

▶▶ Tax Flash



June 2013

PR No. 5/2013 – Taxation of Unit Holders of Unit Trust Funds

The Inland Revenue Board [“IRB”] has recently issued the Public Ruling [“PR”] No. 5/2013 – Taxation of Unit Holders of Unit Trust Funds to provide guidance on tax treatment of distribution of income received by unit holders from unit trust funds.

Salient points of the abovementioned PR include:-

i. Taxation of Unit Holders

- Unit holders are subject to tax on an amount equivalent to their share of taxable income distributed by the unit trust fund. Distributions received by the unit holders are net of tax and the attached tax credit i.e. the tax chargeable on the unit trust fund and attributable to the income distributed to the unit holders will be available for set-off against the tax chargeable on the unit holders pursuant to Section 110(9A) of the Income Tax Act 1967 [“the Act”].
- The non-taxable / tax exempt income received by the unit trust fund and distributed to the unit holders subsequently will also be exempted from tax in the hands of the unit holders.
- Tax rates applicable to the various categories of unit holders are as summarised below:-

Chargeable Person	Rate
Companies and non-resident companies	25% (prevailing rate)
Resident individuals and others (such as co-operatives, associations and societies)	Scale rates
Non-resident individuals and others (such as co-operatives, associations and societies)	26% (prevailing rate)

- Non-resident unit holders are not subject to withholding taxes on distribution of income from unit trusts.

ii. Filing of Income Tax Return Forms

Unit holders should declare their taxable distributions from unit trusts together with their income from other sources in their tax return form and claim a set-off under Section 110(9A) of the Act.

Hyperlinks

Advent Consulting Group
Inland Revenue Board

References

PR No. 5/2013

PR No. 6/2013 – Unit Trust Funds Part II – Taxation of Unit Trusts

The IRB has recently issued the PR No. 6/2013 – Unit Trust Funds Part II – Taxation of Unit Trusts to provide guidance on the tax treatment accorded to unit trust funds and property trusts other than a real estate investment trust/property trust fund [“REIT/PTF”] governed by the Securities Commission.

Salient points of the abovementioned PR include:-

- i. Deductibility of Expenses
 - Direct Expenses
 - Expenses wholly and exclusively incurred in the production of gross income in respect of each source of the unit trusts (e.g. dividend, interest and rental) are allowable against that source of the unit trusts in pursuance to Section 33(1) of the Act.
 - Special Deduction
 - Pursuant to Section 63B of the Act, a special deduction for permitted expenses is allowed in ascertaining the total income of the unit trusts for the basis period for a year of assessment. The special deduction is determined in accordance with the formula below:-

$$A \quad \times \quad \frac{B}{4C}$$

or 10% of A, whichever is greater.

Where

- A Total permitted expenses i.e.:-
 - manager’s remuneration,
 - maintenance of register of unit holders,
 - share registration expenses, and
 - secretarial, audit and accounting fees, telephone charges, printing, stationery costs and postage.
- B Gross income (dividend, interest and rental) chargeable to tax.
- C The aggregate gross income consisting of dividend (whether exempt or not), interest and rental and gains made from the realisation of investments (whether chargeable to tax or not).

PR No. 6/2013

- ii. Taxation of Unit Trusts and Property Trusts other than REIT/PTF
 - A unit trust fund is treated as a trust body and the taxation of the fund is governed by Sections 61 and 63B of the Act.
 - The tax rate applicable to a unit trust is as specified in Paragraph 2, Part I of Schedule 1 of the Act. The prevailing tax rate is 25%.
 - Rental income received by property trusts other than REIT/PTF is taxed under Section 4(d) of the Act.
 - A property trust is not eligible to claim capital allowances on fixed assets but is entitled to claim a special deduction on qualifying capital expenditure incurred pursuant to Section 63A of the Act as follows:-
 - Qualifying capital expenditure means capital expenditure incurred on the provision of machinery or plant used for the purposes of deriving income from letting of property (rental income), including:-
 - expenditure incurred on the alteration of an existing building or other expenditure incurred incidentally to the installation of that machinery or plant (provided not exceeding 75% of itself and other qualifying expenditure), and
 - expenditure incurred on preparing or leveling of land to prepare a site for the installation of that machinery or plant (provided not exceeding 10% of the aggregate of itself and other qualifying expenditure).
 - This special deduction is given in the form of allowance with the rate of 10% of the qualifying capital expenditure against the adjusted income from rental source. Any unabsorbed allowances are not allowed to be carried forward to subsequent years of assessment.
 - In addition, the following conditions must be fulfilled in order to qualify for the special deduction:-
 - the qualifying capital expenditure must be incurred by the unit trust,
 - the unit trust must be the owner of the asset, and
 - the asset must be in use by the unit trust for the purposes of deriving rent from the letting of real property.

Criteria for the Grant of Pioneer Status to a Small Company

The Promotion of Investments (Criteria for the Grant of Pioneer Status to a Small Company) Order 2013 has been gazetted to provide the criteria for granting of pioneer status to a small company. The criteria for the grant of pioneer status to a small company are as follows:-

- i. For small companies with shareholders' fund of up to RM500,000 with at least 60% Malaysian equity ownership and engaged in promoted activities or producing promoted products mentioned in the Promotion of Investments (Promoted Activities and Promoted Products for Small Scale Companies Order 2012 ["P.U.(A) 63/2012"] and Promotion of Investments (Promoted Activities and Promoted Products) Order 2012 ["P.U.(A) 62/2012"];

Criteria

- The company must achieve at least 25% value added in its activity or product;
- The company must employ at least 20% of their workers at the managerial, technical and supervisory staff level; and
- 20% and above of the paid-up capital in respect of ordinary shared of the company / related company / both companies (where relevant) cannot be directly or indirectly owned by a related company / the company / another company (where relevant) having shareholders' funds of more than RM500,000.

- ii. For small companies with shareholders' fund of above RM500,000 and up to RM2,500,000 with 100% Malaysian equity ownership and engaged in promoted activities or producing promoted products mentioned in P.U.(A) 63/2012;

Criteria

- The company must achieve at least 25% value added in its activity or product;
- The company must employ at least 20% of their workers at the managerial, technical and supervisory staff level; and
- 20% and above of the paid-up capital in respect of ordinary shares of the company / related company / both companies (where relevant) cannot be directly or indirectly owned by a related company / the company / another company (where relevant) having shareholders' funds of more than RM2,500,000;

- iii. For small companies with shareholders' fund of above RM500,000 and less than RM2,500,000 with 100% Malaysian equity ownership and engaged in promoted activities or producing promoted products mentioned in P.U.(A) 62/2012;

Promotion of Investments
(Criteria for the Grant of
Pioneer Status to a Small
Company) Order 2013

Criteria

- The prevailing rates on the value added index as determined by the Minister of International Trade and Industry ["MITI"] with concurrence in writing of the Minister of Finance ["MOF"] shall be applicable;
- The prevailing rates on the Managerial, Technical and Supervisory Staff index as determined by MITI with concurrence in writing of the MOF shall be applicable; and
- 20% and above of the paid-up capital in respect of ordinary shares of the company / related company / both companies (where relevant) cannot be directly or indirectly owned by a related company / the company / another company (where relevant) having shareholders' funds of more than RM2,500,000.

The criteria are deemed to have come into operation:-

- On 2nd March 2012 for companies categorised under (i) above.
- On 3rd July 2012 for companies categorised under (ii) and (iii) above.

With the issuance of this Order, the Promotion of Investments (Criteria for the Grant of Pioneer Status to a Small Company) Order 2008 is revoked.

Promotion of Investments (Declaration of Shareholders' Funds in Relation to a Small Scale Company under Section 2) (Amendment) Order 2013

The Promotion of Investments (Declaration of Shareholders' Funds in Relation to a Small Scale Company under Section 2) (Amendment) Order 2013 has been gazetted to re-define the amount of shareholders' funds to not exceeding RM2.5 million (previously was RM500,000) in Paragraph 2 of the Promotion Investments (Declaration of Shareholders' Funds in Relation to a Small Scale Company under Section 2) Order 1989.

The amendment Order is deemed to have come into operation on 3rd July 2012.

Stamp Duty Exemption for Restructuring and Rescheduling of Loans

Pursuant to the Stamp Duty (Exemption) (No. 8) Order 2013, exemption from stamp duty is granted to all instruments relating to the restructuring or rescheduling of loans executed between a participant of the debt management programme which has been approved by the Credit Counselling and Debt Management Agency (a body corporate established under Section 48 of the Central Bank of Malaysia Act 2009) and a credit provider.

The above exemption applies to instruments executed from 1st January 2013 to 31st December 2017.

Promotion of Investments
(Declaration of Shareholders'
Funds in Relation to a Small
Scale Company under
Section 2) (Amendment)
Order 2013

Stamp Duty (Exemption)
(No. 8) Order 2013

GST - Draft Guidelines

The Royal Malaysian Customs has recently issued the following draft guidelines on Goods and Services Tax ["GST"] to provide an understanding of GST and its implications on various businesses/matters:-

- i. Industry Guide
 - GST Guide on Hire Purchase and Credit Sale
 - GST Guide on Leasing
 - GST Guide on Freight Transportation
 - GST Guide on Passenger Transportation
 - GST Guide for Insurance and Takaful
- ii. Specific Guide
 - GST Guide for Input Tax Credit
 - GST Guide on Supply

GST Guide on Hire Purchase and Credit Sale

GST Guide on Leasing

GST Guide on Freight Transportation

GST Guide on Passenger Transportation

GST Guide for Insurance and Takaful

GST Guide for Input Tax Credit

GST Guide on Supply

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