



INLAND REVENUE BOARD OF MALAYSIA

**TAXATION OF
LIMITED LIABILITY PARTNERSHIP**

PUBLIC RULING NO. 5/2015

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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 this Public Ruling 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 a Limited Liability Partnership.

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, paragraphs 8(1A)(a) and (b), section 21A, paragraph 39(1)(n), subsection 44(5E), sections 75B and 77A, paragraph 103(12)(a), section 107C, paragraphs 2(f), 2D, 2E, 2F of Part 1 Schedule 1, paragraphs 38B, 75AA and 76A of Schedule 3, and paragraph 12C of Schedule 6.

3. Interpretation

The words used in this PR have the following meaning:

3.1 “Convert” means a transfer of the properties, interests, rights, privileges, liabilities, obligations and the undertaking of the conventional partnership or company.

3.2 “Body of person” means an unincorporated body of persons (not being a company) including a co-operative society, club, association, trust and Hindu Joint Family but excluding a partnership.

3.3 “Limited Liability Partnership” (LLP) means a limited liability partnership registered under the Limited Liability Partnerships Act 2012 (LLPA).

3.4 “Partnership” means an association of any kind (including joint adventures, syndicates and cases where a party to the association is itself a partnership) between parties who have agreed to combine any of their rights, powers, property, labour or skill for the purpose of carrying on a business and sharing the profits therefrom, but excludes a Hindu Joint Family although such a family may be a partner in a partnership, a limited liability partnership and any associations which is established pursuant to a scheme of financing in accordance with the principles of Syariah.

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

4. Limited Liability Partnership

4.1 Formation of an LLP

- (a) An LLP is a body corporate under the LLPA and has been defined under section 2 of the ITA. An LLP is an alternative business form that is introduced by the Companies Commission of Malaysia (CCM) to provide options to businesses and entrepreneurs to carry out their business operations to be more competitive. An LLP has hybrid features of a company and a partnership that provides limited liability to its partners.
- (b) An LLP or a foreign LLP that is registered under the LLPA with effect from 26 December 2012 should end with the abbreviation 'PLT' after the partnership's name. An LLP is governed by a different set of laws and is a separate legal entity capable of –
 - (i) suing or being sued;
 - (ii) acquiring, owning, holding and developing or disposing of properties; and
 - (iii) doing and responsible for such other acts as a body corporate may lawfully do.

4.2 LLP Agreement

- (a) The mutual rights and duties of the partners of an LLP, and the mutual rights and duties of the LLP and its partners are governed by the LLP agreement as set out in section 9 of the LLPA.
- (b) An LLP agreement shall consist of the following particulars –
 - (i) the name of the LLP;
 - (ii) the nature of business of the LLP;
 - (iii) the partners of the conventional partnership have agreed to become partners of the LLP;
 - (iv) the amount of capital contribution by each partner; and
 - (v) remuneration or similar payment to each partner.

4.3 Number of Partners

An LLP has a minimum of two partners and may have unlimited number of partners within any period of time. An LLP may carry on business with fewer

than two partners for a period not exceeding six months or a longer period as may be determined by the Registrar.

4.4 Preparation of financial statement

- (a) An LLP is not required to prepare audited financial statement by an auditor but needs to keep proper and sufficient accounting and other records to indicate the true financial position.
- (b) For income tax purposes, an LLP is required to prepare complete accounting records containing the profit and loss account, balance sheet and explanatory notes to the accounts. However, if the accounting records are not prepared according to normal accounting format, the LLP shall keep the following records –
 - (i) information on income;
 - (ii) information on expenditure;
 - (iii) list of debtors and creditors/ liabilities;
 - (iv) list of all assets (current and fixed);
 - (v) percentage of capital contribution by each partner;
 - (vi) explanatory notes to items (i) to (v); and
 - (vii) other supporting documents to prove the business transactions.

4.5 Determining the residence status of an LLP

An LLP is required to meet certain criteria in order to be deemed as resident in Malaysia. Subsection 8(1A) of the ITA is the provision for determining the residence status of an LLP.

(a) An LLP that carries on a business

An LLP carrying on a business under paragraph 8(1A)(a) of the ITA is resident in Malaysia for the basis year for a year of assessment (YA) if at any time during that basis year the management and control of its business or any one of its businesses are exercised in Malaysia.

(b) Other LLPs

In accordance with paragraph 8(1A)(b) of the ITA, any other LLP is resident in Malaysia for the basis year for a year of assessment if at any time during that basis year the management and control of its affairs are exercised in Malaysia by its partners.

(c) Residence status of a foreign LLP in Malaysia

A foreign LLP that expands its business activities to Malaysia must register with the CCM under the LLPA. The residence status of a foreign LLP is determined by paragraph 8(1A)(a) and 8(1A)(b) of the ITA.

(d) Management and control

(i) Management and control are the key factors used to determine the residence status of an LLP in Malaysia. Management and control refer to the authority in deciding policies to be followed by an LLP. Management and control are considered exercised in the place where the partners met to discuss management of the business or affair of the LLP.

If at any time in the basis year for a year of assessment, at least one partners' meeting is held in Malaysia in relation to the management and control of the LLP, the LLP is deemed resident in Malaysia for the basis year (even though all the other meetings are held outside Malaysia).

Pursuant to subsection 46(1) of the LLPA, a foreign LLP shall appoint at all times at least one compliance officer from amongst its partners or persons qualified to act as a secretary under the Companies Act 1965. The person has to be a citizen or a permanent resident in Malaysia and usually resides in Malaysia.

(ii) The location of trading activity or physical operations is not necessary the place of management and control. An LLP that carries on trading activity in Malaysia is not resident in Malaysia if it is found that –

- commercial activities such as manufacturing or production and sales are controlled from overseas; and
- partners' meetings, during which all important business decisions are made, are also held overseas.

(iii) The appointment of local compliance officers in Malaysia does not determine the residence status of an LLP. If the authority of control is exercised by a compliance officer who is at the headquarters abroad, the LLP is not resident in Malaysia.

5. Partners' Contribution of Capital

5.1 Capital contributions by the partners can be in cash and in kind (such as assets, etc.) but do not include partner's loans to the LLP.

- 5.2 In the case of a partner's capital contribution to be made by instalments to the LLP, only the actual amount contributed as capital is taken into account as part of the capital. Total amount agreed but not yet contributed cannot be considered as part of the capital.
- 5.3 In the case of capital contribution made in kind, the amount of contribution is the market value of the asset.
- 5.4 The amount and method of capital contribution of each partner must be documented in the LLP agreement.

6. Distinction between a Limited Liability Partnership, a Partnership and a Company

In general, the differences between a LLP, a partnership and a company are as follows:

Features	LLP	Partnership	Company
Limited liability	Yes	No (Partners jointly and severally liable)	Yes
Legal entity	Yes	No	Yes
Perpetual succession	Yes	No	Yes
Capital contribution	According to the agreement	According to the agreement	Subscription to shares
Minimum number of members	2	2	2
Maximum number of members	No limit	20	Private Limited - 50 Limited - No limit
All members participate in management	According to the agreement	According to the agreement	Board of Directors
Standard set of internal management rules	According to the agreement	According to the agreement	Provided by the Companies Act 1965 and / or

			Memorandum of Association
Access to finance	Partners' investment and borrowings	Partners' investment and borrowings	Shareholders and access to capital markets
Returns	Share of profits	Share of profits	Dividends
Dissolution by court order	Yes	Yes	Yes

7. Compliance Officer of a Limited Liability Partnership

7.1 Section 75B of the ITA provides the responsibility to carry out all actions and things that should be done by or on behalf of LLP for income tax purposes shall lie jointly or severally on:

- (a) The compliance officer appointed from amongst the partners of the LLP; or
- (b) If no compliance officer is appointed, then any one or all of the partners.

7.2 Responsibilities of the compliance officer or partner for income tax purposes amongst others are that he is required to:

- (a) Keep complete accounting records of the business of the LLP. For a partnership or company that has converted to an LLP, accounts or documents of the partnership or company are still required to be kept by the LLP for a period of seven (7) years, even though the entity has been dissolved after the conversion.
- (b) Complete and submit the income tax return form (ITRF) in accordance with section 77A of the ITA and amendment of ITRF if any, in accordance with section 77B of the ITA within the prescribed period.
- (c) Provide estimates of tax payable and make instalment payments in accordance with section 107C of the ITA.
- (d) Inform the Director General of Inland Revenue (DGIR) on the changes of accounting period by submitting Form CP204B within the prescribed period (PR No. 7/2011 titled 'Notification of Change of Accounting Period of a Company/Trust Body/Co-operative Society').
- (e) Ensure payment of tax by the LLP.
- (f) Undertake any other responsibilities under the ITA.

Example 1

Encik Ali bin Ahmad is the compliance officer who is also a partner of Damai Jaya PLT. Final notice under section 78 of the ITA for the year assessment 2013 was issued to him due to Damai Jaya PLT's failure to submit ITRF.

If Encik Ali bin Ahmad failed to comply with the final notice, he would be prosecuted and if convicted in court, he could be fined or imprisoned under subsection 120(1) of the ITA.

8. Conversion of a Conventional Partnership or a Company to a Limited Liability Partnership

8.1 Conversion from a conventional partnership or a company to LLP pursuant to section 29 or 30 of the LLPA must comply with the following conditions:

(a) From a conventional partnership to LLP –

(i) The LLP partners comprise of all the partners of the conventional partnership only.

(b) From a company to an LLP –

(i) the LLP partners comprise of all the shareholders of the company; and

(ii) there is no security interest in its asset subsisting or in force at the time of application.

8.2 A company may not be allowed to convert to an LLP if it still has outstanding taxes or debt due to the Government. Thus the company is advised to get a tax clearance letter from the DGIR to be submitted to the CCM for registration purposes.

8.3 The CCM will only approve the conversion of a conventional partnership or a company to an LLP if it complies with the conditions stated in paragraphs 8.1 and 8.2 above. For income tax purposes the business of an LLP is regarded as a continuous business. Therefore the value of each item in the balance sheet, such as trading stocks, debtors and creditors at the date of conversion shall continue to be used in the LLP.

9. Change of Partners in a Limited Liability Partnership

If there is a change of partners in an LLP where existing partners cease from the LLP due to retirement, death or other reasons or new partners participate in the LLP, the change has no impact on the business of the LLP and it is still regarded as an on-going business.

10. Tax Treatment of a Limited Liability Partnership

10.1 Imposition of Tax

- (a) Income from an LLP will be taxed at the LLP level. Definition of 'person' includes the PLT. Therefore, any provisions of the ITA, exemption orders and income tax rules applicable to 'person' shall apply to the LLP. Specific incentives provided to a company do not apply to an LLP.

(b) Tax Rate

Income tax shall be imposed on the chargeable income of an LLP for a year of assessment at the rate provided in Part 1 Schedule 1 of the ITA. However, the taxation of an LLP resident in Malaysia with a total capital contribution (whether in cash or in kind) of RM2.5 million and less at the beginning of the basis period for a year of assessment shall be at the rate as provided in paragraph 2D, Part 1 Schedule 1 of the ITA.

The above rate does not apply to an LLP if more than –

- (i) fifty percent of the capital contribution (whether in cash or in kind) of the LLP is directly or indirectly contributed by a company;
- (ii) fifty percent of the paid-up capital in respect of ordinary shares of the company is directly or indirectly owned by the LLP; or
- (iii) fifty percent of the capital contribution (whether in cash or in kind) of the LLP and fifty percent of the paid-up capital in respect of ordinary shares of the company is directly or indirectly owned by another company.

The company referred to in paragraph 10.1(b)(i) to (iii) above shall have a paid-up capital in respect of ordinary shares of more than RM2.5 million at the beginning of the basis period for a year of assessment.

10.2 Restrictions on partner's salary deduction

- (a) Remuneration refers to basic salary and fixed allowances but does not include employer's contributions to the Employees Provident Fund (EPF), Social Security Organisation (SOCSO) or insurance. In general, under subsection 33(1) of the ITA, the remuneration is an expense which is wholly and exclusively incurred in the production of income. However, the expenditure allowable under subsection 33(1) is subject to the prohibitions under subsection 39(1) of the ITA.
- (b) In accordance with section 9 of the LLPA, all terms and conditions and the basis of making payments shall be documented in the LLP agreement as evidence. Therefore, remunerations or similar payments

to partners of an LLP are not allowable for deduction if not specified or provided for in the LLP agreement.

- (c) Remunerations to be paid to the partners should be documented in the LLP agreement. Thus, if there is a change of partners in the LLP, where new partners will be paid remuneration, the LLP must prepare a supplementary agreement or any document to record the change.

10.3. Incorporation expenses

An LLP which has capital contribution not exceeding RM2.5 million shall be allowed a deduction in respect of incorporation expenses for the basis period for a year of assessment, as provided in the Income Tax (Deduction for Incorporation Expenses) Rules 2003 [P.U.(A) 475/2003] and the income Tax (Deduction for Incorporation Expenses) (Amendment) Rules 2005 [P.U.(A) 472/2005]. Further information can be referred to the PR No. 11/2013 dated 18 November 2013.

10.4 Losses and capital allowances

If a conventional partnership or a company converts to an LLP in accordance with section 29 or 30 of the LLPA as described in paragraph 8.1, the LLP is considered carrying on a continuous business. The tax treatment in respect of losses and capital allowances are as follows:

(a) Adjusted loss

Subsection 44(5E) of the ITA provides that if a partnership or a company is converted to an LLP in accordance with section 29 or 30 of the LLPA, the amount ascertained under subsection 44(4) or (5) of the ITA for any relevant year in respect of that partnership or company shall be allowed for the purpose of ascertaining the aggregate income of that LLP for a year of assessment following the relevant year of assessment.

Therefore the amount of current year losses that may not be fully absorbed as a deduction from the aggregate income of the partnership or company due to nil aggregate income or the loss exceeds the aggregate income, shall be allowed for ascertaining the aggregate income of the LLP for a year of assessment following the relevant year of assessment.

(b) Capital allowances

- (i) Allowances under Schedule 3 of the ITA may not be fully absorbed in the absence of adjusted income or the adjusted income is not sufficient to absorb the allowances. Any unabsorbed allowances

for a year of assessment shall be carried forward to subsequent year of assessment.

- (ii) An LLP is not entitled to claim capital allowances on assets that have been transferred during the conversion of partnership or company to the LLP if the capital allowances have been claimed by a partner or a company in the same year of assessment where changes to the entity occurs. The PLT is entitled to claim capital allowances on assets transferred in the following years of assessment.

- (c) Qualifying expenditure on assets acquired by an LLP

When a partnership or company is converted to an LLP, the transfer of assets to the LLP is deemed a control transfer. The qualifying expenditure on assets acquired by the LLP is in accordance with paragraphs 39 and 40 of Schedule 3 of the ITA, whereby the amount of residual expenditure of the assets (not the market value or the sale price of the assets (if any)) will be taken as the qualifying capital expenditure for the purpose of claiming capital allowances by the LLP.

Example 2

Teguh Jaya Sdn Bhd (accounts ending on 31 December) was converted to Teguh Jaya PLT in accordance with section 30 of the LLPA on 1.1.2013 and the closing date of accounts remained at 31 December.

Information on income of Teguh Jaya Sdn Bhd for the year of assessment 2012 is as follows:

Business 1	RM
Adjusted loss	(98,000)
Balancing charge	25,000
Capital allowance	45,000
Business 2	
Adjusted loss	10,000
Capital allowance	33,000
Statutory income from interest	15,000

Total income of Teguh Jaya Sdn Bhd for the year of assessment 2012 is as follows:

Business 1		RM	RM
Adjusted income	(Loss 98,000)	Nil	
Add: Balancing charge		25,000	
		25,000	
Less: Capital allowance	Restricted to 25,000	25,000	
	Capital allowance c/f 20,000		
Statutory income			Nil
Business 2			
Adjusted income		10,000	
Less: Capital allowance	Restricted to 10,000	10,000	
	Capital allowance c/f 23,000		
Statutory income			Nil
Statutory income from interest			15,000
Aggregate Income			15,000
Less:			
Current year loss	Loss restricted to 15,000		15,000
	Loss c/f 83,000		
Total income / Chargeable Income			Nil

- (i) Teguh Jaya PLT is deemed carrying on a continuous business of Teguh Jaya Sdn Bhd. The unabsorbed loss of RM83,000, unabsorbed capital allowances of RM 20,000 from Business 1 and RM 23,000 from Business 2 by Teguh Jaya Sdn Bhd for the year of assessment 2012 can be carried forward to the year of assessment 2013 and subsequent years and shall be allowed as a deduction from the income of Teguh Jaya PLT.

- (ii) The last Form C to be submitted by Teguh Jaya Sdn Bhd is for the year of assessment 2012 (basis period from 1.1.2012 to 31.12.2012).
- (iii) Teguh Jaya PLT must submit Form PT from the year of assessment 2013 (basis period from 1.1.2013 to 31.12.2013).

Example 3

Jati Diri Sdn Bhd (account ending on 31 December) was converted to Jati Diri PLT in accordance with section 30 of the LLPA on 1.7.2013 and changed the accounting period to end on 30 June.

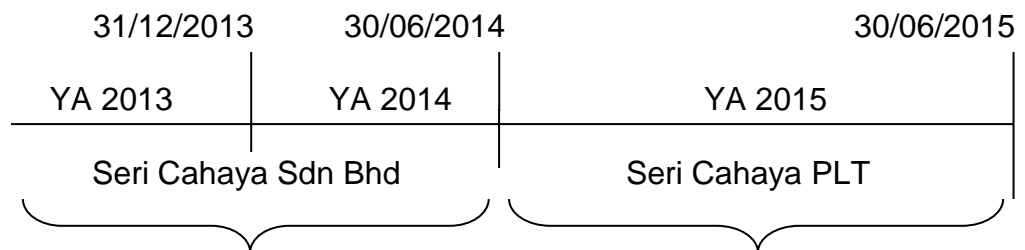
Jati Diri Sdn Bhd	Basis Period	Year of Assessment
Last accounting statement (1.1.2013 – 30.6.2013)	1.1.2013 – 30.6.2013	2013
Jati Diri PLT	Basis Period	Year of Assessment
First accounting statement (1.7.2013 – 30.6.2014)	1.7.2013 – 30.6.2014	2014

- (i) The last Form C to be submitted by Jati Diri Sdn Bhd is for the year of assessment 2013 (basis period from 1.1.2013 to 30.6.2013). Form C for the year assessment 2013 must be submitted within seven (7) months from the date following the close of the accounting period which constitutes the basis period for a year of assessment, that is before or on 31.1.2014
- (ii) Jati Diri PLT must submit Form PT from the year of assessment 2014 (basis period from 1.7.2013 to 30.6.2014). Form PT for the year of assessment 2014 must be submitted before or on 31.1.2015.

Example 4

Seri Cahaya Sdn Bhd (accounts ending on 31 December) was converted to Seri Cahaya PLT on 1.7.2014 and the first set of accounts of Seri Cahaya PLT is closed on 30 June 2015 (12 months). Seri Cahaya Sdn Bhd claimed capital allowances for the year of assessment 2014 (1.1.2014 to 30.6.2014) and there are unabsorbed capital allowances.

Seri Cahaya Sdn Bhd	Basis Period	Year of Assessment
Last accounting statement (1.1.2014 – 30.6.2014)	1.1.2014 – 30.6.2014	2014
Seri Cahaya PLT	Basis Period	Year of Assessment
First accounting statement (1.7.2014 – 30.6.2015)	1.7.2014 – 30.6.2015	2015



All the capital allowances which cannot be absorbed by Seri Cahaya Sdn Bhd can be carried forward to Sri Cahaya PLT

Seri Cahaya PLT is eligible to claim all the capital allowances

Example 5

Che Rose Partnership (accounts ending on 31 December) was converted to Che Rose PLT in accordance with section 29 of the LLPA on 1.1.2013 and maintained the closing date of accounts at 31 December. Chee, Sani and Rosnah are partners of Che Rose Partnership.

Information regarding Che Rose Partnership for the period 1.1.2012 to 31.12.2012 is as follows:

	RM
Divisible loss	(110,000)
Partners' salaries	60,000

Partners' interest income	15,000
Capital allowances	40,000

- (i) Profit sharing ratio for Chee, Sani and Rosnah are 1/4, 1/4 and 2/4 respectively.
- (ii) Salaries to partners: Chee received RM40,000 and Sani RM20,000
- (iii) Interest income shared equally among the partners.

Distribution of divisible income and computation of statutory income for each partner for the year of assessment 2012 are as follows:

Partner/Benefits	Chee	Sani	Rosnah
Salary	40,000	20,000	Nil
Interest income	5,000	5,000	5,000
Divisible income	Nil	Nil	Nil
	45,000	25,000	5,000
Less:			
Divisible loss	(27,500)	(27,500) Restricted to (25,000)	(55,000) Restricted to (5,000)
Adjusted income	17,500	Nil (Loss c/f 2,500)	Nil (Loss c/f 50,000)
Less:			
Capital allowances	10,000	10,000	Nil 20,000
Statutory income/ Total income	7,500	Nil	Nil

- (i) The last Form P of Che Rose Partnership is for the year of assessment 2012 (basis period from 1.1.2012 to 31.12.2012).

- (ii) Che Rose PLT must submit Form PT from the year of assessment 2013 (basis period from 1.1.2013 to 31.12.2013).
- (iii) After distribution of loss and capital allowances to each partner in accordance with subsection 55(3) of the ITA, the partners may then decide whether part or all of the amount of loss and capital allowances to be carried forward to Che Rose PLT for the year of assessment 2013. Losses and capital allowances that may be carried forward to the year of assessment 2013 are as follows:

	Sani RM	Rosnah RM	Total RM
Loss c/f	2,500	50,000	52,500
Capital allowance c/f	10,000	20,000	30,000

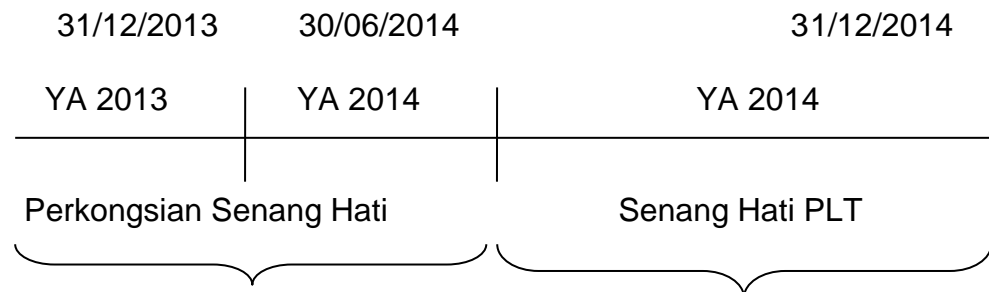
The partners must keep records to prove the amount of loss and capital allowances carried forward to the business of Che Rose PLT. The person who prepares the tax computations for Che Rose PLT is required to keep the documents/records on losses and capital allowances carried forward by each partner for verification by audit officers of the Inland Revenue Board of Malaysia.

Example 6

Senang Hati Partnership (accounts ending on 31 December) was converted to Senang Hati PLT on 1.7.2014 and the first set of accounts of Senang Hati PLT is closed on 31 December 2014 (6 months). Partners claimed capital allowances for the year of assessment 2014 (1.1.2014 to 30.6.2014) and there is unabsorbed capital allowances.

Perkongsian Senang Hati	Basis Period	Year of Assessment
Last accounting statement (1.1.2014 – 30.6.2014)	1.1.2014 – 30.6.2014	2014
Senang Hati PLT	Basis Period	Year of Assessment

First accounting statement (1.7.2014 – 31.12.2014)	1.7.2014 – 31.12.2014	2014
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All capital allowances which cannot be absorbed by the partners can be carried forward to Senang Hati PLT

Senang Hati PLT is not eligible to claim capital allowances carried forward by Perkongsian Senang Hati in YA 2014. The LLP is eligible to claim all the capital allowances in YA 2015.

However, if the partners do not claim capital allowances in YA 2014, PLT is eligible to claim the capital allowances in YA 2014.

10.5 Special allowances for small value assets

Paragraph 19A Schedule 3 of the ITA provides that an LLP is entitled to claim the special rate of allowance for small value assets instead of the normal capital allowance rates provided under paragraphs 10 and 15, Schedule 3 of the ITA. The special allowances for small value assets are equivalent to the amount of qualifying plant expenditure incurred on small value assets. General provisions in respect of capital allowances provided in Schedule 3 of the ITA should be complied with in order to qualify for the special allowances under paragraph 19A, Schedule 3 of the ITA.

10.6 Distribution of profits to partners

An LLP can distribute profits to its partners. Paragraph 12C of Schedule 6 of the ITA provides that profits paid, credited or distributed to partners in the LLP are exempt from tax. There is no withholding tax on profits paid, credited or distributed to the partners.

10.7 Submission of estimate of tax payable

- (a) An LLP is required to provide estimate of tax payable and payment by instalments as provided in section 107C of the ITA. An LLP that is converted from a company or a partnership is not exempted from estimate of tax payable and payment by instalments under subsection 107C(4A) of the ITA as the business of the LLP is deemed to be a continuous business of the company or the partnership.
- (b) An LLP which is entitled to the preferential tax rate for every first RM500,000 of its chargeable income as stated in paragraph 10.1(b) of this PR is also required to provide estimate of tax payable as described above.

10.8 Assessments related to years of assessment of a partnership or company before conversion to an LLP

Every partner of a partnership shall continue to be personally assessable and chargeable to tax for any years of assessment prior to conversion into an LLP. For a company that has converted to an LLP, the LLP shall be assessable and chargeable to tax for any years of assessment prior to the conversion.

Any assessment associated with income of a partnership or company before conversion to an LLP is made as follows –

Type of business before conversion to an LLP –	Assessment is made under the name of –
(i) Partnership	Each partner in the partnership before conversion to an LLP
(ii) Company	LLP

Example 7

Juicy Fruity Partnership (accounts ending on 31 December) has converted to Juicy Fruity PLT on 1.1.2014. The closing date of accounts remains as at 31 December.

The partners consisting of Airin, Aishah and Adrina still remain the partners of the LLP after the conversion. A desk audit was conducted on the partnership on 30.4.2015 and it was discovered that there was income under declared by

the partnership for the year of assessment of 2013. Tax computation of the partnership and divisible income of each partner were revised accordingly.

The amended assessment for the year of assessment 2013 is made on each partner as provided in paragraph 75B(3)(a) of the ITA.

Example 8

Dobi Sunshine Sdn Bhd (accounts ending on 31 December) has converted to Dobi Sunshine PLT on 1.7.2014. Based on audit carried out by officers of the Inland Revenue Board of Malaysia on Dobi Sunshine Sdn Bhd on 1.3.2015, it was discovered that the tax computation for the year of assessment 2013 has to be amended.

Amended assessment for the year of assessment 2013 is made on Dobi Sunshine PLT as provided in paragraph 75B(3)(b) of the ITA.

11. Tax Treatment of Partners of a Limited Liability Partnership

- 11.1 Partners are not liable to tax on their share of income from LLP (whether distributed or not). They will be taxed on remunerations, perquisites and benefits-in-kind received from the LLP.
- 11.2 If there are payments to partners other than individuals, the payment is not treated as remuneration. Therefore the provisions relating to restrictions on partner's salary deduction as set out in paragraph 10.2 of this PR shall not apply. The payment (non-distribution of income) is subject to income tax and is charged on the person concerned. The income is either assessed as gains/profits under paragraph 4(a) of the ITA or under paragraph 4(f) of the ITA depending on the type of income that is received.

12. Bilateral Credit and Unilateral Credit

- 12.1 Bilateral credit can be claimed by an LLP resident in Malaysia when the same income is taxed twice for the same year of assessment, i.e. that income is taxed in the country in which the source arises and once again in the country the LLP is resident, and Malaysia has entered into double taxation agreement with that country.
- 12.2 Unilateral credit can be claimed by an LLP resident in Malaysia when the same income is taxed twice for the same year of assessment, that is that income is taxed in the country in which the source arises and again in the country in which the LLP received the income, and Malaysia has no double taxation agreement with that country.

12.3 Pursuant to paragraph 28(1) of Schedule 6 of the ITA, income of an LLP for the basis year for a year of assessment derived from sources outside Malaysia and received in Malaysia are exempt from tax unless the LLP:

- (a) is carrying on the business of banking, insurance and sea or air transport; and
- (b) whose foreign income, although considered as derived from Malaysia, has suffered foreign tax.

Further information may be obtained from the PR No.11/2011 titled 'Bilateral Credit And Unilateral Credit'.

13. Updates and Amendments

	Amendments	
This PR replaces the PR No. 3/2014 dated 9 May 2014.	The contents of this PR are essentially the same as the previous PR with the as following amendments:	
	Paragraph	Amendment
	7.2(a)	To clarify the person responsible for keeping accounts and documents of a partnership or company before conversion to an LLP.
	10.3	To update the PR mentioned in the paragraph.
	10.8	A new paragraph to explain subsections 75B(3) and (4) of the ITA that take effect from 31 December 2014 [Act 764]. Two (2) new examples are inserted.

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