e-CIRCULAR TO MEMBERS

CHARTERED TAX INSTITUTE OF MALAYSIA (225750-T)

e-CTIM TECH-DT 48/2014 **09 July 2014**

TO ALL MEMBERS

TECHNICAL

Direct Tax

PUBLIC RULING 4/2014 – DEFERRED ANNUITY

Our e-CTIM TECH-DT 43/2014 dated 3 July 2014 on the above Public Ruling (PR) refers. Following the amendments to Sections 2, 49(1D) and 109G of the Income Tax Act 1967, introduced by Finance Act 2014, the Inland Revenue Board uploaded the above PR recently to explain --

- The deductibility of premiums paid by an individual for deferred annuity;
- The exemption of annuity income for an individual; and
- The exemption of income of a life insurer and takaful operator from an investment made out of a life fund or family fund in respect of deferred annuity.

Some salient points in the Public Ruling are highlighted below:

	Ref. in PR
Annuity in General	4
• The terms “annuitant”, “beneficiary” and “policy owner” as used in the Public Ruling have specific meanings which are explained in paragraph 4.1.	4.1
• “Annuity” means (a) A fixed sum of money paid to an individual annually, usually for the remaining part of his lifetime; or (b) A form of insurance that provides such a regular annual income.	4.2
• Paragraph 4.3 explains “annuity in relation to insurance or takaful business” in more detail. An important point made is that based on the time of income payments to the annuitants, annuities can be categorized into 2 types: (a) *Immediate annuity* refers to an insurance or takaful contract where the annuitant begins to receive the annuity income immediately upon or within a year of the purchase of the annuity policy. (b) *Deferred annuity* refers to an insurance or takaful contract, plan etc. by which a life insurer or takaful operator agrees to make a series of annuity income payments, in exchange for a purchase price, to an individual (annuitant) at regular intervals for a specific period of time which commences on a specified date more than 12 months after the purchase of the insurance or takaful contract, plan etc.	4.3.5 Ex. 1
Deferred Annuity	5
• For income tax purposes, a deferred annuity contracted on or after 1.1.2014 must have the following features: - Issued by insurers licensed under the Financial Services Act 2013 or takaful operators registered under the Islamic Financial Services Act 2013;	5.1

and - Contains the Retirement Saving Standards* (RSS) approved by the Central Bank of Malaysia. * RSS is explained in paragraph 5.2	
• The total premiums of a deferred annuity policy should be apportioned to 2 components, (a) Annuity premiums, and (b) Non-annuity premiums.	5.3.2
• If an immediate annuity policy has all the features of a deferred annuity described in paragraph 5.1 and the annuitant in actual fact, only begins to receive annuity income more than 12 months after the purchase of the policy, the policy would be treated as a deferred annuity.	5.3.4
Tax Treatment	6
Deduction for premiums paid • An individual who is resident in Malaysia for the basis year for a year of assessment (YA), who has – - paid premium for deferred annuity, or - made or suffered the making of a contribution to a private retirement scheme (PRS) is allowed a deduction in computing his/her chargeable income, for the aggregate amount of the payments or contribution or both, or the amount of RM3,000, whichever is the lower. The deduction is effective for 10 years from YA2012 until YA2021. The tax treatment prior to YA2012 (YA2010-2011) is set-out in the note to paragraph 6.1.	6.1
• Deferred annuities, if contracted: - on or after 1.1.2014, will qualify for deduction if they have all the features listed in paragraph 5.1 - before 1.1.2014 will qualify for deduction irrespective of whether they have all the features listed in paragraph 5.1.	6.1.1 Ex. 2 & 3
• The deduction for deferred annuity premiums is allowed against total income of the resident individual in arriving at his chargeable income.	6.1.2 Ex.4 & 5
• In a combined assessment (husband and wife) the amount of deduction allowed for the aggregate amount of deferred annuity premiums and PRS contributions shall not exceed RM3,000.	6.1.3 Ex. 6 & 7
• No deduction is allowed for non-annuity premiums.	6.1.4 Ex. 8

Withdrawal of contributions before age 55 is subject to tax • Any withdrawal (full or partial) made during the premium payment period before age 55 is subject to tax at the rate of 8% on the total amount withdrawn. • The amount withdrawn is subject to withholding tax which must be paid to the DGIR within one month (or such extended time as the DGIR may allow) after payment of the net amount of withdrawal to the policy holder. If the payer fails to comply with this requirement, the amount of tax unpaid on that date will be increased by 10%.	6.2 6.2.1 6.2.1 Ex. 10
Annuity income exempted • Annuities received under annuity contracts issued by Malaysian life insurers are exempt in the hands of the annuitant.	6.3 Ex.11
Exemption of income for life insurer and takaful operator • Any income of a life insurer or takaful operator from an investment made out of the life fund or family fund in respect of a deferred annuity established in accordance with the RSS approved by the Central Bank of Malaysia is exempt from tax from YA 2012. • The exemption is given at chargeable income level.	6.4.1 Ex. 12 & 13 6.4.3

Members can refer to the Public Ruling at the websites of the Institute and the IRB.

You may write to the Institute at technical@ctim.org.my or secretariat@ctim.org.my in respect of any concern or comments you may have on the above public ruling.