



INLAND REVENUE BOARD OF MALAYSIA

**APPEAL AGAINST AN ASSESSMENT
AND APPLICATION FOR RELIEF**

PUBLIC RULING NO. 7/2020

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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:

- 1.1 procedures with regard to appeal and application for relief in line with the provisions of the Income Tax Act 1967 (ITA); and
- 1.2 Form Q and Form N appeal procedures.

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 ITA related to this PR are sections 97A, 99, 99(1A), 100, 101, 102, 131, 131A and 132.

3. Interpretation

The words used in this PR have the following meaning:

- 3.1 "Tax agent" means any professional accountant or any person approved by the Minister of Finance.
- 3.2 "Notice of assessment" means best judgement assessment under subsection 90(3) or 91(1) of the ITA, assessment, additional assessment, deemed assessment, notification of non-chargeability (NONC) (section 97A of the ITA), notification of refund of over-payment (section 111 of the ITA) and
- 3.3 "Person" includes a company, a body of persons, a limited liability partnership and a corporation sole.
- 3.4 "The Special Commissioners of Income Tax" (SCIT) and "the Secretary to the SCIT" refer to the Special Commissioners and the Secretary appointed under section 98 of the ITA.
- 3.5 "Appeal" means an appeal against an assessment.

4. Right of Appeal and Time for Appeal

- 4.1 Section 99 of the ITA provides that a person who is aggrieved by an assessment which has been made on him for any year of assessment (YA) by the Director General of Inland Revenue (DGIR) is entitled to appeal against that assessment.
- 4.2 However, the provision of section 99 of the ITA shall not apply in the following cases:

4.2.1 deemed assessment under subsection 90(1) of the ITA; or

4.2.2 deemed assessment for amended Income Tax Return Form (ITRF) under section 91A of the ITA;

unless the taxpayer disagrees with the tax treatment stated in PR or known stand, rules and practices of the DGIR prevailing at the time when the assessment is made. Examples of known stand, rules and practices are as follows:

- (a) private rulings or advanced rulings;
- (b) guidelines by the Inland Revenue Board of Malaysia (IRBM);
- (c) cases that have been decided by the SCIT and the court; or
- (d) any other written evidence.

4.3 Therefore, section 99 of the ITA shall only apply to appeals on notice of assessment made for any YA for cases stated below:

4.3.1 assessment / additional assessment / advanced assessment / NONC which are made by the DGIR as a result of audit or investigation findings;

4.3.2 best judgement assessment made without ITRF or late submission of ITRF under subsection 90(3) of the ITA or best judgment assessment under subsection 91(1) of the ITA; or

4.3.3 deemed assessment or deemed assessment for amended ITRF where the taxpayer disagrees with the tax treatment stated in PR or known stand, rules and practices of the DGIR prevailing at the time when the assessment is made.

4.4 Section 99 of the ITA shall not apply to a composite assessment provided under section 96A of the ITA as the assessment is made after an agreement between the taxpayer and the DGIR has been reached.

4.5 Appeal Against Assessment / Additional Assessment

An appeal must be made by submitting Form Q not later than thirty (30) days after the notice of assessment has been served as provided under subsection 99(1) of the ITA.

Example 1

Sarah who is a teacher, has furnished the ITRF for the YA 2019 on 2.5.2020. An additional assessment for the YA 2019 was made by DGIR on 10.9.2020 based on field audit findings and it was served on 15.9.2020.

Sarah may appeal against the additional assessment if she is not satisfied with the assessment made by the DGIR by submitting a Form Q not later than 15.10.2020.

Example 2

Alpha Sdn Bhd is engaged in the business of manufacturing and closes its financial accounts on 31st December each year. In addition, Alpha Sdn Bhd has interest and rental income. The company furnished the ITRF for the YA 2019 on 15.6.2020. Alpha Sdn Bhd complied with all PRs but disagreed with the tax treatment on the interest expenses as stated in PR No. 2/2011.

Pursuant to subsection 90(2) of the ITA, the deemed notice of assessment shall be deemed to have been served on Alpha Sdn Bhd on 15.6.2020. As the company does not agree with the tax treatment on interest expenses as stated in PR No. 2/2011, Alpha Sdn Bhd may appeal against the assessment of YA 2019 by submitting Form Q not later than 15.7.2020.

4.6 Appeal Against Reduced Assessment

Reduced assessment is not subject to the interpretation of 'assessment' under section 2 of the ITA in which it is not appealable under section 99 of the ITA. However, an appeal may be made in respect of an amended assessment that is a result of the issuance of the reduced assessment if there are issues in the amendment of assessment that are disputed by the taxpayer.

Example 3

Hamzah Dollah Sdn Bhd is a glove manufacturer and closes its financial accounts on 31st December each year. The company has been granted investment tax allowance in relation to a promoted product for a period of five (5) years. Malaysian Investment Development Authority (MIDA) has determined the effective date of investment tax allowance on 20.5.2017 through a letter dated on 1.4.2018. The qualifying capital expenditure incurred by the company in 2017 is RM2,000,000.

The company was audited by the IRBM on 31.1.2019 on its ITRF for YA 2017. An expense claimed amounting to RM100,000 was not allowed. MIDA has issued compliance letter of the investment tax allowance on 12.2.2019 in order for the company to claim the ITA.

When audit adjustments were made, the unclaimed investment tax allowance of RM2,000,000 has exceeded the amount of adjustments added back in the tax computation and reduced assessment was issued.

The company may appeal against the issuance of reduced assessment for the YA 2017 if it disagrees with the audit findings.

4.7 Appeal Against Advanced Assessment

Subsection 99(1) of the ITA provides that an appeal against advanced assessment must be made within the first three (3) months of the YA following the YA in which the assessment was made (or within such extended period as regards those days, or months as may be allowed under section 100 of the ITA).

Example 4

En Daud has ceased his sole-proprietorship business on 30.6.2019. The final accounts are prepared for the period 1.1.2019 to 30.6.2019. Advanced assessment of YA 2019 was made by DGIR on 13.8.2019 for En Daud's sole-proprietorship business income and it was served on 20.8.2019.

The advanced assessment is made for YA 2019 and the following YA is YA 2020. Therefore, appeals against advanced assessment must be made not later than 31.3.2020.

4.8 Appeal Against Best Judgement Assessment under Subsection 90(3) of the ITA

4.8.1 Effective YA 2019, provision of subsection 99(1A) of the ITA requires that if the best judgement assessment has been made under subsection 90(3) of the ITA against a company, limited liability partnership, trust body or co-operative who fails to submit ITRF in accordance with the provision of subsection 77A(1) of the ITA, the appeal against the best judgement assessment shall be made by submitting Form Q together with ITRF for the YA involved not later than thirty (30) days after the notice of assessment has been served.

Example 5

A company, LMN Sdn Bhd closes its financial accounts on 31st December each year and did not submit ITRF for YA 2019. The best judgement assessment under subsection 90(3) of the ITA has been made on 21.8.2020 and it was served to the company on 25.8.2020.

LMN Sdn Bhd may appeal against the best judgement assessment if the tax computed by the DGIR exceeds the actual tax payable by submitting Form Q and ITRF for YA 2019 not later than 24.9.2020.

- 4.8.2 The provision of subsection 99(1A) of the ITA shall only apply to the best judgement assessment made on a company, limited liability partnership, trust body or co-operative society.
- 4.8.3 If the best judgement assessment has been made against person other than a company, limited liability partnership, trust body or co-operative society, the appeal of the best judgement assessment shall be made by submitting Form Q not later than thirty (30) days after the notice of assessment has been served as provided under subsection 99(1) of the ITA.

Example 6

Marina is an employee who receives employment income and she did not furnish the ITRF for the YA 2019. Best judgement assessment was made by the DGIR and it was served on 15.10.2020.

Marina may appeal against the best judgement assessment if the tax made by the DGIR exceeds the actual tax payable by submitting Form Q not later than 14.11.2020. Marina shall furnish ITRF for YA 2019 after submitting the Form Q if requested by the DGIR for review purposes.

4.9 Appeal Against a Non-Chargeability Case

- 4.9.1 Pursuant to the provision of subsection 97A(1A) and 97A(2) of the ITA, an appeal may be made by a person in the following circumstances:

- (a) ITRF has been furnished
- (i) Within the stipulated period

If a person who has no chargeable income and has furnished an ITRF within the stipulated period in accordance with subsection 77(1) or 77A(1) of the ITA for a YA, the ITRF furnished is deemed to be a notification made by the DGIR to that person on the date the ITRF was furnished. If he is not satisfied with the tax treatment mentioned in any PR or any known stand, rules and practices made by the DGIR, he may appeal against the deemed notification within thirty (30) days from the date of being so notified.

Example 7

Faz Sdn Bhd closes its financial accounts on 31st December each year. The company has furnished its ITRF for the YA 2019 on 30.6.2020. The company declared two (2) sources of income for YA 2019, which is interest income and losses from business. The company has no chargeable income because the amount of current year loss exceeded the interest income.

The ITRF furnished is deemed to be a notification made by the DGIR on 30.6.2020. Faz Sdn Bhd complied with all relevant PR but disagreed with a specific tax treatment mentioned in the PR No. 2/2011. The company intended to appeal to the SCIT.

The appeal to SCIT must be submitted by the company through Form Q not later than 30.7.2020.

(ii) Not within the stipulated period

If a person has no chargeable income and has furnished an ITRF not in accordance with the stipulated period pursuant to subsection 77(1) or 77A(1) of the ITA, he is not entitled to appeal under section 97A of the ITA.

Example 8

The facts are the same as in Example 7 except that Faz Sdn Bhd only furnished the ITRF for the YA 2019 on 30.9.2020. Since the ITRF was not furnished within the stipulated period, Faz Sdn Bhd is not entitled to appeal to the SCIT under section 97A of the ITA.

(b) ITRF not required to be furnished

In the case where an individual is not required to furnish an ITRF for a YA under subsection 77(1) of the ITA but intends to appeal on any tax treatment mentioned in a PR or any known stand, rules and practices made by the DGIR, the person shall furnish the ITRF for that YA and submit an appeal in writing to SCIT within thirty (30) days after the submission of the ITRF or after receiving the NONC.

Example 9

Mr Ganeson, a sole-proprietor has commenced his sundry shop business on 1.2.2016 and closes his financial accounts on 31st December each year. He has no chargeable income for the YA 2016 to YA 2018. As an individual tax payer, he was not required to furnish ITRFs for the three (3) YAs. Mr Ganeson complied with all the relevant PRs in preparing his tax computations for three (3) YAs but disagreed with a specific tax treatment mentioned in the PR No. 4/2012.

Mr Ganeson intends to appeal to the SCIT. Mr Ganeson furnished his ITRFs for the YA 2016, YA 2017 and YA 2018 on 30.6.2019.

ITRF furnished by Mr Ganeson is deemed to be a NONC under subsection 97A(1A) of the ITA. Mr Ganeson may appeal to the SCIT for the YA 2016 to YA 2018 not later than 30.7.2019.

(c) Audit cases

In the case where the result of the tax audit indicates that:

- (i) no assessment for a YA needs to be made because there is no adjusted income, statutory income, aggregate income or total income; or there is income but the income is exempted under the ITA or the Promotion of Investment Act 1986 (PIA); or
- (ii) an assessment for a YA has been made in respect of that person but the person has no statutory income from the business source;

a written notification will be issued by IRBM on:

- a. no assessment shall be made for any YA and calculation in relation to it for subparagraph 4.9.1(c)(i) of this PR; or
- b. the adjustment made in respect of the statutory income from the business source and the calculation in relation to it for subparagraph 4.9.1(c)(ii) of this PR.

Any appeal to the SCIT on such notification shall be submitted within thirty (30) days after the notification is served on him.

Example 10

Evergrow Sdn Bhd has run the manufacturing business since 1.2.2011 and closes its financial accounts on 31st December each year. The company reported interest income and losses from business for YA 2019. The company has no chargeable income as the current year loss exceeded the interest income. The company claimed Reinvestment Allowance (RA) on a qualifying expenditure amounting RM500,000.

Evergrow Sdn Bhd furnished ITRF for the YA 2019 to the DGIR on 29.7.2020. The company is audited by the IRBM on 13.3.2021. As a result of the audit findings, adjustments were made to the computation of RA, but the company still has no chargeable income. A NONC with the computation of RA adjustments for the YA 2019 is served on Evergrow Sdn Bhd on 10.6.2021.

Evergrow Sdn Bhd disagreed with the adjustments of RA and intends to submit an appeal to the SCIT.

Evergrow Sdn Bhd may submit an appeal to the SCIT for the YA 2019 by using the NONC which has the computation of RA adjustments. Evergrow Sdn Bhd must submit an appeal to the SCIT within thirty (30) days from the date of issuance of the NONC, which is not later than 10.7.2021.

5. Appeal for Partnership Cases

For an appeal in a partnership case, only one (1) appeal is required to be submitted if the issue in dispute is the same for each partner. Whatever decision, whether at the SCIT, High Court, Court of Appeal or Federal Court level shall apply to all other partners in the partnership.

6. Appeal Involves an Application for Negotiation under a Mutual Agreement Procedure

6.1 Effective from 24 January 2014, subsection 102(1A) of the ITA allows a postponement of Form Q submission to SCIT if the person who appeals (appellant) has applied for resolution under Mutual Agreement Procedure with a Competent Authority. The submission of Form Q will not be extended to SCIT until the Mutual Agreement Procedure is finalized.

6.2 If the appellant disagrees with the decision of the Mutual Agreement Procedure, appellant shall submit an application letter to request the DGIR to forward the Form Q to the SCIT within thirty (30) days from the date of the notification letter of the decision from the negotiation on Mutual Agreement

Procedure received from the Competent Authority. The DGIR shall forward the application to the SCIT within three (3) months from the date of receipt of the request.

- 6.3 The DGIR will not forward the Form Q to the SCIT if it does not receive the application letter from the appellant.
- 6.4 If the appellant agrees with the decision of the Mutual Agreement Procedure, the appellant must submit an application letter to cancel the Form Q within 30 days from the date the Mutual Agreement Procedure decision is received.

7. Appeal Procedure (Form Q)

- 7.1 The appellant has to submit four (4) copies of Form Q for each YA and must ensure that at least one (1) copy is an original Form Q whereas the other three (3) copies may be photocopied.
- 7.2 Form Q and attachments (if any) submitted by the appellant must not be attached with other documents. A completed Form Q with grounds of appeal must be submitted to IRBM's branch office handling the appellant's income tax file. Form Q can be downloaded and printed from the IRBM official portal at <http://www.hasil.gov.my>.
- 7.3 A completed Form Q must contain the following information:
 - 7.3.1 date and amount of tax payable (amount of tax payable refers to the notice of assessment in dispute);
 - 7.3.2 detailed grounds of appeal containing other particulars as may be required by that form; and
 - 7.3.3 Form Q must be signed by the appellant who is the person assessed and chargeable to tax. In the case of companies and limited liability partnerships, Form Q must be signed by a person authorized under sections 75 and 75B of the ITA respectively.
- 7.4 Form Q cannot be signed by a tax agent or a lawyer.
- 7.5 Incomplete Form Q shall be returned to the appellant.

8. Grounds of Appeal

- 8.1 The appellant shall state the reasons why he disagrees with the notice of assessment. The appellant does not have to submit supporting documents with the Form Q except for appeal against best judgment assessment under Subsection 90(3) of the ITA as stated in paragraph 4.8.1. However, if

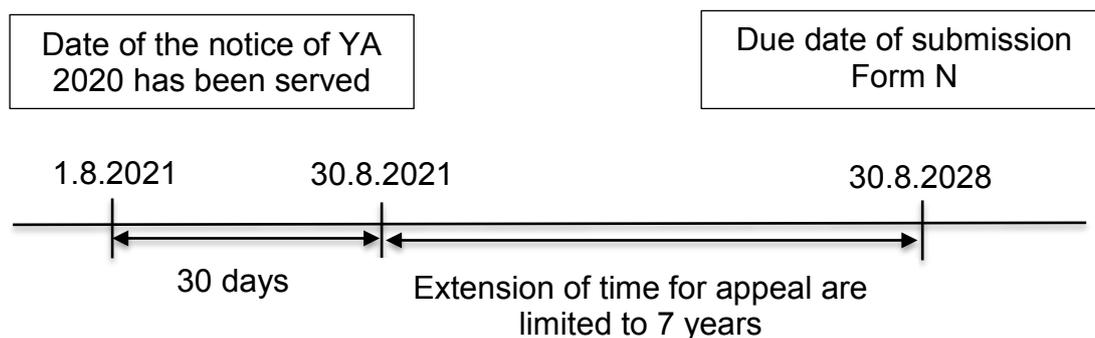
necessary, DGIR may request the appellant to submit relevant supporting documents when reviewing the Form Q.

- 8.2 The appellant must submit the evidence related to the known stand, rules and practices of the DGIR which he disagrees together with Form Q.

9. Late Appeal Procedure (Form N)

- 9.1 If an appeal has not been submitted within the specified period, an application for extension of time for appeal can be made by way of Form N.
- 9.2 The appellant must give a good reason in the application for extension of time. One of the reasons which may be considered is circumstances beyond the control of the appellant, for example: the appellant has been hospitalised for a long period of time, absence from the country, victim of natural disaster or other acceptable and valid reasons.
- 9.3 Effective year of assessment 2020, section 100 of the ITA provides the appellant must furnish Form N to the DGIR within 7 years from 30 days after the notice of assessment was served. This provision applies from YA 2020 onwards.

Example 11



Notice of YA 2020 was served on 1.8.2021. The due date for submission of Form N is on 30.8.2028, which is 7 years from 30 days after the date of the notice of assessment was served.

Example 12

Company QRS Sdn Bhd is engaged in the business of transportation and closes its financial accounts on 31st December each year. The company was audited by IRBM on 30.9.2021 and additional notice of assessments for YA 2019 and YA 2020 were served to the company on 31.10.2021. The Company disagreed with the additional assessments but did not submit Form Q within

the stipulated period, which is not later than thirty (30) days after the notice of assessments had been served, which is on 30.11.2021.

Company QRS Sdn Bhd may apply for an extension of time to appeal by submitting Form N for YA 2020 not later than 30.11.2028, which is within 7 years from 30 days after the date of the notice of assessment was served. However, there is no time limit for Company QRS Sdn Bhd to file the application for an extension of time to appeal through Form N for YA 2019.

- 9.4 Form N must be sent to IRBM's branch office handling the appellant's income tax file. The appellant must submit two (2) copies of Form N for each YA and ensure that at least one (1) copy is original Form N while the other one (1) copy may be photocopied. Form N can be downloaded and printed from the IRBM's website.
- 9.5 If the application for extension of time is allowed, the IRBM will issue Form CP15A informing the appellant the extended date for submission of Form Q, which is thirty (30) days from the date of CP15A.
- 9.6 If the application for extension of time is not allowed, Form N together with a statement of the reasons for rejection by the DGIR (Form CP15B) will be forwarded to the SCIT. Once Form N and the statement of the reasons are forwarded to the SCIT, the DGIR will inform the appellant in writing and shall furnish a copy of the statement of the reasons.
- 9.7 Within twenty one (21) days of receiving the notification, the appellant may make a written representation to the SCIT in respect of his application and the statement by the DGIR.
- 9.8 If the SCIT agrees to allow an extension of time, the SCIT will notify the appellant and DGIR and state the date of which Form Q has to be submitted.
- 9.9 If the application of extension of time is rejected, the appellant and DGIR will be notified by the SCIT.
- 9.10 The decision of SCIT granting an extension or refusing an application is final and both appellant and DGIR has no right to appeal against the decision.

10. Review of Assessment

- 10.1 The period of time for reviewing the assessment is within twelve (12) months from the date of receiving the notice of appeal. The Minister of Finance may extend the period not exceeding six (6) months if the DGIR requires more time to review.
- 10.2 For the purpose of reviewing the assessment by the DGIR, the appellant may be required to:

10.2.1 provide further information or books of accounts, records or other documents related to the assessment; and

10.2.2 attend in person or be represented by a representative to give evidence (under oath if necessary).

10.3 As a result of the review, a proposal may be made to the appellant to settle the appeal by confirming, reducing, increasing or discharging the assessment.

10.4 If an agreement cannot be reached, the appeal will be forwarded to the SCIT.

11. Disposal of Appeal at IRBM Level

11.1 The appellant will be notified in writing when the Form Q is forwarded to the SCIT.

11.2 Before the hearing of appeal before the SCIT is completed, the appellant and the DGIR may negotiate to either reach an agreement, or withdraw the appeal.

12. Representation

The appellant may be represented by a qualified lawyer and / or a tax agent appointed under section 153 of the ITA at the hearing of the Form Q appeal at the SCIT and court levels.

13. Review of Assessment Through Application for Relief

13.1 Relief under Section 131 of the ITA - In Respect of Error or Mistake

13.1.1 Apart from an appeal under section 99 of the ITA, a taxpayer may make an application for relief under section 131 of the ITA in respect of error or mistake in the ITRF made by him. The determination whether a taxpayer has made an error or mistake is a question of fact and law.

13.1.2 Definition of error or mistake is not provided in the ITA. Thus, the meaning of error or mistake is interpreted with reference to the literal meaning or from precedent cases.

13.1.3 The literal meaning of error or mistake are as follows:

(a) an unintentional act, omission, or error arising from ignorance, surprise, imposition or misplaced confidence;

(b) a belief in the existence of a thing which does not exist or ignorance of a relevant thing, or both;

- (c) an error, misconception, misunderstanding and erroneous belief.

13.1.4 The meaning of error or mistake from precedent cases can be summarised as follows:

- (a) error or omission, such as failure to deduct an allowable expense;
- (b) error or omission such as computational or arithmetical error;
- (c) error arising from a misunderstanding of the law;
- (d) erroneous statement of fact; or
- (e) omission made not by design but by mischance.

13.1.5 Some examples of error or mistake made in the ITRF are:

- (a) total income reported in the income column;
- (b) income for the previous YA is reported in the current YA;
- (c) forgot to claim relief under sections 45 to 49 of the ITA such as insurance, children, purchase of books, housing loan interest, etc.; or
- (d) did not claim deductions and rebates such as personal tax deductions, zakat, approved donations, levy and so on.

13.1.6 The onus of proving that there is an error or mistake shall be on the taxpayer. The DGIR will review the assessment only if he is satisfied that the taxpayer has made an error or mistake in the ITRF or statement made by him for the purposes of the ITA which is furnished to the DGIR.

13.1.7 The conditions related to application for relief under subsections 131(1) and (4) of the ITA are:

- (a) Application for relief will not be considered if the ITRF is made in accordance with the known stand, rules and practices of the DGIR prevailing at the time when the assessment is made.
- (b) The taxpayer must pay all taxes where assessment have been made for the relevant YA.

- (c) The taxpayer must make a written application by way of a letter or Form CP15C to the DGIR within five (5) years after the end of the YA in which the assessment is deemed.

Example 13

Maria has furnished her ITRF for the YA 2019 on 30.4. 2020. On 15.8. 2020, Maria realized that she forgot to claim a deduction for the purchase of books amounting to RM920.00 which she incurred in 2019. Maria may apply for the relief not later than 31.12.2025.

Example 14

Aman Harmoni Sdn Bhd has furnished the ITRF for the YA 2019 on 30.6.2020. As the ITRF was furnished without claiming the capital allowance, the company wanted to revise the tax computation for the YA 2019. Aman Harmoni Sdn Bhd may apply for relief under section 131 of the ITA not later than 31.12.2025.

13.2 Relief under Section 131A of the ITA - Other Than in Respect of Error or Mistake

13.2.1 A taxpayer may make an application in writing to the DGIR for relief other than in respect of error or mistake in the ITRF made by him.

13.2.2 The conditions for the relief application are:

- (a) The taxpayer must furnish ITRF in accordance with subsection 77(1) or 77A(1) of the ITA.
- (b) The taxpayer shall pay all taxes that have been made for the relevant YA.

13.2.3 The relief application of other than error or mistake cases is allowed for the following circumstances:

- (a) any exemption, relief, remission, allowance or deduction granted under the ITA or any written law gazetted after the YA in which the ITRF is furnished;
- (b) approval for any exemption, relief, remission, allowance or deduction is granted after the YA in which the ITRF is furnished; or
- (c) a deduction not allowed in respect of payment not due to be paid under subsection 107A(2) or 109(2), section 109A, or

subsection 109B(2) or 109F(2) of the ITA on the day the ITRF is furnished.

13.2.4 The period of time for application for the relief is as follows:

- (a) for subparagraphs 13.2.3(a) and (b), within five (5) years after the end of the year in which the exemption, relief, remission, allowance or deduction is published in the Gazette, or the approval is granted, whichever is later; and
- (b) for subparagraph 13.2.3(c), within one (1) year after the end of the year in which payment is made.

Example 15

Muhibbah Jaya Sdn Bhd closes its financial accounts on 31st December each year. The company has applied for pioneer status and a letter of approval was granted on 15.10.2019 for a period of five (5) years starting from 1.4.2017 until 31.3.2022. The company has furnished the ITRF for the YA 2017 on 29.7.2018. Since the ITRF was furnished without claiming the pioneer status, the company intended to revise the tax computation for the YA 2017. Application for relief under section 131A of the ITA may be submitted to IRBM before 31.12.2024.

Example 16

Resepi Jenderam Sdn Bhd which closes its financial accounts on 31st December each year did not claim royalty expense payable to Sedap Recipe Ltd. for the YA 2018 because the royalty and withholding tax were paid on 30.9.2019. The company may apply for relief under section 131A of the ITA to amend the assessment for the YA 2018 before 31.12.2020.

13.3 Relief under Subsection 97A(5) of the ITA - In respect of Non-Taxable Case

13.3.1 A person who has furnished the ITRF to the DGIR in accordance with the provision of subsection 77(1) or 77A(1) of the ITA and has no chargeable income for that YA may make a written application for relief to the DGIR:

- (a) to amend the ITRF in the event of any error or mistake as specified in subparagraph 13.1.4 of this PR; or
- (b) to amend the ITRF in the event of other than in respect of error or mistake, as specified in subparagraph 13.2.3 of this PR.

13.3.2 The period of time for application for the relief is as follows:

- (a) for subparagraph 13.3.1(a), within six (6) months from the date the ITRF is furnished; and

Example 17

Safiq has furnished ITRF for the YA 2018 on 30.6.2019 where no chargeable income was reported. Since the ITRF was furnished without the allowable donation claim, Safiq may submit an application for relief under subsection 97A(5) of the ITA to DGIR before 30.12. 2019.

- (b) for subparagraph 13.3.1(b), within the period as specified in subparagraph 13.2.4 of this PR.

Example 18

MyKleen Corporation Sdn Bhd which commenced business on 1.1.2018 closes its financial accounts on 31st December each year. The company has furnished the ITRF for the YA 2018 on 31.7.2019 and no chargeable income was reported.

The company has filed an application for pioneer status and approval is only granted on 15.1.2021 for the period from 1.7.2018 until 30.6.2023. The company may submit an application for relief under subsection 97A(5) of the ITA to the DGIR to amend the tax for the YA 2018 before 31.12.2026.

14. Application for Relief Procedure

- 14.1 An application for relief can be made either by a letter or Form CP15C by stating the reasons in detail relating to the application.
- 14.2 In the event the letter or Form CP15C is not filled with the correct details, the application shall be returned to the taxpayer and the taxpayer is required to submit a new application for relief.
- 14.3 If the application for relief is approved by the DGIR, the assessment will be amended and a reduced assessment will be issued.
- 14.4 If the application for relief is rejected by the DGIR, a rejection letter together with the grounds of rejection will be issued to the taxpayer.
- 14.5 If the taxpayer disagrees with the decision, he may request via a letter to the DGIR to send the application for relief (which was submitted earlier to the SCIT) within six (6) months from the date of the rejection. The DGIR shall

forward the application to the SCIT within three (3) months from the date of receipt of the request.

14.6 In cases where a deemed assessment on ITRF or amended ITRF is made in accordance with the known stand, rules and practices of the DGIR prevailing at the time, the taxpayer's application for relief under subsections 97A(5), sections 131 and 131A of the ITA will not be considered even though the taxpayer can prove that there is an error or mistake unless the error is arithmetical or computational.

15. **Comparison Between an Appeal and an Application for Relief**

Refer Appendix 1

16. **Updates and Amendments**

This PR replaces the PR No. 12/2017 dated 29 December 2017.	Amendments
	Provide information on amendment / new provisions: i. Limitation of period for application of extension of time (Form N) effective YA 2020; and ii. Appeal against best judgement assessment under subsection 99(1A) of the ITA coming into force from YA 2019

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

APPENDIX 1

Comparison between an appeal under section 99 of the ITA and an application for relief under sections 97A(5), 131 and 131A of the ITA

Particular	Appeal Against an Assessment under Section 99 of the ITA	Application for Relief under Subsection 97A(5), Sections 131 and 131A of the ITA
Forms to be submitted	<p>Within time: Form Q</p> <p>Out of time: Form N</p>	Letter or Form CP15C
Conditions or qualifications	<ol style="list-style-type: none"> 1. Assessment / additional assessment / advanced assessment / NONC which is made by the DGIR as a result of audit or investigation findings; 2. Best judgement assessment without ITRF or late submission of the ITRF under subsection 90(3) of the ITA or best judgment assessment under subsection 91(1) of the ITA; or 3. Deemed assessment or deemed assessment for amended ITRF where the taxpayer does not agree with the tax treatment stated in any PR made under section 138A of the ITA or known stand, rules and practices of the DGIR prevailing at the time when the assessment is made 	<p>Deemed assessment for ITRF or amended ITRF or NONC and taxpayers agree with the tax treatment set out in the PR, or the known stand, rulings and practices of the DGIR at the time the ITRF was submitted.</p> <p>An application for relief may be made for the deemed assessment as below:</p> <ol style="list-style-type: none"> i. Section 131 of the ITA in respect of error or mistake. ii. Section 131A of the ITA in respect of non-error or mistake. <p>For non-taxable cases, an application for relief may be made under section 97A(5) of the ITA.</p>
Payment of tax	Payment of tax must be made (if any)	Tax has been paid for cases under sections 131 and 131A of the ITA.