singkir
non-resident	Person yang tidak memenuhi syarat bermastautin di Malaysia bagi tahun asas suatu tahun taksiran menurut Akta Cukai Pendapatan.	bukan pemastautin
non-resident relief	Pelepasan yang diberi kepada seorang individu di bawah seksyen 130 Akta Cukai Pendapatan.	pelepasan bukan pemastautin
notice of assessment	Pemberitahuan mengenai taksiran cukai.	notis taksiran
notional allowance	Elaun modal tahunan yang ditolak dalam pengiraan perbelanjaan baki tetapi tidak diambil kira dalam pengiraan cukai.	elaun nosional
occupational of premises for non-business purposes	Salah satu sumber pendapatan yang dikenakan cukai di bawah Akta Cukai Pendapatan.	menduduki premis bukan tujuan perniagaan
off-shore company	Syarikat yang ditubuhkan di luar bidang kuasa sesebuah negara, biasanya di sesebuah kawasan yang tidak mengenakan cukai atau mengenakan cukai minimum.	syarikat luar pesisir
off-shore insurance business	Perniagaan insurans yang menginsuranskan risiko luar negeri.	perniagaan insurans luar pesisir
off-shore trust	Badan amanah yang ditubuhkan di luar bidang kuasa sesebuah negara.	amanah luar pesisir
omitted income	Pendapatan yang tidak dilaporkan dalam borang nyata pendapatan.	pendapatan tidak lapor
on-shore company	Syarikat yang ditubuhkan dalam bidang kuasa sesebuah negara.	syarikat dalam pesisir
operational headquarters company	Syarikat di Malaysia yang memberi perkhidmatan tertentu kepada pejabat dan sekutunya di luar Malaysia.	syarikat ibu pejabat
ordinary source	Bahagian benefisiari dalam jumlah pendapatan badan amanah.	sumber biasa
overlapping basis period	Keadaan yang biasanya wujud bila tempoh perakaunan pertama sesuatu perniagaan tidak dibuat untuk 12 bulan atau tarikh perakaunan tahunan perniagaan ditukar.	tempoh asas bertindan
owner-occupied	Kediaman yang dipunyai dan diduduki sendiri.	huni sendiri
ownership	Keadaan di mana person mempunyai hak ke atas harta tanah atau kepentingan dalamnya.	pemunyaan
partner	Person atau perkongsian yang menjadi ahli dalam perniagaan perkongsian.	pekongsi ; rakan kongsi
partnership	Hubungan secara berkontrak melalui perjanjian lisan atau bertulis untuk menggabungkan sumber modal, kebolehan, kemahiran dan aktiviti dalam perusahaan bersama.	perkongsian



## ISTILAH PERCUKAIAN

BAHASA INGERRIS	TAKRIF	BAHASA MELAYU
pay as you earn (P.A.Y.E) scheme	Skim pembayaran cukai melalui potongan gaji mengikut jadual tertentu.	skim bayar semasa terima (B.S.T)
penalty	Penalti yang dikenakan kerana kegagalan mematuhi undang-undang cukai.	penalti
percentage of completion method	Kaedah pengiktirafan untung bagi projek pembinaan jangka panjang yang melebihi satu tempoh perakaunan.	kaedah peratusan siap
periodical payment	Pendapatan yang diterima mengikut jangka masa tertentu.	bayaran kalaan
permanent establishment	Sebuah establisymen yang tetap seperti pejabat, ladang, lombong dan lain-lain yang memenuhi syarat-syarat tertentu di bawah perjanjian cukai dwihala.	establisymen tetap
permitted expenses	Perbelanjaan yang dibenarkan mengikut formula tertentu dalam akta cukai pendapatan.	belanja dibenarkan
permitted fraction	Sesuatu pecahan yang dibenarkan untuk pengiraan elaun tahunan bangunan industri.	pecahan dibenarkan
perquisite	Pendapatan tambahan tidak termasuk gaji atau elaun tetap.	perkuisit
person	Person termasuk syarikat, kumpulan orang dan perbadanan seorang.	person
personal relief	Potongan daripada jumlah pendapatan sebelum dikenakan cukai, contohnya, pelepasan diri sendiri, isteri, anak-anak dan sebagainya.	pelepasan diri
petroleum income tax	Cukai yang dikenakan ke atas keuntungan petroleum di bawah Akta Cukai Pendapatan Petroleum 1967.	cukai pendapatan petroleum
pioneer business	Perniagaan yang diberi taraf perintis di bawah Akta Penggalakan Pelaburan.	perniagaan perintis
pioneer certificate	Sijil yang dikeluarkan sebagai perakuan taraf perintis di bawah Akta Penggalakan Pelaburan.	sijil perintis
pioneer company	Syarikat yang diberi taraf perintis di bawah Akta Penggalakan Pelaburan.	syarikat perintis
pioneer income	Pendapatan yang diperolehi dalam tempoh perintis dari perniagaan perintis.	pendapatan perintis
plant and machinery	Alat-alat, jentera dan loji termasuk perabot, kelengkapan dan sebagainya yang digunakan dalam perniagaan	loji dan mesin
post-pioneer business	Perniagaan yang diteruskan selepas tempoh perintis.	perniagaan pasca perintis
pre-operational business expenditure	Perbelanjaan yang dilakukan sebelum operasi perniagaan dimulakan.	belanja perniagaan praoperasi
per-pioneer business	Perniagaan yang dijalankan sebelum tempoh perintis.	perniagaan praperintis
precedent partner	<ol style="list-style-type: none"> <li>1. Person yang bertanggungjawab berkenaan hal-hal perniagaan dan percukaian dalam sesuatu perkongsian.</li> <li>2. Rakan kongsi yang bertanggungjawab berkenaan hal-hal perniagaan dan percukaian dalam sesuatu perkongsian.</li> </ol>	pekongsi utama ; rakan kongsi utama
preceding year basis	Asas yang digunakan untuk pengenaan cukai pendapatan. Contohnya pendapatan tahun 1992 dikenakan cukai pada tahun taksiran 1993.	asas tahun sebelum
private expenses	Perbelanjaan untuk diri sendiri yang tidak berhubungan dengan perniagaan.	belanja persendirian
promoted activity	Kegiatan tertentu di bawah Akta Penggalakan Pelaburan.	kegiatan galakan
promoted industrial area	Satu kawasan tertentu yang diperuntukkan di bawah Akta Penggalakan Pelaburan.	kawasan industri galakan



ISTILAH PERCUKAIAN		
BAHASA INGERRIS	TAKRIF	BAHASA MELAYU
promoted product	Keluaran tertentu di bawah Akta Penggalakan Pelaburan.	keluaran galakan
property trust	Badan amanah yang melabur dalam harta tanah.	amanah harta
protective assessment provisional assessment	Taksiran yang dikeluarkan sebelum selesainya kes penyiasatan. Taksiran yang dikeluarkan sebelum borang nyata pendapatan disemak.	taksiran lindung taksiran sementara
public entertainer	Seorang penghibur (penyanyi, pelakon, pelawak, pemuzik, olahragawan dan sebagainya) yang menjalankan kerjaya dalam dunia hiburan	penghibur awam
qualifying agriculture expenditure	Perbelanjaan modal ke atas kegiatan pertanian untuk tujuan pengiraan elaun pertanian.	belanja pertanian layak
qualifying building expenditure	Perbelanjaan modal ke atas bangunan yang dibina atau dibeli untuk tujuan pengiraan elaun modal.	belanja bangunan layak
qualifying exploration expenditure	Perbelanjaan modal ke atas kegiatan penerokaan petroleum untuk tujuan pengiraan elaun modal.	belanja teroka layak
qualifying farm expenditure	Perbelanjaan modal ke atas kebun, kolam dan lain-lain untuk tujuan potongan bagi projek pertanian yang diluluskan.	belanja kebun layak
qualifying forest expenditure	Perbelanjaan modal ke atas kegiatan pembalakan untuk tujuan pengiraan elaun hutan.	belanja hutan layak
qualifying mining expenditure	Perbelanjaan modal ke atas kegiatan perlombongan untuk tujuan pengiraan potongan layak.	belanja lombong layak
qualifying plant expenditure	Perbelanjaan modal ke atas loji untuk tujuan pengiraan elaun modal.	belanja loji layak
qualifying prospecting expenditure	Perbelanjaan ke atas kegiatan cari gali untuk tujuan potongan dari pendapatan terkumpul.	belanja cari gali layak
rateable value	lihat : annual value	nilai boleh kadar
real property company	Syarikat yang ditakrifkan sebagai syarikat harta tanah dalam Akta Cukai Keuntungan Harta Tanah.	syariakt harta tanah
real property gains tax	Cukai yang dikenakan di bawah Akta Cukai Keuntungan Harta Tanah 1976.	cukai untung harta tanah
rebate	Pengurangan cukai, contohnya potongan zakat.	rebat
recovered expenditure	Balasan mengenai pelupusan hak atau sebahagian daripada lombong.	belanja olehan semula
recovery of tax	Pungutan cukai yang tertunggak.	pemulihan cukai
reduced assessment	Taksiran yang melibatkan penurunan cukai.	taksiran turun
reinvestment allowance	Elaun yang diberi untuk perbelanjaan modal tertentu di bawah Akta Cukai Pendapatan.	elaun pelaburan semula
remission of tax	Cukai yang dihapuskan atas perintah Menteri Kewangan atau Ketua Pengarah Hasil Dalam Negeri.	hapus cukai
requisition notice	Cukai atau hutang yang dituntut oleh Jabatan Hasil Dalam Negeri melalui notis. Misalnya cukai untung harta tanah dan hutang di bawah Seksyen 108 (5) Akta Cukai Pendapatan.	notis tuntutan
resident	Person yang bermastautin di Malaysia bagi tahun asas suatu tahun taksiran menurut Akta Cukai Pendapatan.	pemastautin
residual expenditure	Baki perbelanjaan yang layak setelah ditolak elaun modal.	belanja baki
residual life	Bilangan tahun anggaran hayat yang tinggal bagi lombong.	hayat baki
return form	Borang yang dikeluarkan oleh Jabatan Hasil Dalam Negeri untuk pembayar cukai melaporkan pendapatannya.	borang nyata pendapatan



ISTILAH PERCUKAIAN		
BAHASA INGERRIS	TAKRIF	BAHASA MELAYU
revenue expenditure	Perbelanjaan berulang yang tidak mewujudkan aset.	belanja hasil
sales tax	Cukai yang dikenakan ke atas jualan barangan tertentu mengikut Akta Cukai Jualan 1972.	cukai jualan
self-assessment	Sistem di mana pembayar cukai mengira sendiri tanggungan cukai pendapatannya.	swataksir
separate assessment	Taksiran ke atas pendapatan suami dan isteri secara berasingan.	taksiran asing
service director	Pengarah syarikat yang berkhidmat dalam jawatan pengurusan atau teknikal dan memenuhi syarat-syarat lain mengikut peruntukan Akta Cukai Pendapatan.	pengarah perkhidmatan
service tax	Cukai yang dikenakan ke atas perkhidmatan tertentu di bawah Akta Cukai Perkhidmatan 1975.	cukai perkhidmatan
settlement	Perlaksanaan pemindahan aset atau sumber pendapatan melalui amanah, waad, perjanjian atau peraturan mengikut takrif dalam Akta Cukai Pendapatan.	penyelesaian
settlor	Seseorang yang membuat peraturan untuk memindah milik sumber pendapatan atau asetnya seperti dalam Akta Cukai Pendapatan.	setlor
share transfer tax	Cukai yang dikenakan ke atas pindah saham mengikut Akta Cukai Pindah Milik Saham (syarikat berasaskan tanah) 1984.	cukai pindah saham
shareholders' funds	Dana pemegang saham bagi pengurangan pendapatan larasan untuk syarikat perusahaan kecil seperti yang ditakrifkan dalam Akta Penggalakan Pelaburan.	dana pemegang saham
Special Commissioners of Income Tax	Badan rayuan yang mendengar rayuan pembayar cukai terhadap keputusan Ketua Pengarah Hasi Dalam Negeri.	Pesuruhjaya Khas Cukai Pendapatan
stamp duty	Duti yang dikenakan ke atas dokumen, surat cara dan sebagainya di bawah Akta Setem 1949.	duti setem
standover of tax	Penangguhan pungutan cukai.	tangguh cukai
statutory income	Pendapatan larasan dicampur caj imbang dan ditolak elaun modal.	pendapatan berkanun
statutory order	Perintah yang mempunyai kuatkuasa perundangan.	perintah berkanun
surtax	Cukai tambahan ke atas barangan tertentu yang diimport.	cukai tokok
tax agent	Orang yang memberi perkhidmatan cukai.	ejen cukai
tax amnesty	Cukai yang patut dikenakan tetapi tidak dikenakan kerana sesuatu keistimewaan atau dasar kerajaan.	amnesti cukai
tax at source	Cukai yang dipotong pada sumber.	cukai sumber
tax audit	Audit untuk tujuan percukaian.	audit cukai
tax avoidance	Pengurangan tanggungan cukai melalui perancangan.	elak cukai
tax base	Orang atau bidang yang boleh dicukai.	asas cukai
tax bracket	Tahap kadar cukai tertentu.	lingkungan cukai
tax chargeable	Cukai yang dikenakan ke atas pendapatan tercukai mengikut kadar yang ditetapkan.	cukai tercaj
tax compliance	Pematuhan kepada undang-undang percukaian, misalnya pengembalian borang nyata pendapatan dalam tempoh yang ditetapkan.	patuh cukai
tax credit	Kredit yang diberi terhadap cukai, contohnya cukai atas dividen yang dipotong dari sumber.	kredit cukai



CONTINUING PROFESSIONAL DEVELOPMENT

CALENDAR



CALENDAR OF PROGRAMMES

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Date	Topics	CPD Points	Location
11	Labuan – Tax Planning Opportunities	12	Kuala Lumpur
12	Legal & Tax Implications Of Joint Venture	24	Kuala Lumpur
16-17	Control And Audit of the Unix Operating System	48	Kuala Lumpur
16	} Audit Of Solicitors' Accounts	24	Kota Kinabalu
17		24	Kuching
18		24	Miri
19		24	Sibu
18-19	Effective Marketing for Non-Marketer	48	Kuala Lumpur
16	} Accounting Standards and Treatment of Housing Developers Accounts	24	Kuantan
17		24	Kuala Terengganu
19		24	Johore Bahru
23		24	Kuala Lumpur
25		24	Negeri Sembilan

FEBRUARY

No programmes in view of the Ramadhan month and the Chinese New Year festival

MARCH

13-14	} Core Tax Skill	16	Ipoh
14-15		16	Kuala Lumpur
15-16		16	Kota Bahru
16-17		16	Penang
20-21		16	Kota Kinabalu
22-23		16	Tawau
23-24		16	Johore Bahru
27-28		16	Kuantan
27-28		16	Kuching
29-30		16	Sibu
30-31		16	Kuala Terengganu
30-1 April	} Grammar for Writing	16	Miri
18, 25, 1 April		48	Kuala Lumpur
23	Luncheon Talk by Dato' Salleh Majid on The KLSE – An Emerging World Class Stock Exchange	6	Kuala Lumpur
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5. Any person who is registered with MIA as a Public Accountant.
6. Any person who is registered with MIA as a Licensed Accountant and who has had not less than five (5) years practical experience in practice relating to taxation matters approved by the Council after admission as a licensed accountant of the MIA under the Accountants Act, 1967.
7. Any person who is authorised under sub-section (2)/(6) of Section 8 of the Companies Act, 1965 to act as an approved company auditor without limitations or conditions.
8. Any person who is granted limited or conditional approval under Sub-section (6) of Section 8 of the Companies Act, 1965 to act as an approved company auditor.

9. Any person who is an approved Tax Agent under Section 153 of the Income Tax Act, 1967.

### Fellow Membership

1. A Fellow may be elected by the Council provided the applicant has been an Associate Member for not less than five (5) years and in the opinion of the Council he is a fit and proper person to be admitted as a Fellow.
2. Notwithstanding, Article 8(1) of the Articles of Association, the First Council Members shall be deemed to be Fellows of the Institute.

### Application of Membership

Every applicant shall apply in a prescribed form and pay prescribed fees. The completed application form should be returned accompanied by:

1. Certified copies of:
  - (a) Identity Card
  - (b) All educational and professional certificates in support of your application.
2. Two identity card-size photographs
3. Fees:

	Fellow	Associate
(a) Admission Fee:	RM300	RM200
(b) Annual Subscription:	RM100	RM75

Every member granted a change in status shall thereupon pay such additional fee for the year then current as may be prescribed.

The Council may at its discretion and without being required to assign any reason reject any application for admission to membership of the Institute or for a change in the status of a Member.

Admission fees shall be payable together with the application to admission as members. Such fees will be refunded if the application is not approved by the Council.

Annual Subscription shall be payable in advance on and thereafter annually before January 31 of each year.