



INLAND REVENUE BOARD OF MALAYSIA

**TIME LIMIT FOR UNABSORBED
ADJUSTED BUSINESS LOSSES
CARRIED FORWARD**

PUBLIC RULING NO. 1/2022

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DIRECTOR GENERAL'S PUBLIC RULING

Section 138A of the Income Tax Act 1967 (ITA) provides that the Director General is empowered to make a Public Ruling in relation to the application of any provisions of the ITA.

A Public Ruling is published as a guide for the public and officers of the Inland Revenue Board of Malaysia. It sets out the interpretation of the Director General in respect of the particular tax law and the policy as well as the procedure applicable to it.

The Director General may withdraw this Public Ruling either wholly or in part, by notice of withdrawal or by publication of a new Public Ruling.

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

1. Objective

The objective of this Public Ruling (PR) is to provide an explanation on the time limit for unutilised or unabsorbed adjusted business losses arising from a business of a person to be carried forward.

2. Relevant Provisions of the Law

2.1 This PR takes into account laws which are in force as at the date this PR is published.

2.2 The provisions of the Income Tax Act 1967 (ITA) related to this PR are sections 2, 7, 8, 21, 21A, 33, 39, 40, 42, 43, 44, special provisions relating to sections 43, 44 and Schedules 3.

3. Interpretation

The words used in this PR have the following meaning:

3.1 “Individual” means a natural person.

3.2 “Total income”, in relation to a person and a year of assessment, means total income ascertained in accordance with the ITA.

3.3 “Adjusted loss”, in relation to a source and a basis period, means adjusted loss ascertained in accordance with the ITA.

3.4 “Person” includes a company, a body of persons, a limited liability partnership and a corporation sole.

3.5 “Resident” means resident in Malaysia for the basis year for a year of assessment as determined under sections 7 and 8 of the ITA.

3.6 “Aggregate income”, in relation to a person and a year of assessment, means aggregate income ascertained in accordance with the ITA.

3.7 “Statutory income”, in relation to a person, a source and a year of assessment, means statutory income ascertained in accordance with the ITA.

3.8 “Adjusted income”, in relation to a source and a basis period, means adjusted income ascertained in accordance with the ITA.

3.9 “Ordinary share” means any share other than a share which carries only a right to any dividend which is of –

(a) a fixed amount or at a fixed rate per cent of the value of the shares; or

(b) a fixed rate per cent of the profits of the company.

3.10 “Year of assessment” means calendar year.

3.11 “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 section 21A of the ITA.

4. Introduction

4.1 A person, i.e. a company, limited liability partnership or a sole proprietor may incur adjusted business losses after deducting the allowable expenditure against the gross profit of a business in the basis period for a year of assessment. Such adjusted business losses can be utilised to set-off against other income derived in the same year of assessment, such as from other businesses, employment, interest and rental income. If the other income in the same year of assessment is insufficient to absorb the current year adjusted business losses, the unutilised or unabsorbed adjusted business losses can be carried forward to subsequent years of assessment to be deducted against future business income.

4.2 Effective year of assessment 2019, a new provision under subsection 44(5F) of the ITA was introduced via Finance Act 2018 [Act 812], to limit the unabsorbed adjusted business losses carried forward arising from a relevant year of assessment for a period of seven (7) consecutive years of assessment.

4.3 However, the time limit for unabsorbed adjusted business losses carried forward arising from a relevant year of assessment has been amended from a period of seven (7) consecutive years of assessment to ten (10) consecutive years of assessment through the Finance Act 2021 [Act 833] effective year of assessment 2019.

5. Ascertainment of Adjusted Income or Loss of a Business

The adjusted income or loss of a business for a basis period for a year of assessment is ascertained by deducting from its gross income any expenses wholly and exclusively incurred in the production of gross income during that basis period including any special allowable expenses in respect of that business.

5.1 Adjusted income of a business

Where the gross income of a business during the basis period exceeds the allowable expenses, it would result in an adjusted income from the business source.

5.2 Adjusted loss of a business

Where allowable expenses during the basis period exceeds the gross income of a business, it would result in an adjusted loss from the business source and the adjusted income from that business is Nil. The adjusted loss of a business arises in the current year will be deducted from the aggregate income for that year of assessment in ascertaining its total income. [Subsection 44(2) of the ITA]

Where the adjusted loss of a business cannot be absorbed or wholly absorbed in arriving at the total income for that year of assessment, that loss will be carried forward to be deducted against the aggregate of statutory income from each of the sources consisting of a business in the subsequent years of assessment. [Subsections 43(2), 44(4) dan 44(5) of the ITA]

However, effective year of assessment 2019, there is a time limit to carry forward such unabsorbed adjusted business losses. For further explanation on the time limit to carry forward current year unutilised or unabsorbed adjusted losses, please refer to paragraph 10 of this PR.

6. Statutory Income of a Business

The statutory income of a person from a business source for the basis period for a year of assessment consists of –

- (a) the amount of his adjusted income (if any) from the business source for the basis period for the relevant year; and
- (b) the amount of –
 - (i) any balancing charge or the aggregate amount of the balancing charges;
 - (ii) any agriculture charge or the aggregate amount of the agriculture charges; and
 - (iii) any forest charge or the aggregate amount of the forest charges,

in relation to the business source for the relevant year by virtue of Schedule 3 of the ITA,

reduced by the amount of any capital allowances, balancing allowances, industrial building allowances or the aggregate amount of the allowances in relation to the business source for the relevant year by virtue of Schedule 3 of the ITA. [Section 42 of the ITA]

7. Aggregate Income

The aggregate income of a person for a year of assessment is ascertained as follows –

7.1 Computation of aggregate income

A person's aggregate income for a year of assessment is –

- (a) the aggregate of the statutory income from business sources for that year of assessment;

reduced by:

- (b) any adjusted losses from businesses which have not been allowed in computing the total income for the relevant year of assessment;

adding:

- (c) the statutory income from each of his other sources of income (non-business) for that year of assessment; and
- (d) any additions falling to be made for the relevant year pursuant to amounts received from prospecting operations by virtue of Schedule 4 of the ITA.

7.2 Absence of aggregate income

Where a person has no aggregate income for the relevant year, the amount of any adjusted loss from a business of his or the aggregate of any adjusted loss from each of his businesses for the basis period for the relevant year is to be ascertained so that such adjusted loss or aggregate adjusted loss from each of his businesses can be carried forward to subsequent years of assessment and allowed as a deduction from the aggregate of statutory income from businesses. [Subsection 44(4) of the ITA]

7.3 Insufficient aggregate income

Where the adjusted loss or the aggregate of any adjusted loss from each of the businesses of a person for the basis period for the relevant year exceeds the aggregate income of that person, the current year adjusted business losses absorbed would be equal to the amount of aggregate income. The excess of the adjusted business losses would have to be ascertained for the purpose of carrying forward the said loss to subsequent years of assessment and can be allowed as a deduction from aggregate of statutory income from businesses. [Subsection 44(5) of the ITA]

8. Shareholding in a Company

Subsection 44(5A) of the ITA provides that unabsorbed adjusted losses or aggregate adjusted losses from each of the businesses carried forward are only allowed to be absorbed in that year of assessment and subsequent years of assessment if the shareholders of the company are substantially the same, or in other words, there has been no substantial change in the company's shareholding.

In the event of a substantial change in the company's shareholding in the year of assessment, the unabsorbed adjusted business losses or aggregate adjusted business losses are not allowed to be absorbed in that year of assessment and shall be disregarded. The amount disregarded shall not be allowed as a deduction in subsequent years of assessment.

8.1 Shareholders are substantially the same

The shareholders of a company are substantially the same if the shareholders of the company on the last day of the basis period for the relevant year of assessment in which the amount of adjusted business losses is ascertained is substantially the same as the shareholders of that company on the first day of the basis period for the year of assessment in which that adjusted business losses is allowable as a deduction (referred to as the relevant date) i.e. when

- (a) more than fifty per cent (50%) of the paid-up capital in respect of the ordinary share of the company is held by or on behalf of the same persons; and
- (b) more than fifty per cent (50%) of the nominal value of the allotted shares in respect of ordinary share in the company is held by or on behalf of the same persons.

8.2 Shares held by a company

If the substantial change of the company shareholdings are held by or on behalf of another company, the shares in the company held by or on behalf of another company would be deemed to be held by the shareholders of the other company.

[Subsections 44(5A), 44(5B), 44(5C) and 44(5D) of the ITA]

8.3 Exemptions to the application of the shareholding test

Subsection 44(5D) of the ITA provides that the Minister of Finance may in special circumstances allow any company which has undergone a substantial

change in its shareholding to carry forward unabsorbed adjusted business losses or aggregate adjusted business losses to be utilised in a relevant year of assessment and subsequent years of assessment. Effective year of assessment 2006, the Minister of Finance has stipulated that a company with a substantial change in shareholding is allowed to carry forward accumulated adjusted business losses to be absorbed in that year of assessment and in subsequent years of assessment unless a substantial change in shareholding occurs in a dormant company.

A company is considered dormant if there is no significant accounting transaction in one financial year prior to the substantial change in its equity shareholding. This means there is no entry registered in the company's accounts other than the minimum expenditure needed to fulfil specified statutory requirements. The minimum expenditure refers to the following -

- (a) filing of company's annual return to the Companies Commission of Malaysia;
- (b) secretarial fee for filing of company's annual return;
- (c) tax filing fee;
- (d) audit fee; and
- (e) accounting fee.

9. Ascertainment of Chargeable Income

The ascertainment of chargeable income would have to follow the following steps –

Details	RM	RM	Provisions of the ITA
Gross income from business I		XX	
Less:			
General provision	XX		Subsection 33(1)
Specific provisions	XX		Sections 34, 34A, 34B, 34C and 34D
		(XX)	
Adjusted income from business		XX	Section 41
Add:			
Balancing charge / agriculture charge/ forest charge		XX	Schedule 3

Details	RM	RM	Provisions of the ITA
Less: Unabsorbed capital allowance brought forward / current year capital allowance / balancing allowance / industrial building allowance / forest allowance / agriculture allowance		(XX)	Schedule 3
Statutory income from business I		XX	Section 42
Add: Statutory income from all business sources		XX	
Aggregate statutory income from businesses		XX	
Less: Unabsorbed adjusted business losses brought forward from previous year		(XX)	Subsection 43(2)
Aggregate statutory income from business sources		XX	
Add: Statutory income from non-business sources		XX	
Amount received from prospecting operations		XX	Schedule 4
Aggregate income		XX	Section 43
Less:			
Current year adjusted loss from business	XX		Subsection 44(2)
Expenditure on prospecting operations	XX		Schedule 4
Qualifying pre-operational business expenditure	XX		Schedule 4B
Gifts and contributions	XX		Subsections 44(6), 44(6A), 44(8), 44(9), 44(10), 44(11), 44(11A), 44(11B), 44(11C) and 44(11D)
		(XX)	
Total income (Chargeable income for a company)		XX	Section 44
Less: Personal relief		(XX)	Sections 45A, 46, 46B, 47, 48 and 49

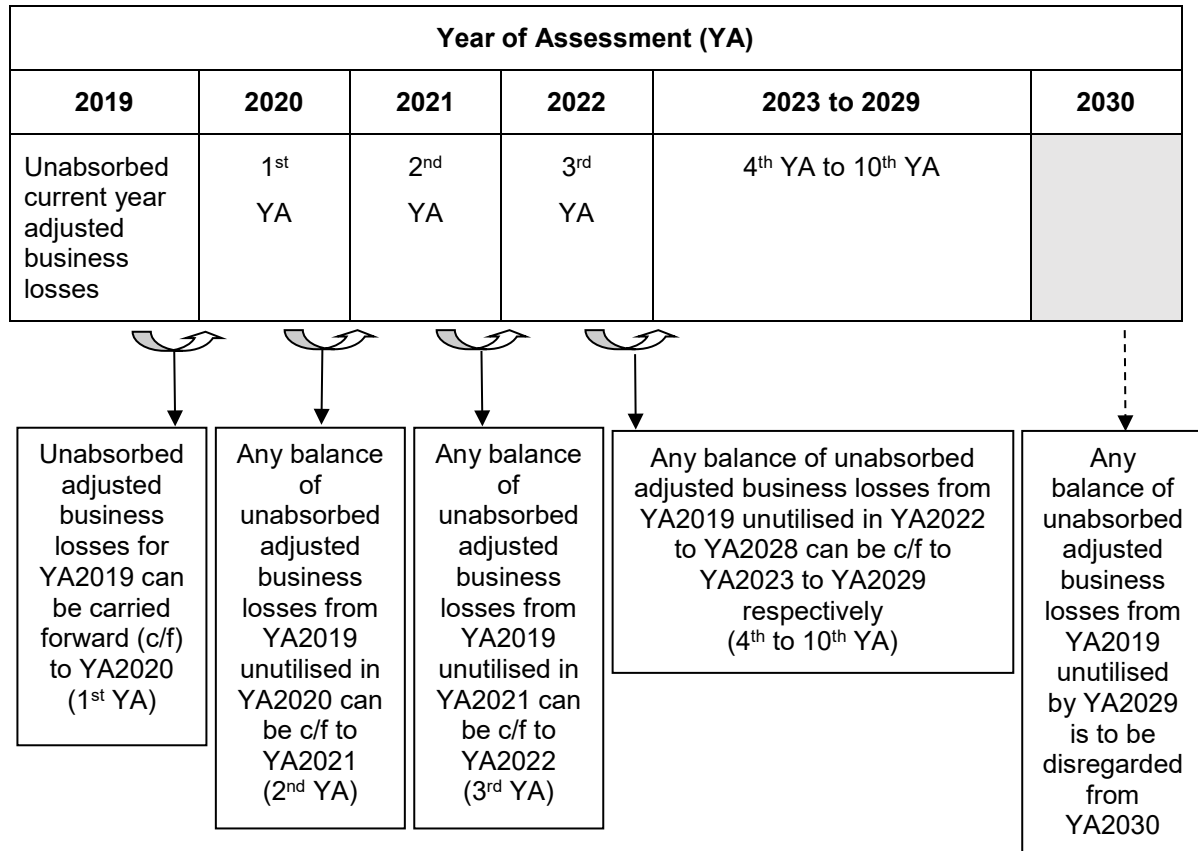
Details	RM	RM	Provisions of the ITA
Total income (Chargeable income for an individual)		XX	Section 45

10. Time Limit for Unabsorbed Adjusted Business Losses Carried Forward

Effective year of assessment 2019, the period for unabsorbed current year adjusted business losses arising in a relevant year of assessment carried forward is limited to ten (10) consecutive years of assessment. The period of ten (10) consecutive years of assessment commences immediately after the year of assessment the adjusted business loss arises. Any balance of unabsorbed adjusted business losses after the end of the period of ten (10) consecutive years of assessment is to be disregarded.

Therefore, if unabsorbed adjusted business losses arise in the year of assessment 2019, the time limit for the unabsorbed adjusted business losses carried forward can be summarised as follows –

**Unabsorbed Adjusted Business Losses for Year of Assessment 2019
Carried Forward**



Example 1 - Unabsorbed Current Year Adjusted Business Losses

AB Sdn Bhd commenced its business operations in the year 2017. The company closes its accounts on 31 December annually. Details of the company's income in the year of assessment 2019 are as follows:

Details	RM
Adjusted income from business (Current year adjusted losses from business – RM400,000)	Nil
Statutory income from rental	300,000

**Year of Assessment 2019
Computation of Chargeable Income**

Details	RM	RM
Adjusted income from business (Current year adjusted losses from business - RM400,000)		Nil
Statutory income from business / Aggregate statutory income from business sources		Nil
Statutory income from rental		300,000
Aggregate income		300,000
Less:		
Current year adjusted losses from business	400,000	
Current year adjusted losses from business utilised	(300,000)	(300,000)
Unabsorbed adjusted business losses c/f (until YA2029)	100,000	
Total income / Chargeable income		Nil

The unabsorbed current year adjusted losses from business of RM100,000 for year of assessment 2019 can be carried forward and utilised against the statutory income from the business from the years of assessment 2020 to 2029 until the loss is fully absorbed. Any balance of unabsorbed adjusted business losses is to be disregarded from the year of assessment 2030.

Example 2 - Unabsorbed Adjusted Business Losses Carried Forward

Same facts as in Example 1 and details of the company's income in the year of assessment 2020 are as follows:

Details	RM
Adjusted income from business (Current year adjusted losses from business – RM600,000)	Nil
Statutory income from rental	250,000

**Year of Assessment 2020
Computation of Chargeable Income**

Details	RM	RM
Adjusted income from business (Current year adjusted loss from business – RM600,000)		Nil
Statutory income from business / Aggregate statutory income from businesses		Nil
Less:		
Unabsorbed adjusted business losses b/f from YA2019	100,000	
Unabsorbed adjusted business losses utilised from YA2019	Nil	Nil
¹ Unabsorbed adjusted business losses c/f from YA2019 (until YA2029)	100,000	
Aggregate statutory income from business sources		Nil
Statutory income from rental		250,000
Aggregate income		250,000
Less:		
Current year adjusted losses from business	600,000	
Current year adjusted losses from business utilized	(250,000)	(250,000)
² Unabsorbed adjusted business losses c/f (until YA2030)	350,000	
Total income / Chargeable income		Nil

Note

- ¹ The unabsorbed adjusted business losses of RM100,000 brought forward from the year of assessment 2019 that cannot be utilised in the year of assessment 2020 can be carried forward to be utilised against the statutory income from the business until year of assessment 2029. If the said unabsorbed adjusted business losses cannot be fully utilised by the year of assessment 2029, the balance of the

unabsorbed business losses is to be disregarded from the year of assessment 2030.

- ² The unabsorbed current year adjusted business losses from business of RM350,000 for year of assessment 2020 can be carried forward to be utilised against the statutory income from the business from the years of assessment 2021 to 2030 until the loss is fully absorbed. Any balance of unabsorbed adjusted business losses is to be disregarded from the year of assessment 2031.

Example 3 - Accumulated Unabsorbed Adjusted Business Losses Carried Forward

Same facts as in Example 2 and details of the company's income in the year of assessment 2021 are as follows:

Details	RM
Adjusted income from business	45,000
Capital allowances	Nil
Statutory income from rental	325,000

**Year of Assessment 2021
Computation of Chargeable Income**

Details	RM	RM
Adjusted income from business		45,000
Less: Capital allowances		Nil
Statutory income from business / Aggregate statutory income from businesses		45,000
Less:		
Unabsorbed adjusted business losses b/f from YA2019	100,000	
Unabsorbed adjusted business losses b/f from YA2020	350,000	
	450,000	
³ Unabsorbed adjusted business losses utilised from YA2019	(45,000)	(45,000)
Unabsorbed adjusted business losses c/f	405,000	

Details	RM	RM
[Unabsorbed adjusted business losses c/f from YA2019 (until YA2029)]	55,000	
⁴ [Unabsorbed adjusted business losses c/f from YA2020 (until YA2030)]	350,000	
Aggregate statutory income from business sources		Nil
Statutory income from rental		325,000
Aggregate income / Total income / Chargeable income		325,000

If there are two (2) or more accumulated unabsorbed adjusted business losses for a year of assessment, the unabsorbed adjusted business losses that arises in the earlier year of assessment shall be absorbed first until the losses are fully utilised and followed by the unabsorbed adjusted business losses that arises in the following year of assessment.

Note

- ³ RM45,000 of the RM100,000 unabsorbed adjusted business losses brought forward from the year of assessment 2019 will be utilised first in the year of assessment 2021. The balance of unabsorbed adjusted business losses amounting RM55,000 can be carried forward to be utilised against the statutory income of the business until the year of assessment 2029. Any balance of unabsorbed adjusted business losses is to be disregarded from the year of assessment 2030.
- ⁴ The unabsorbed adjusted business losses of RM350,000 brought forward from the year of assessment 2020 that is not utilised in the year of assessment 2021 can be carried forward to be utilised against the statutory income from the business until year of assessment 2030. Any balance of unabsorbed adjusted business losses is to be disregarded from the year of assessment 2031.

11. Special Provision

Effective year of assessment 2019, the time limit for unabsorbed adjusted business losses carried forward is ten (10) consecutive years of assessment. However, a special provision allows –

- (a) any amount ascertained under subsection 44(4) or 44(5) of the ITA for the year of assessment 2017 and the preceding years of assessment which has not

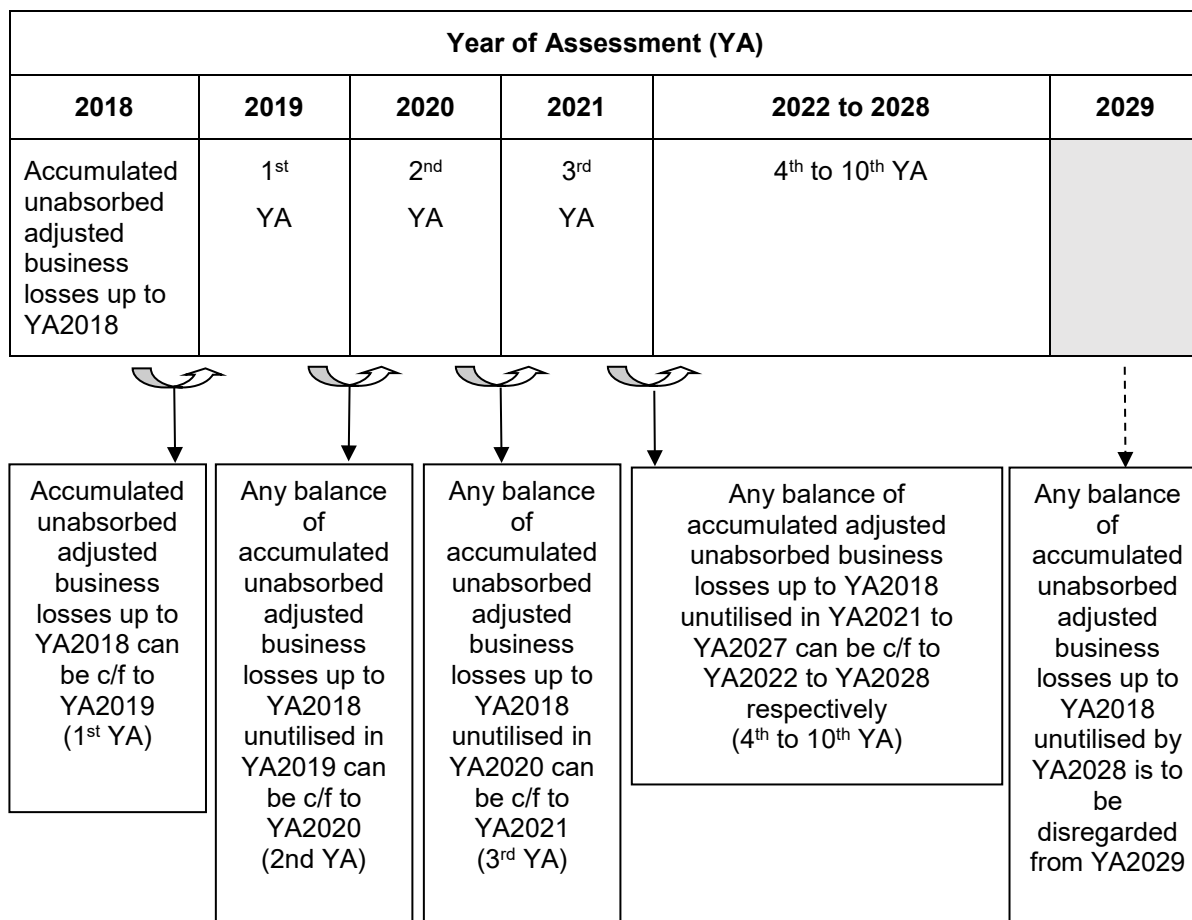
been deducted pursuant to subsection 43(2) of the ITA for the year of assessment 2018; or

- (b) any amount ascertained under subsection 44(4) or 44(5) of the ITA for the year of assessment 2018,

to be utilised as a deduction against the statutory income from the business source by virtue of subsection 43(2) of the ITA for the years of assessment 2019 to 2028. Any unutilised amount after the end of the year of assessment 2028 is to be disregarded.

In other words, accumulated unabsorbed adjusted business losses brought forward from the year of assessment 2017 and preceding years of assessment, and from the year of assessment 2018 are allowed to be carried forward and utilised against the statutory income of the business from the years of assessment 2019 to 2028. Any unutilised amount of the said accumulated unabsorbed adjusted business losses are to be disregarded from the year of assessment 2029.

**Special Provision
Accumulated Unabsorbed Adjusted Business Losses
Up to Year of Assessment 2018 Carried Forward**



Example 4 - Special Provision - Accumulated Unabsorbed Adjusted Business Losses Up to Year of Assessment 2018

Same facts as in Example 1 and that the accumulated unabsorbed adjusted business losses carried forward from the year of assessment 2018 is RM120,000.

**Year of Assessment 2019
Computation of Chargeable Income**

Details	RM	RM
Adjusted income from business (Current year adjusted losses from business - RM400,000)		Nil
Statutory income from business / Aggregate statutory income from businesses		Nil
Less:		
Accumulated unabsorbed adjusted business losses b/f from YA2018	120,000	
Accumulated unabsorbed adjusted business losses utilised from YA2018	Nil	Nil
Accumulated unabsorbed adjusted business losses c/f from YA 2018 (until YA2028)	120,000	
Aggregate statutory income from business sources		Nil
Statutory income from rental		300,000
Aggregate income		300,000
Less:		
Current year adjusted losses from business	400,000	
Current year adjusted losses from business utilised	(300,000)	(300,000)
Unabsorbed adjusted business losses c/f from YA2019 (until YA2029)	100,000	
Total income / Chargeable income		Nil

The balance of accumulated unabsorbed adjusted business losses up to the year of assessment 2018 unutilised in the year of assessment 2019 can be carried forward up to the year of assessment 2028. Any balance of such losses is to be disregarded from the year of assessment 2029. The unabsorbed adjusted business losses for the year of assessment 2019 can be carried forward up to the year of assessment 2029 and any balance of unabsorbed adjusted business losses is to be disregarded from the year of assessment 2030.

Example 5 – Special Provision - Accumulated Unabsorbed Adjusted Business Losses Up to Year of Assessment 2018 Carried Forward Must Be Absorbed First

Same facts as in Example 4. The statutory income from business for the year of assessment 2020 is RM50,000 and the statutory income from rental is RM300,000.

**Year of Assessment 2020
Computation of Chargeable Income**

Details	RM	RM
Adjusted income from business		50,000
Statutory income from business / Aggregate statutory income from businesses		50,000
Less:		
Accumulated unabsorbed adjusted business losses b/f from YA2018	120,000	
Unabsorbed adjusted business losses b/f from YA2019	100,000	
	220,000	
⁵ Accumulated unabsorbed adjusted business losses utilised from YA2018	(50,000)	(50,000)
Unabsorbed adjusted business losses c/f	170,000	
[Accumulated unabsorbed adjusted business losses c/f from YA2018 (until YA2028)]	70,000	
[Unabsorbed adjusted business losses c/f from YA2019 (until YA2029)]	100,000	
Aggregate statutory income from business sources		Nil
Statutory income from rental		300,000
Aggregate income / Total income / Chargeable income		300,000

Note

- ⁵ The accumulated unabsorbed adjusted business losses up to the year of assessment 2018 carried forward from the year of assessment 2019 shall be utilised first in the year of assessment 2020 until it is fully absorbed and followed

by the losses arises in the following year of assessment. Any balance of accumulated unabsorbed adjusted business losses for the year of assessment 2018 and year of assessment 2019 are to be disregarded from the year of assessment 2029 (accumulated unabsorbed business losses for year of assessment 2018) and from from year of assessment 2030 (accumulated unabsorbed business losses for year of assessment 2019).

12. Disclaimer

The examples in this PR are for illustration purposes only and are not exhaustive.

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