



INLAND REVENUE BOARD OF MALAYSIA

**TAX TREATMENT OF STOCK IN TRADE
PART II – WITHDRAWAL OF STOCK**

PUBLIC RULING NO. 3/2020

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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 withdrawal of stock in trade in ascertaining the adjusted income in relation to a business for the basis period for a year of assessment carried on by a person in Malaysia.

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, 4C, paragraph 4(a), sections 21, 21A, 24 and 28.

3. Interpretation

The words used in this PR have the following meaning:

- 3.1 “Market value” in relation to anything, means the price which that thing would fetch if sold in a transaction between independent persons dealing at arm’s length.
- 3.2 “Person” includes a company, a body of persons, a limited liability partnership and a corporation sole.
- 3.3 “Trade debt” is a debt that arises from the sales of goods or services and has been included in the gross income of the business.
- 3.4 “Adjusted income” of a person from a business source for a basis period for a year of assessment is the gross income from that business less all deductible expenses incurred in the production of that gross income under the general provisions and specific provisions of the ITA.
- 3.5 “Business” includes profession, vocation and trade and every manufacture, adventure or concern in the nature of trade, but excludes employment.
- 3.6 “Stock in trade”, in relation to a business, means property of any description, whether movable or immovable, being either –
 - (a) property such as is sold in the ordinary course of the business or would be so sold if it were mature or if its manufacture, preparation or construction were complete; or

- (b) materials such as are used in the manufacture, preparation or construction of any such property as is referred to in paragraph (a) above and includes any work in progress.

3.7 “Year of assessment” means a calendar year.

3.8 “Basis period” in relation to a person, a source of his and a year of assessment, means such basis period, if any, as is ascertained in accordance with section 21 or 21A of the ITA.

4. Introduction

Proceeds from the sale of stock in trade of a business are treated as gross income from a business. The proceeds can be in the form of cash or its equivalent or by way of a trade debt. Where an item of stock in trade of a business is withdrawn whether for own use or for other reasons by a person carrying on the business, the market value of the item at the time of withdrawal is treated as gross income from the business [subsections 24(2) and 24(3) of the ITA].

5. Withdrawal of Stock in Trade for Own Use

Stock in trade withdrawn from a business for own use has to be accounted for and valued to an amount equal to the market value of that stock in trade [paragraph 24(2)(a) of the ITA].

5.1 Valuation of stock in trade withdrawn for own use

If a person carrying on a business takes his stock in trade of the business for his own use, the withdrawal of such stock has to be –

- (i) accounted for as if the item of stock in trade had been sold; and
- (ii) valued at the market value at the time of its withdrawal and be treated as gross income of the person from the business for the relevant period.

Example 1

Haris, operates a sole trader business as a supplier of roasted mutton. He takes 5 kilogram of roasted mutton home for his personal consumption every month.

As roasted mutton is the stock in trade of Haris’ business, he has to account for the stock in trade taken for personal consumption every month as if it had been sold. The market value of the roasted mutton at the time of withdrawal is treated as gross income from the business for the relevant year of assessment pursuant to paragraph 24(2)(a) of the ITA.

Example 2

Nurul is the sole proprietor of Batik Nurul Enterprise. On 1.12.2018, Nurul took (two) 2 pieces of batik material from her stock in trade and gave it to her relative as a wedding gift. No payment for the withdrawal of the stock in trade was made by Nurul. The market value of the batik withdrawn from stock in trade was RM2,000 whereas the cost of the batik material was RM1,000. Nurul had accounted for the stock in trade withdrawn from her business at cost.

Although Nurul had accounted for the withdrawal of the (two) 2 pieces of batik material from her stock in trade at cost value but for the purpose of tax she has to account for the said withdrawal at an amount equal to the market value of the material i.e RM2,000 and not at cost value. The market value of the material is treated as Nurul's gross income from the business in the year of assessment 2018 pursuant to paragraph 24(2)(a) of the ITA.

Example 3

T Sdn Bhd, a television manufacturer withdraws a television from its stock in trade to place it at the office lobby. This is part of its customer service amenities and marketing strategy.

T Sdn Bhd has to account for its stock in trade withdrawn for use in its business. The market value of the television at the time of withdrawal is treated as gross income of the business for the relevant year of assessment.

Note

The television is a capital asset owned by the company and is in use for the purpose of the business. The company may claim capital allowances if it is owned and used at the end of the basis period for the relevant year of assessment. The market value at the time of its withdrawal for the relevant year of assessment is taken as the qualifying expenditure.

5.2 Withdrawal of stock in trade for use in a different business activity

(a) Different business activity

A person may carry on two distinct business activities and transfer stock in trade from one business activity to another business activity of his. When the person transfers the stock in trade from one business activity to another, this would mean that at that point of time, he is making a withdrawal of stock in trade for use in a different business activity of his. The transfer of the stock in trade between the two different business activities of the person indicates that the person, as a trading owner has

chosen to dispose of the stock in trade without any commercial disposal. Such withdrawal of stock in trade for use in a different business activity will be treated as if a transaction of sale or purchase at market value has taken place.

Example 4

EE Sdn Bhd is a chicken egg producer that uses fully automated machines and owns several farms where chickens are bred for laying eggs. The company also has a chicken hatchery which produces chicks primarily for sale as day-old chicks. Some of the chicks are transferred to the farms to become part of the stock of the farm.

The chicken farm and the chicken hatchery are two different business activities of the company. The chicks are the stock in trade of the chicken hatchery business. When the chicks are transferred to the farm, this is considered a withdrawal of stock from the hatchery business activity to the chicken farm business activity. The withdrawal of stock from the chicken hatchery business is to be valued at the market value and treated as the company's gross income from the business.

(b) **Reclassification**

Withdrawal of stock for use in a different business activity includes reclassification from trading to capital or vice versa due to a change of intention of the business. When there is a reclassification from trading to capital, the trading stock is valued at the market value. Similarly when there is a change from capital to trading, the capital asset is valued at market value. However, the change of intention and the timing of the change is a question of fact and has to be substantiated with the relevant documentation for purposes of an audit. As an example, a property developer may transfer his trading stock to fixed assets. For further information on this matter, please refer to PR No. 1/2009 (Amended) titled Property Development.

6. Withdrawal of Stock in Trade for Other Reasons

6.1 Stock in trade withdrawn for other reasons

Where a person withdraws stock in trade from his business (other than on requisition or compulsory acquisition or in a similar manner) -

- (a) without any consideration received; or

- (b) for a consideration consisting of:
- i. any property not being either a debt owing to the relevant person or a sum in cash or the equivalent of cash;
 - ii. any such property together with a debt owing to the relevant person or any such sum; or
 - iii. any such property together with a debt owing to the relevant person and any such sum.

then, the market value of that stock in trade at the time of its withdrawal shall be treated as gross income of the relevant person from the business for the relevant period.

6.2 Withdrawal of stock in trade without any consideration received

Where any stock in trade of a business of the relevant person is withdrawn, (other than on requisition or compulsory acquisition or in a similar manner), without any consideration received, the market value at the time of withdrawal of the said stock in trade is treated as gross income from the business for the relevant year of assessment.

Example 5

Same facts as in **Example 2** except that Nurul donated the batik material taken from her stock in trade to an organiser of a charitable event as one of the prizes for a lucky draw.

The tax treatment of the stock in trade withdrawn for the purpose of donation is the same as explained in **Example 2**.

6.3 Withdrawal of stock in trade for a consideration consisting of any property not being either a debt owing to the relevant person or a sum in cash or the equivalent of cash.

Where any stock in trade of a business of the relevant person is withdrawn for a consideration of any property not being either a debt owing to the relevant person or a sum in cash or the equivalent of cash, the market value of the said stock at the time of withdrawal is treated as gross income from the business for the relevant year of assessment.

In other words, where any stock in trade is withdrawn for a consideration consisting of any property that cannot be reliably estimated, the market value

of the said stock at the time of withdrawal is treated as gross income from the business for the relevant year of assessment.

Example 6

Adrian is a sole trader in a used car business. On 1.9.2018, he imported ten (10) reconditioned cars from Japan to be sold in Malaysia. Adrian took one (1) of these imported cars with a market value of RM150,000 and gave it to Damia, an artist as consideration for receiving her collection of paintings. The market value of these paintings cannot be reliably estimated.

In this case, Adrian has to treat the market value of the car at the price of RM150,000 at the time of the withdrawal i.e on 1.9.2018 as gross business income for the year of assessment 2018.

- 6.4 Withdrawal of stock in trade for other reasons for a consideration consisting of property together with a debt owing to the relevant person or/ and any such sum in cash.

Where a person withdraws his stock in trade for a consideration of property together with a debt or/ and any such sum in cash, then the market value of the stock in trade at the time of its withdrawal is treated as gross income of the person from the business for the relevant period (please refer to **Example 7**).

- 6.5 Market value is reduced under certain circumstances

The market value of the stock in trade can be reduced under certain circumstances. Where the stock in trade is withdrawn by the relevant person for a consideration consisting of property together with a debt or/ and any such sum in cash, the market value of that stock in trade can be reduced by:

- (a) the amount of the debt or sum; or
- (b) the amount of the debt and sum;

[Paragraph 24(3)(a) and subparagraph 24(2)(b)(ii) and (iii) of the ITA]

The tax treatments on the amount of debt or/ and cash sum and the property are as follows:

- (a) The amount of debt would be a trade debt and is taxable when stock in trade is withdrawn [subsection 24(1) and paragraph 24(3)(b) of the ITA];
- (b) The cash sum would be taxable when it is received [paragraph 24(3)(c) and section 28 of the ITA]; and

- (c) The balance would be taxed at the time the stock is withdrawn from the business [subsection 24(2) of the ITA].

Example 7

Boon, operates Boon Mart as a sole proprietor. He withdrew stock in trade from his business which has a market value of RM3,000 on 1.6.2018 to be given to his neighbour. The withdrawal of stock in trade has created a debt of RM1,000 and a cash sum of RM1,500.

In accordance with subsection 24(3) of the ITA –

- (a) The debt of RM1,000 is a trade debt that has to be treated as gross income from a business in accordance with subsection 24(1) of the ITA.
- (b) The cash sum of RM1,500 is to be treated as gross income from a source when it is received in accordance with section 28 of the ITA.
- (c) The balance of RM500 is the value of that stock in trade which is treated as gross income from the business at the time of withdrawal of the stock in trade in accordance with subsection 24(2) of the ITA.

7. Stock in Trade Parted with by Compulsion

Effective from the year of assessment 2014, section 4C of the ITA was introduced to provide that gains or profits from a business shall include an amount receivable arising from stock in trade parted with by element of compulsion including on requisition or compulsory acquisition or in a similar manner. The amount receivable will be treated as gross income of the business in the year where the stock in trade is parted with by way of compulsory acquisition.

Stock in trade comprises of movable and immovable goods. In the case of a property development business, where land is the stock in trade, with effect from the year of assessment 2014, any compensation received for the compulsory acquisition of the land would be treated as gross business income under paragraph 4(a) of the ITA for the relevant period.

8. Updates and Amendments

PR No.4/2006 titled Valuation of Stock in Trade and Work in Progress Part I has been amended, updated, rewritten, rearranged and published in two parts as follows:

- (a) PR No. 2/2020 titled Tax Treatment of Stock in Trade, Part I – Valuation of Stock; and

- (b) PR No. 3/2020 titled Tax Treatment of Stock in Trade, Part II – Withdrawal of Stock.

Both PR should be read together.

9. 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.**