



INLAND REVENUE BOARD MALAYSIA

APPEAL AGAINST AN ASSESSMENT

**ADDENDUM TO
PUBLIC RULING NO. 3/2001**

Translation from the original Bahasa Malaysia text

DATE OF ISSUE: 18 MAY 2009



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DIRECTOR GENERAL'S PUBLIC RULING

A Public Ruling as provided for under section 138A of the Income Tax Act 1967 is issued for the purpose of providing guidance for the public and officers of the Inland Revenue Board Malaysia. It sets out the interpretation of the Director General of Inland Revenue in respect of the particular tax law, and the policy and procedure that are to be applied.

A Public Ruling may be withdrawn, either wholly or in part, by notice of withdrawal or by publication of a new ruling which is inconsistent with it.

**Director General of Inland Revenue,
Inland Revenue Board Malaysia.**



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ADDENDUM TO PUBLIC RULING NO. 3/2001**

1. This Addendum provides clarification in relation to an appeal against a notification of non-chargeability.
2. The provision of the Income Tax Act 1967 (ITA) related to this Addendum is section 97A.
3. **Appeal against notification of non-chargeability – section 97A of the ITA**
 - 3.1 Prior to the introduction of section 97A of the ITA, a person has the right to appeal to the Special Commissioners of Income Tax (SCIT) only if he is dissatisfied with an assessment that has been made or deemed to have been made by the Director General of Inland Revenue Malaysia (DGIRM). A person has no right to appeal to the SCIT for cases which are not liable to tax i.e. where a notice of assessment is not issued and only has the right to appeal for future years when a notice of assessment is issued.
 - 3.2 With effect from 1 January 2009, the right to appeal to the SCIT by a person is extended to cases which are not liable to tax.
 - 3.3 Pursuant to the new provision of section 97A of the ITA, a notification of non-chargeability will be issued to a person under the following circumstances, i.e:
 - (a) in the case where a person has been audited and the DGIRM finds that no assessment shall be made for a year of assessment by reason of there being no adjusted income, statutory income, aggregate income or total income. The notification of non-chargeability and the adjustment to tax computation for the relevant year of assessment will be issued by the branch handling the person's income tax file.
 - (b) in the case where a person has submitted an Income Tax Return Form (ITRF) for a year of assessment and reported that he is not liable to tax but intends to appeal for disagreeing with the tax treatment mentioned in any public ruling or any stand of the Inland Revenue Board of Malaysia (IRBM). The person has to apply to the IRBM in writing for a notification of non-chargeability .
 - (c) in the case where a person (other than a company, trust body or co-operative) is not required to submit an ITRF for a year of assessment under subsection 77(1) of the ITA but intends to appeal for disagreeing with the tax treatment mentioned in any public ruling or any stand of the

IRBM. The person has to submit the ITRF for that year of assessment and apply to the IRBM in writing for a notification of non-chargeability .

- 3.4 For the purposes of paragraphs 3.3(b) and (c), the Information Processing Department of the IRBM will issue a notification of non-chargeability to the person upon receipt of the application for a notification of non-chargeability.
- 3.5 The notification of non-chargeability is deemed to be a notice of assessment and forms the basis of an appeal to the SCIT. A person who has the intention to appeal to the SCIT should submit the appeal within 30 days after the notification is served on him.

Example 1:

Syarikat Jaya Holding Berhad closes its accounts on 31 Disember every year. The company submits its ITRF for the year of assessment 2008 on 30.06.2009. The company is not liable to tax but disagrees with a specific tax treatment mentioned in the Public Ruling No. 2/2008. The company intends to appeal to the SCIT and applies to the IRBM for a notification of non-chargeability. The IRBM issues a notification of non-chargeability to the company and serves the notification on the company on 20.08.2009.

The appeal to the SCIT should be submitted by the company not later than 19.09.2009.

Example 2:

Ramli Ahmad commences his business on 01.02.2006. He is not liable to tax for years of assessment 2006 until 2008 and is not required to submit an ITRF for the three years of assessment. He complies with all the relevant public rulings in preparing his tax computation for the years of assessment 2006 until 2008 but disagrees with a specific tax treatment mentioned in the Public Ruling No. 5/2005. Ramli intends to appeal to the SCIT. Therefore, Ramli submits his ITRF for the years of assessment 2006, 2007 and 2008 on 30.03.2009 and applies to the IRBM for a notification of non-chargeability. The IRBM issues a notification of non-chargeability to Ramli and serves the notification on Ramli on 20.04.2009.

The appeal to the SCIT should be submitted by Ramli not later than 20.05.2009.

- 3.6 The provisions in the ITA relating to an appeal and procedures explained in the Public Ruling No. 3/2001 also apply to an appeal against a notification of non-chargeability under section 97A of the ITA.



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4. Change in meaning of tax agent

For the purposes of this ruling, the meaning of “tax agent” in paragraph 4.1 of the Public Ruling No. 3/2001 is amended to “any professional accountant or person approved by the Minister” with effect from 1 January 2007.

5. This Addendum forms part of the Public Ruling No. 3/2001 and is effective from 1 January 2009.

**Director General of Inland Revenue,
Inland Revenue Board Malaysia.**