

TECHNICAL

IRB Media Release -- [Clarification on Early Withdrawals from PRS \(WHT Applicable\) & Amendment to S.75A, ITA 1967](#)

The Inland Revenue Board (IRB) issued a Media Release on 12 December 2013 to clarify matters relating to concerns that have arisen over the following issues:

Withholding tax on early withdrawal of contribution to Private Retirement Schemes (PRS)

To encourage Malaysians to have an additional source of savings, besides the Employee's Provident Fund, after the age of retirement, legislation was introduced to allow personal relief in respect of contributions to PRS (subject to limits) effective from year of assessment (YA) 2012. The amount allowed to be deducted is RM3,000 (as personal relief) and together with the relief for contribution to approved fund and life insurance policy premium of RM 6,000 for a YA, is regarded as adequate.

Early withdrawal of contributions to PRS before age 55 negates the original intention of ensuring that Malaysians have adequate savings upon retirement and will have a detrimental effect on achieving the objective of having sufficient funds for living comfortably after retirement.

Hence, imposing withholding tax of 8% on early withdrawal of contributions to PRS before age 55 is (considered) appropriate as a way to curb the tendency for such early withdrawal.

Nevertheless, exemption from withholding tax is still available if early withdrawal is due to the following reasons:

- i) Death of contributor;
- ii) Contributor leaving Malaysia permanently;
- iii) Contributor is certified by a medical practitioner registered with the Malaysian Medical Council / "Majlis Perubatan Malaysia" to have contracted a serious/critical illness;
- iv) Contributor is certified to be permanently disabled;
- v) Contributor is certified to be mentally unstable.

It is reiterated that contributions, gains and income from PRS is exempted from withholding tax if withdrawal is made by the contributor after age 55.

Amendment to Section 75A of the ITA

The amendment to Section 75A of the ITA merely reduced the percentage of ordinary share capital controlled (by a "director" of a company) from 'more than 50%' to 'not less than 20%'. The IRB is of the view that this is in line with the definition of "controlled company" in section 2 of the ITA where the number of directors does not exceed 5 persons.

The IRB is of the opinion that the amendment is therefore not intended to extend the scope of tax liability to shareholders of the company, but is a measure to ensure that every shareholder is responsible for the tax obligations of the company, thereby avoiding the company's falling into arrears in respect of taxes on the company's profits.

This amendment is only applicable to directors of a company who have the power to make decisions and control operations of the company.

Members may read the full text of the [Media Release](#) at the websites of the Institute and the IRB.

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