



INLAND REVENUE BOARD OF MALAYSIA

TAXATION OF FOREIGN FUND MANAGEMENT COMPANY

PUBLIC RULING NO. 3/2022

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**TAXATION OF FOREIGN FUND
MANAGEMENT COMPANY**

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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 explain the tax treatment of income received by a foreign fund management company that provides fund management services to foreign and local investors. This PR is not applicable to a foreign fund management company that issues, offers or makes an invitation to subscribe or purchase units of conventional unit trust funds.

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 section 2, paragraph 6(1)(h), section 60G and Part I of Schedule 1 and Part IX of Schedule 1.

2.3 The relevant subsidiary legislations referred to in this PR are:

- (a) Income Tax (Exemption) (No. 15) Order 2007 [P.U.(A) 199/2007];
- (b) Income Tax (Exemption) (No. 6) Order 2008 [P.U.(A) 255/2008];
- (c) Income Tax (Exemption) (Amendment) Order 2016 [P.U.(A) 104/2016];
- (d) Income Tax (Exemption) (Amendment) (No. 2) Order 2016 [P.U.(A) 105/2016];
- (e) Income Tax (Exemption) (No. 7) Order 2021 [P.U.(A) 283/2021] and
- (f) Income Tax (Exemption) (No. 8) Order 2021 [P.U.(A) 284/2021].

3. Interpretation

The words used in this PR have the following meaning:

3.1 "Individual" means a natural person.

3.2 "Person" includes a company, a body of persons, a limited liability partnership and a corporation sole;

3.3 "Foreign investors" –

- (a) in relation to an individual means individuals who are not resident and not citizens of Malaysia;

- (b) in relation to a company means companies where the entire issued share capital is beneficially owned, directly or indirectly by persons who are not resident and not citizens of Malaysia; and
 - (c) in relation to a trust fund means trust funds where the entire interest in the fund is beneficially held, directly or indirectly by foreign investors, where –
 - (i) the fund is created outside Malaysia; and
 - (ii) the trustees of the fund are not resident and not citizens of Malaysia.
- 3.4 “Local investors” are individuals, companies or trust funds that are not foreign investors.

4. Foreign Fund Management Companies in Malaysia

- 4.1 A foreign fund management company is a company incorporated in Malaysia and licensed under the Capital Markets and Services Act 2007 [Act 671].
- 4.2 Among the conditions previously stipulated by the Securities Commission Malaysia (SC) for the licensing of foreign fund management companies was for at least 50% of the paid up capital to be owned by foreign equity holders. This condition was previously incorporated into the Guidelines for the Establishment of Foreign Fund Management Companies and has been revoked since 10 March 2021.
- 4.3 The SC had issued certain guidelines and documents (“SC Guidelines”) for the establishment of fund management companies in Malaysia. For further information on the SC Guidelines, please refer to the SC’s website at www.sc.com.my

5. Basis of Assessment

The basis period for a year of assessment of a foreign fund management company will be its financial accounting period and this is determined in accordance with the provisions of sections 20 and 21A of the ITA.

Example 1

A foreign fund management company commenced operations on 1.11.2019 and made up its accounts up to 30.6.2020. The company makes up its subsequent accounts up to 30 June annually.

The basis periods for the following years of assessment are:

Year of Assessment	Basis Period
2020	1.11.2019 to 30.06.2020
2021	1.07.2020 to 30.06.2021
2022	1.07.2021 to 30.06.2022

6. Tax Treatment

The tax treatment of a foreign fund management company is as follows:

6.1 Income of a foreign fund management company

A foreign fund management company that carries on the business of providing fund management services to foreign and local investors derives management fees for its services. As the management fee is received in the course of carrying on a business, it is treated as business income by virtue of paragraph 4(a) of the ITA. Where a foreign fund management company provides fund management services to both foreign investors and local investors, the income derived from the provision of such services to each of these categories of investors will be treated as arising from separate and distinct business sources.

[subsection 60G(1) of the ITA]

6.2 Provision of fund management services to foreign investors - Computation of chargeable income

The chargeable income from a source consisting of the provision of fund management services to foreign investors for a year of assessment is the statutory income from that source reduced by unabsorbed losses brought forward from earlier years from the same source.

[subsection 60G(2) of the ITA]

6.3 Income of a foreign fund management company other than income from fund management services provided to foreign investors - Computation of chargeable income

The chargeable income derived from a source or sources other than the source consisting of the provision of fund management services to foreign investors for a year of assessment shall be the statutory income from that source or the aggregate of the statutory income from each of those sources, as the case may be, reduced by any deductions for brought forward losses and current year loss from other business sources (other than losses from the provision of fund management services to foreign investors).

In other words, the brought forward losses and the current year business loss from the provision of fund management services to foreign investors are not deductible against the income from the provision of fund management services to local investors and other sources of income of the fund. Similarly, brought forward losses and the current year business loss from the provision of fund management services to local investors and other business sources are not deductible against the income from the provision of fund management services to foreign investors.

[subsection 60G(3) of the ITA]

6.4 Funds of foreign investors managed according to *Shariah* principles

Foreign fund management companies which manage funds of foreign investors according to *Shariah* principles are exempted from the payment of income tax in respect of statutory income derived from a business of providing fund management services to foreign investors in Malaysia. The Islamic funds shall be certified by the SC for each year of assessment during the exempt period. The exemption applies for the year of assessment 2007 until the year of assessment 2020.

[Income Tax (Exemption) (No.15) Order 2007 [P.U.(A) 199/2007] and Income Tax (Exemption) (Amendment) Order 2016 [P.U.(A) 104/2016].

From the year of assessment 2021 until the year of assessment 2023, foreign fund management companies are exempted from the payment of income tax in a basis period for a year of assessment in respect of the statutory income derived from a business of providing fund management services to foreign investors in Malaysia subject to the company obtaining annual certification from the SC that the following conditions have been fulfilled:-



- (a) The company provides fund management services to foreign investors in Malaysia in accordance with Shariah principles;
- (b) The company has at least two full-time employees in Malaysia of which one of the employees holds a Capital Markets Services Representative's Licence under the Capital Markets and Services Act 2007; and
- (c) The company incurs annual operating expenditure of at least two hundred and fifty thousand ringgit (RM250,000.00) in Malaysia.

[Income Tax (Exemption) (No.8) Order 2021 [P.U.(A) 284/2021]]

Exemption Orders applicable for foreign fund management company that manage fund of foreign invest funds in Malaysia are as follows:-

Income Tax (Exemption) – P.U.(A)	Year of Assessment
199/2007	2007-2016
104/2016	2016-2020
284/2021	2021-2023

6.5 Funds of local investors managed according to *Shariah* principles

Foreign fund management companies that manage local investor funds in accordance with Shariah principles are given exemption from income tax in respect of statutory income derived from a business providing fund management services to local investors in Malaysia. The Islamic fund must be certified by the SC for each year of assessment during the exemption period.

The exemption period is for the year of assessment 2007 to the year of assessment 2020.

[Income Tax (Exemption) (No.6) Order 2007 [P.U.(A) 255/2008] and Income Tax (Exemption) (Amendment) (No.2) Order 2016 [P.U.(A) 105/2016].

From the year of assessment 2021 until the year of assessment 2023, foreign fund management companies are exempted from the payment of income tax in a basis period for a year of assessment in respect of the statutory income derived from a business of providing fund management services to local investors in Malaysia subject to the company obtaining annual certification from the SC that the following conditions have been fulfilled –



- (a) The company provides fund management services to local investors in Malaysia in accordance with Shariah principles;
- (b) The company has at least two full-time employees in Malaysia of which one of the employees holds a Capital Markets Services Representative's Licence under the Capital Markets and Services Act 2007; and
- (c) The company incurs annual operating expenditure of at least two hundred and fifty thousand ringgit (RM250,000.00) in Malaysia.

[Income Tax (Exemption) (No.7) Order 2021 [P.U.(A) 283/2021]]

Exemption Orders applicable for foreign fund management company that manage fund of local investors in Malaysia are as follows:-

Income Tax (Exemption) – P.U.(A)	Year of Assessment
255/2008	2007-2016
105/2016	2016-2020
283/2021	2021-2023

6.6 Tax rates

The tax rates applicable to a foreign fund management company are as follows:

Shareholding of a Foreign Fund Management Company	Type of Investors	Tax Rate (%)	
		Year of Assessment	
		2020 and prior	2021 onwards
100% foreign equity	Foreign	10	24
At least 30% local equity	Foreign	10	24
At least 30% local equity	Local	Prevailing domestic tax rates applicable to the Foreign Fund Management Company resident in Malaysia.	

[Part I and Part IX of Schedule I to the ITA]

- 6.7 A summary of tax treatment accorded to a foreign fund management company is shown in the Appendix.
- 6.8 Determination of chargeable income of a foreign fund management company.

Example 2

ABC International Asset Management Group, one of the world's largest asset managers incorporated a wholly owned subsidiary in Malaysia, ABC International Asset Management Malaysia Sdn Bhd in 2018. ABC International Asset Management Malaysia Sdn Bhd was established as a foreign fund management company and had received the SC's approval to provide fund management services to both foreign and local investors.

The service and other charges which can be specifically identified are allocated entirely to the respective funds. Common charges of the group are allocated to individual sub-funds in the ratio of their net asset values at the end of each quarter.

As ABC International Asset Management Malaysia Sdn Bhd provides fund management services to both foreign and local investors, the income from the provision of such fund management services to foreign investors shall be treated as a separate and distinct business source of income from the provision of fund management services to local investors.

Example 3

The facts are the same as in Example 2 and the following incomes were reported in the Profit and Loss Account of ABC International Asset Management Malaysia Sdn Bhd for the years ended 31.12.2020 and 31.12.2021.

Provision of Fund Management Services to Foreign Investors

Year Ended	31.12.2020 RM	31.12.2021 RM
Management fees	200,000	500,000
Allowable expenses	210,000	100,000
Capital allowances	20,000	10,000

Provision of Fund Management Services to Local Investors

Year Ended	31.12.2020 RM	31.12.2021 RM
Management fees	250,000	100,000
Allowable expenses	100,000	120,000
Capital allowances	10,000	5,000

The computation of chargeable income for the year of assessment 2020 for the provision of fund management services to foreign and local investors are as follows:

Year of Assessment 2020 – Foreign Investors

	RM
Management fees	200,000
Less: allowable expenses - RM210,000 restricted to	200,000
Adjusted income	<u>Nil</u>
(Adjusted loss – RM10,000)	
Current year unabsorbed losses c/f	- 10,000 ¹
Current year unabsorbed capital allowances c/f	- 20,000 ²

The chargeable income for the provision of fund management services to foreign investors for the year of assessment 2020 is Nil.

**Year of Assessment 2020 – Local Investors**

	RM
Management fees	250,000
Less: allowable expenses	<u>100,000</u>
Adjusted income	150,000
Less: Capital allowance	<u>10,000</u>
Statutory income / Chargeable income	<u>140,000</u>

The chargeable income for the provision of fund management services to local investors for the year of assessment 2020 is RM140,000. The tax payable for the provision of fund management services to local investors is as follows:

Chargeable income -	RM140,000.00
Tax payable -	RM33,600.00 (RM140,000.00 @ 24%)

The computation of chargeable income for the year of assessment 2021 for the provision of fund management services to foreign and local investors are as follows:

Year of Assessment 2021 – Foreign Investors

		RM
Management fees		500,000
Less: allowable expenses		<u>100,000</u>
Adjusted income		400,000
Less: unabsorbed capital allowances b/f	20,000 ²	
Capital allowance (current year)	<u>10,000</u>	<u>30,000</u>
Statutory income		370,000
Less: Unabsorbed loss b/f		<u>10,000¹</u>
Chargeable income		<u>360,000</u>

The chargeable income for the provision of fund management services to foreign investors for the year of assessment 2021 is RM360,000. The tax payable for the provision of fund management services to foreign investors would be as follows:

Chargeable income -	RM360,000
Tax payable -	RM86,400.00 (RM360,000 @ 24%)



Year of Assessment 2021 – Local Investors

Management fees	RM
	100,000
Less: allowable expenses – RM120,000 restricted to	100,000
Adjusted income	<u>Nil</u>

	RM
Current year unabsorbed loss c/f	- 20,000
Current year unabsorbed capital allowance c/f	- 5,000

The chargeable income for the provision of fund management services to local investors for the year of assessment 2021 is Nil.

Observation

- (1) The unabsorbed capital allowance of RM20,000² and unabsorbed adjusted loss of RM10,000¹ from the provision of fund management services to foreign investors for the year of assessment 2020 are to be carried forward to the year of assessment 2021 and subsequent years and to be set-off only against the same source of income i.e. from the provision of fund management services to foreign investors. It is to be noted that the unabsorbed loss and capital allowance from the provision of fund management services to foreign investors in the year of assessment 2020 are not allowed to be set-off against the income from the provision of fund management services to local investors.
- (2) Similarly, in the year of assessment 2021 the unabsorbed loss and capital allowances from the provision of fund management services to local investors are to be carried forward to the year of assessment 2022 and subsequent years to be set-off only against the same source of income i.e. from the provision of fund management services to local investors. The unabsorbed loss and capital allowances are not allowed to be set-off against the income from the provision of fund management services to foreign investors.

Example 4

Good Fund Management Sdn Bhd was incorporated in Malaysia on 1.1.2010 with a local equity of 30%. The Fund was approved by the SC to provide fund management services to both foreign and local investors. The income of Good Fund Management Sdn Bhd for the year ended 31.12.2020, 31.12.2021 and 31.12.2022 are as follows:

	Fund Management Services to Foreign Investors RM	Fund Management Services to Local Investors & Other Sources RM
Year of Assessment 2020		
Adjusted Income	570,000	2,830,000
Capital Allowance	10,000	30,000
Rental		35,000
Year of Assessment 2021		
Adjusted Income	(250,000)	3,332,000
Capital Allowance	9,000	32,000
Rental		38,000
Year of Assessment 2022		
Adjusted Income	800,000	1,000,000
Capital Allowance	10,000	100,000
Rental		5,000

Donations made to approved institutions for the basis years 2020, 2021 and 2022 are RM2,000, RM3,000 and RM5,000 respectively. The loss brought forward from the year of assessment 2019 for fund management services to foreign investors was RM60,000.

Computation of Chargeable Income

	Fund Management Services to Foreign Investors RM	Fund Management Services to Local Investors & Other Sources RM
Year of Assessment 2020		
Adjusted income	570,000	2,830,000
Capital allowance	10,000	30,000
Statutory income	560,000	2,800,000
Less: Loss b/f	60,000	Nil
Rental	500,000	2,800,000
Aggregate income	Nil	35,000
Less: Donation	500,000	2,835,000
Total income/Chargeable income	Nil	2,000
Tax rate	500,000	2,833,000
Tax payable	10%	24%
	50,000	679,920

	Fund Management Services to Foreign Investors (RM)	Fund Management Services to Local Investors & Other Sources (RM)
Year of Assessment 2021		
Adjusted income	Nil	3,332,000
Capital allowance	Nil	32,000
Statutory income	Nil	3,300,000
Rental	Nil	38,000
Aggregate income	Nil	3,338,000
Less: Donation	Nil	3,000
Total income/Chargeable income	Nil	3,335,000
Tax rate	24%	24%
Tax payable	Nil	800,400
Loss c/f	(RM250,000)	Nil
Capital allowance c/f	RM9,000	Nil

	Fund Management Services to Foreign Investors (RM)	Fund Management Services to Local Investors & Other Sources (RM)
Year of Assessment 2022		
Adjusted income	800,000	1,000,000
Capital allowance b/f 9,000		
Capital allowance YA2022 <u>10,000</u>		
	19,000	100,000
Statutory income	781,000	
Less : Loss b/f	<u>250,000</u>	
	531,000	900,000
Rental	Nil	10,000
Aggregate income	531,000	890,000
Less: Donation	Nil	5,000
Total income/Chargeable income	531,000	885,000
Tax rate	24%	24%
Tax payable	127,440	212,400

Example 5

Sturdy Investments (Malaysia) Sdn Bhd is a company incorporated in Malaysia as a fund management company. The business commenced on 1.1.2018. The company had obtained annual certification for period 1.10.2022 until 30.9.2022 from SC that the company had fulfilled the conditions for income tax exemption under P.U.(A) 284/2021. The Profit and Loss Account and the Balance Sheet for the year ended 30.9.2023 are as follows:

Profit and loss account for the year ended 30.9.2023

Income	RM	RM
Management fee – Foreign investors fund		2,685,579
Expenses		
Professional fee	40,000	
Wages and salary	1,500,000	
Rental	120,000	
Maintenance and repairs	1,000	
Advertising	1,000	
Travelling and accommodation	60,000	
Other expenses	583,929	2,305,929
Net profit	_____	379,650

Notes:

1. The fund management services to foreign investors in accordance with Shariah.
2. The Company has 10 full-time employees in Malaysia which 2 of the employees hold a Capital Markets Services Representative's License under the Capital Markets and Services Act 2007; and
3. The Company incurred operating expenditure of RM2,305,929 for the period 1.10.2022 until 30.9.2022 in Malaysia.

**Balance Sheet as at 30.9.2023**

Liability	RM	RM	RM
Current liabilities			
Other creditors			16,000
Other current liabilities			851,670
Total current liabilities			<u>867,670</u>
Shareholder's equity			
Paid-up capital		1,500,000	
Appropriation account			
Opening balance at 1.10.2022	3,196,485		
Net profit	<u>379,650</u>		
Closing balance at 30.9.2023		<u>3,576,135</u>	
Total equity			<u>5,076,135</u>
Total liabilities and equity			<u>5,943,805</u>
Assets			
Current assets			
Other debtors			250,000
Bank and cash balance			50,000
Other current assets			<u>5,643,805</u>
Total assets			<u>5,943,805</u>

The disallowable expenses and capital allowances are RM18,637 and RM2,000 respectively.

Computation of Income Tax - Year of Assessment 2023**Fund management services to foreign investors**

	RM
Net profit	379,650
Add: expenses disallowed	<u>18,637</u>
Adjusted income	<u>398,287</u>
Less: Capital allowance	<u>2,000</u>
Statutory income exempted from tax	<u>396,287</u>

Example 6

Smart Fund Investment (Malaysia) Sdn Bhd (SFIMSB) was established as a foreign fund management company and obtained the SC's approval to provide fund management services to both foreign and local investors.

The fund management services to local investors are managed in accordance with *Shariah* principle certified by the SC. For the year of assessment 2022, the statutory income derived from a business of providing fund management services of Islamic funds to local investors was RM250,000. The company had obtained annual certification for period 1.10.2022 until 30.9.2022 from SC that company had fulfilled the conditions for income tax exemption under P.U.(A) 283/2021

Meanwhile, the fund management services to foreign investors are not managed in accordance with *Shariah* principles. The statutory income derived from a business of providing fund management services funds to foreign investors was RM450,000 in the year of assessment 2022.

The tax treatment of income received by SFIMSB - Year of Assessment 2022

	Fund Management Services to Foreign Investors (Non-Shariah Principles) RM	Fund Management Services to Local Investors (Shariah principles and fulfilled tax exemption conditions under P.U.(A) 283/2021) RM
Statutory income (RM)	450,000	250,000
Total income/Chargeable income	450,000	250,000
Tax rate	24%	-
Tax payable	108,000	-
Exempt account	-	250,000

7. Updates and Amendments

This PR replaces the PR No. 7/2019 dated 3.12.2019.	Amendment	
	Paragraphs	Explanations
	2	Paragraph 2.3 is amended
	4	Paragraph 4.3 is amended
	5	Example 1 is amended.
	6	Paragraphs 6.4 and 6.5 are amended.
Examples 2, 4, 5, and 6 are amended.		



INLAND REVENUE BOARD OF MALAYSIA

**TAXATION OF FOREIGN FUND
MANAGEMENT COMPANY**

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8. Disclaimer

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

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

Appendix

Summary Of Tax Treatment Accorded To A Foreign Fund Management Company

