

Tajuk : 2. Interpretation.
 Tarikh Kuatkuasa :
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 Kategori : Rujukan Perundangan\Akta Cukai Pendapatan 1967 - Seksyen\PART I - PRELIMINARY\

Rencana

Akta Cukai Pendapatan 1967 (Akta 53) Pindaan Sehingga Akta 719 Tahun 2011

Tarikh Keluaran :
Title : Income Tax Act
Part : PART I - PRELIMINARY
Chapter : PART I - PRELIMINARY
Section : 2. Interpretation.

2. (1) In this Act, unless the context otherwise requires -

"adjusted income", in relation to a source and a basis period, means adjusted income ascertained in accordance with this Act;

"adjusted loss", in relation to a source and a basis period, means adjusted loss ascertained in accordance with this Act;

"aggregate income", in relation to a person and a year of assessment, means aggregate income ascertained in accordance with this Act;

"amended return" means an amended return made in accordance with section 77B;

Interpretation.
 [Am. Act 293;
 Act 323;
 Act 328;
 Act 337;
 Act 420;
 Act A774
 Act 631
 Act 661;Act 693]

History.

Definition "amended return" is inserted by Act 693 of 2009 s4, and has effect for the year of assessment 2009 and subsequent years of assessment.

"approved loan" means -

(a) any loan or credit made to the Government, State Government (including any loan or credit made to a person other than the Government or State Government where the loan or credit is guaranteed by the Government or State Government), local authority or statutory body; or

(b) any loan or credit other than a loan or credit of the kind specified in paragraph (a), made to a person pursuant to an application received prior to 25 October 1996 where the amount of such loan or credit exceeds two hundred and fifty million ringgit,

History.

Subsection 2(1) amended by Act 557 of 1997 s4(a), in the definition of "approved loan" by inserting after the words "a person" in paragraph (b) the words "pursuant to an application received prior to 25 October 1996", in force from 25 October 1996.

by a person not resident in Malaysia:

Provided that -

(i) the loan or credit has been approved by the Minister of Finance; and

(ii) the loan or credit agreement was executed in Malaysia or where the loan or credit agreement with the prior approval of the Minister was executed outside Malaysia;

"approved operational headquarters company" has the meaning assigned thereto by section 60E;

"approved scheme" means the Employees Provident Fund or any pension or provident fund, scheme or society approved by the Director General under section 150;

History.

Definition "approved scheme" in subsection 2(1) amended by Act 513 of 1994 s4, by inserting after the word "means" the words "the Employees Provident Fund or", shall be deemed to have come into force on the 1st June 1991.

"assessment" means any assessment or additional assessment made under this Act;

"authorized officer" means, within the scope of his authority-

(a) an officer authorized by section 136 (1) to (4) to exercise any function of the Director General; or

(b) an officer authorized under section 136 (5) to exercise or assist in exercising any such function;

"basis period", in relation to a person, a source of his and a year of assessment, means such basis period, if any, as is ascertained in accordance with section 21 or 21A;

History.

Definition "basis period" in subsection 2(1) is amended by Act A1093 of 2000 s2, by inserting after the words "section 21" the words "or 21A", with effect from year of assessment 2001.

"basis year" has the meaning assigned by section 20;

"body of persons" means an unincorporated body of persons (not being a company), including a Hindu joint family but excluding a partnership;

"building" includes any structure erected on land (not being plant or machinery);

"business" includes profession, vocation and trade and every manufacture, adventure or concern in the nature of trade, but excludes employment;

"Central Bank" means the Central Bank of Malaysia established under section 3 of the Central Bank of Malaysia Act 1958 [Act 519]

History:

subsection (1) is amended by inserting after the definition of "business" the definition of "Central Bank" by Act 639 which have effect for the year of assessment of 2005 and subsequent years of assessment.

"chargeable income" in relation to a person and a year of assessment, means chargeable income ascertained in accordance with this Act;

"Clerk" means the Clerk to the Special Commissioners;

"company" means a body corporate and includes any body of persons established with a separate legal identity by or under the laws of a territory outside Malaysia;

"composite assessment" means a composite assessment made in accordance with section 96A;

"controlled company" means a company having not more than fifty members and controlled, in the manner described by section 139, by not more than five persons;

"co-operative society" means any co-operative society registered under any written law relating to the registration of co-operative societies in Malaysia;

"director", in relation to a company, includes any person occupying the position of director (by whatever name called), any person in accordance with whose directions or instructions the directors are accustomed to act and any person who -

(a) is a manager of the company or otherwise concerned in the management of the company's business;

(b) is remunerated out of the funds of that business; and

(c) is, either on his own or with one or more associates within the meaning of section 139 (7), the beneficial owner of (or able directly or through the medium of other companies or by any other indirect means to control) twenty per cent or more of the ordinary share capital of the company ("ordinary share capital" here meaning all the issued share capital of the company, by whatever name called, other than capital the holders whereof have a right to a dividend at a fixed rate but have no other right to share in the profits of the company);

"Director General" means the Director General of Inland Revenue referred to in section 134;

"employee", in relation to an employment, means-

(a) where the relationship of master and servant subsists, the servant;

(b) where that relationship does not subsist, the holder of the appointment or office which constitutes the employment;

"employer", in relation to an employment, means-

(a) where the relationship of master and servant subsists, the master;

(b) where that relationship does not subsist, the person who pays or is responsible for paying any remuneration to the employee who has the employment, notwithstanding that that person and the employee may be the same person acting in different capacities;

"employment" means -

(a) employment in which the relationship of master and

servant subsists;

(b) any appointment or office, whether public or not and whether or not that relationship subsists, for which remuneration payable;

"executor" means the executor, administrator or other person administering or managing the estate of a deceased person;

"foreign tax" means any tax on income (or any other tax of a substantially similar character) chargeable or imposed by or under the laws of a territory outside Malaysia and in relation to paragraph 132(4)(d) or section 132a includes other taxes of every kind imposed by or under the laws of that territory;

History

Definition of "foreign tax" is amended by Act 719 of 2011 s 4, by inserting after the word "Malaysia" the words "and in relation to paragraph 132(4)(d) or section 132a includes other taxes of every kind imposed by or under the laws of that territory", comes into operation on 18 January 2011.

"Hindu joint family" means what in any system of law prevailing in India is known as a Hindu joint family or coparcenary;

"husband who elects" means the husband who is referred to in section 45(2)(b);

History.

Definition "husband who elects" inserted by Act 608 of 2000 s4, with effect from year of assessment 2001.

"incapacitated person" means a minor or a person adjudged under any law to be in a state of unsoundness of mind (however described);

"individual" means a natural person;

"Inland Revenue Board of Malaysia" means the Inland Revenue Board of Malaysia established under the Inland Revenue Board of Malaysia Act 1995;

History.

Definition "Inland Revenue Board of Malaysia" inserted by Act A955 of 1996 s2, in force from 2 August 1996.

"Labuan business activity" has the meaning assigned to

it in the Labuan Business Activity Tax Act 1990 [Act 445];

"Labuan company" means a Labuan company incorporated under the Labuan Companies Act 1990 [Act 441] and includes a foreign Labuan company registered under that Act, Labuan limited partnership established and registered under the Labuan Limited Partnerships and Limited Liability Partnerships Act 2010 [Act 707], Labuan trust as defined in the Labuan Trusts Act 1996 [Act 554] and a Malaysian bank as defined in the Labuan Financial Services and Securities Act 2010 [Act 704];

History

Definition "Labuan business activity" and "Labuan company" are inserted by Act 719 of 2011 s 4, deemed to have come into operation on 11 february 2010.

"lease" includes a sub-lease, a tenancy for three years or less and any agreement for a lease or sub-lease;

"Malaysia" means the territories of the Federation of Malaysia, the territorial waters of Malaysia and the sea-bed and subsoil of the territorial waters, and includes any area extending beyond the limits of the territorial waters of Malaysia, and the sea-bed and subsoil of any such area, which has been or may hereafter be designated under the laws of Malaysia as an area over which Malaysia has sovereign rights for the purposes of exploring and exploiting the natural resources, whether living or non-living;

"market value", in relation to any thing, means the price which that thing would fetch if sold in a transaction between independent persons dealing at arm's length;

"Minister" means the Minister for the time being charged with the responsibility for finance;

History

Definition of "Minister" inserted by Act A 600 of 2000 s4, with effect from 16 June 2000.

~~"offshore business activity" has the meaning assigned thereto by the Labuan Offshore Business Activity Tax Act 1990;~~

History

Definition "offshore business activity" is deleted by Act 719 of 2011 subparagraph 4(a)(iii), deemed to have

come into operation on 11 January 2010.

~~"offshore company" has the meaning assigned thereto by the Labuan Offshore Business Activity Tax Act 1990;~~

History

Definition "offshore company" is deleted by Act 719 of 2011 subparagraph 4(a)(iv), deemed to have come into operation on 11 January 2010.

"partnership" means an association of any kind (including joint adventures, syndicates and cases where a party to the association is itself a partnership) between parties who have agreed to combine any of their rights, powers, property, labour or skill for the purpose of carrying on a business and sharing the profits therefrom, but excludes a Hindu joint family although such a family may be a partner in a partnership and any associations which is established pursuant to a scheme of financing in accordance with the principles of Syariah;

History

Definition "partnership" in subsection 2(1) is amended by Act 661 of 2006 s4(a)(i), by inserting after the words "in a partnership" the words "and any associations which is established pursuant to a scheme of financing in accordance with the principles of Syariah", with effect from year of assessment 2007.

"person" includes a company, a body of persons and a corporation sole;

"premises" means a building (or, where a building is divided into separate parts used or capable of being used as separate residential flats or otherwise as separate tenements, any one of those parts) and includes-

(a) any other building or part of a building used or intended to be used in conjunction therewith as domestic offices or for some other ancillary purpose; and

(b) any land attached thereto for use by way of amenity as garden or grounds;

"prescribed" means prescribed by rules made under

section 154 or, in relation to a form other than the form mentioned in section 138 (1), prescribed under section 152;

"public entertainer" means a stage, radio or television artiste, a musician, athlete or an individual exercising any profession, vocation or employment of a similar nature;

History

Definition "public entertainer" in subsection 2(1) is amended by Act 661 of 2006 s4(a)(ii), by substituting for the words "athlete" the words "sportperson", with effect from year of assessment 2007.

"rent" includes any sum paid for the use or occupation of any premises or part thereof or for the hire of anything;

"resident" means resident in Malaysia for the basis year for a year of assessment by virtue of section 7 or 8;

"royalty" includes -

(a) any sums paid as consideration for the use of, or the right to use-

(i) copyrights, artistic or scientific works, patents, designs or models, plans, secret processes or formulae, trademarks, or tapes for radio or television broadcasting, motion picture films, films or video tapes or other means of reproduction where such films or tapes have been or are to be used or reproduced in Malaysia or other like property or rights

History.

Subparagraph (a)(i) of definition of "royalty" substituted by Act 557 of 1997 s4(b), in force from 1 January 1997. Subparagraph (a)(i) formerly read:

" (i) copyrights, artistic or scientific works, patents, designs or models, plans, secret processes or formulae, trademarks or tapes for radio or television broadcasting or other like property or rights; "

(ii) know-how or information concerning technical, industrial, commercial or scientific knowledge, experience or skill;

(b) income derived from the alienation of any property, know-how or information mentioned in paragraph (a) of this definition;

(c) (repealed by Act 293)

(d) (repealed by Act 293)

"Securities Commission" means the Securities Commission established under section 3 of the Securities Commission Act 1993 [Act 498].

History:

Subsection (1) is amended by inserting after the definition of "royalty" the definition of "Securities Commission" by Act 639 which have effect for the year of assessment of 2005 and subsequent years of assessment.

"service director", in relation to a company, means a director (not being a person to whom, together with his associates within the meaning of section 139 (7), if any, there would be distributed, on the distribution of a dividend by the company, more than five per cent of the dividend) who is employed in the service of the company in a managerial or technical capacity, and is not, either on his own or with any associate or associates within that meaning, the beneficial owner of (or able directly or through the medium of other companies or by any other indirect means to control) more than five per cent of the ordinary share capital of the company ("ordinary share capital" here having the same meaning as in the definition of "director" in this subsection);

"share", in relation to a company, includes stock other than debenture stock;

"source" means a source of income;

"Special Commissioners" means the Special Commissioners of Income Tax referred to in section 98;

"statutory authority" means any authority or body established by or under a written law (not being an authority or body established under the Companies Act 1965, or any written law of a corresponding kind in force before the commencement of that Act in any place comprised in Malaysia on 1st January 1968) to discharge any functions for a public nature, including the provision of public utility and similar services;

"statutory income", in relation to a person, a source and a year of assessment, means statutory income ascertained in accordance with this Act;

"statutory order" means an order having legislative effect;

"stock in trade", in relation to a business, means property of any description, whether movable or immovable, being either-

(a) property such as is sold in the ordinary course of the business or would be so sold if it were mature or if its manufacture, preparation or construction were complete; or

(b) materials such as are used in the manufacture, preparation or construction of any such property as is referred to in paragraph (a) of this definition,

and includes any work in progress;

"tax" means the tax imposed by this Act;

"total income", in relation to a person and a year of assessment, means total income ascertained in accordance with this Act;

"trust body", in relation to a trust, means the trust body provided for by section 61;

"wife" means a woman who (whether or not she has gone through any religious or other ceremony) is regarded by virtue of any law or custom as the wife of a man or as one of his wives;

"wife who elects" means the wife who is referred to in section 45(2)(a);

History.

Definition "wife who elects" inserted by Act 608 of 2000 s4, with effect from year of assessment 2001.

"year of assessment", subject to subsection (5), means calendar year.

(2) Any reference in this Act to income shall, if the income is not described as being income of a particular kind, be construed as a reference to income generally or to gross, adjusted, statutory, aggregate, total or chargeable income as the context and circumstances may require.

(3) Unless the context otherwise requires, "payable for" and "receivable for", when used in this Act with reference to a period, mean payable or receivable, as the case may be, for that period or any part thereof.

(4) Where-

(a) two or more companies are related within the meaning section 6 of the Companies Act 1965;

(b) a company is so related to another company which is itself so related to a third company;

(c) the same persons hold more than fifty per cent of the shares in each of two or more companies; or

(d) each of two or more companies is so related to at least one of two or more companies to which paragraph (c) applies,

all the companies in question are in the same group for the purposes of this Act.

(5) References in this Act to a year or years of assessment shall be construed (except where Schedule 9 provides otherwise) as references to a year or years of assessment in relation to which this Act has effect by virtue of section 1 (3).

(6) For the purposes of this Act -

(a) the reference to tax in section 79 (e) shall be deemed to include a reference to any tax imposed by any of the repealed laws ("repealed laws" in this subsection having the same meaning as in Schedule 9);

(b) the reference to this Act in sections 81, 116 (c) and 153 shall be deemed to include references to each of the repealed laws; and

(c) the reference to functions under this Act in section 116 (b) shall be deemed to include a reference to functions under any of the repealed laws exercised by virtue of this Act.

(7) Any reference in this Act to interest shall apply, *mutatis mutandis*, to gains or profits received and expenses incurred, in lieu of interest, in transactions conducted in accordance with the principles of Syariah."

(8) Subject to subsection (7), any reference in this Act to the disposal of an asset or a lease shall exclude any disposal of an asset or lease by or to a person pursuant to a scheme of financing approved by the Central Bank or the Securities Commission or the Labuan Offshore Financial Services Authority as a scheme which is in accordance with the principles of Syariah where such

disposal is strictly required for the purpose of complying with those principles but which will not be required in any other schemes of financing”.

History:

subsection (8) is inserted by Act 631 which have effect for the year of assessment 2003 and subsequent years of assessment.

this subsection (8) is substituted by Act 639 which have effect for the year of assessment 2005 and subsequent years of assessment.

subsection (8) formerly read as:

(8) Subject to subsection (7), any reference in this Act to the disposal of an asset or a lease shall exclude any disposal of an asset or lease by or to a person pursuant to a scheme of financing in accordance with the principles of Syariah.”.

subsection (8) is amended by Act 661 of 2006 s4(b), by substituting for the words "or the Securities Commission" the words "the Securities Commission or the Labuan Offshore Financial Services Authority", with effect from year of assessment 2007.

(9) Any reference in subsection 107C(4A), paragraph 2A of Schedule 1 and paragraph 19A of Schedule 3 to a company which has a paid-up capital in respect of ordinary shares of two million five hundred thousand ringgit and less at the beginning of the basis period for a year of assessment shall exclude a company which is established for the issuance of asset-backed securities in a securitization transaction approved by the Securities Commission.

History

Subsection 2(9) is inserted by Act 702 of 2010 s4, has effect for the year assessment 2010 and subsequent years of assessment.

10) Any reference in this Act to—

(a) “Labuan Offshore Business Activity Tax Act 1990” is construed as reference to “Labuan Business Activity Tax Act 1990”;

(b) “Labuan Offshore Financial Services Authority” is construed as reference to “Labuan Financial Services Authority”;

(c) “offshore business activity” is construed as reference to “Labuan business activity”;

(d) “Offshore Companies Act 1990” is construed as reference to “Labuan Companies Act 1990”; and

(e) “offshore company” is construed as reference to “Labuan company”.

History

Subsection 2(10) is inserted by Act 719 of 2011 paragraph 4(b), deemed to have come into operation on 11 February 2010.