



INLAND REVENUE BOARD OF MALAYSIA

**TAXATION OF INVESTORS
ON INCOME FROM
FOREIGN FUND MANAGEMENT
COMPANY**

PUBLIC RULING NO. 2/2014

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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 of Inland Revenue in respect of the particular tax law and the policy as well as the procedure applicable to it.

The Director General may withdraw either wholly or in part, by notice of withdrawal or by publication of a new 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 foreign and local investors that engage the services of a foreign fund management company.

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, 60G, 61(3), Part 1 of Schedule 1, paragraph 12B, 28, 33, 33A, 33B and 35 of Schedule 6.
- 2.3 Relevant subsidiary laws referred to in this PR are P.U.(A) 351/2008 and P.U.(A) 211/2009.

3. Interpretation

The words used in this PR have the following meaning:

- 3.1 “Non-resident” means other than a resident in Malaysia;
- 3.2 “Person” includes a company, a body of persons, a limited liability company 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;

3.5 "Resident" means resident of Malaysia for the basis year for a year of assessment by virtue of sections 7, 8 or subsection 61(3) of the ITA.

4. Foreign Fund Management Company

4.1 A foreign fund management company is a company incorporated in Malaysia and is licensed for the regulated activity of fund management under the Capital Markets and Services Act 2007 [Act 671].

4.2 Among the conditions stipulated by Securities Commission (SC) for the licensing of a foreign fund management company is that more than 50% of its paid up share capital is owned by foreign equity.

5. Tax Treatment Of Income Received By Foreign Investors From A Foreign Fund Management Company In Malaysia

Tax treatment of income in respect of dividends, interest and profits from the disposal of investments received by foreign investors from investments or disposal of investments made in or outside Malaysia on behalf of them by a foreign fund management company are as follows:

(a) Dividends and interest from investments outside Malaysia

Dividends and interest derived from investments outside Malaysia and received in Malaysia by foreign investors are exempt from tax.

[paragraph 28 of Schedule 6 of the ITA]

(b) Dividends from investments in Malaysia

Dividends received by foreign investors from investments in Malaysia under the single-tier system are exempt from tax from year of assessment 2008.

[paragraph 12B of Schedule 6 of the ITA]

(c) Interest from investments in Malaysia

Interest income derived from Malaysia by foreign investors is exempt from tax in the following circumstances:

(i) Foreign investors who are non-residents are exempt from tax on interest derived from Malaysia and are paid or credited by:

(A) any person carrying on the business of banking or finance in Malaysia and licensed under the Banking and Financial Institutions Act 1989 [Act 372] or the Islamic Banking Act 1983 [Act 276] (these Acts have been repealed and substituted by

the Financial Services Act 2013 [Act 758] and the Islamic Financial Services Act [Act 759]¹); or by any institutions approved by the Minister;

This exemption is not applicable to interest paid or credited on funds required for purposes of maintaining networking fund as prescribed by the Central Bank of Malaysia.

[paragraph 33 of Schedule 6 of the ITA]

(B) Bank Kerjasama Rakyat Malaysia Berhad.

[P.U.(A) 351/2008 dan P.U.(A) 211/2009]

(ii) Foreign investors which are non-resident companies are exempt from tax on interest received, other than interest accruing to a place of business of such company in Malaysia –

(A) in respect of securities issued by the Government; or

(B) in respect of Islamic securities or debenture issued in Ringgit Malaysia, other than convertible loan stock approved by the SC.

[paragraph 33A of Schedule 6 of the ITA]

(iii) Foreign investors are exempt from tax on interest derived in respect of Islamic securities originating from Malaysia, other than convertible loan stock –

(A) issued in any currency other than Ringgit; and

(B) approved by the SC or Labuan Financial Services Authority.

[paragraph 33B of Schedule 6 of the ITA]

(iv) Foreign investors who are individuals, unit trusts and listed closed-end funds are exempt from tax on interest or discounts derived in respect of –

(A) securities or bonds issued or guaranteed by the Government;

(B) debentures or Islamic Securities, other than convertible loan stock, approved by the SC; or

¹ Act 758 and Act 759 came into effect on 30th June 2013

- (C) Bon Simpanan Malaysia issued by the Central Bank of Malaysia.

[paragraph 35 of Schedule 6 of the ITA]

- (d) Taxable interest

Interest other than that specified in paragraph (c) above is taxable at the rate of 15% or at a rate determined under the relevant Double Taxation Agreements.

- (e) Gains from the realisation of investments outside Malaysia

Gains from the realisation of investments outside Malaysia will not be subject to tax.

- (f) Gains from the realisation of investments within Malaysia

Gains from the realisation of investments (other than real property which may be subject to real property gains tax) within Malaysia are not subject to tax.

Example 1

Big International Asset Management Malaysia Sdn Bhd, a foreign fund management company in Malaysia, managed the investments for a foreign investor (an insurance company in the United Kingdom), principally in equities and bonds. For the year ended 31.12.2013, the foreign investor received the following income from investments managed by the foreign fund management company:

Single-tier dividend	-	RM200,000
Interest from government bonds	-	RM100,000

The single-tier dividend income distributed is tax exempt in the hands of the recipient (paragraph 12B of Schedule 6 of the ITA) and bond interest received by the foreign investor is exempted under paragraph 33A of Schedule 6 of the ITA.

6. Tax Treatment Of income Received By Local Investors From A Foreign Fund Management Company In Malaysia

Local investors who receive income from the services provided by a foreign fund management company appointed by them will be subject to tax in accordance with the provisions of the ITA. The types of income received by the local investors would be similar to those received by the foreign investors.

Tax treatment of income in respect of dividends, interest and profits from the disposal of investments received by local investors from investments or disposal of investments made in or outside Malaysia on behalf of them by a foreign fund management company are as follows:

(a) Dividends and interest from investments outside Malaysia

Dividends and interest derived from investments outside Malaysia and received by local investors in Malaysia, other than a resident company carrying on the business of banking, insurance or sea or air transport, are exempt from tax.

[paragraph 28 of Schedule 6 of ITA]

(b) Dividends from investments in Malaysia

Dividends received by local investors from investments in Malaysia under the single-tier system are exempt from tax from year of assessment 2008.

[paragraph 12B of Schedule 6 of ITA]

(c) Interest from investments in Malaysia

(i) Local investors who are resident are exempt from tax on interest derived from:

(A) negotiable certificate of deposit; or

(B) rediscounting of banker's acceptance on repurchase agreement or any similar instrument of trade financing which is traded in money market fund; or

(ii) An individual resident in Malaysia is exempt from payment of income tax on gains or profit, interest or bonus received from money deposited with the following institutions:

(A) a bank or finance company licensed or deemed to be licensed under Act 758;

(B) a bank licensed under Act 759;

(C) a development financial institution prescribed under the Development Financial Institution Act 2002 [Act 618];

(D) the Lembaga Tabung Haji established under the Tabung Haji Act 1995 [Act 535];

- (E) the Malaysian Building Society Berhad incorporated under the Companies Act 1965 [Act 125];
- (F) the Borneo Housing Mortgage Finance Berhad incorporated under Act 125; or
- (G) A co-operative society registered under the Co-operative Societies Act 1993 [Act 502].

[P.U.(A) 211/2009]

- (iii) Local investors are exempt from tax on interest derived in respect of Islamic securities originating from Malaysia, other than convertible loan stock –
 - (A) issued in any currency other than Ringgit; and
 - (B) approved by the SC or Labuan Financial Services Authority.

[paragraph 33B, Schedule 6 ITA]

- (iv) Local investors who are individuals, unit trusts and listed closed-end funds are exempt from tax on interest or discounts derived in respect of –
 - (A) securities or bonds issued or guaranteed by the Government;
 - (B) debentures or Islamic Securities, other than convertible loan stock, approved by the SC; or
 - (C) Bon Simpanan Malaysia issued by the Central Bank of Malaysia.

[paragraph 35 of Schedule 6 of ITA]

- (d) Taxable interest

Interest other than in paragraph (c) above is taxable at the rate specified under the ITA.

- (e) Gains from the realisation of investments outside Malaysia

Gains from the realisation of investments outside Malaysia will not be subject to tax.

(f) Gains from the realisation of investments within Malaysia

Gains from the realisation of investments (other than real property which may be subject to real property gains tax) within Malaysia are not subject to tax.

Example 2

Syarikat Wawasan Sdn Bhd, a local investor, received from Big International Asset Management Malaysia Sdn Bhd, a foreign fund management company in Malaysia, the following income for the year ended 31.12.2012:

Gross dividend (distribution from section 108 account and tax credit of RM25,000)	-	RM100,000
Interest from outside Malaysia	-	RM80,000

Interest from outside Malaysia is exempt under paragraph 28 of Schedule 6 of the ITA. The dividend income is subject to tax at the prevailing tax rate of 25% and a set-off of RM25,000 under section 110 is allowed to the local investor pursuant to the Savings and Transitional Provisions (Finance Act 2007 [Act 683] effective from the year of assessment 2008 and Finance Act 2009 [Act 693] with effect from 9.1.2009.

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