



INLAND REVENUE BOARD MALAYSIA

TRADE ASSOCIATION

**ADDENDUM TO
PUBLIC RULING NO. 6/2005**

Translation from the original Bahasa Malaysia text

DATE OF ISSUE: 1 JULY 2009



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A Public Ruling may be withdrawn, either wholly or in part, by notice of withdrawal or by publication of a new ruling which is inconsistent with it.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



TRADE ASSOCIATION
ADDENDUM TO PUBLIC RULING NO. 6/2005

1. This Addendum provides clarification in relation to the:
 - (a) change in definition of a trade association; and
 - (b) tax treatment of adjusted loss and unabsorbed capital allowance from the members' subscription.
2. The provisions of the Income Tax Act 1967 (ITA) related to this Addendum are subsections 53(3) and 53(4).
3. Prior to the year of assessment 2009, a trade association is defined under subsection 53(3) of the ITA as any association of persons, of partnerships or of persons and partnerships formed with the main object of safeguarding or promoting the businesses of its members. The Public Ruling No. 6/2005 mentioned that an association will not fall within the meaning of a trade association if the association's membership is open not only to those who are in business but also to those who are exercising an employment.
4. With effect from the year of assessment 2009, subsection 53(3) of the ITA is amended to include associations formed with the main object of developing and advancing the profession of its members. Therefore, an organization which is also open to those who are exercising an employment falls within the meaning of a trade association. This amendment is merely to enhance transparency and clarity in the definition of a trade association since professional associations have generally been taxed as a trade association.
5. With the amendment to the definition of a trade association under subsections 53(3) and 53(4) of the ITA, paragraph 3.1 and the entire paragraph 4 of the Public Ruling No. 6/2005 are substituted with the paragraphs below:
 - 3.1 "Trade association" is defined under subsections 53(3) and 53(4) of the ITA as any association of persons, of partnerships or of persons and partnerships formed with the main object of safeguarding or promoting the business of its members or developing and advancing the profession of its members and notwithstanding any other provisions of the ITA, a trade association shall be deemed to be a body of persons and not a partnership.



4. Trade association

- 4.1 Based on the amendment to the definition of a trade association under subsection 53(3) of the ITA, an association would be regarded as a trade association if it fulfills the following conditions:
- (a) it is formed with the main object of safeguarding or promoting the business of its members; or
 - (b) it is formed with the main object of developing and advancing the profession of its members.
- 4.2 Where an association fulfills any of the conditions specified under paragraph 4.1 and the association's membership is open not only to those who are in business but also to those who are exercising an employment, the association is still regarded as a trade association.
- 4.3 Examples of trade associations formed with the main object of safeguarding or promoting the business of its members are the Associated Chinese Chambers of Commerce and Industry of Malaysia (ACCCIM), the Air Freight Forwarders Association of Malaysia (AFAM), the Federation of Malaysian Manufacturers (FMM), the Malaysian Insurance Institute (MII), the Malaysian Association of Tour and Travel Agents (MATTA) and the Asset Financing and Leasing Association of Malaysia (AFLAM).
- 4.4 Examples of trade associations formed with the main object of developing and advancing the profession of its members are the Chartered Tax Institute of Malaysia (CTIM), the Malaysian Institute of Accountants (MIA), the Malaysian Institute of Certified Public Accountants (MICPA), the Malaysian Institute of Chartered Secretaries and Administrators (MAICSA), the Malaysian Association of Tax Accountants (MATA), the Malaysian Medical Association (MMA), the Malaysian Institute of Architects (PAM) and the Association of Consulting Engineers Malaysia (ACEM).
- 4.5 Where a trade association is resident in Malaysia for the basis year for a year of assessment, the gross income from a business of the trade association would include any revenue receipt receivable by the trade association for that basis year including entrance fees and members' subscriptions.



6. Example 5 in paragraph 10.3 of the Public Ruling No. 6/2005 illustrates the tax computation in relation to the exemption on statutory income of a trade association from members' subscription as provided under the Income Tax (Exemption) (No. 19) Order 2005. For the purpose of providing further illustration of the tax treatment of the adjusted loss and unabsorbed capital allowance where there is no statutory income from members' subscription, example 5A is inserted after example 5 in paragraph 10.3 of the Public Ruling No. 6/2005.

Example 5A:

The profit and loss account of a trade association for the year ended 31 December 2009 is as follows:

Income	RM
Members' subscription	198,000
Seminar fees	<u>66,000</u>
Total amount of gross income (business sources)	264,000
Fixed deposit interest	<u>300,000</u>
Total income	564,000 =====
Expenditure	
Director's fees	100,000
Employees remuneration	175,000
Rental of seminar hall	88,000
Transport	38,500
Stationery	<u>16,500</u>
Total expenditure	<u>418,000</u>
Surplus of income over expenditure	146,000 =====
Common expenses	
Director's fees	100,000
Employees remuneration	175,000
Transport	38,500
Stationery	<u>16,500</u>
Amount of common expenses	330,000 =====
Common capital allowances	RM200,000



The calculation of tax payable for year of assessment 2009 of the trade association is as follows:

	RM	RM
<i>I. Members' subscription</i>	<i>198,000</i>	
<i>Less: Common Expenses</i>		
<i>330,000 x <u>198,000</u></i>	<i><u>247,500</u></i>	
<i>264,000</i>		
<i>Adjusted loss</i>	<i>49,500 (disregarded)</i>	
<i>Common capital allowance</i>		
<i>200,000 x <u>198,000</u></i>	<i>150,000 (disregarded)</i>	
<i>264,000</i>		
<i>Statutory income from members' subscription</i>		<i>Nil</i>
<i>II. Seminar fees</i>	<i>66,000</i>	
<i>Less: Rental of seminar hall</i>	<i>88,000</i>	
<i>Common Expenses</i>		
<i>330,000 x <u>66,000</u></i>	<i><u>82,500</u></i>	<i><u>170,500</u></i>
<i>264,000</i>		
<i>Adjusted loss</i>	<i>104,500</i>	
<i>Capital allowance carried forward</i>		
<i>200,000 x <u>66,000</u></i>	<i>50,000</i>	
<i>264,000</i>		
<i>Statutory income from seminar fees</i>		<i>Nil</i>
<i>III. Fixed deposit interest</i>		<i><u>300,000</u></i>
<i>Aggregate income</i>		<i>300,000</i>
<i>Less: Current year business loss</i>		<i><u>104,500</u></i>
<i>Chargeable income</i>		<i><u>195,500</u></i>
<i>Tax on the first RM100,000</i>		<i>14,325.00</i>
<i>Tax on the balance of RM95,500 @ 27%</i>		<i><u>25,785.00</u></i>
<i>Total tax payable</i>		<i><u>40,110.00</u></i>



INLAND REVENUE BOARD MALAYSIA

TRADE ASSOCIATION

**Addendum to
Public Ruling No. 6/2005
Date of Issue: 1 July 2009**

-
- (a) *Adjusted loss from members' subscription amounting to RM49,500 is not allowed to be deducted from the aggregate income and is not allowed to be carried forward to subsequent years of assessment.*
- (b) *Capital allowances of RM150,000 which could not be absorbed by the source of income from members' subscription is not allowed to be carried forward to subsequent years of assessment.*
- (c) *The amount of common expenses and common capital allowances that has been determined for the purposes of computation of statutory income from members' subscription should not be taken in the computation of statutory income from seminar fees and fixed deposit interest.*
7. This Addendum forms part of the Public Ruling No. 6/2005 and is effective from the year of assessment 2009.

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