# INLAND REVENUE BOARD OF MALAYSIA

## PRIVATE RETIREMENT SCHEME

## PUBLIC RULING NO. 9/2014

Translation from the original Bahasa Malaysia text

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**DIRECTOR GENERAL'S PUBLIC RULING**

Section 138A of the Income Tax Act 1967 [ITA] provides that the Director General is empowered to make a Public Ruling in relation to the application of any provisions of the ITA.

A Public Ruling is published as a guide for the public and officers of the Inland Revenue Board of Malaysia. It sets out the interpretation of the Director General of Inland Revenue in respect of the particular tax law and the policy as well as the procedure applicable to it.

The Director General may withdraw either wholly or in part, by notice of withdrawal or by publication of a new ruling.

**Director General of Inland Revenue,**
**Inland Revenue Board of Malaysia.**

## 1. Objective

The objective of this Public Ruling (PR) is to clarify the tax treatment of:

(a) private retirement scheme (PRS) contributions by an individual and the employer; and

(b) income of the PRS fund.

## 2. Relevant Provisions Of The Law

2.1. This PR takes into account laws which are in force as at the date this PR is published.

2.2. The provisions of the Income Tax Act 1967 (ITA) related to this PR are sections 2, 20 and 109G, subsections 22(2), 34(4) 49(1D) and 49(1E) and paragraph 20 of Schedule 6.

## 3. Interpretation

The words used in this PR have the following meanings –

3.1 “Permanent total disablement" has the same meaning assigned to it in accordance with the Employees' Social Security Act 1969 [Act 4].

3.2 “Individual” means a natural person.

3.3 "Employer", in relation to an employment, means –

(a) where the relationship of master and servant subsists, the master, or

(b) if the relationship of master and servant does not subsist, the person who pays or is responsible for paying any remuneration of employee who has the employment, notwithstanding that that person and the employee may be the same person acting in different capacities.

3.4 "Employee", in relation to an employment, means –

(a) where the relationship of servant and master subsists, the servant, or

(b) if the relationship between the servant and the master does not subsist, the holder of the appointment or office that constitutes the employment.

3.5 "Resident" means a resident in Malaysia for the basis year for a year of assessment by virtue of section 7 of the ITA.

3.6 "Employment" means –

(a) employment in which the relationship between master and servant subsists, or

(b) any appointment or office, whether public or not and whether or not that relationship of master and servant subsists, for which remuneration is payable.

3.7 "Serious disease" means acquired immunity deficiency syndrome, Parkinson's disease, cancer, renal failure, leukemia or other similar diseases.

3.8 "Private Retirement Scheme" means a retirement scheme approved by the Securities Commission (SC) in accordance with the Capital Markets and Services Act 2007 (CMSA).

3.9 "Basis year" in relation to a year of assessment for an employment source income, is the basis period for that year of assessment.

3.10 "Year of assessment" means the calendar year.

## 4. Establishment And Features Of The Scheme

### 4.1. Introduction of PRS

4.1.1. In Budget 2012, the Government introduced PRS which aims to encourage people to increase retirement savings for their old age. PRS is a scheme approved by the SC.

4.1.2. PRS aims to increase the options available to all Malaysians, whether salaried or self-employed, to supplement their retirement savings in an environment that is structured and regulated.

4.1.3. PRS is designed with options, flexibility, is affordable and easily accessible, to appeal to the different segments of our society. Each PRS contains a variety of retirement funds that can be chosen by an individual to invest based on his needs and retirement goals.

4.1.4. Contributions to the PRS can be made either by the individual himself or by his employer.

4.1.5. An employer can make use of the PRS as a tool to retain star employees and to gain loyalty from employees.

4.2. **PRS Providers**

4.2.1. PRS providers are asset management companies and are approved by the SC under section 139Q of the CMSA.

4.2.2. PRS providers will offer the scheme and manage the designated funds in the interest and benefit of the investors. PRS providers are subject to regulatory requirements and continous monitoring by the SC.

4.3. **Private Pension Administrator**

4.3.1. To provide efficiency of service and convenience to investors, the Private Pension Administrator (PPA) is established by the SC to provide an efficient administrative framework for the development and operation of private pension. Some of its responsibilities include tracking of PRS contributions by investors and keeping all the transactions relating to PRS made by investors.

4.3.2. PPA has the mandate to fulfill public interest and to act in the best interests of the investors. PPA will also be responsible for creating awareness about the PRS and acts as a resource center for data and research for all things related to the PRS industry in Malaysia.

4.3.3. With the establishment of the PPA, investors can now enjoy easy access to consolidated information on all of their investments in the PRS, no matter how many of the funds they have invested or the number of PRS providers they engaged.

4.4. **Trustees**

4.4.1. Trustees are approved under section 139ZC of the CMSA by the SC.

4.4.2. The responsibilities of trustees are as specified in the Capital Market and Services (Private Retirement Scheme Industry) Regulations 2012, which include:

(a) at all times exercise its powers for a proper purpose and in good faith in the best interests of investors as a whole;

(b) take custody and control of all securities, derivatives, property and assets of a PRS and hold it in trust for the investors in accordance with the provisions and covenants of the deed, the provisions of the CMSA, the Regulations and any guidelines issued by the SC; and

(c) keep records of all transactions relating to the PRS funds and ensure that all accounts and records kept are complete and accurate.

4.5. **Features**

4.5.1. PRS is a voluntary long-term investment scheme that offers a range of funds to cater to different risk profiles.

4.5.2. PRS operates as a unit trust scheme with trustee to ensure that the fund's assets are segregated from the PRS provider. Funds under PRS will be professionally managed by PRS providers to meet investors' retirement objectives.

4.5.3. PRS is opened to all individuals aged 18 years old and above.

4.5.4. There would be no fixed amounts or fixed intervals for making contributions to a PRS fund. This means that contributions are flexible depending on the financial ability of the investor.

4.5.5. Option to switch funds within a PRS managed by the same provider is allowed at any time or change to another PRS provider is allowed once in a calendar year, provided an investor has participated in the PRS fund for one year.

4.6. **Types of Funds**

4.6.1. PRS offers various types of funds for which an investor can contribute to more than one fund under a PRS, or to contribute to more than one PRS offered by different PRS providers.

4.6.2. Default options are available to investors who do not specify funds of their choice. The default options would cater for different age groups. PRS providers will need to ensure that the investors are assigned to the funds in accodance with the relevant age groups as shown below –

| | Growth Fund | Moderate Fund | Conservative Fund |
|---|---|---|---|
| **Age Group** | Below 40 years of age | 40 to 49 years of age | 50 years of age and above |
| **Investments** | Maximum 70% equities.<br><br>Investments outside Malaysia is permitted. | Maximum 60% equities.<br><br>Investments outside Malaysia is permitted. | 80% in debentures/fixed income instruments, of which 20% must be in money market instruments and a maximum of 20% in equities.<br><br>Investments outside Malaysia is not permitted. |

4.7. **Distribution of contributions**

4.7.1. Contributions to a PRS fund will be split and maintained in sub-accounts A and B, consisting of 70% and 30% respectively of the total contributions. The values of sub-account A and B may be increased or decreased according to the unit price of the PRS fund.

4.7.2. Withdrawals of contributions from each account are as follows –

(a) sub-account A:

can be withdrawn only upon reaching the retirement age of 55 years old, and

(b) sub-account B:

can be withdrawn only once a year.

4.7.3. Contributions in sub-account A and sub-account B can be withdrawn any time for the following reasons:

(a) permanent total disablement;

(b) serious disease;

(c) mental disability;

(d) death; or

(e) permanently leaving Malaysia.

## 5. Tax Treatment

### 5.1. Deduction for contributions made by an individual

#### 5.1.1. Deduction and eligibility

To encourage an individual to increase savings for retirement, contributions paid to the PRS fund by an individual can be allowed as a deduction in computing the chargeable income of an individual resident in Malaysia.

An individual who makes contributions to the scheme is allowed to claim a deduction on the amount made subject to a maximum of RM3,000 in a year of assessment under subsection 49(1D) of the ITA.

The amount of RM3,000 is inclusive of premiums paid for deferred annuity. The tax deduction is effective for 10 years from the year of assessment 2012 until the year of assessment 2021.

**Example 1**

Salleh made contributions to a PRS fund for the year of assessment 2012 and the year of assessment 2013 with the amounts RM1,500 and RM4,500 respectively. No deferred annuity premiums were paid.

Deduction for PRS contributions allowed under subsection 49(1D) of the ITA is as follows:

| Year Of Assessment | 2012 | 2013 |
|---|---|---|
| Allowable deduction (RM) | 1,500 | 3,000 |

**Example 2**

The table below shows –

(a) the total amount of PRS contributions and deferred annuity premiums made in the year of assessment 2013 by individuals, and

(b) the amount of deduction that can be allowed in the year of assessment 2013 under subsection 49(1D) of the ITA.

| No. | Name Of Individual | Payments Or Contributions Made In The Year Of Assessment 2013 | | | Amount Of Deduction Allowed In The Year Of Assessment 2013 Subsection 49(1D) |
|---|---|---|---|---|---|
| | | Total PRS Contributions (RM) | Total Deferred Annuity Premiums (RM) | Aggregate Amount (RM) | Amount C Or RM3,000 , Whichever Is Lower (RM) |
| | | A | B | C = A+B | |
| 1 | Ali | 2,000 | - | 2,000 | 2,000 |
| 2 | Amin | - | 2,500 | 2,500 | 2,500 |
| 3 | Siva | 3,000 | - | 3,000 | 3,000 |
| 4 | Sukri | - | 3,000 | 3,000 | 3,000 |
| 5 | Paul | 10,000 | - | 10,000 | 3,000 |
| 6 | Chua | - | 8,000 | 8,000 | 3,000 |
| 7 | Saat | 1,800 | 1,000 | 2,800 | 2,800 |
| 8 | Charles | 1,800 | 1,900 | 3,700 | 3,000 |
| 9 | Tan | 4,000 | 5,000 | 9,000 | 3,000 |
| 10 | Abu | 5,000 | 2,000 | 7,000 | 3,000 |

5.1.2. **Deduction against total income**

The amount of PRS contributions allowable in a year of assessment shall be available as a deduction against the total income of the resident individual in arriving at his chargeable income.

**Example 3**

Mary is single and is resident in Malaysia for the basis year for the year of assessment 2013 with statutory income as follows:

| Sources Of Income | Statutory Income (RM) |
|---|---|
| Business | 70,000 |
| Employment | 180,000 |
| Rent | 12,000 |

For the year ended 31.12.2013, she made payments for the following:

| Types Of Payment | Amount (RM) |
|---|---|
| EPF | 19,800 |
| Life insurance premiums | 7,000 |
| PRS | 4,000 |

**Tax computation for the year of assessment 2013**

| | RM | RM |
|---|---|---|
| Statutory income from business | 70,000 | |
| Statutory income from employment | 180,000 | |
| Statutory income from rent | 12,000 | |
| Aggregate / Total Income | | 262,000 |
| Less: Deduction for - | | |
| Self and dependent relatives | 9,000 | |
| Life insurance premiums & EPF (Restricted ) | 6,000 | |
| Subsection 49(1D) | | |
| PRS RM4,000 (Restricted ) | 3,000 | 18,000 |
| Chargeable income | | 244,000 |

**Example 4**

The facts are the same as in Example 3, except that the payments made are as follows:

| Types Of Payment | Amount (RM) |
|---|---|
| EPF | 19,800 |
| Life insurance premiums | 7,000 |
| Deferred annuity premiums | 1,200 |
| PRS | 1,600 |

**Tax computation for the year of assessment 2013**

| | | | RM | RM |
|---|---|---|---|---|
| Statutory income from business | | | 70,000 | |
| Statutory income from employment | | | 180,000 | |
| Statutory income from rent | | | 12,000 | |
| Aggregate / Total Income | | | | 262,000 |
| Less: | Deduction for - | | | |
| | Self and dependent relatives | | 9,000 | |
| | Life insurance premiums & EPF (Restricted) | | 6,000 | |
| | Subsection 49(1D) | | | |
| | Deferred annuity premiums | 1,200 | | |
| | PRS | 1,600 | 2,800 | 17,800 |
| Chargeable Income | | | | 244,200 |

5.1.3. **Combined assessment**

Subsections 50(2) and 50(3) of the ITA provide that if a husband or wife elects for combined assessment under subsection 45(2) of the ITA, the PRS contributions or deferred annuity premiums that are paid by the husband or the wife will be deemed to have been made by the spouse and the amount claimed shall not exceed RM3,000.

**Example 5**

Munir is married and his wife is not working. He is resident in Malaysia for the basis year for the year of assessment 2014 with statutory income as follows:

| Sources Of Income | Statutory Income (RM) |
|---|---|
| Employment | 200,000 |
| Rent | 15,000 |

For the year ended 31.12.2014, the following payments are made:

| Types Of Payment | | Amount (RM) |
|---|---|---|
| EPF | Munir | 22,000 |
| Life insurance premiums | Munir | 7,000 |
| Deferred annuity premium | Munir | 2,000 |
| PRS | Munir's wife | 2,000 |
| | Munir | 5,000 |

**Tax computation for the year of assessment 2014 (Munir)**

| | RM | RM |
|---|---|---|
| Statutory income from employment | 200,000 | |
| Statutory income from rent | 15,000 | |
| Aggregate / Total Income | | 215,000 |
| Less : Deduction for- | | |
| Self and dependent relatives | 9,000 | |
| Wife | 3,000 | |
| Life insurance premiums & EPF (Restricted) | 6,000 | |
| Deferred annuity premiums & PRS under subsection 49(1D) (Restricted) | 3,000 | 21,000 |
| Chargeable Income | | 194,000 |

**Example 6**

The facts are the same as in Example 5, except that for the year ended 31.12.2014, the following payments are made:

| Types Of Payment | | Amount(RM) |
|---|---|---|
| EPF | Munir | 22,000 |
| Life insurance premium | Munir | 7,000 |
| PRS | Munir | - |
| | Munir's wife | 2,000 |

**Tax computation for the year of assessment 2014 (Munir)**

| | RM | RM |
|---|---|---|
| Statutory income from employment | 200,000 | |
| Statutory income from rent | 15,000 | |
| Aggregate / Total Income | | 215,000 |
| Less: Deduction for- | | |
| Self and dependent relatives | 9,000 | |
| Wife | 3,000 | |
| Life insurance premiums & EPF (Restricted) | 6,000 | |
| PRS contributions under subsection 49(1D) | 2,000 | 20,000 |
| Chargeable income | | 195,000 |

5.2. **Deduction for contributions made by employers**

5.2.1. Employers can use the scheme for employees' retirement benefits by contributing to the PRS. Contributions made by employers on behalf of their employees are allowable as a deduction under subsection 34(4) of the ITA subject to a maximum of 19% of the employees' remuneration.

**Example 7**

Kreatif Sdn Bhd made the following contributions for the accounting period ending on 31 December 2013:

(a) EPF = 12% of employees' remuneration; and

(b) PRS funds = 7% of employees' remuneration.

Total employees' remuneration for the period was RM300,000. Allowable deduction to the company under subsection 34(4) of the ITA is RM57,000 (RM300,000 x 19%).

**Example 8**

Impian Sdn Bhd made contributions to the EPF and PRS funds amounting to 12% and 9% respectively of the employees' remuneration in 2013. Total employees' remuneration for the year 2013 was RM550,000.

Total amount of deduction under subsection 34(4) of the ITA is 19% of the employees' remuneration only, that is RM104,500. The excess of 2% of contributions is not allowed any deduction. The excess amount of contributions RM11,000 will be added back in the tax computation of the company.

5.2.2. Contributions to PRS made by an employer for his employees are subject to the vesting schedule. A vesting schedule indicates when the employees have legal rights to keep the benefits of the contributions made by the employer. Employees will receive accrued benefits only when the scheme is vested for a specified period as stated in the agreement.

5.2.3. If any employee ceased employment before the pre-determined vesting period, the employer can take back the surplus from the PRS fund. However, for such cases, the provision of subsection 22(2) of the ITA applies.

**Example 9**

Hamdan signed an agreement relating to a defined benefit plan under the PRS with his employer. Based on the agreement, Hamdan has to work for at least 6 years from the date of commencement of service to be eligible to enjoy the full benefits offered under the scheme. The following is a vesting schedule specified in the agreement between Hamdan and his employer:

| Year Of Service | Vesting (%) |
|---|---|
| 1 year | 0 |
| 2 years | 20 |
| 3 years | 40 |
| 4 years | 60 |
| 5 years | 80 |
| 6 years | 100 |

Hamdan worked for Cergas Mewah Sdn Bhd with a salary of RM60,000 per annum. The employer contributed RM4,200 per year (7% of Hamdan's salary) to a PRS fund of his choice.

Hamdan resigned from Cergas Mewah Sdn Bhd after 3 years of service in the company at the age of 50 years old. The total contributions for the 3 years were RM12,600. Net asset value of the fund has decreased to RM10,000 at the end of the third year .

Based on the vesting schedule, Hamdan would be entitled to 40% of the accrued benefits while the employer would receive the balance of 60%. Tax treatment for Hamdan and Cergas Mewah Sdn Bhd are as follows –

(a) Hamdan

Eligible to accrued benefit of RM4,000 [sub-account A: RM2,800 (70%) and sub-account B: RM1,200(30%)]. Amount in sub-account A cannot be withdrawn before the age of 55 years old unless for reasons stated in paragraph 4.7.3. The amount in sub-account B can be withdrawn but subject to a withholding tax of 8%, and

(b) Cergas Mewah Sdn Bhd

The amount of RM6,000 (60 % x RM10,000) will be returned to the employer. The amount received would be part of the gross income of the company as provided under subsection 22(2) of the ITA.

5.3. **Early withdrawal**

5.3.1. Withholding tax (final tax) at the rate of 8% will be imposed for early withdrawal except for reasons stated in paragraph 4.7.3.

5.3.2. Withdrawal that meets the conditions stated in paragraphs 4.7.2(a) and 4.7.3 will be exempted from tax.

5.3.3. Investors can withdraw contributions from sub-account B once a year. Under the provision of section 109G of the ITA, the payer (PRS provider) needs to deduct withholding tax at 8% on the amount withdrawn. The amount of withholding tax deducted must be remitted to the Director General of Inland Revenue (DGIR) within one (1) month (or such longer period if extension of time has been allowed by the DGIR) after payments have been made to the investors.

**Example 10**

Makmur contributed to a PRS fund from the year 2012. In the year of 2014, he applied to withdraw part of the contributions from sub-account B. Information on Makmur's accounts is as follows –

| Year | Contribution | Sub-Account A (RM) | Sub-Account B (RM) |
|---|---|---|---|
| 2012 | RM1,000 | 700 | 300 |
| 2013 | RM2,000 | 1,400 | 600 |
| | Balance c/f[1] | 2,100 | 900 |
| 2014 | Withdrawal | - | (600) |
| | Balance c/f | 2,100 | 300 |

| | |
|---|---|
| Total withdrawal | RM600 |
| Withholding tax @ 8% | RM 48 |
| **Amount received by Makmur** | **RM552** |

Note:

[1] c/f – carried forward

5.3.4. If the payer failed to remit the withholding tax within the period of one month from the date of payment to the investors, the amount of withholding tax not paid to the DGIR will be increased by 10%.

**Example 11**

Same facts as in Example 10. The PRS provider failed to remit the amount RM48 within one month from the date of payment to Makmur. Under such situation, a 10% increase on the amount of withholding tax not remitted would be imposed on the PRS provider.

| | |
|---|---|
| Withholding tax not paid | RM48.00 |
| 10 % increase in tax | RM 4.80 |
| **Debt due to the Government** | **RM52.80** |

5.3.5. The DGIR may use his discretion to write off all or part of the increase in tax that has been imposed.

5.3.6. If a payer has made payment to a recipient without deducting any witholding tax, the amount of withholding tax still has to be paid and remitted to the DGIR. The payer may recover the amount from the recipient.

**Example 12**

Ghazali made contributions to a PRS fund through payroll deduction by the employer on a monthly basis. Ghazali requested to withdraw part of his contributions amounting to RM30,000 before reaching the age of 55 years old.

The PRS provider failed to withhold tax of 8% on the amount paid to Ghazali. Although the payment has been made to Ghazali, the payer is required to pay the withholding tax of RM2,400 (RM30,000 @ 8%) within one month from the date of payment to Ghazali. The PRS provider can recover the amount of RM2,400 from Ghazali.

5.4. **Switching funds**

If an investor switches a fund to another fund either managed by the same or a different PRS provider, no withholding tax would be imposed as he does not make any withdrawal in cash when the switch is made.

5.5. **Exemption from tax on income received by the PRS fund**

5.5.1. Income received by a PRS fund is exempt from tax under paragraph 20, Schedule 6 of the ITA.

5.5.2. The PRS provider is required to keep separate accounts for each PRS fund managed by him.

5.6. **Distribution of profits received by investors**

If PRS funds distribute profits to investors in the form of units and credit them in the investors' accounts, such profit distributions will not be taxable as the investors do not make any withdrawals from the funds.

**Director General of Inland Revenue,**
**Inland Revenue Board of Malaysia.**