MINUTES OF THE POST- BUDGET DIALOGUE BETWEEN THE ASSOCIATION OF ACCOUNTANTS (MIA, MIT, MACPA, MAICSA & MATA) AND TECHNICAL DIVISION OF THE INLAND REVENUE BOARD (IRB) HELD ON 20 OCTOBER 2004

Issues Raised By Association of Accountants To The Technical Division Of The Inland Revenue Board (IRB)

A. 2005 BUDGET ISSUES

1. Tax Treatment for Trade Associations

It has been proposed that the statutory income from member's subscription fees that is exempted be calculated according to the attributable method by taking into consideration actual expenditure incurred.

The professional bodies would like to seek further clarification on the attributable method to be used as well as when the statutory order will be gazetted.

gg *Answer by IRB*

IRB provided an example of a tax computation based on the proposed amendment (refer to Appendix I) to the professional bodies for comment. The IRB is in the midst of drafting the statutory order and welcomed comments and feedback from the professional bodies before the statutory order is finalised.

2. Tax Treatment for Real Estate Investment Trusts (REITs)

The 2005 Budget proposed that REITs approved by the Securities Commission be exempted from income tax on chargeable income distributed to unit holders whereas its undistributed chargeable income is taxed at 28%. The income distributed to unit holders is taxed at their respective tax rates. For a non-resident unit holder, tax payable is at 28% and shall be withheld by REITs. The accumulated income that has been taxed and subsequently distributed is eligible for tax credit in the hands of unit holders.

The professional bodies would like to know whether the IRB will issue any guideline on the administrative provisions relating to the determination of the residence of unit holders, withholding tax, etc. and the time frame within which the guideline will be issued.

It is also noted that tax deductions for a REIT are allowed under Section 33 of the Income Tax Act, 1967. What about deductions relating to Section 34 especially in connection with possible bad debts?

The professional bodies would like to enquire as to the reason why unabsorbed

business losses and capital allowances are not allowed to be carried forward. It is suggested that this should be allowed for all property trusts.

In addition, the professional bodies would like to highlight the practical problems which may arise as there is a mismatch between accounting profits and chargeable income. For instance, a REIT may have net profits of RM100 but its chargeable income may be RM120 due to the disallowance of certain expenses. The REIT can only distribute a maximum of RM100. Thus, the balance of RM20 will be taxed at 28%. This may cause a cash flow problem if a REIT makes a full distribution. On the other hand, other problems may also arise on monitoring the undistributed profit and the tax credit attached when distributing from a mixed pool of profits.

In view of the above, the Institutes would suggest that nett accounting profits be deemed to be chargeable income so as to avoid the mismatch.

<u>Answer by IRB</u>

IRB will issue a guideline on the administrative procedures with regard to REIT as soon as possible.

Expenses incurred by a REIT will also be allowed under section 34. A review of the proposed legislation will be done to give effect to this intention.

With regards to unabsorbed business losses and capital allowances not being allowed to be carried forward, IRB informed that this treatment is a policy decision. The treatment of rental income of REIT as a business income is a concession. However, it is with limitations i.e unabsorbed business losses and capital allowances are not allowed to be carried forward. IRB recommended that the professional bodies forward the matter to the Ministry of Finance (MOF) as this is a policy matter.

Regarding the issue of mismatch between net accounting profits and chargeable income which may cause a cash flow problem, IRB is of the view that the net accounting profit is not always lower than chargeable income. In some circumstances, chargeable income is lower than net accounting profit. Thus, this issue may not necessarily cause a cash flow problem. The suggestion that net accounting profits be deemed to be chargeable income would appear to disregard tax law. However, IRB recommended that this issue may also be brought to the attention of MOF.

3. Filing of Income Tax Returns for Taxpayers other than Companies.

It has been proposed in the 2005 Budget that the deadline to file tax returns by sole proprietors, partnerships, clubs and associations be extended from 30 April to 30 June each year.

The professional bodies welcome the proposed change to the legislation. However, it is proposed that the extension of tax filing deadline of 30 June be extended to include those persons who are not carrying on a business. This will enable a consistent tax filing deadline for all persons other than a company, trust body or co-operative society.

With regard to the Budget proposal, the Institutes would like to seek clarification on the following matters:

a. whether the IRB will determine the filing deadline based on OG or SG categories and whether the OG cases will be automatically allowed to file tax returns by 30 June;
b. whether an individual who has a SG number but with a commission based business activity will be allowed to file the tax return by 30 June;
c. whether an individual who starts a business during the year will be allowed to self-determine the filing deadline or is required to inform/seek approval from the IRB on the 30 June filing;
d. whether the filing deadline of the tax return for joint assessment of husband and wife is on 30 June if either party has a business source; and
e. whether an individual who has no business source but receives a Form B has to file the tax return on 30 April.

As the proposal is effective from year of assessment 2004, the Institutes would like to seek confirmation that it takes effect for tax returns filed in Year of Assessment 2004. If so, where a sole proprietor filed late on 15 May 2004, would the penalty be waived automatically or would the taxpayer need to pay the penalty and then appeal for a waiver.

Answer by IRB

Filing deadline will depend on whether the individual has business income or non-business income. For the individual with business income, the deadline will be 30 June whilst for an individual with non-business income the filing date remains at 30 April.

IRB confirmed that the above proposal is not applicable to the filing of tax returns in the year 2004.

IRB suggested that operational matters be raised with Jabatan Pengurusan Hasil, LHDN (previously known as Bahagian Operasi).

4. Fund for Tax Refund

The 2005 Budget proposed that a portion of the income tax collected be kept in a fund known as "Fund for Tax Refund" to expedite the process of income tax refunds.

The professional bodies welcome the Government's initiative in setting up such a fund and would like to seek the IRB's clarification on the following matters:

a. Whether the fund will be a revolving fund i.e. the initial amount placed in the Fund will be replenished automatically from the tax collections;
b. Whether the repayment procedures in the assessment and collection branches will be reviewed to improve the delivery system i.e. the time taken in processing a tax refund;
c. Whether the excess credits will be automatically used for set-off against the current year tax instalments or is the taxpayer required to apply to the IRB for such a set-off;
d. Whether the IRB will stipulate a time frame within which the tax credits will

be refunded;

e. Whether the IRB will issue any guideline on the criteria that will be applied in processing refunds and the procedure to be followed in respect of offsets and refunds of tax overpaid. The Institutes believe this is an area that is important in the interests of governance and transparency so that no one gets special treatment;
f. Whether there would be any priority given to individuals over other taxpayers or will all the taxpayers be treated equally; and
g. Whether the IRB will prepare a refund cheque for an individual taxpayer who has a refund of less than RM10,000 and whether the same treatment will be applied to corporate taxpayers as well or will all cheques be prepared by the Accountant-General's Department.

Answer by IRB

IRB responded that the above issues be raised with Jabatan Pengurusan Hasil, LHDN (previously known as Bahagian Operasi).

5. Gazette Orders

The professional bodies would like to request the authorities to stipulate a time frame for the issuance of the relevant gazette orders for the following 2005 budget proposals:

- Accelerated capital allowance on equipment to maintain quality of power supply
- Accelerated capital allowance for the agricultural sector
- Accelerated capital allowance for renewable energy production
- Double deduction to promote the export of services (extending the scope)
- Incentives for commercialization of public sector research & development
- Mergers of private institutions of higher learning
- Incentive for production of halal food
- Incentive for relocating manufacturing activities to promoted areas

In addition, it is hoped that the gazette orders will be clear especially in listing out the eligible machinery and equipment that will qualify for accelerated capital allowance.

Answer by IRB

All the statutory orders have been drafted for the approval of MOF except for the statutory orders on accelerated capital allowance which are still pending because the list of the eligible machinery and equipment have to be furnished by the respective Ministries. The statutory orders for the last two proposals will be issued by MITI.

6. Double Deduction on Expenses for Quality Systems and Standards Certification

It is proposed that double deduction be given to a company which incurs expenses in obtaining international quality systems and standards certification, and halal certification with effect from year of assessment 2005.

The professional bodies would like to enquire about the list of certification bodies. It is understood that for halal certification, Jabatan Kemajuan Islam Malaysia (JAKIM) would be the certification body.

Answer by IRB

The list of *halal* certification bodies as determined by the Minister of Finance are as follows:-

Malaysian Islamic Development Department (JAKIM)
State Islamic Religious Departments
State Islamic Religious Councils

The list will be posted on the IRB website.

7. Interest in Suspense (IIS)

It has been proposed that effective from Year of Assessment 2001, IIS shall be deemed as a specific provision for bad debts under Section 34(2) of the Income Tax Act, 1967.

For this purpose, "bank" has been defined to mean a bank or a finance company or a banking and finance company licensed or deemed to be licensed under the Banking and Financial Institutions Act 1989 or Islamic Banking Act 1983 or an institutions prescribed under the Development Financial Institutions Act 2002.

The professional bodies would like to seek clarification whether the above proposed IIS treatment will apply to a leasing company.

Answer by IRB

The proposed amendment would only be applicable to a bank or finance company licensed under the Banking and Financial Institutions Act 1989 [BAFIA] or Islamic Banking Act 1983 or Development Financial Institutions Act 2002. It is not applicable to a leasing company which is only required to be registered under the Banking and Financial Institutions Act 1989 [BAFIA] and not licensed under the same Act.

8. Incentive for Commercialisation of Public Sector Research & Development (R&D)

It is proposed that the above incentive would be provided upon fulfilment of certain conditions. One of the conditions states that only resource-based R&D findings are eligible.

The professional bodies would like to seek clarification on the definition of "resource-based R&D findings".

Answer by IRB

Currently, the definition of "resource-based R&D findings" as agreed by MOF covers only oil palm, rubber and wood-based products.

9. Rebate for Purchase of Personal Computer

The 2005 Budget proposed that the tax rebate given for the purchase of a personal computer be increased from RM400 to RM500.

The professional bodies would like to seek clarification on the definition of "computer", in particular, as to whether it includes devices which have the same functions as computers such as palmtops, Nokia Communicators, etc.

The professional bodies would nevertheless, suggest that the rebate be given every two years. This will encourage society to keep abreast with the fast-changing Information and Communications Technology world.

Answer by IRB

IRB is of the view that the term personal computer would not include palmtops, Nokia Communicators,etc. For the time being we should follow the existing defination. For the review of the defination, the professional bodies were requested to submit their views on this matter.

10. Relief for Purchase of Books

It is proposed that the income tax relief for the purchase of books be increased from RM500 to RM700 for each year.

The professional bodies would like to seek confirmation whether a taxpayer (not in practice) who purchases a handbook issued by professional bodies which includes standards, guidelines, and technical orders relevant to a specific field will be eligible for the relief.

Answer by IRB

IRB confirmed that the above-mentioned purchase will be eligible for the relief.

11. Tax Incentive for Modernising the System for Chicken and Duck Rearing

It is proposed that the scope of the above incentive be extended to rearers of parent and grand parent stock of chickens and ducks provided, amongst others, they rear at least 20,000 parent or grand parent stock of chickens/ducks per cycle.

The professional bodies seek to clarify whether the proposed incentive would result in an additional/increase in minimum rearing capacity for the rearers in order to qualify for the incentives.

Answer by IRB

In order to qualify for the above incentive, the following conditions must be met:

- **minimum rearing capacity of 20,000 parent or grand parent stock of chickens/ducks per cycle; and**

- **there is a change from the opened to the closed house system.**

This is not an additional condition to the existing incentive related to rearing of layer and broiler chickens and ducks but it is an additional incentive.

12. Qualifying Expenditure for Purchased Buildings

The 2005 Budget proposed that the current purchase price of the used building be taken as the qualifying expenditure of the industrial building.

The Institutes welcome the proposed amendment to the legislation as it will simplify the compliance process and reduce the time and effort required in obtaining the relevant information.

The professional bodies hope that the IRB will also simplify other provisions in the laws and regulations in order to improve the efficiency of tax administration under the Self Assessment System.

Answer by IRB

The IRB recommended that the professional bodies provide feedback on the proposal to simplify other provisions of the tax law.

B. ISSUES RELATING TO PREVIOUS BUDGET PROPOSALS

With reference to pages 46 to 50 of the 2005 Budget Commentary & Tax Information prepared by the Institutes (see Appendix A), the Institutes would like to enquire on the status of the issuance of statutory orders or amendment to the existing legislation (where applicable) for the previous budget proposals.

Answer by IRB

The status report is in Appendix 2.

C. OTHER MATTERS

1. Approved Donations and Permitted Expenses

Currently, the rounding of calculations of both Approved Donations and Permitted Expenses is a matter of practice. Based on the notices from the IRB that has been sent to members concerning incorrect tax computations, it seems that there are very specific rules that are being applied by the IRB.

The professional bodies seek to clarify whether the IRB has specific rules being applied to this matter and when these rules should be applied.

Answer by IRB

The issue raised is not very clear. The professional bodies were advised to clarify the issue and raise it with Jabatan Pengurusan Hasil, LHDN (previously known as Bahagian Operasi)

2. Real Property Gains Tax – Keeping of Records

Currently, for RPGT purposes, taxpayers are required to keep records although there is no timeframe mentioned in the RPGT act.

The professional bodies would like to seek confirmation whether the period of record keeping should be standardized to 7 years as required under the Income Tax Act, 1967.

Answer by IRB

IRB will consider including a provision on a time frame for record keeping in the Real Property Gains Tax Act, 1976.

3. Stamp Duty for Unquoted Shares Based on Price Earnings Ratio and Par Value

Currently, according to the guidelines issued by IRB in April 2001, the PE ratios applied are fixed and an industrial average PE ratio would not be an accurate assessment of the value of the shares of a company. In the case of a company incurring losses, the use of par value may not be justifiable. It is because accumulated losses have eroded the capital of the company resulting in the value per share being less than par value.

The professional bodies would like to suggest that the use of PE ratio and par value (in respect of loss making companies) for assessment of stamp duty be omitted from the assessment process.

Answer by IRB

IRB takes note of the above concern and welcomes the professional bodies to submit their views and suggestions to the IRB to review the present guideline.

4. Submission of Revised Tax Return for Individual (Year of Assessment 2004)

Under the Self-Assessment system of taxation, the IRB is deemed to have raised an assessment on an individual on the date the tax return is submitted. Based on verbal confirmation given by the IRB to a member of the professional bodies, it is understood that any amendments to the 2004 tax return submitted would not attract any penalty so long as the amendments to the tax return are submitted to the IRB before the due date of 30 April 2005.

A situation arises in the case where an individual exercises part of his employment outside Malaysia and his overseas duties are assessed as being incidental to the exercise of his Malaysian employment. Part of his income is thus taxed in the foreign country (a non-treaty country) and in Malaysia. A unilateral credit for foreign tax suffered is due to the individual and a claim for such credit is to be supported by the tax return submitted (due in May of each year) in the foreign country. However, as his Malaysian tax return for the year of assessment 2004 would be due for submission by 30 April 2005, he would not be able to determine the actual foreign tax to be suffered since his foreign tax return would only be filed after April 2005. He may only be able to estimate the foreign tax suffered on his income from the exercise of his overseas duties for the purpose of the claim for unilateral relief at the point of submission of his Malaysian return and submit an amended tax return when the actual foreign tax suffered is determined upon submission of his foreign tax return.

The professional bodies would like to seek clarification whether the individual would be liable to penalty for amending the tax return after the due date for submission of the Malaysian tax return, i.e. after 30th April 2005 under the above circumstance.

Answer by IRB

This issue should be raised during the dialogue with Jabatan Pengurusan Hasil, LHDN (previously known as Bahagian Operasi).

5. Previous Dialogues

With regard to the minutes of previous dialogues with the Technical Division, the professional bodies would like to know the status of the issuance of public rulings or guidelines (for example the public ruling on the scope of Section 75A of the Income Tax Act, 1967 and the regulations on the tax treatment for Asset-Backed Securities, etc) which the IRB had indicated would be issued.

Answer by IRB

The IRB has completed drafting some of the public rulings. The draft of the Guideline on Tax Treatment for Asset-Backed Securities has been forwarded to Legal Department for review. Public ruling on entertainment will be issued soon whilst the public ruling on section 75A (director's liability) will be issued at a later date.

A10 GAZETTING OF 1998 TO 2004 BUDGET PROPOSALS

As of the date of this Budget Commentary, most of the 1998 to 2004 Budget proposals announced by the Honourable Finance Minister in the previous Budget Speeches have been gazetted by way of changes to the existing legislation or by issue of statutory orders. The proposals which have not been gazetted are summarised below:

1998

1. Private clinics which provide special wards for lower income earners will be given investment tax allowance of 60% on the qualifying capital expenditure incurred.

1999

1. Repair and maintenance activities for luxury boats and yachts undertaken in Langkawi will be granted tax exemption for a period of 5 years.

2003 Budget

1. Qualifying capital expenditure incurred by a non-rubber plantation company in the preparation of land, planting and maintenance of rubberwood cultivation will be given Accelerated Agriculture Allowance. The write-off period for the relevant expenditure will be accelerated from two years to one year on condition that the company plants at least 10% of its plantation with rubberwood trees.
2. Locally-owned manufacturing companies will be given additional tax incentives as follows:
   (i) Tax exemption of statutory income equivalent to 30% of increased export value, on condition that the company achieves a significant increase in exports;
   (ii) Tax exemption of statutory income equivalent to 50% of increased export value, on condition that the company succeeds in penetrating new markets; and
   (iii) Full tax exemption of statutory income for the company that records the highest increase in exports in a specific category.
3. An approved Regional Distribution Centre (RDC) will be granted the following incentives:
   (i) Income tax exemption of 100% on statutory income for 10 years;
   (ii) Dividends paid from the exempt income will be exempted from tax in the hands of the shareholders;

   The proposal is subject to the following conditions:
   (i) The RDC is incorporated in Malaysia under the Companies Act 1965;
   (ii) The RDC achieves a total annual turnover of at least RM100 million;
   (iii) The RDC is located in the free zones (free industrial zone or free commercial zone) or licensed warehouse (public and private) or licensed manufacturing warehouse; and
   (iv) The RDC is not permitted to sell more than 20% of its products to the local market.

   The tax exemption on statutory income and dividend in the hands of the shareholders granted to the RDC is also extended to the International Procurement Centre.
4. Operational Headquarters (OHQ) will be exempted from income tax for 10 years and the dividends paid from the exempt income will also be exempted in the hands of shareholders.

5. A company that invests in a wholly-owned subsidiary company involved in the consolidation of management of smallholdings or idle land will be allowed a deduction equivalent to the amount of the investment, and the wholly-owned subsidiary company involved in the consolidation of management of smallholdings or idle land will be exempted from service tax.

6. Locally-owned companies that reinvest in the promoted food processing activity will be given another round of the following incentives:

   (i) Companies located outside the promoted areas –

      (a) Pioneer Status with tax exemption of 70% of the statutory income for 5 years; or

      (b) Investment Tax Allowance (ITA) of 60% on qualifying capital expenditure incurred within a period of 5 years with the allowance deducted against 70% of statutory income in each year of assessment.

   (ii) Companies located in the promoted areas –

      (a) Pioneer Status with tax exemption of 85% of the statutory income for 5 years; or

      (b) ITA of 80% on qualifying capital expenditure incurred within a period of 5 years with the allowance deducted against 85% of statutory income in each year of assessment.

7. New and existing companies that undertake design, R&D and production of qualifying automotive modules or systems will be given the following incentives:

   (i) Pioneer Status with tax exemption of 100% of the statutory income for 5 years; or

   (ii) ITA of 60% on qualifying capital expenditure incurred within a period of 5 years with the allowance deducted against 100% of the statutory income in each year of assessment.

   The qualifying automotive component modules or systems are as follows:

   (a) front corner module;

   (b) rear corner module;

   (c) instrument panel module;

   (d) strut and absorbers and spring assembly module;

   (e) bumper module;

   (f) front cross member module;

   (g) function integrated door module;

   (h) fuel tank module;

   (i) seat module;

   (j) pedal module;

   (k) door trim module,

   (l) floor console module;

   (m) tyre and wheel module;

   (n) brake system;

   (o) wiper system;

   (p) exhaust system;

   (q) audio system;

   (r) HVAC (Heater Ventilation Air-Conditioning System);

   (s) air bag system;

(t) power and signal distribution system;

(u) alarm system;

(v) seat belt system;

(w) exterior lighting system;

(x) body in white module; and

(y) engine management system, safety system, telemetrics, navigational system, engine fuel injection, vehicle intelligence system.

8. The manufacture of the following categories of machinery and equipment will be classified as a strategic industry:

   (i) Specialised/process machinery or equipment for specific industries;

   (ii) Packaging machinery;

   (iii) Plastic extrusion machinery; and

   (iv) Parts and components for the above machinery and equipment.

9. Companies which invest in knowledge intensive activities will be given the following tax incentives and deductions:

   (i) A company granted "Strategic Knowledge-based Status Company" will be given pioneer status with tax exemption of 100% of statutory income for a period of 5 years or be given investment tax allowance of 60% on the qualifying capital expenditure incurred within a period of 5 years, with the allowance deducted for each year of assessment to be set-off against 100% of statutory income on certain conditions.

   (ii) Expenditure incurred by a company for drafting the individual Corporate Knowledge-based Master Plan will be allowed as a deduction in the tax computation. The deduction should be claimed when the company begins to implement the Corporate Knowledge-based Master Plan.

10. The existing incentives for the use of biomass as a source of renewable energy will be extended for another 3 years until 31 December 2005. The scope of the existing incentives will be extended to include the use of hydro electric power of not more than 10 megawatts and the use of solar power.

2003 Economic Stimulus Package

1. The requirements of small companies which are eligible for pioneer status with tax exemption of 100% of statutory income are as follows:

   (i) Equity holding will be reduced from 70% to 60%.

   (ii) Criteria –

   Either

   (a) achieves at least 15% value-added; or

   (b) the activities of the company contribute to the socio-economic development of the rural population.

2. Group relief will be extended under a pre-packaged scheme to forest plantations, including rubber plantations, and to selected products in the manufacturing sectors such as biotechnology, nanotechnology, optics and photonics.

3. The pre-packaged incentive scheme for Pioneer Status with 100% tax exemption for 10 years, or ITA of 100% for 5 years will be extended such that:

   (i) The maximum period for Pioneer Status will be extended to 15 years.

   (ii) The period for ITA will be extended to 10 years.

4. Expenditure on R&D activities undertaken overseas, including the training of Malaysian staff, will be considered for a double deduction, on a case-by-case basis.
5. R&D companies will be eligible for either a "second round" of the Pioneer status incentive for another 5 years or the ITA for a further 10 years.
6. Hypermarkets and direct selling companies that export locally produced goods will be given income tax exemption on statutory income equivalent to 20% of their increased export value.
7. Existing OHQs will be given 100% income tax exemption for their remaining exemption period.
8. International Procurement Centres which comply with existing criteria will be eligible for income tax exemption for 10 years.

2004

1. Manufacturing, agriculture and tourism companies in the promoted areas will be given the following additional tax incentives:
   (i) Pioneer Status with tax exemption of 100% of statutory income for a period of 5 years; or
   (ii) ITA of 100% of the qualifying capital expenditure incurred within a period of 5 years. The allowance can be used to set off against 100% of statutory income in each year of assessment.
2. Locally-owned companies which reinvest in the production of heavy machinery will be given the following additional tax incentives:
   (i) Companies located outside the promoted areas –
      (a) Pioneer Status with tax exemption of 70% on increased statutory income arising from reinvestment for a period of 5 years; or
      (b) ITA of 60% on additional qualifying expenditure incurred within a period of 5 years. The allowance can be set off against 70% of statutory income in each year of assessment.
   (ii) Companies located in the promoted areas –
      (a) Pioneer Status with tax exemption of 100% on increased statutory income arising from reinvestment for a period of 5 years; or
      (b) ITA of 100% on additional qualifying expenditure incurred within a period of 5 years. The allowance can be set off against 100% of statutory income in each year of assessment.
3. Locally-owned companies which reinvest in the production of machinery and equipment, including specialised machinery and equipment and machine tools, will be given the following incentives:
   (i) Pioneer Status with tax exemption of 70% (100% for promoted areas) on the increased statutory income arising from reinvestment for a period of 5 years; or
   (ii) ITA of 60% (100% for promoted areas) on additional qualifying capital expenditure incurred within a period of 5 years with the allowance deducted in each year of assessment against 70% (100% for promoted areas) of the statutory income.
4. Companies utilising biomass to produce value added products will be given the following additional tax incentives:
   (i) For new companies –
      (a) Pioneer Status with income tax exemption of 100% of statutory income for a period of 10 years; or

(b) ITA of 100% on qualifying capital expenditure incurred within a period of 5 years with the allowance deducted against 100% of statutory income in each year of assessment.

(ii) For existing companies that reinvest –

(a) Pioneer Status with income tax exemption of 100% on increased statutory income arising from reinvestment for a period of 10 years; or

(b) ITA of 100% on additional qualifying capital expenditure incurred within a period of 5 years with the allowance deducted against 100% of statutory income in each year of assessment.

5. Tax incentives for the venture capital industry will be enhanced as follows:

(i) For a venture capital company (VCC) –

(a) The method to determine the 70% investment requirement in venture companies (VCs) to qualify for tax exemption will be relaxed by taking into account only the value of funds invested and not the total gross fund which includes cash, fixed deposits and interest earned; and

(b) The condition that investment in VCs be disposed through the exit mechanism of an initial public offering to qualify for tax exemption will be extended to include any exit mechanisms approved by the Securities Commission.

(ii) For a venture capital management company (VCMC) –

The VCMC will be given a tax exemption on income arising from the profit-sharing agreement between a VCMC and a VCC.

6. Income from qualifying services provided by an Approved Operational Headquarters (OHQ) to its related companies in Malaysia will be given tax exemption provided such income does not exceed 20% of the OHQ income from qualifying services.

7. Hotel and tourism project operators who invest in expansion, modernisation and renovation will be given another round of incentives for a period of 5 years as follows:

(i) Companies located outside the promoted areas –

(a) Pioneer Status with tax exemption of 70% of statutory income; or

(b) ITA of 60% on qualifying capital expenditure incurred with the allowance deducted in each year of assessment against 70% of the statutory income.

(ii) Companies located in the promoted areas –

(a) Pioneer Status with income tax exemption increased from 85% to 100%; or

(b) ITA increased from 80% to 100% of capital expenditure deducted against 100% of the statutory income in each year of assessment.

8. Locally-owned companies which reinvest in cold chain facilities and services for perishable agricultural produce will be given the following incentives:

(i) Pioneer status with tax exemption of 70% (100% for promoted areas) on the increased statutory income arising from reinvestment for a period of 5 years; or

(ii) ITA of 60% (100% for promoted areas) on the additional qualifying capital expenditure incurred within a period of 5 years with the allowance deducted against 70% (100% for promoted areas) of statutory income in each year of assessment.

EXAMPLE OF TAX COMPUTATION FOR A TRADE ASSOCIATION BASED ON THE PROPOSED AMENDMENT

Based on Current Order - Income Tax (Exemption) (No. 7) Order 2002		
Business Income		
Member's subscription fees	1,000,000	
Seminar	500,000	
Trade Association activities	300,000	
Contribution	<u>200,000</u>	
		2,000,000
Less:		
Expenses		
Director's fees	100,000	
Employees remuneration	50,000	
Consultant fee	100,000	
Rental of seminar hall	130,000	
Food	50,000	
Member registration	20,000	
Transport	25,000	
Stationeries	<u>25,000</u>	<u>500,000</u>
		1,500,000
Less: Capital allowance		<u>500,000</u>
Statutory Business Income		1,000,000
Less:		
Amount exempt from tax		
[Statutory Business Income x <u>Gross member's subcription fees]</u> Gross business income		
[1,000,000 X <u>1,000,000</u> = 500,000] 2,000,000		<u>500,000</u>
Amount taxable		500,000

Based on Proposed Amendment - Attributable Method				
Business Income				
Member's subscription fees			1,000,000	
Less: member registration	20,000			
common expenses (*)	<u>100,000</u>	120,000		
Less: Common capital allowance		<u>175,000</u>		
			<u>295,000</u>	705,000
Seminar			500,000	
Less: Expenses				
Rental of seminar hall			130,000	
Food			50,000	
Common expenses (*)			<u>50,000</u>	
			270,000	
Less: Direct capital allowance	100,000			
Common capital allowance	<u>87,500</u>		<u>187,500</u>	82,500
Trade Association Activities			300,000	
Less: Expenses				
Consultant fee			100,000	
Common expenses (*)			<u>30,000</u>	
			170,000	
Less: Direct capital allowance	50,000			
Common capital allowance	<u>52,500</u>		<u>102,500</u>	67,500
Contribution			200,000	
Less: Common expenses (*)			<u>20,000</u>	
			180,000	
Less: Common capital allowance			<u>35,000</u>	<u>145,000</u>
Amount exempt from tax				705,000
Amount taxable				295,000

Computation of common expenses and common capital allowance:

A. Direct expenses attributable to:

i.	Members' registration fees	-	20,000 (member registration)
ii.	Seminar	-	130,000 (Rental of Seminar Hall) 50,000 (Food)
iii.	Trade Association Activities	-	100,000 (Consultant fee)

Common expenses:

Directors fees	100,000
Employees remuneration	50,000
Transport	25,000
Stationeries	25,000
	200,000

Computation of common expenses attributable to:

$$\left[\textbf{Common expenses} \times \frac{\textbf{Gross business income}}{\textbf{Total Gross Business Income}}\right]$$

i. Members subscription fees: $200{,}000 \times \frac{1{,}000{,}000}{2{,}000{,}000} = 100{,}000$

ii. Seminar: $200{,}000 \times \frac{500{,}000}{2{,}000{,}000} = 50{,}000$

iii. Trade Association Activities: $200{,}000 \times \frac{300{,}000}{2{,}000{,}000} = 30{,}000$

iv. Contribution: $200{,}000 \times \frac{200{,}000}{2{,}000{,}000} = 20{,}000$

B. Direct capital allowance attributable to:

i.	Seminar	-	100,000 (Equipments)
ii.	Trade Association Activities	-	50,000 (Equipments)

Common capital allowance: 350,000

Computation of common capital allowance attributable to:

[Common capital allowance x $\frac{\text{Gross income}}{\text{Total Gross Business Income}}$]

Members subscription fees: $350{,}000 \times \frac{1{,}000{,}000}{2{,}000{,}000} = 175{,}000$

Seminar: $350{,}000 \times \frac{500{,}000}{2{,}000{,}000} = 87{,}500$

Trade Association Activities: $350{,}000 \times \frac{300{,}000}{2{,}000{,}000} = 52{,}500$

Contribution: $350{,}000 \times \frac{200{,}000}{2{,}000{,}000} = 35{,}000$

Appendix 2

SESSI PERBINCANGAN - ISU-ISU BELANJAWAN TAHUN 2005

Issues relating to previous budget proposals (Pages 46 - 50 of Budget Complementary & Tax Information)

Budget Proposal 1998		Answers
	1	Special wards for lower income earners provided by private clinics is recognised as an approved service project under Schedule 7B ITA 1967. Therefore, no income tax rules to be issued.
Budget Proposal 1999		
	1	The income tax exemption order for the income derived from repair and maintenance activities for luxury boats and yachts in Langkawi - has been discussed with MOF.
Budget Proposal 2003		
(1)	1	The income tax rules for the accelerated agriculture allowance on qualifying capital expenditure incurred by a non-rubber plantation company in the preparation of land, planting and maintenance of rubber wood cultivation - being drafted
(2)	2	The deduction for expenses incurred by a company in sponsoring Family Days falls under the existing section 39(1)(l)(i) ITA1967. Therefore, no income tax rules to be issued.
(4)	3	The income tax exemption order for the value of increased export for locally owned manufacturing under (i), (ii) and (iii) - being drafted.
(5)	4	The income tax exemption order for the income derived from the activities of an approved RDC - being drafted.
(6)	5	The income tax exemption order for the income derived from the activities of an approved OHQ - being drafted.
(7)	6	The income tax rules for a company that invests in the wholly-owned subsidiary company involved in the consolidation of management of smallholdings or idle land - under discussion.
(11)(ii)	7	The income tax rules for expenditure incurred by a company for drafting the individual Corporate Knowledge based Master Plan - being drafted.

2003 Economic Stimulus Package		Answers
(2)	1	The income tax exemption order for group relief under pre pacakage incentives i.e forest plantations and selested products such as biotechnology, nanotechnology, optics and photonics - under discussion.
(3)	2	The income tax exemption order for the pre package incentive scheme for pioneer status with 100% exemption for 10 years or investment tax allowance of 100% for 5 years - being drafted.
(4)	3	Application for approval of double deduction on expenditure incurred for R&D activities undertaken overseas has to be made to MOF.
(6)	4	The income tax exemption order for the value of increased export of locally produced product exported by the hypermarket and direct selling companies - being drafted.
(7)	5	The income tax exemption order for the income derived from the activities of a new and existing OHQ are provided under the same exemption order - being drafted.
(8)	6	The income tax exemption order for the income derived from activities of an approved IPC - being drafted.
Budget Proposal 2004		
(5)	1	The income tax exemption order for the income derived from activities of venture capital company and venture capital management company - being drafted.
(6)	2	The income from qualifying services provided to related company in Malaysia by an approved OHQ is exempted under the same income tax exemption order for OHQ under Budget 2003 - being drafted.

Note :

Incentives provided under Promotion of Investments Act (PIA) 1986:

1. Pioneer status; and

2. Investment tax allowance.

   PIA 1986 will be amended and the proposed activities or products will be gazetted as promoted activities or products under the Promotion of Investments Order.