



INLAND REVENUE BOARD OF MALAYSIA

DEFERRED ANNUITY

PUBLIC RULING NO. 4/2014

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DIRECTOR GENERAL'S PUBLIC RULING

Section 138A of the Income Tax Act 1967 [ITA] provides that Director General is empowered to make a public ruling in relation to the application of any provisions of 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 -

- 1.1 the deductibility of premiums paid by an individual for deferred annuity;
- 1.2 the exemption of annuity income for an individual; and
- 1.3 the exemption of income of a life insurer and takaful operator from an investment made out of a life fund or family fund in respect of deferred annuity.

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 subsections 2(1), 6(1), 49(1D), 49(1E) and 49(3), sections 50 and 109G, Part XVI of Schedule 1 and paragraphs 20A and 36 of Schedule 6.

3. Interpretation

The words used in this PR have the following meaning.

- 3.1 "Resident" means resident in Malaysia for the basis year for a year of assessment by virtue of section 7 or 8 of the ITA.
- 3.2 "Permanent total disablement" means permanent total disablement as defined in the Employee's Social Security Act 1969 [Act 4].
- 3.3 "Individual" means a natural person.
- 3.4 "Insurance" includes a takaful scheme pursuant to the Takaful Act 1984 [Act 312].⁽¹⁾
- 3.5 "Payer" means a life insurer or takaful operator licensed under the Financial Services Act 2013 or the Islamic Financial Services Act 2013.
- 3.6 "Insurer" means a person who carries on insurance business and includes a professional re-insurer.
- 3.7 "Serious disease" means acquired immunity deficiency syndrome, Parkinson's disease, cancer, renal failure, leukaemia or other similar diseases.
- 3.8 "Premiums" in relation to insurance, includes contributions or instalments payable under a takaful scheme pursuant to the Takaful Act 1984.⁽²⁾

- 3.9 “Statutory income” in relation to a person, a source and a year of assessment, means statutory income ascertained in accordance with the ITA.
- 3.10 “Aggregate income” in relation to a person and a year of assessment, means aggregate income ascertained in accordance with the ITA.
- 3.11 “Total income” in relation to a person and a year of assessment, means total income ascertained in accordance with the ITA.
- 3.12 “Chargeable income” in relation to a person and a year of assessment, means chargeable income ascertained in accordance with the ITA.
- (1) & (2) The Takaful Act 1984 was repealed by the Islamic Financial Services Act 2013 which came into force on 30.6.2013.

4. Annuity In General

4.1 Terms used

- 4.1.1 “Annuitant” of a deferred annuity policy is the individual who receives the annuity income of the policy.
- 4.1.2 “Beneficiary” in a deferred annuity policy is the individual who receives the death benefits upon the death of the annuitant. Every deferred annuity policy would have at least one beneficiary. If no nomination for beneficiary is made, then the death benefit is paid to the applicant who produces the Grant of Probate, Letter of Administration or Distribution Order.
- 4.1.3 “Policy owner” (also known as policy holder) is defined in the Financial Services Act 2013 [Act 758] as the person who has legal title to a policy and includes:
- (a) where a policy has been assigned, the assignee;
 - (b) where a personal representative of a deceased policy owner is entitled as against the insurer to the benefit of a policy, the personal representative;
 - (c) in relation to a policy providing for the payment of annuity, an annuitant; and
 - (d) where under a policy, moneys are due or payable, whether periodically or otherwise, the person to whom the moneys are due or payable.

4.2 Meaning of annuity

Annuity refers to –

- (a) a fixed sum of money paid to an individual annually, usually for the remaining part of his lifetime; or
- (b) a form of insurance that provides such a regular annual income.

4.3 Annuity in relation to insurance or takaful business

- 4.3.1 “Annuity” means a right to a series of periodical payments at interval of one year or less under a contract with a life insurer or takaful operator. It refers to a contract by which a life insurer or takaful operator agrees to make a series of income payments to an individual (annuitant) at regular intervals for a specific period of time. These income payments are called annuities, annuity benefits or annuity income.
- 4.3.2 In exchange for this series of annuity income, an individual has to pay the life insurer or takaful operator a certain sum of money known as the purchase price of the policy or certificate. The purchase price may be made as a single premium or a series of premium payments.
- 4.3.3 The life insurer or takaful operator begins to pay the annuity income to the annuitant on a specified date. The specified date may be immediately upon or soon after the purchase of the annuity, or deferred to a future date such as the date of retirement.
- 4.3.4 The date of purchase of an annuity policy is the date on which the annuity policy is issued by the life insurer or takaful operator to the policy holder.
- 4.3.5 There are many types of annuities which can be categorized according to a variety of factors for example the time of payment, types of investment and benefit options. Based on the time of the income payments to the annuitants, annuities can be categorized into two types:
 - (a) Immediate annuity refers to an insurance or takaful contract where the annuitant begins to receive the annuity income immediately upon or within a year of the purchase of the annuity policy. The purchase price of an immediate annuity policy is normally paid as a lump sum premium contribution at the time of purchase.

- (b) Deferred annuity refers to an insurance or takaful contract, plan, scheme or policy by which a life insurer or takaful operator agrees to make a series of annuity income payments, in exchange for a purchase price, to an individual (annuitant) at regular intervals for a specific period of time which commences on a specified date more than 12 months after the purchase of the insurance or takaful contract, plan, scheme or policy.

Example 1

Bee Bee was born on 1.1.1970. She will retire on 1.1.2030 at the age of 60. On 1.12.2012 she bought an annuity policy from a life insurance company licensed under the Insurance Act 1996⁽³⁾ for a purchase price of RM100,000 with an aim to set up a stream of periodical income after she retires. The purchase price was paid by monthly premium of RM700 with the last premium payment of RM600 due on 1.10.2024. The annuity payments of RM1,000 per month are scheduled to begin when she reaches the age of 55 on 1.1.2025 until her demise.

In this case, the annuity is a deferred annuity because Bee Bee will begin to receive the annuity income only on 1.1.2025 which is more than 12 months after the purchase of the annuity policy on 1.12.2012.

- (3) The Insurance Act 1996 was repealed by the Financial Services Act 2013 which came into force on 30.6.2013.

5. Deferred Annuity

5.1. Features of deferred annuity

For income tax purposes, a deferred annuity contracted on or after 1.1.2014 must have the following features:

- 5.1.1 Issued by insurers licensed under the Financial Services Act 2013 or takaful operators registered under the Islamic Financial Services Act 2013; and
- 5.1.2 Contains the Retirement Saving Standards (RSS) approved by the Central Bank of Malaysia.

5.2 Retirement Saving Standards (RSS)

The objective of having the RSS is to ensure that the deferred annuity products provide genuine retirement benefits to policy holders. The RSS approved by the Central Bank of Malaysia stipulates the terms and conditions for any annuity benefits payouts or withdrawals as follows:

5.2.1 Minimum payment age and minimum payment period

- (a) The annuity payment should commence no earlier than age 55, or the minimum retirement age as specified under the relevant written law applicable at the time of purchase, whichever is the later.
- (b) The annuity payment should be payable for a minimum period of 10 years or at least until age 70, whichever is the later.
- (c) Benefits may be payable in the event of death, permanent total disability or critical illness of the life assured before the annuity payment commences or during the annuity payment period.

5.2.2 Minimum Retention Amount (MRA)

Partial withdrawal is allowed at any time subject to a MRA being maintained. More specifically, the unit fund value and the cash value immediately after the partial withdrawal should be at least equal to the MRA for investment-linked and traditional products respectively.

(For further information on the MRA, refer to the Guidelines on Deferred Annuity Business issued by the Life Insurance Association of Malaysia.)

5.3 Product design of deferred annuity

5.3.1 A deferred annuity policy may be designed as follows:

- (a) Conventional or investment-linked business.
- (b) Basic plan or rider.
- (c) Single premium or annual premium.

5.3.2 The total premiums of a deferred annuity policy should be apportioned to two (2) distinct components:

- (a) Annuity premiums,

(b) Non annuity premiums.

5.3.3 The annuity premiums must be at least 50% of the total premiums.

5.3.4 Where an immediate annuity policy meets all the features of a deferred annuity described in paragraph 5.1, and in actual fact the annuitant only begins to receive the annuity income on a date more than 12 months after the purchase of the policy, the policy would be treated as a deferred annuity.

6. Tax Treatment

6.1 Deduction for deferred annuity premiums paid by an individual

To encourage individuals to add savings for retirement, premiums paid for a deferred annuity are allowed as deductions in computing the chargeable income of an individual resident in Malaysia.

Subsection 49(1D) of the ITA provides that, in the case of an individual resident for the basis year for a year of assessment (YA) who has–

- (a) paid premiums for a deferred annuity; or
- (b) made or suffered the making of a contribution to a private retirement scheme (PRS),

there shall be allowed for that YA a deduction of the aggregate amount of the payments or contribution or both or a deduction of RM3,000 whichever is the lower.

The deduction is effective for 10 years from YA 2012 until YA 2021.

Note:

Prior to the YA 2012 (YA 2010-2011), deduction for a deferred annuity is allowed under paragraph 49(1A)(a) of the ITA subject to the amount of deduction of contribution to the Employees Provident Fund and payment of premium for deferred annuity shall not exceed RM7,000.

6.1.1 Deferred annuity that qualifies for deduction

The following deferred annuities qualify for deduction of premiums:

- (a) a deferred annuity contracted on or after 1.1.2014 that has all the features mentioned in paragraph 5.1; and
- (b) a deferred annuity contracted before 1.1.2014 irrespective of whether it has all the features mentioned in paragraph 5.1.

Example 2

The facts are the same as in Example 1. The amount of premiums paid by Bee Bee for the deferred annuity in YA 2012 and YA 2013 were RM700 and RM8,400 respectively. No PRS contributions were made.

Deduction of deferred annuity premiums allowed under subsection 49(1D) of the ITA are as follows:

YA	2012	2013
Allowable deduction for premiums (RM)	700	3,000

Example 3

The table below illustrates –

- (a) the total amount of deferred annuity premiums and PRS contributions made in YA 2012 by different resident individuals; and
- (b) the amount of deductions allowed in YA 2012 under subsection 49(1D) of the ITA.

No.	Name Of Individual	Payments Or Contributions Made In YA 2012			Amount Of Deductions Allowed In YA 2012 - Subsection 49(1D)
		Total deferred annuity premiums	Total PRS contribution	Aggregate amount	Amount C or RM3,000 whichever is the lower (RM)
		(RM)	(RM)	(RM)	
A	B	C = A + B			
1	Ahmad	2,000	-	2,000	2,000
2	Aru	-	2,500	2,500	2,500
3	Bala	3,000	-	3,000	3,000

4	Bakri	-	3,000	3,000	3,000
5	Charles	10,000	-	10,000	3,000
6	Chin Chin	-	8,000	8,000	3,000
7	Dollah	1,800	1,000	2,800	2,800
8	Douglas	1,800	1,900	3,700	3,000
9	Eng Huat	4,000	5,000	9,000	3,000
10	Edward	5,000	2,000	7,000	3,000

6.1.2 Deduction against total income

The amount of deferred annuity premiums allowable in a YA shall be available as a deduction against the total income of the resident individual in arriving at his chargeable income.

Example 4

Catherine is single and resident in Malaysia in the basis year for YA 2013 with statutory income as follows:

Sources Of Income	Statutory Income (RM)
Business	70,000
Employment	180,000
Rent	12,000

In the year ended 31.12.2013, she made the following payments:

Types Of Payment	Amount (RM)
EPF	19,800
Life insurance premiums	7,000
Deferred annuity premiums	4,000

Tax Computation For YA 2013	RM	RM
Statutory income from business	70,000	
Statutory income from employment	180,000	
Statutory income from rent	<u>12,000</u>	
Aggregate / Total Income		262,000
Less: Deduction for -		
Self and dependent relatives	9,000	
Life insurance premiums and EPF (19,800 + 7,000 = 26,800) (restricted)	6,000	
Subsection 49(1D)		
Deferred annuity premiums RM4,000 (restricted)	<u>3,000</u>	<u>18,000</u>
Chargeable Income		<u>244,000</u>

Example 5

The facts of the case are the same as in Example 4, except that the payments made are as follows:

Types Of Payment	Amount (RM)
EPF	19,800
Life insurance premiums	7,000
Deferred annuity premiums	1,200
PRS	1,600

Tax Computation For YA 2013	RM	RM
Statutory income from business	70,000	
Statutory income from employment	180,000	
Statutory income from rent	<u>12,000</u>	
Aggregate / Total Income		262,000
Less: Deduction for -		
Self and dependent relatives	9,000	
Life insurance premiums and EPF (19,800 + 7,000 = 26,800) (restricted)	6,000	
Subsection 49(1D) -		
Deferred annuity premiums	1,200	
PRS	<u>1,600</u>	
	<u>2,800</u>	<u>17,800</u>
Chargeable Income		<u>244,200</u>

6.1.3 Combined assessment

- (a) Subsection 49(1E) of the ITA stipulates that for the purposes of subsection 49(1D), where subsection 50(2) or 50(3) of the ITA applies, the total deduction under subsection 49(1D) of the ITA shall not exceed RM3,000.
- (b) Subsection 45(2) of the ITA provides a husband or wife may elect for combined assessment. However, the amount of deduction allowed for the aggregate amount of the deferred annuity premium and PRS contributions shall not exceed RM3,000.
- (c) Where an individual has total income but the spouse has no total income, the amount of deferred annuity premium expended by the spouse is deemed to be expended by the individual.

Example 6

Kumar is married and his wife has no income. He is resident in Malaysia for the basis year for YA 2014 with statutory income as follows:

Sources Of Income	Statutory Income (RM)
Employment	200,000
Rent	15,000

In the year ended 31.12.2014, the following payments are made:

Types Of Payment	Amount (RM)
EPF : Kumar	22,000
Life insurance premiums : Kumar	7,000
Deferred annuity premiums : Kumar	2,000
: Kumar's wife	2,000
PRS : Kumar	5,000

Tax Computation For YA 2014 (Kumar)

	RM	RM
Statutory income from employment	200,000	
Statutory income from rent	<u>15,000</u>	
Aggregate / Total Income		215,000
Less: Deduction for -		
Self and dependent relatives	9,000	
Wife	3,000	
Life insurance premiums & EPF (22,000+7,000=29,000) (restricted)	6,000	
Deferred annuity premiums and PRS under subsection 49(1D) (2,000 + 2,000 + 5,000 = 9,000) (restricted)	<u>3,000</u>	<u>21,000</u>
Chargeable Income		<u>194,000</u>

Example 7

The facts are the same as in Example 6, except that in the year ended 31.12.2014, the following payments are made:

Types Of Payment	Amount (RM)
EPF : Kumar	22,000
Life insurance premiums : Kumar	7,000
Deferred annuity premiums : Kumar	-
: Kumar's wife	2,000
PRS : Kumar	-

Tax Computation For YA 2014 (Kumar)

	RM	RM
Statutory income from employment	200,000	
Statutory income from rent	<u>15,000</u>	
Aggregate / Total Income		215,000
Less: Deduction for -		
Self and dependent relatives	9,000	
Wife	3,000	
Life insurance premiums & EPF (22,000+7,000=29,000) (restricted)	6,000	
Deferred annuity premiums under subsection 49(1D)	<u>2,000</u>	<u>20,000</u>
Chargeable Income		<u>195,000</u>

6.1.4 No deduction for non annuity premiums

As explained in paragraph 5.3.2, the total premiums of a deferred annuity may comprise both annuity premiums and non annuity premiums. For the purpose of deduction under subsection 49(1D) of the ITA, only the annuity premiums are entitled to tax relief.

Example 8

Aleena is a resident in Malaysia. She purchased a deferred annuity policy which fulfilled all the criteria as mentioned in paragraph 5.1 above. The annual statement for 2014 issued by the life insurance company states that the premiums paid for the deferred annuity policy are apportioned to 2 components as shown in the table below.

Aleena does not make any contributions to PRS in 2014.

Premiums Paid For Deferred Annuity Policy In YA 2014		
Annuity premiums	Non annuity premiums	Total premiums paid
A	B	C = A + B
RM2,400	RM800	RM3,200

In YA 2014, only deferred annuity premiums of RM2,400 are deductible under subsection 49(1D) of the ITA.

6.1.5 Premiums not paid

- (a) Premiums actually paid in the basis year for a year of assessment only are available for deduction under subsection 49(1D) of the ITA.
- (b) Deduction would not be allowed in the following cases:
 - (i) The premiums are not in fact paid although treated by the life insurer or takaful operator as having been paid under a non-forfeiture clause in the policy; or
 - (ii) The premiums or arrears of premiums are not paid but carried forward as a debt and deducted from the capital sum due on maturity or surrender of the policy.

6.1.6 Policy holder and annuitant are not the same person

The annuitant of a deferred annuity policy is usually the policy holder. When the policy holder is a different person from the annuitant, the policy holder is usually the spouse or parent of the annuitant. Where the annuitant is not the policy holder and the premiums are paid by the policy holder, the policy holder is entitled

to claim for tax deduction since the policy holder is the owner and has the legal right of the policy.

Example 9

Aziz, a resident in Malaysia, purchased a deferred annuity policy which meets all the criteria as described in paragraph 5.1. The policy was issued under his name as the policy holder. The annuitant is his son, Mohamad. Aziz's daughter Hawadah is nominated as the beneficiary of the policy. The premiums are paid by Aziz.

Aziz is entitled to claim for deduction on the premiums paid.

6.2 Tax charged for withdrawal of contribution before age 55

6.2.1 Tax at the rate of 8% on amount withdrawn

A policy holder who makes full or partial withdrawal at any time during the premium payment period before the age of 55 would be subject to a tax at the rate of 8% on the total amount withdrawn pursuant to subsections 6(1)(l) and 109G(1) and Part XVI of Schedule 1 of the ITA.

The payer has to deduct tax on the amount withdrawn and pay to the Director General of Inland Revenue (DGIR) within one month after paying the net amount of withdrawal to the policy holder. If any amount of the tax (withholding tax) is not paid to the DGIR within one month (or such extended time as the DGIR may allow) after paying the net amount to the policy holder, the amount of tax unpaid on that date shall be increased by 10%. The amount unpaid and the increased sum constitute a debt due to the Government.

Example 10

Nurul, aged 48, makes a withdrawal on 1.12.2014 from her deferred annuity policy. The policy has acquired a surrender value of RM70,000.

Total amount withdrawn	: RM70,000
Tax rate	: 8%
Amount of withholding tax	: RM5,600

The amount of RM5,600 shall be paid by the life insurer or takaful operator to the DGIR on or before 31.12.2014. Nurul would only receive a net amount of RM64,400 (RM70,000 – RM5,600) as her surrender value. She does not have to declare the net amount received in her tax computation for YA 2014 as the tax charged on the amount withdrawn is also 8% under paragraph 6(1)(l) of the ITA.

If the amount of RM5,600 is not paid on or before 31.12.2014, the amount is increased by 10% that is RM560 (RM5,600 x 10%). The total amount of RM6,160 (RM5,600 + RM560) is a debt due to the Government and payable to the DGIR.

6.2.2 Non-application

No tax shall be imposed on the amount withdrawn by a policy holder before the age of 55 if the withdrawal is made by reason of permanent total disablement, serious disease, mental disability, death or permanently leaving Malaysia. The benefits under the deferred annuity policy would be payable in full to the policy holder.

6.3 Exemption of Annuity Income

Annuity income are exempt from tax in the hands of the annuitant. Paragraph 36 of Schedule 6 of the ITA stipulates that sums received by way of annuities granted under annuity contracts issued by Malaysian life insurers are exempt from tax. Malaysian life insurers means life insurers and takaful operators whose ownership or membership are held in majority by Malaysian citizens.

Example 11

The facts are the same as in Example 1.

The monthly annuity income payments of RM1,000 received by Bee Bee from her deferred annuity policy would be exempted from tax.

6.4 Exemption of income for life insurer and takaful operator

To spur the development of the capital market and to encourage individuals to invest in deferred annuity schemes to add savings for retirement, tax exemption is granted to life insurers and takaful operators on investment income derived from deferred annuity funds.

6.4.1 Paragraph 20A of Schedule 6 of the ITA provides that any income of a life insurer or takaful operator from an investment made out of a life fund or family fund in respect of a deferred annuity established in accordance with the RSS approved by the Central Bank of Malaysia is exempt from tax with effect from YA 2012.

6.4.2 For the purpose of tax treatment, a separate sub-fund should be set up for deferred annuity fund and maintained in accounts separate from other life funds or family funds.

6.4.3 The tax exemption is given at the chargeable income level.

Example 12

Kurnia Berhad is an insurance company incorporated and resident in Malaysia. It is licensed under the Insurance Act 1996. In 2012, the company issued a new deferred annuity product which has all the features as mentioned in paragraph 5.1. The table below shows the statutory income of the company from various funds in YA 2012.

	RM'000	RM'000
Statutory income:		
(a) Life Fund - Section 60(3)		
Deferred annuity fund	30,000	
Non deferred annuity fund	<u>120,000</u>	150,000
(b) Shareholders' Fund – Section 60(3A)		40,000
(c) General Business – Section 60(5)		<u>10,000</u>
Total		<u>200,000</u>

Additional information for YA 2012:

- (i) The company made an approved donation of RM400,000.
- (ii) The company qualifies for section 110 set-off of RM8,700,000.

Tax Computation For YA 2012

	Life Fund [sub- section 60(3)] RM'000	Share- holders' Fund [sub- section 60(3A)] RM'000	General Business [sub- section 60(5)] RM'000	Total RM'000
	A	B	C	D = A+B+C
Statutory income	150,000	40,000	10,000	200,000
Less: Donation				400

Chargeable income				199,600
Apportionment of chargeable income	149,700 ⁽⁴⁾	39,920 ⁽⁵⁾	9,980 ⁽⁶⁾	199,600
Less: Exempted chargeable income (deferred annuity fund)	29,940 ⁽⁷⁾			29,940
	119,760	39,920	9,980	169,660
Income tax rate	8%	25%	25%	
Tax charged	9,580.80	9,980.00	2,495.00	22,055.80
Less: Section 110 set-off				8,700.00
Tax payable				13,355.80

$$^{(4)} \quad 150,000 / 200,000 \times 199,600 = 149,700$$

$$^{(5)} \quad 40,000 / 200,000 \times 199,600 = 39,920$$

$$^{(6)} \quad 10,000 / 200,000 \times 199,600 = 9,980$$

$$^{(7)} \quad 30,000 / 150,000 \times 149,700 = 29,940$$

Example 13

The facts are the same as in Example 12, except that the statutory income and additional information are as follows:

	RM'000
Statutory income / adjusted loss:	
(a) Life Fund - Section 60(3)	
Deferred annuity fund	(50,000)
Non deferred annuity fund	212,000
(b) Shareholders' Fund – Section 60(3A)	28,000
(c) General Business – Section 60(5)	<u>(10,000)</u>
Total	<u>180,000</u>

Additional information for YA 2012:

- (i) The company made an approved donation of RM400,000.
- (ii) The company qualifies for section 110 set off of RM5,000,000.

Tax Computation For YA 2012

	Life Fund [subsection 60(3)]	Share- holders Fund [sub- section 60(3A)]	General Business [sub- section 60(5)]	Total
	RM'000	RM'000	RM'000	RM'000
	A	B	C	D = A+B+C
Statutory income	212,000	28,000	Nil	240,000
Less: Current year loss		(10,000)		(10,000)
	212,000	18,000		230,000
Less: Donation				400
Chargeable income	-	-		229,600
	211,631 ⁽⁸⁾	17,969 ⁽⁹⁾		
Income tax rate	8%	25%		
Tax charged	16,930.48	4,492.25		21,422.73
Less: Section 110 set- off				5,000.00
Tax payable				16,422.73



Adjusted loss of RM50,000 from the deferred annuity fund is carried forward to subsequent years of assessment to be set-off against statutory income of the deferred annuity fund.

$$\begin{array}{rcl} \text{(8)} & \frac{212,000}{230,000} \times 229,600 & = & 211,631 \\ \text{(9)} & \frac{18,000}{230,000} \times 229,600 & = & 17,969 \end{array}$$

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