MOORE Advent

TAX FLASH

December 2025

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PR No. 3/2025 - Tax Treatment on Asset-Backed Securitisation

The Inland Revenue Board ["IRB"] has recently issued the *Public Ruling ["PR"] No. 3/2025 - Tax Treatment on Asset-Backed Securitisation*. This PR provides guidance on the tax treatment under the Income Tax (Asset-Backed Securitisation) Regulations 2014 [P.U.(A) 170/2014] applicable to Special Purpose Vehicles ["SPV"] and Originator in an asset-backed securitisation ["ABS"] transaction authorised by the Securities Commission ["SC"] on or after 1st January 2013.

The salient points of the above PR include:-

i. Tax treatment on the Originator

- Under a securitisation transaction, revenue or profits (or losses) arising from the disposal of trade receivables or stock-in-trade are deemed to have been accrued throughout the period of securitisation transaction and are subject to tax as gross income (or allowable as tax deduction, as the case may be) of the Originator based on the prescribed formula.
- In the case of a property development business, where an Originator has a call option to repurchase securitised stock-in-trade, any resulting profit is taxable and any loss is deductible in the year of assessment in which the option expires.
- Any balancing charges or allowances under Schedule 3 of the Income Tax Act 1967 ["ITA 1967"] arising from the disposal of fixed assets under securitisation are deemed to have been made to the Originator within the basis period of a year of assessment related to the securitisation transaction and is determined using a prescribed formula. The disposal value of fixed assets shall be equal to the fair value based on the valuation report by an independent valuer submitted to the SC.

ii. Tax treatment on SPV

- The income of the SPV from all sources is treated as gross income of the SPV from a single source that consists of business within the basis period of a year of assessment.
- Expenses incurred by the SPV in acquiring trade receivables or stock-in-trade under a securitisation transaction (which are deductible under the ITA 1967) are deemed to have been incurred throughout the period of that securitisation transaction and are allowed for tax deduction in the basis period of that securitisation period.
- Where a call option exists, any expenses related to the repurchase are deductible in the year of assessment in which the option expires.

iii. ABS Expenses

- ABS issuance expenses are generally capital in nature. However, specific provisions are available to allow such expenses to be tax deductible in line with the measures to promote the development of capital market.

iv. Examples of ABS transactions

The following are the examples of the ABS transaction illustrated in paragraph 7 of the PR:-

- Tax treatment on income and expenses of related companies to the Originator
- Tax treatment on the sale of plantation assets from the Originator to SPV
- Tax treatment for the Originator regarding the sale and leaseback of land for development (stock in trade) where the Originator has a call option to repurchase the stock in trade
- Tax treatment on early redemption of non-performing loans
- Tax deduction on issuance costs for ABS issued outside the incentive period

For more information, please refer to the attached PR.

Guidelines on Application for Approval as Approved Institutions / Organisations / Funds Under Section 44(6) of the Income Tax Act 1967

The IRB has recently issued an updated *Guidelines on Application for Approval as Approved Institutions / Organisations / Funds ["IOFs"] under Section 44(6) of the ITA 1967* *(in Bahasa Malaysia)* to replace the previous Guidelines dated 20th August 2024.

The salient updates of the Guidelines include:-

i. The updated Guidelines do not apply for application related to hospital welfare funds (public / private / teaching hospitals), as these are under separate guidelines.

ii. Non-profit Purpose Criteria and Corporate Social Responsibility ["CSR"]

- All income including investment gains, passive earnings or business profits must be fully reinvested to support its approved charitable objectives under Sections 44(6) and 44(7) of the ITA 1967.
- A fund established by an institution or organisation must not be used to carry out CSR activities of its founding institution or organisation. CSR activities are to be implemented independently by the founding institution or organisation and should not channelled through the fund.

iii. Enhanced Application Procedure

- For new applications for approval under Section 44(6) of the ITA 1967, applicants are encouraged to use the e-*Derma* system via the MyTax portal. Manual applications continue to be accepted under the updated Guidelines.
- The use of electronic receipts or e-Receipts (other than e-Invoice) requires prior written approval from the Director General of Inland Revenue ["DGIR"].
- The implementation of e-Invoice applies to IOFs approved under Section 44(6) of the ITA 1967 for transactions receiving donations or monetary gifts. Effective 1st January 2026, for any single donation or monetary gift exceeding RM10,000, the donors are required to submit complete information as specified in Appendix 1 of the e-Invoice Guidelines to facilitate the e-Invoice processing.

iv. Updated Compliance Requirements during the Approval Period

- An IOF is required to maintain its status as a non-profit entity. Any IOF intending to impose charges is required to submit a comprehensive Financial Assistance Policy ["FAP"] to the DGIR for approval.
- Qualifying charitable expenditures comprises scholarship, aids to the poor and needy, medical bill financing, direct expenses and other forms of support specified under the approved objectives.
- The amount of financial assistance or discount provided to a recipient is required to be stated on the receipt or invoice issued and the explanation of such financial benefits must be consistent with the IOF's FAP. For example, where recipients are sponsored or funded by a third party or have insurance coverage, such activities could not be counted for the purpose of fulfilling the IOFs 50% or 60% expenditure requirement.
- IOFs that offer scholarships or educational financial assistance may impose employment guarantees or bonding conditions on recipients, provided that:-
  - at least 50% of the total scholarship or financial assistance spending in a year of assessment is awarded to Malaysian citizens from the B40 and/or M40 groups, regardless of race or religion; and
  - separate records and supporting information are maintained to verify compliance with this requirement.
- 30% emergency reserves may be invested, provided that such investment is limited to short-term, highly liquid fixed deposit investments.

Note: *For further information on the previous Guidelines on Application for Approval as Approved Institutions/ Organisations/ Funds Under Section 44(6) of the ITA 1967, kindly refer to our* Tax Flash - September 2024 *issue.*

Updated Operational Guidelines on Application for Tax Clearance Letter for Individuals

The IRB has recently issued the updated *Operational Guidelines on the Procedures for Individual Tax Clearance Letter Application ["GPHDN 2/2024"]* (in *Bahasa Malaysia*).

The salient updates of the Guidelines include:-

i. Employers' Responsibilities

Employers are not required to submit the Notification of Cessation of Employment (Form CP22A / CP22B) for non-Malaysia citizen employees if:-

- The employees' remuneration are not subject to tax.
- The employees resign and their monthly income:-
  - is below the Monthly Tax Deduction ["MTD"] threshold and they do not receive any gratuities / compensation from the cessation of employment; or
  - is subject to MTD and they do not receive any gratuities / compensation from the cessation of employment.
- The employees continue employment in Malaysia.

ii. Revision, Addition or Cancellation of Tax Clearance Letter Applications and Documentation Requirements

- Revision and addition to previously submitted tax clearance applications can be submitted electronically via e-*SPC*. However, cancellation for tax clearance application is still required to be submitted to the IRB manually.
- For Form CP21 application (employee leaving Malaysia), employers are required to retain the employee's declaration of tax residence status, which may be requested by the IRB for verification purposes.

Guidelines on the Introduction of Stamp Duty under the Stamp Act 1949

In line with the forthcoming implementation of the Stamp Duty Self-Assessment System ["SDSAS"] introduced under Budget 2025, which will be rolled out in phases from 1st January 2026, the IRB has issued the *Guidelines on the Introduction of Stamp Duty under the Stamp Act 1949 ["SA 1949"]* (in *Bahasa Malaysia*) dated 6th November 2025. The Guidelines provide an overview of stamp duty obligations and are intended to ensure compliance and facilitate a smooth transition to the new SDSAS. It should be noted that any instrument that is unstamped or insufficiently stamped is not admissible as evidence in a court of law, nor will it be acted upon by any public officer.

The salient points of the Guidelines include:-

i. Scope of Imposition

- Any instrument referred to in the SA 1949 and listed in the First Schedule of the SA 1949 is subject to stamp duty at the prescribed rates. Common examples of such instruments include statutory declarations, lease agreements, or employment contracts.
- Where multiple instruments are executed to complete a transaction, only the principal instrument is liable for stamp duty at the rates prescribed in the First Schedule, while all other instruments to complete the transaction are subject to a fixed duty of RM10 each.

ii. Exemption, Reduction and Remission of Stamp Duties

- General exemption under Section 35 of the First Schedule of the SA 1949, which cover instruments such as those executed by or in favour of the Government, statutory bodies or for public or charitable purposes.

- Specific exemptions for certain instruments listed under selected items 2, 4, 23, 24, 32, 49, 58 and 59 of the First Schedule of the SA 1949.
- Exemption, reduction, remission approved by the Ministry of Finance under Section 80 of the SA 1949.

iii. Type of Duty

- Fixed duty (charged at RM10)
    - Refers to predetermined amount of duty for an instrument, such as duplicate instruments, insurance policies and indemnity documents for lost bank books.
- Ad Valorem Duty
    - Charged based on the amount stated in the instrument or market value of the underlying transaction
    - Examples include Form 14A, Memorandum of Transfer, tenancy agreements, lease agreements

Stamp Duty Guidelines on Sale and Transfer Instruments for Movable Property

The IRB has recently issued the *Stamp Duty Guidelines on Sale and Transfer Instruments for Movable Property* to provide clarification on the stamp duty treatment on sale and transfer instruments for movable property under the SA 1949.

The salient points of the Guidelines include:-

- Stamp duty applies to sale and transfer instruments for movable property such as plants, machinery, vehicles, equipment, jewellery and etc, which are subject to ad valorem duty as a conveyance on sale under Section 21(1) of the SA 1949.
- The following instruments of sale or transfer are not subject to ad valorem duty:-
    - lands, tenements, hereditaments or heritages;
    - property located outside Malaysia;
    - goods, wares or merchandise;
    - stock or marketable securities; or
    - any ship or vessel or part interest, share or property of or in any ship or vessel.
- The recent Federal Court case decision held that "goods, wares or merchandise" refers only to trading stock or merchandise.
- Movable properties that are for business or individual assets, the following will apply:-
    - the instrument of sale is subjected to ad valorem duty;
    - if there is no instrument of sale, the instrument of transfer will be subject to ad valorem duty; and
    - if the transaction involved more than one instrument and the instrument of sale has been subjected to ad valorem duty, a fixed duty of RM10 will be imposed on the instrument of transfer.
- If movable properties are for trading stock, the following will apply:-
    - the instrument of sale is exempted from stamp duty;
    - the instrument of transfer (if any) will be subject to ad valorem duty; and
    - the instrument of sale will still be exempted even if the instrument of transfer is not available.
- For Malaysian citizens, ad valorem stamp duty is imposed based on the higher of the purchase consideration or market value.
- For non-Malaysian citizens, conveyance on sale of any property to foreign company or non-Malaysian citizens or non-permanent resident, ad valorem stamp duty is imposed a fixed rate of RM4 per RM100 or any fraction of RM100 of the purchase consideration or market value, whichever is higher.

Guidelines on Penalty Imposition for Late Stamping of Instruments

To promote consistent and transparent compliance, the IRB has issued the *Guidelines on Penalty Imposition for Late Stamping of Instruments* to provide clarification on the imposition of penalties on instruments that are stamped after the prescribed period, including the applicable stamping timelines and relevant penalty provisions under the SA 1949.

The salient points of the Guidelines include:-

- The instruments must be stamped within the time prescribed under the SA 1949 as follows:-
  - 14 days from the date of the issuance of notice or any extended period allowed;
  - 30 days from the date of the cheque or promissory note received in Malaysia;
  - 30 days from the date of the instrument executed in Malaysia; and
  - 30 days from the date of the instrument received in Malaysia if it is executed outside Malaysia.

- Penalties for late stamping vary depending on the period of delay:-

	Penalty
Instrument is stamped within 3 months from the due date of stamping	RM50 or 10% of the amount due, whichever is greater
Instrument is stamped more than 3 months from the due date of stamping	RM100 or 20% of the amount due, whichever is greater
Instrument exempted from stamp duty	Instruments that are exempted from stamp duty under the First Schedule of the SA 1949 are nevertheless required to be submitted for stamping. Penalty depending on the period of delay: • RM50 applies for instrument stamped within 3 months from the due date of stamping • RM100 applies for instrument stamped more than 3 months from the due date of stamping
Late stamping of instrument deemed assessed under SDSAS	Penalty depending on the period of delay: • RM50 or 10% of the amount due, whichever is greater (for instrument stamped within 3 months from the due date of stamping); or • RM100 or 20% of the amount due, whichever is greater (for instrument stamped more than 3 months from the due date of stamping)

Guidelines on Stamp Duty for Loan or Financing Instruments for the Purchase of Goods Listed under the First Schedule of the Hire Purchase Act 1967

The IRB has recently issued the *Guidelines on Stamp Duty for Loan or Financing Instruments for the Purchase of Goods Listed under the First Schedule of the Hire Purchase Act 1967 ["HPA 1967"]* (in *Bahasa Malaysia*) to provide clarification on the stamp duty treatment on loan or financing instruments for the purchase of goods listed under the First Schedule of the HPA 1967.

The salient points of the above Guidelines include:-

- Loan instruments for the purchase of the goods under the First Schedule of the HPA 1967 through the following financing arrangements will be subject to a fixed stamp duty of RM10:-
  - loan or financing based on *Syariah* principles; or
  - conventional hire purchase.
- The list of goods under the First Schedule of the HPA 1967 is as follows:-
  - all consumer goods (means goods purchased for personal, family or household purposes); and
  - motor vehicles, namely:-
    - invalid carriages;
    - motorcycles;
    - motorcars including taxi cabs and hire cars;
    - good vehicles (where the maximum permissible laden weight does not exceed 2,540 kilograms); and
    - buses, including stage buses.
- For supplementary, additional, collateral or replacement instruments that serve as security for a loan such as a letter of guarantee, the stamp duty imposed is one-fifth of the duty on the principal loan or security, but not exceeding RM10.
- Other goods not included in the list of goods under the First Schedule of the HPA 1967 will be subject to ad valorem duty at the rate of RM5 for every RM1,000 or part thereof of the loan amount payable.

Remission of Income Tax and Stamp Duty on DanaInfra Nasional Berhad's Syndicated Islamic Revolving Credit Facility and Islamic Medium Term Notes and Islamic Commercial Papers Programme

Pursuant to the *Loans Guarantee (Bodies Corporate) (Remission of Tax and Stamp Duty) (DanaInfra Nasional Berhad) Order 2025*, remission of tax and stamp duty is granted for the following items in relation to the guarantee given or to be given by the Government of Malaysia:-

- Syndicated Islamic Revolving Credit Facility ["SFF-i Facility"] obtained by DanaInfra Nasional Berhad ["DNB"] with the aggregate principal amount not exceeding RM1 billion;
- Islamic Medium Term Notes ["IMTN"] and Islamic Commercial Papers ["ICP"] issued or to be issued by DNB pursuant to the IMTN and ICP Programme with nominal value of up to RM82.2 billion including the aggregate principal amount obtained under the SFF-i Facility; and
- IMTN and ICP Programme which has been upsized with an additional nominal value of up to RM6.5 billion to a maximum aggregate value of up to RM88.7 billion including the aggregate principal amount obtained under the SFF-I Facility.

The remission applies as follows:

i. Remission of Tax

Any tax payable under the ITA 1967 by:-

- DNB, any financier of the SFF-i Facility or any other party in respect of any money payable under any agreement, note, instrument and document in relation to the SFF-i Facility and the guarantee;
- DNB or any holder of the IMTN and ICP or any other party in respect of any money payable under any agreement, note, instrument and document in relation to the IMTN and ICP Programme or upsized IMTN and ICP Programme and the guarantee; or
- Any party to whom the agreement, note, instrument and document relating to the funding obtained by DNB under this Order is transferred or assigned,

shall be remitted in full.

ii. Remission of Stamp Duty

- Any stamp duty payable under the SA 1949 in respect of any agreement, note, instrument and document in relation to the IMTN and ICP Programme, upsized IMTN and ICP Programme, SFF-i Facility and the guarantee shall be remitted in full.

Guide on Sales Tax Exemption under Items 33A, 33B, 55, 63, 64 and 65 to Schedule A of the Sales Tax (Persons Exempted from Payment of Tax) Order 2018

The Royal Malaysian Customs Department ["RMCD"] has published the *Guide on Sales Tax Exemption under Items 33A, 33B, 55, 63, 64 and 65 to Schedule A of the Sales Tax (Persons Exempted from Payment of Tax) Order 2018* dated 12th November 2025. The Guide sets out detailed conditions for qualifying for the sales tax exemptions under the items mentioned above which helps to clarify the eligibility criteria and compliance requirements.

Note: *For further details, kindly refer to our Tax Flash – October 2025 issue.*

PR No. 2/2025 – Claim for Refund of Service Tax under Paragraph 34(3)(b) of the Service Tax Act 2018 by Foreign Representatives and International Organisations

The RMCD has published the *Public Ruling No. 2/2025 - Claim for Refund of Service Tax under Paragraph 34(3)(b) of the Service Tax Act 2018 by Foreign Representatives and International Organisations* dated 24th November 2025 (in *Bahasa Malaysia)*.