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PR No. 9/2018 – Taxation of Unit Holders of REIT/PTF

The Inland Revenue Board ["IRB"] has recently issued the Public Ruling ["PR"] No. 9/2018 – Taxation of Unit Holders of Real Estate Investment Trusts ["REIT"] / Property Trust Fund ["PTF"] to replace the PR No. 7/2012 issued in October 2012 with some updates on tax at unit holders' level as follows:-

- i. If 90% or more of the total income of REIT/PTF that is listed on Bursa Malaysia in the basis year for a year of assessment is distributed to unit holders, the REIT/PTF is exempted from tax for that year of assessment. However, unit holders are liable to tax on the prevailing tax rates as summarised in item (iv) below. Since the income distributed by the REIT/PTF is tax exempt, no tax credit under Section 110(9A) of the Income Tax Act 1967 ["the Act"] would be available to the unit holders.

Hyperlinks

- [Moore Stephens Malaysia](#)
- [Moore Stephens International](#)
- [Inland Revenue Board](#)

- [PR No. 9/2018](#)

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- ii. Unit holders who received income distribution which has been subjected to tax at the REIT/PTF level would be liable to tax. However, the income distribution would carry with it a tax credit, which can be utilised by the unit holders to offset against the tax payable pursuant to Section 110(9A) of the Act.
- iii. In the circumstances where a unit holder is tax-exempt under Sections 127(3)(b), 127(3A) or Schedule 6 of the Act and derives income distribution from REIT/PTF which has been subjected to withholding tax ["WT"] under Section 109D of the Act, that unit holder would be entitled to a refund under Section 111 of the Act.
- iv. The prevailing tax rates applicable to various categories of unit holders are as follows:-

Chargeable Person	Type of Tax	YA 2009 to YA 2016	YA 2017 and YA 2018
Company			
- resident	Corporate	25%	24%
- non-resident	WT (final tax)	25%	25%
Foreign institutional investor	WT (final tax)	10%	10%
Individual			
- resident	WT (final tax)	10%	10%
- non-resident	WT (final tax)	10%	10%
Others			
- resident	WT (final tax)	10%	10%
- non-resident	WT (final tax)	10%	10%

Note: For further information on the previous PR No. 7/2012 - Taxation of Unit Holders of REIT/PTF, kindly refer to our Tax Flash – December 2012 issue.

Deduction of Management Expenses for Shareholders' Fund of Takaful Business

Following the 2018 Budget announcement, the IRB has issued the Practice Note ["PN"] No. 4/2018 on 23rd October 2018 to provide guidance on computation of the management expenses allowable for tax deduction on shareholders' fund of takaful business under Section 60AA(9)(b)(iii) and 60AA(10)(b)(iii) of the Act.

Hyperlinks

➤ [Tax Flash – December 2012](#)

➤ [PN No. 4/2018](#)

Hyperlinks

The prescribed formula for the computation of management expenses to be deducted from any other fee receivables by the general takaful fund and investment fund from the family fund of the shareholders' funds is as follows:-

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

where:-

- A is the total amount of gross income for that period in respect of any other fee receivable referred to in subsection 60AA(9)(a)(iii) or 60AA(10)(a)(iii) excluding *wakalah* fee;
- B is the total amount of gross income for that period in respect of any other fee receivable referred to in subsection 60AA(9)(a)(iii) or 60AA(10)(a)(iii) excluding *wakalah* fee for commission;
- C is the total management expenses incurred under subsection 60AA(9)(b)(iii) or 60AA(10)(b)(iii).

The above practice note shall have effect from year of assessment ["YA"] 2018.

Tax Exemption for the Statutory Income Derived from the Business of Qualifying Person and Qualifying Ringgit Account

The Income Tax (Exemption) (No. 3) Order 2018 has been gazetted to exempt a qualifying person in the basis period for a year of assessment from the payment of income tax in respect of statutory income derived from the business of the qualifying person and the qualifying ringgit account.

Any adjusted loss incurred by a qualifying person in the basis period for a year of assessment shall be carried forward and deducted from the statutory income from the business in the post-exempt year or years of assessment until it is fully utilised. The amount of the loss which is deducted from the statutory income shall be disregarded for the purposes of Sections 43(2) and 44(2) of the Act.

Where a qualifying person carries on the business of the qualifying person and qualifying ringgit account activity and the activity other than the business of the qualifying person and qualifying ringgit account, each activity shall be treated as a separate and distinct source of the activity and the qualifying person shall maintain a separate account for the income derived from each activity.

"Qualifying ringgit account" means an account of investment made in Ringgit Malaysia relating to the business of a qualifying person and approved by the Central Bank of Malaysia.

- [Income Tax \(Exemption\) \(No. 3\) Order 2018](#)

Hyperlinks

"Qualifying person" means:-

- i. the International Currency Business Unit in:-
 - an Islamic bank licensed under the Islamic Financial Services Act 2013 which carries on Islamic banking business in any currencies other than Ringgit Malaysia;
 - a licensed institution or authorized under the Financial Services Act 2013 which carries on Islamic banking business in any currencies other than Ringgit Malaysia; or
 - a licensed takaful operator under the Islamic Financial Services Act 2013 which carries on takaful business in any currencies other than Ringgit Malaysia;
- ii. a licensed international Islamic bank under the Islamic Financial Services Act 2013 which carries on Islamic banking business in any currencies other than Ringgit Malaysia; or
- iii. a licensed international takaful operator under the Islamic Financial Services Act 2013 which carries on a takaful business in any currencies other than Ringgit Malaysia, approved by the Central Bank of Malaysia.

The Order is deemed to have come into operation from YA 2017 until YA 2020.

Stamp Duty Exemption for Home Financing Facility

Pursuant to Stamp Duty (Exemption) (No. 2) Order 2018, exemption from stamp duty shall be granted in respect of all instruments executed in relation to any home financing facility granted under a state housing loan fund i.e. funds as specified in Paragraph 10(1)(b) of the Financial Procedure Act 1957 as follows:-

- i. Sabah and Sarawak (any fund established and placed under the state financial authority)
- ii. Other states
 - Agricultural Short-term Credit Account
 - Contingencies Fund
 - Conveyance Advance Fund
 - Development Fund
 - Housing Loans Fund
 - Inter-administration Current Account
 - Loans to Statutory and other Bodies Fund
 - Personal Advances (Public Officers) Fund
 - Self-accounting Departments' Clearance Account
 - Sinking Funds Account
 - Treasury Main Clearance Account Fund
 - Unallocated Stores and Works Account

"Financing" means conventional loan or financing according to *syariah*, as the case may be.

The above exemption applies to instruments executed from 1st January 2019 onwards.

- [Stamp Duty \(Exemption\) \(No. 2\) Order 2018](#)

Hyperlinks

Stamp Duty Exemption for the Restructuring or Rescheduling of Loans or Financing

The Stamp Duty (Exemption) (No. 3) Order 2018 has been gazetted to provide exemption of stamp duty on all instruments relating to the restructuring or rescheduling of loans or financing executed between a credit provider and 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.

"Credit provider" means:-

- licensed bank under the Financial Services Act 2013;
- a licensed Islamic bank under the Islamic Financial Services Act 2013;
- a development financial institution prescribed under the Development Financial Institutions Act 2002;
- a licensed life insurer under the Financial Services Act 2013;
- a licensed takaful operator under the Islamic Financial Services Act 2013;
- an approved issuer of a designated payment instrument under the Financial Services Act 2013;
- a co-operative society registered under the Co-operative Societies Act 1993; and
- Perbadanan Tabung Pendidikan Tinggi Nasional established under the Perbadanan Tabung Pendidikan Tinggi Nasional Act 1997.

The above exemption applies to the instruments executed on or after 1st January 2018 but not later than 31st December 2020.

Minimum Wages

Pursuant to the Minimum Wages Order 2018, the minimum rate of monthly wages payable to an employee shall be RM1,050. This does not apply to a domestic servant as defined under Section 2 of the Employment Act 1955, Section 2 of the Sabah Labour Ordinance and Section 2 of the Sarawak Labour Ordinance.

The above Order comes into operation on 1st January 2019.

This publication is provided gratuitously and without liability. It is intended as a general guide only and the application of its contents to specific situations will depend on the particular circumstances involved. Readers should seek appropriate professional advice regarding any particular problems that they encounter, and this tax update should not be relied on as a substitute for advice. Accordingly, Advent MS Tax Consultants Sdn Bhd assumes no responsibility for any errors or omissions it may contain, whether caused by negligence or otherwise, or for any losses, however caused, sustained by any person that relies on it. Should further information, clarification or advice be required on any of the contents stated herein, please feel free to contact our tax team.

➤ [Stamp Duty \(Exemption\) \(No. 3\) Order 2018](#)

➤ [Minimum Wages Order 2018](#)