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CHARTERED TAX INSTITUTE OF MALAYSIA (225750-T)

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TECHNICAL

Direct Taxation

Public Ruling No. 9/2014 – Private Retirement Scheme (PRS)

The Lembaga Hasil Dalam Negeri Malaysia (LHDNM) has recently uploaded the above *Public Ruling (PR) No. 9/2014: Private Retirement Scheme (PRS)* published on 24 December 2014.

Objective (Paragraph 1 of the PR)
The objective of this PR is to clarify the tax treatment of the following: a) PRS contributions by an individual and the employer; and b) Income of the PRS fund.

Relevant Provisions of the Income Tax Act 1967 (ITA) (Paragraph 2 of the PR)
• Sections 2; • Section 20; • Section 109G; • Subsections 22(2); • Subsections 34(4); • Subsections 49(1D); • Subsections 49(1E); and • Paragraph 20 of Schedule 6.

Interpretation (Paragraph 3 of the PR)
The following are some terms defined -

Term	Meaning
Individual	A natural person
Employer	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.
Employee	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.
Employment	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.
Private Retirement Scheme	A retirement scheme approved by the Securities Commission (SC) in accordance with the Capital Markets and Services Act 2007 (CMSA).
Other words defined under this paragraph are "Permanent total disablement", "Resident", "Serious disease", "Basis year" and "Year of assessment".	

Below is a summary of the points in the PR relating to the PRS:	
	Summary
Paragraph 4	**Establishment and Features of the Scheme**
	4.1- Introduction of PRS PRS is a scheme approved by the SC which aims to encourage people, whether salaried or self-employed, to increase retirement savings for their old age. Contributions to the PRS can be made either by the individual or the employer. **4.2 - PRS Providers** PRS providers are asset management companies which are approved by the SC under section 139Q of the CMSA and are subject to regulatory requirements and continuous monitoring by the SC. **4.3 - Private Pension Administrator (PPA)** 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. **4.4 - Trustees** Trustees are approved under section 139ZC of the CMSA by the SC. The responsibilities of trustees are as specified in the Capital Market and Services (Private Retirement Scheme Industry) Regulations 2012. **4.5 - Features** PRS is a voluntary long-term investment scheme which operates as a unit trust scheme with a trustee to ensure that the fund's assets are segregated from the PRS provider. It is opened to all individuals aged 18 years and above. There are no fixed amounts or fixed intervals for making contributions to a PRS fund. **4.6 - Types of Funds** Investors can contribute to various types of funds (managed by the same provider or different PRS providers). Default options that cater to different age groups are also available for investors who do not specify the fund of their choice. (Please refer to table under paragraph 4.6.2 of the PR.) **4.7 - Distribution of contributions** 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. <u>Withdrawals of contributions:</u> a) Contributions in sub-account A can be withdrawn only upon reaching the retirement age of 55 years old; b) Contributions in sub-account B can be withdrawn only once a year; and c) Contributions in sub-account A & sub-account B can be withdrawn any time for the following reasons:- • permanent total disablement; • serious disease; • mental disability; • death; or • permanently leaving Malaysia.
Paragraph 5	**Tax Treatment**
	5.1 - Deduction for contributions made by an individual An individual resident in Malaysia 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 <u>subsection 49(1D) of the ITA</u>. The deduction is made against the total income of the resident individual in arriving at chargeable income. 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.** <u>Subsections 50(2) and 50(3)</u> of the ITA provide that if a husband or wife elects for combined assessment under <u>subsection 45(2)</u> of the ITA, the PRS contributions or deferred annuity premiums 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 **5.2 - Deduction for contributions made by employers** Contributions made by employers on behalf of their employees are allowable as a deduction under <u>subsection 34(4) of the ITA</u> subject to a maximum of 19% of the employees' remuneration. Employers' contributions to PRS for employees are subject to a vesting schedule which indicates when employees have legal rights to the benefits of the employers' contributions. Employees receive accrued benefits only when the scheme is vested for a specified period. If any employee ceased employment before the pre-determined vesting period, the employer can take back the surplus from the PRS fund. For such cases, the provisions of <u>subsection 22(2)</u> of the ITA applies. **5.3 – Early withdrawal** Early withdrawal (except for reasons stated in paragraph 4.7(c) above) is subject to withholding tax at the rate of 8%. Where the withdrawal is for reasons stated in the paragraphs 4.7(a) and 4.7(c) above, it is exempted from tax. Withdrawals from sub-account B (which investors are allowed once a year) is subject to deduction of withholding tax at 8% by the payer (PRS provider) on the amount withdrawn (section 109G of ITA).

	Withholding tax deducted must be remitted to the Director General of Inland Revenue (DGIR) within 1 month (or such longer period as allowed by the DGIR) after payments have been made to the investors. If the payer fails to remit the withholding tax within the stipulated period, the amount of withholding tax not paid to the DGIR will be increased by 10%. If payment to a recipient was made 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 **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** a) Income received by a PRS fund is exempt from tax under paragraph 20, Schedule 6 of the ITA. b) The PRS provider is required to keep separate accounts for each PRS fund managed by him. **5.6. Distribution of profits received by investors** Profits distributed by PRS funds to investors in the form of units which are credited in the investors' accounts are not taxable as the investors do not make any withdrawals from the funds.
Please refer to the PR for examples (Examples 1 to 12) that illustrate the above points.	

Members can refer to the PR at the websites of the Institute and the LHDNM.

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