CHARTERED TAX INSTITUTE OF MALAYSIA

e-CIRCULAR TO MEMBERS

CHARTERED TAX INSTITUTE OF MALAYSIA (225750-T)

e-CTIM TECH-DT 78/2014 **19 November 2014**

TO ALL MEMBERS

TECHNICAL

Direct Taxation

PUBLIC RULING NO. 7/2014 – TAXATION OF UNIT TRUSTS

The above Public Ruling (PR) was published by the Inland Revenue Board (IRB) on 4 November 2014. It replaces PR No. 6/2013 published on 23 May 2013.

Objective

The objective of the PR is to explain the taxation of unit trust funds and property trust other than a real estate investment trust or property trust fund (REIT / PTF) regulated by the Securities Commission (SC).

Important Definitions

The terms ‘Individual’ and ‘Person’ are defined as follows:

Term	**Meaning**
Individual	A natural person
Person	Includes a company, a body of persons, a limited liability partnership and a corporation sole.

Other terms defined in Para 3 of the PR are “Director General” and “Securities Commission”.

Taxation of Unit Trusts

The following table summarises points in the PR relating to the taxation of unit trusts:

Para Heading & No. in PR	**Summary**
Basis of Assessment Para 4	The basis period will be either the financial accounting period (for a period of 12 months not ending on 31 Dec.) or the basis year for the year of assessment (YA). (all subsections of S.21A except S.21A(5) of the ITA) Refer to Example 1 in the PR for an example of the basis periods for the years of assessment of a unit trust.
Residence status Para 5	A unit trust is a trust body. Pursuant to S.61(3) of the ITA, the unit trust is resident in Malaysia for the basis period for a YA if any trustee member of the trust body is resident in Malaysia for that basis period.
Deductibility of expenses Para 6	*Deductible expenses* – S.33(1) of the ITA is applicable (expenses wholly and exclusively incurred in the production of gross income are allowable against each source of the fund) in determining deductibility of an expense. Examples of deductible expenses are given in Para 6.1(a) and (b). *Non-deductible expenses* – Examples are listed in Para 6.2 (a) to (e). E.g. manager’s remuneration, secretarial, audit and accounting fees, telephone charges, postage etc. are not deductible, being not wholly and

	exclusively incurred in the production of investment income. *Special deduction* – Under S.63B of the ITA, a special deduction for "permitted expenses" is allowed in ascertaining the **total income** of a unit trust. The amount is computed using the formula: $$A \times \frac{B}{4C}$$ Where: - A is the total permitted expenses; - B is the gross income consisting of dividend and interest and rent chargeable to tax for that basis period; - C is the aggregate gross income consisting of **dividend and interest (whether such income is exempt or not)**, and rent and gains made from the realisation of investments (whether chargeable to tax or not) for that basis period. The amount of deduction allowed is subject to a minimum of 10% of total permitted expenses incurred in the basis period. It is deducted from aggregate income and any unabsorbed portion is not allowed to be carried forward to a subsequent YA. Prior to YA 2014, the amount of deduction allowed is computed using the same formula (above) except that C is the aggregate gross income consisting of **dividend (whether exempt or not)**, interest, rent and gains made from the realisation of investments (whether chargeable to tax or not) for that basis period.
Taxation of Unit Trusts Para 7	Taxation of a unit trust is governed principally by S.61 and S.63B of the ITA. The applicable tax rate is specified in para 2, Part I of Sch.1 of the ITA. Examples of computation of a unit trust's chargeable income and tax payable are found in Examples 2 to 4 in the PR.
Taxation of Property Trusts other than REIT / PTF Para 8	Property Trusts that invest primarily in income generating real estate but do not qualify as REIT / PTF under the SC guidelines will continue to have their rental income taxed under S.4(d) of the ITA. No capital allowance (CA) under Sch.3 of the ITA is allowed to be claimed as rental income from the letting of real properties (the rental source) is treated as income under S.4(d) of the ITA, but a special deduction for qualifying capital expenditure (QCE) under S.63A of the ITA is allowed against adjusted income from the rental source (in addition to the special deduction under S.63B of the ITA). QCE means capital expenditure incurred for the provision of plant or machinery used for the purposes of deriving rent from the rental source. (Refer to paras 8.3 and 8.4 for details of types of expenditure included and conditions that must be met to qualify for the special deduction.) The special deduction is in the form of an allowance equal to 10% of the QCE which is deducted against adjusted income in arriving at statutory income from the rental source. It is not a CA in the normal sense and any unabsorbed portion is not allowed to be carried forward to a subsequent YA. There is no balancing charge or balancing allowance.

	Where at the end of the basis period for any YA the residual expenditure in relation to an asset in respect of which QCE has been incurred is zero, or the asset is no longer owned or in use by the unit trust, no allowance shall be made to the unit trust for that YA and subsequent YAs. The special deduction is not applicable to REIT / PTF. S.63D of the ITA states that rental income of unit trusts (other than REIT / PTF) shall not be treated as business income. Refer to Example 5 in the PR for an example of computation of a property trust's (other than REIT / PTF) chargeable income and tax payable.

Members can refer to the PR 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 PR.

Disclaimer