

**From:**

**Sent:** Monday, 14 March, 2016 8:53 AM

**To:**

**Cc:**

**Subject:** RE: Reduction in Withholding Tax rate for distribution from REITs received by a non-resident company - a gentle reminder

Salam Sejahtera

Tuan

Saya dengan hormatnya diarah merujuk kepada emel tuan bertarikh 2 Mac 2016 berhubung perkara di atas.

2. Berdasarkan kepada contoh-contoh yang diberi, maklum balas adalah seperti berikut –

**(a) Example 1**

Kadar cukai pegangan adalah 25% bagi TT2015 (Kadar yang terpakai kepada pemegang unit)

**(b) Example 2**

Kadar cukai pegangan adalah 24% bagi TT2016 (Kadar yang terpakai kepada pemegang unit)

**(c) Example 3**

Kadar cukai pegangan adalah 24% bagi TT2016 (Kadar yang terpakai kepada pemegang unit)

Sekian, terima kasih

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**ANDALAH WIRA NEGARA!**

**HASiL** Teman Keceriaan Anda

**From:**

**Sent:** Wednesday, 2 March, 2016 4:29 PM

**To:**

**Cc:**

**Subject:** Reduction in Withholding Tax rate for distribution from REITs received by a non-resident company

Dear Puan,

We refer to item A.18 on page 26 of the *Joint Memorandum On Issues Arising From 2016 Budget And Finance Bill 2015 & Other Technical Matters* in relation to clarification sought by the professional bodies on the reduction in withholding tax rate for distribution from REITs received by a non-resident company as reproduced below:

Item A.18 of the above-mentioned Joint Memorandum (with additional insertions in red)

**Amended Part X Paragraph 1(b) of Schedule 1**

*Notwithstanding Part I and subject to paragraph (c), income tax shall be charged for a year of assessment on the income of a unit holder which is a non-resident company consisting of income distributed to the unit holder referred to in section 109D which is derived from Malaysia at the rate of ~~26% of gross for the year of assessment 2008 and 25% of gross for the subsequent years of assessment~~ **24% of gross for the year of assessment 2016 and subsequent years of assessment**.*

**Comments:**

We refer to the proposed amendment to Schedule 1 of the Income Tax Act 1967 set out in the Finance Bill 2015, whereby the withholding tax (WHT) rate for a non-resident company receiving profit distribution from REITs will be reduced from 25% to 24% effective from the year of assessment (YA) 2016 and would like to seek clarification on the following:-

**(a) Example 1**

REIT – Financial Year Ended 30 June 2016 (YA 2016)

Investor (non-resident company) – Financial Year Ended 31 December 2015 (YA 2015)

REIT profit distribution paid on 30 November 2015

Q: Distribution paid on 30 November 2015 falls in the REIT's **YA 2016**. However, receipt of the distribution by the investor is in **YA 2015**. Therefore, should the REIT deduct WHT at 24% or 25%?

**(b) Example 2**

REIT - Financial Year Ended 31 December 2015 (YA 2015)

Investor (non-resident company) - Financial Year Ended 31 January 2016 (YA 2016)

REIT profit distribution paid on 30 November 2015

Q: Distribution paid on 30 November 2015 falls in the REIT's **YA 2015**. However, receipt of the distribution by the investor is in **YA 2016**. Therefore, should the REIT deduct WHT at 24% or 25%?

**(c) Example 3**

REIT - Financial Year Ended 31 December 2015 (YA 2015)

Investor (non-resident company) - Financial Year Ended 31 January 2016 (YA 2016)

REIT profit distribution paid on 29 February 2016

Q: Distribution paid on 29 February 2016 falls in the REIT's **YA 2015** (Note: Grace period of two months from the closing date of the accounts to distribute profits to investors is allowed as per paragraph 11.1 of the [Public Ruling No. 2/2015](#)). However, receipt of the distribution by the investor is in **YA 2017**. Therefore, what is the rate the REIT should withhold?

As discussed and agreed between the IRBM and CTIM representatives following the Dialogue on the

above-mentioned Joint Memorandum on 29 February 2016, the IRBM will provide a written response to the above queries as soon as possible before the minutes of the Dialogue are issued as the REITs need the response urgently. During the discussion, it was also conveyed to the IRBM that if YA 2016 and subsequent YAs indicated in Part X Paragraph 1(b) of Schedule 1 refer to the investor's YAs, the REITs would have difficulty in determining the WHT rate to be applied to the distributions illustrated in the examples above as the REITs do not have information on the basis period of the individual investors. The process of obtaining such information would be lengthy and administratively cumbersome as the investors are foreign based.

We look forward to receiving the IRBM's response on the above soon. Thank you for your kind attention.

Warm regards,

Senior Manager, Technical Department

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