

**BUDGET  
2023**

hot tax planning

# **PRE-BUDGET 2023 TAX PLANNING**

**Live Zoom Seminar  
17 January 2023**

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# PRE-BUDGET 2023 TAX PLANNING

- SMI tax planning and consideration
- Moving forward with new refinement



# MSME

- Paid up capital of ordinary shares at the beginning of YA  $\leq$  RM2.5 million
- Gross income for a YA  $\leq$  RM50 million
- Not within the group of companies with paid up capital of ordinary shares  $>$  RM2.5 million



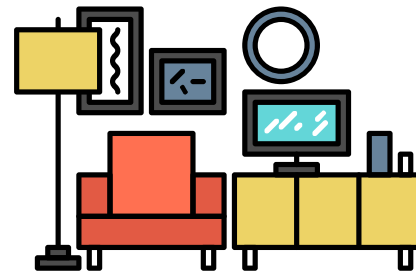
	YA 2022	w.e.f. YA 2023
Chargeable income	Income tax rate	Income tax rate
First RM100,000	17%	15%
Next RM500,000	17%	17%
Excess of RM600,000	24%	24%



# Preferential tax treatment for MSME



1. No tax estimate is required for the first 2 YAs
  - Required to submit CP204 with 'nil' figure
2. Small value asset each  $\leq$  RM2,000
  - 100% ACA
  - Full deduction
  - No threshold limit



A background image showing a person in a blue suit using a tablet computer. In the foreground, a laptop screen displays a financial dashboard with various charts and data. A clipboard with a pen is also visible on the desk.

# Moving forward consideration



- New incorporated MSME

- Single shareholder



- Single director

- New business



- New business address



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# PRE-BUDGET 2023 TAX PLANNING

Withholding tax

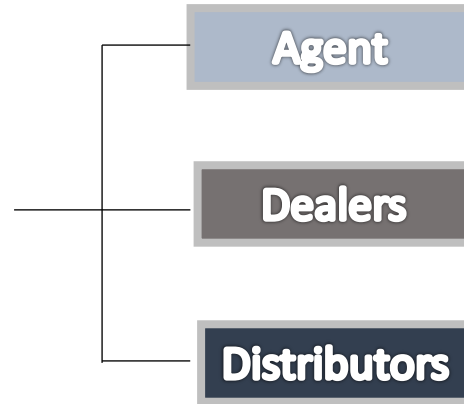
- Latest development and updates

# Withholding tax

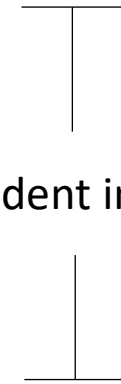


2% on monetary payment to

- Commission
- Cash incentives

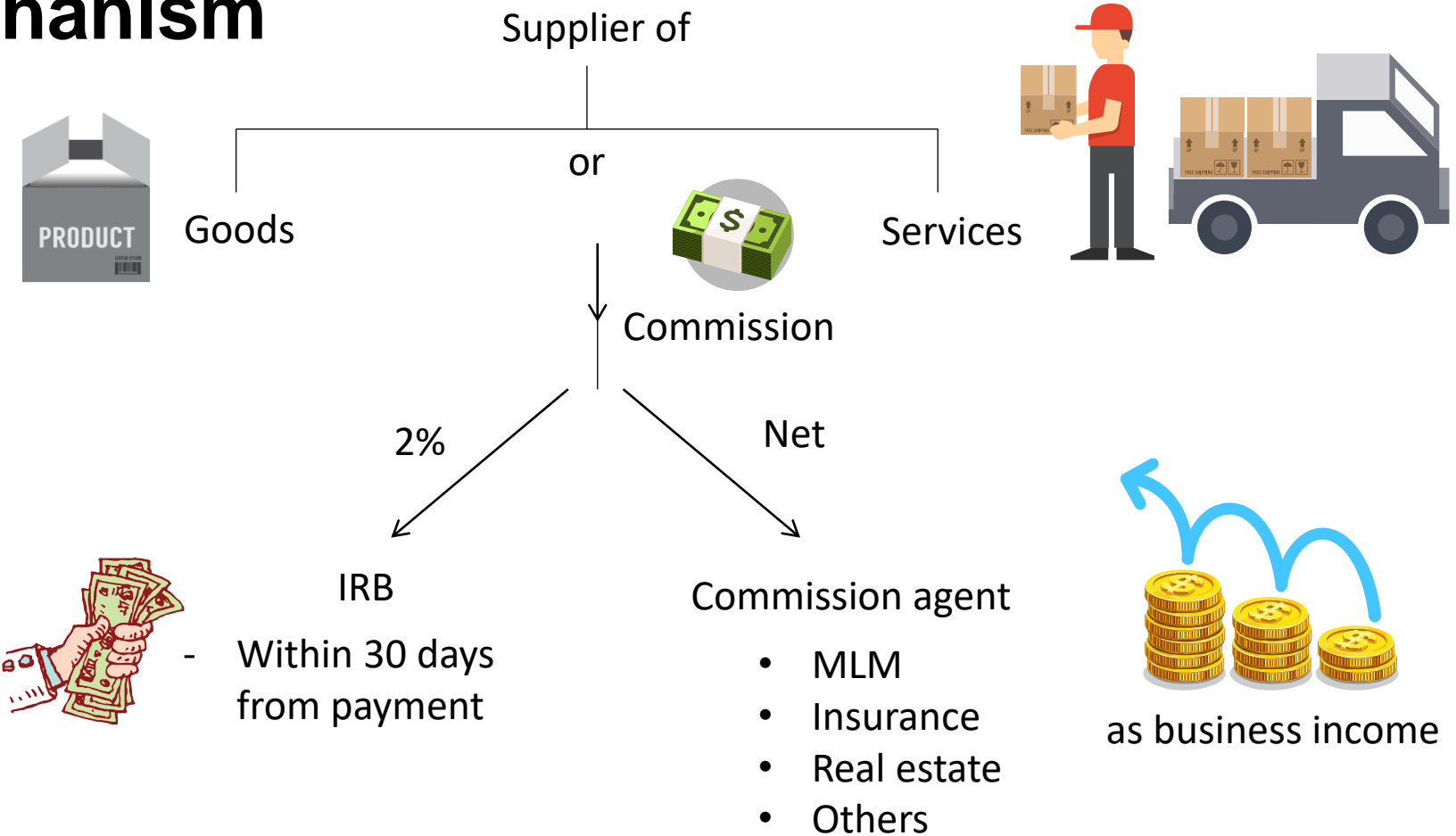


Resident individual



Taking effect 1.1.2022

# Mechanism



- Within 30 days from payment

w.e.f. 1.1.2022



Application on:

- Individual resident
- Commission income in 2021  $\geq$  RM100,000 (cash + in kinds)



# On 1.1.2023

Analyse



Resident

\*Income in 2023

- Subject to 2% withholding tax



Income in 2022 but payment in 2023

**Yes**

Payment in 2022 to that resident individual s.t w/tax

**No**

2% w/tax deducted

?

N/A



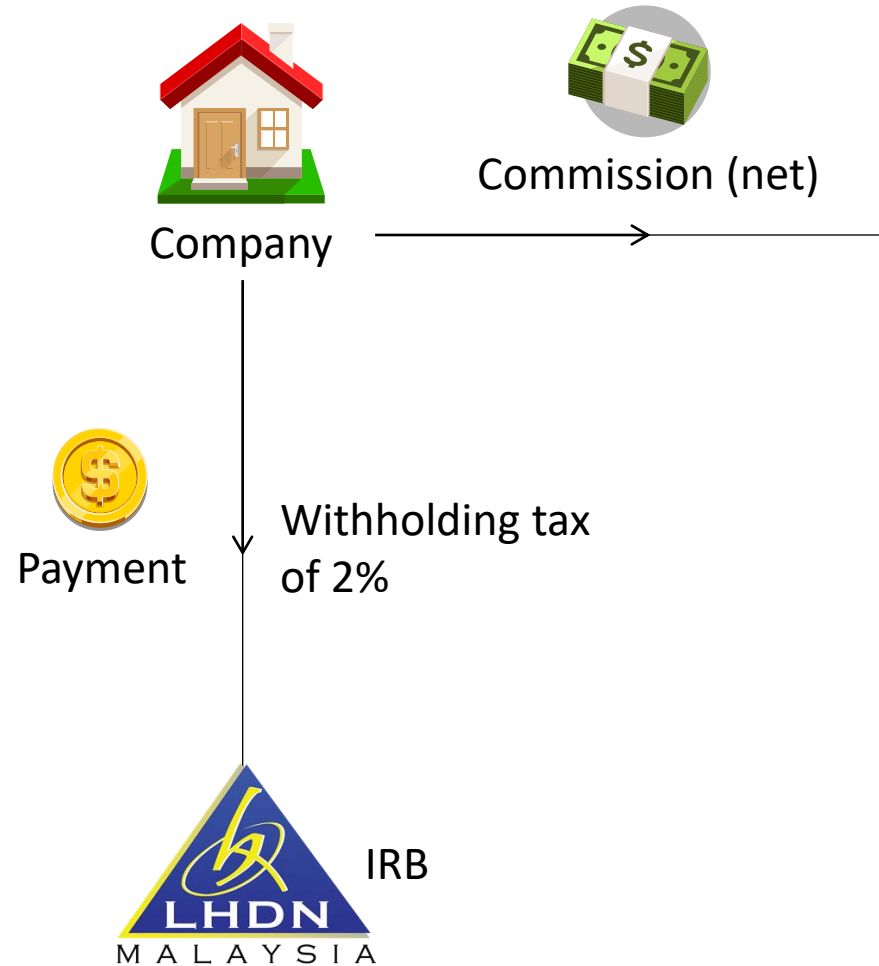
1.1.2022 – 31.12.2022

Cash + in kinds  $\geq$  RM100,000

**Yes\***

**No**

# Commission expense



- Agent
- Dealer
- Distributor

Resident individual



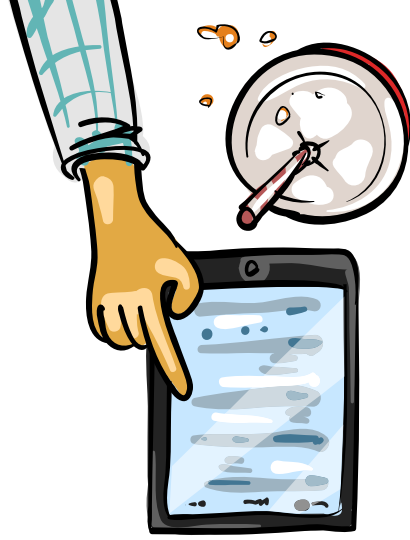
## Non compliance

- Penalty 10% on withholding tax outstanding
- no deduction on commission expense

w.e.f 1.1.2022

[s 107D]

# Illustration



Commission payment to resident A

Less: withholding tax 2%

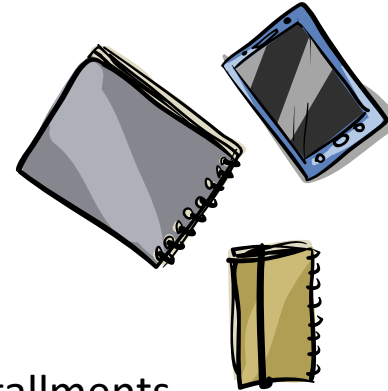
Net to resident A

YA 2022 – Form B

Actual tax payable

Less: 6 bi-monthly installments  
withholding tax 2% (payment in 2022)

Net tax payable / refund



RM  
10,000

(200)

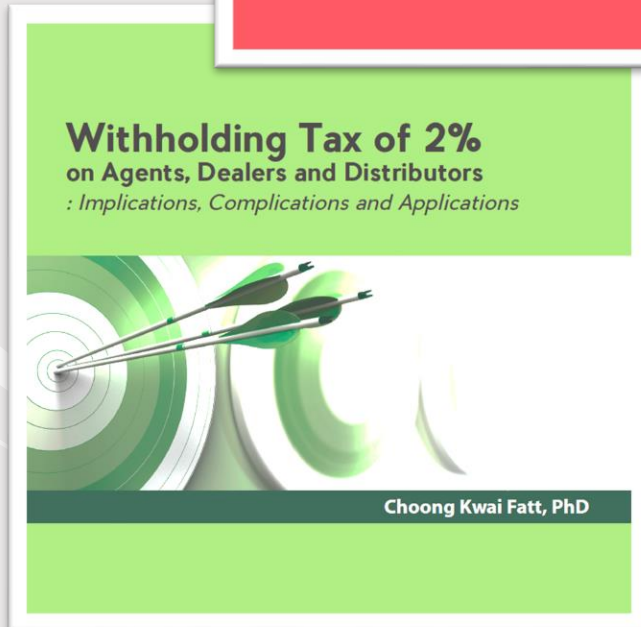
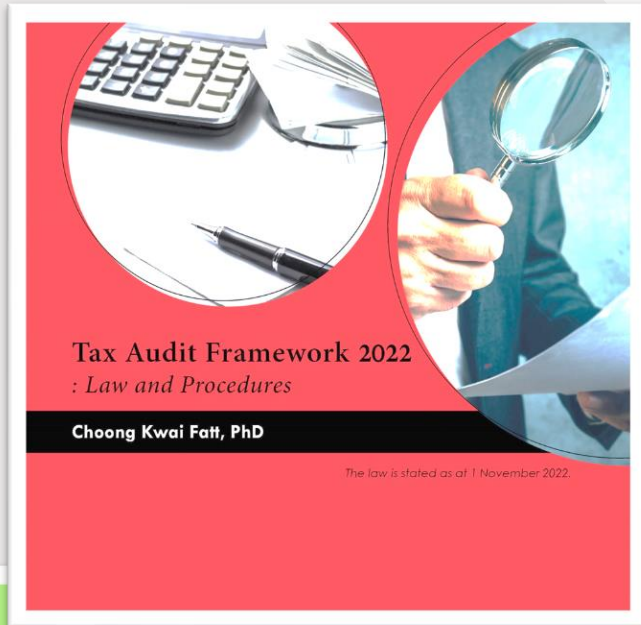
9,800

xx

(x)

(x)

x/(x)



**ONLY FOR PRE-BUDGET  
2023 PARTICIPANT**

## **2 in 1 combo set**

1. Tax Audit Framework 2022
2. Withholding Tax of 2%

**Promo Price [offer until 31 Jan 23]:  
RM280(WM); RM300(EM)**

**Market price: RM360**

**WhatsApp @ 012 - 2946 470**

# Non resident



## 1. Income

- Royalty
- Interest
- Special classes of income
- Commission
- Public entertainer

## Withholding tax

- 10%
- 15%
- 10%
- 10%
- 15%

## 2. Deemed derived from Malaysia



## 3. Withholding tax compliance



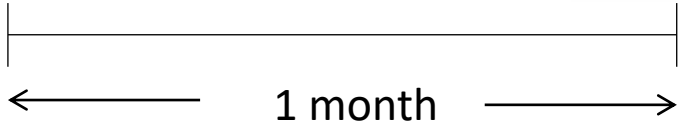
- To be paid within one month
- Late payment penalty @ 10% on withholding tax outstanding
- Non payment : no deduction of expenses
- Wrongful deduction : incorrect return @15%; 30%

# Small payment on withholding tax ( $\leq$ RM500)



Payment to non-resident

Due to



- Royalty, interest (s 109)
- Special classes of income (s 109B)

- IRB
- w.e.f. 1.8.2022
- Cumulative
- Repetitive payment (> 1 time within 6 months)
- Withholding tax form:
  - : CP37S (Royalty; interest)
  - : CP37DS (Special classes of income)



Withholding tax for each transaction  $\leq$  RM500



Once in every 6 months

# Small payment on withholding tax

## Tax administration

Period of payment  
to non-resident

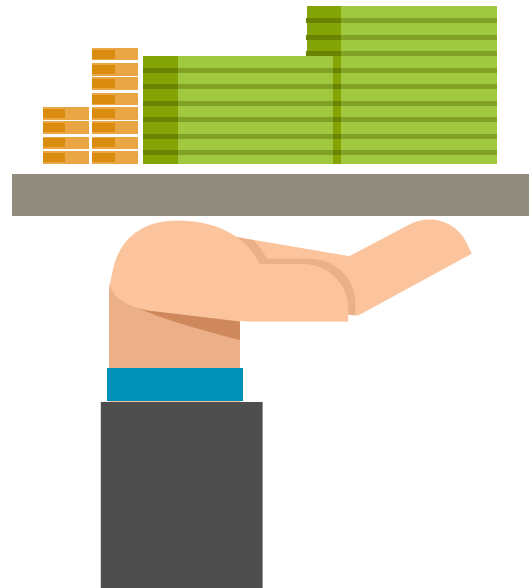
1.12 – 31.5

1.6 – 30.11

Payment of withholding  
tax before

30 June

31 Dec





	RM
Digital advertisement on social media platform	400
- Amounted to royalty @ 10% withholding tax	40
- Withholding tax absorbed : not deductible	40
- Amounted to imported service tax @ 6%	24
Amount deductible	424
Amount not deductible	40
Total cash payment	464



*Esso Production Malaysia Inc v Ketua Pengarah HDN (HC)(2003)*



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# PRE-BUDGET 2023 TAX PLANNING

Tax Audit Framework 2022

(Issued on 1.5.2022)

- Highlights



# New revised incorrect return penalty rate

s 113(2) concession rate – Tax Audit Framework 2022

Offence	Penalty rate (%)
1	15
2	30
Subsequent	45
Maximum	100

On tax undercharged

# Penalties on incorrect return



## Tax audit findings sequence

	1.1.2020 – 30.4.2022	1.5.2022 onwards	Subsequent audit	Subsequent audit
<b>Offence</b>	1	2	3	4
<b>Penalty</b>	15%	30%	45%	45%-100%
<b>Offence</b>	-	1	2	3
<b>Penalty</b>	-	15%	30%	45%

# No penalty - Audit findings involving “technical adjustments”



Cases that involve

- different interpretations of the tax legislation
- according to the facts and issues of the particular case

Issuance of any of the following by the IRB?

- Public Rulings
- Guidelines
- Practice Notes
- Income Tax Regulations
- Income Tax Exemption Orders
- Income Tax Rules



Consideration of “technical adjustments” not applicable  
↓  
Penalty

Consideration of involving “technical adjustments”  
↓  
No penalty



# Voluntary disclosure



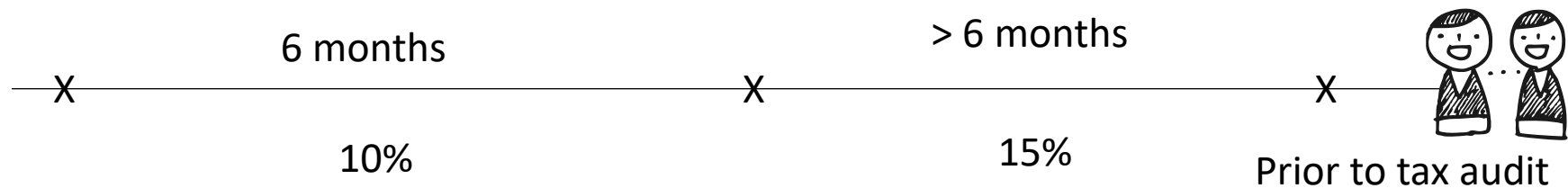
Must be before the commencement of tax audit

From the submission due date of tax return	Penalty rate on tax undercharged (%)
≤ 6 months	10
> 6 months	15



# Amended tax return – myth

Due date



- Amended return x 1
- Voluntary disclosure x 1



- Amended return
- Voluntary disclosure



**Francis Fong Ngim Wyu v Ketua Pengarah HDN**  
[2021] 1 LNS 2333, HC



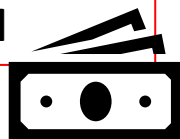
Appellant failed to provide business documents during tax audit



Respondent has no documents to rely on

**Correct method**

Adopted the only possible way:  
**Bank Statement method**



	Particulars	RM
	Total bank deposits	xx
(-)	Reported total sales	(x)
	Difference sum	2,343,684



**Additional tax + penalty under s 113(2) of ITA 1967**

Notice of Additional Assessment  
(Form JA) on 4 YAs  
YA 2010 to YA 2013



Appellant failed to explain.  
Deemed as "under-declared income"

**Treated as gains / profits s 4**

# Burden of proof and standard of proof



1. Burden of proof on taxpayer

2. Standard of proof

- Balance of probabilities
- It is more probable than not.
- Any ambiguity or doubt
  - Benefit given to the taxpayer







“If the taxpayer fails to discharge it because he has conveniently lost his memory or his books or failed to keep proper books he must take the consequences. The onus on the appellant here is not only to show that the assessment is wrong but what must be done to put it right. The taxpayer appellant does not rebut the presumption merely by showing that there is an error in the assessment and thereby creating a blank — he must go further as was indicated in *Trautwein v Federal Commissioner of Taxation* (1936) 56 CLR 63 87; 4 ATD 48 62 and 63 and show either that there ought to be a blank — a complete omission of the item in question, or that something else should be substituted for that item.”

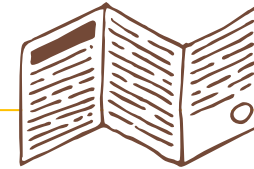


Buttrose J in  
*ABC v The Comptroller of Income Tax, Singapore*  
(1959)(HC)

**1** No business documents { Trading business (the audited Company)  
Former insurance business

**Appellant's contention**

- Business premise and business records of Company were destroyed in the fire happened in 2005.
- Company had been dormant since the 2005 dormant.



**Contradiction**

**Reason of business records destroyed in fire was unreasonable and illogical**

- The fire occurred in year 2005, while the documents requested by the Respondent was for YA 2010 to YA 2013, years after the fire.
- Police reports regards to the fire incident did not mention the lost of business records.
- The appellant thereafter admitted that the non-existence of his business documents was not due to the fire but he himself did not keep record for his business.



2

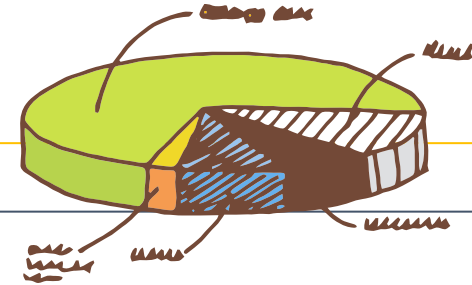
The excess (difference) amount of RM 2,343,684

### Appellant's contention

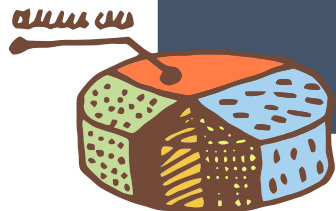


Excess amount in the bank account were made up of:

- (i) Short term soft loans from the close friends (for the purpose of renovating building that perished in 2005 fire);
- (ii) Savings;
- (iii) Proceeds from sale of properties; and
- (iv) Contribution from his children.



### Contradiction



### Different contention in subsequent explanation

- Appellant failed to provide documents.
- Appellant were then claimed that the said RM2,343,684 were all amount of soft loans from his close friends.

### 3

The excess amount of RM 2,343,684 were all short-term personal loan from his close friends

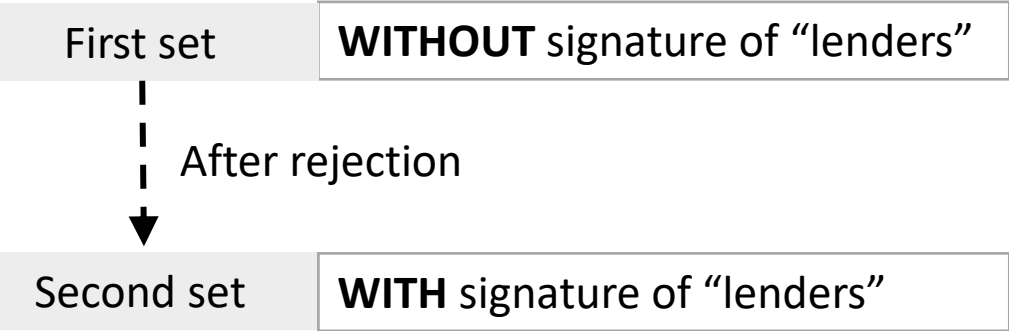
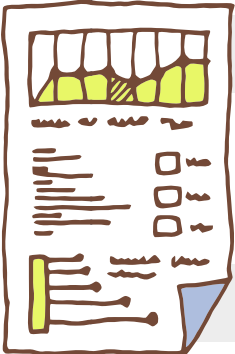
#### Contradictions



#### (i) Acknowledgement of Receipt – 23 copies suddenly was produced out of nowhere

- Respondent believed the acknowledgment are merely one-sided documents.
- Can be prepared by Appellant himself and back dated between 2010 to 2013.
- These documents prepared merely for tax audit purpose.
- The money lent to him from 23 individuals: exact same amount queried by in the audit.

#### (ii) Have 2 sets “Acknowledgement of Receipt” provided by Appellant



If really exist and prepare in year 2010 to 2013, why not given together to KPHDN at one go during the audit process?

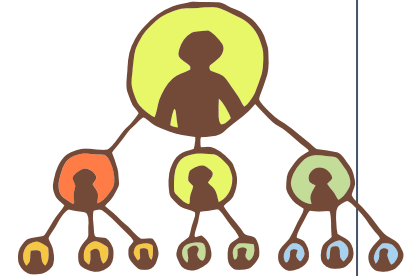
### 3

The excess amount of RM 2,343,684 were all short-term personal loan from his close friends

#### Contradictions

##### (iii) The 23 “lenders” name given as per “Acknowledgement of Receipts”

- None of the 23 individuals were able to confirm the position of the Appellant:
  - 15 names were unable to be contacted;
  - 6 names confirms that they had never gave any loan to the Appellant; and
  - 2 persons have passed away.



##### (iv) The witness of the relevant loan documents

- The appellant’s own witness, Encik Tan Joo Phoi, during cross examination, denied having signed any relevant documents related to the “loan”.



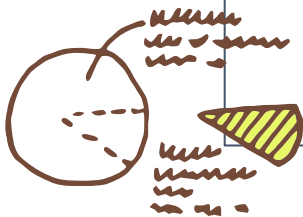
**Including**

- a. Personal loan agreement
- b. Statutory Declaration



##### (v) Different contention in final claim: donation received on behalf

- The appellant claimed that the sum was in fact a donation for charity that he received via his personal bank account (as President) from the 23 individuals on behalf of the Yayasan Al-Ummah.
- Unreasonable and unjustifiable: the Appellant failed to produce documents of such charity body.





# SCIT and High Court's decision

YA	Total income tax payable + penalties
2010	286,946.20
2011	82,627.82
2012	410,106.89
2013	156,505.33
	<hr/>
	1,078.889.53



The JAs issued by IRB for YAs 2010-2013 are in order.



“It is the taxpayer who knows and the taxpayer who is in a position (or, if not in a position, who certainly should be in a position) to provide the right answer, and chapter and verse for the right answer, and it is idle for any taxpayer to say to the Revenue, “Hidden somewhere in your vaults are the right answers: go thou and dig them out of the vaults.” That is not a duty on the Revenue. If it were, it would be a very onerous, very costly and very expensive operation, the costs of which would of course fall entirely on the taxpayers as a body. It is the duty of every individual taxpayer to make his own return and, if challenged, to support the return he has made, or, if that return cannot be supported, to come completely clean, and if he gives no evidence whatsoever he cannot be surprised if he is finally lumbered with more than he has in fact received. It is his own fault that he is so lumbered.”



Walton J in  
*Nicholson v Morris*  
(51 TC 95)

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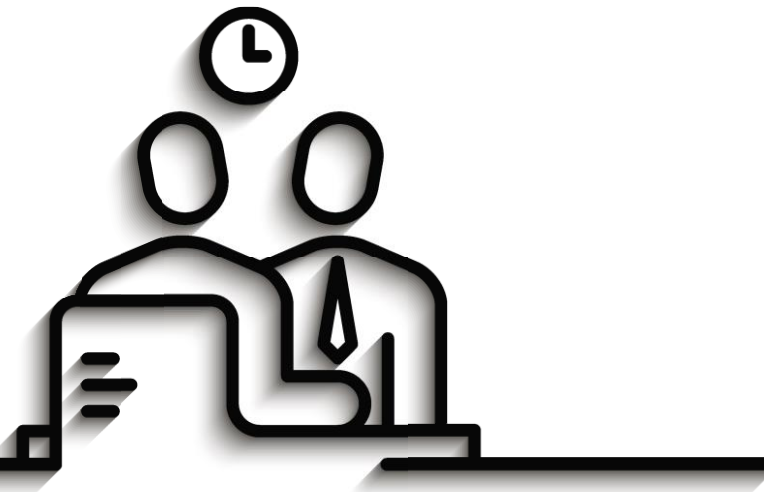
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# PRE-BUDGET 2023 TAX PLANNING

Transfer pricing – updates and developments



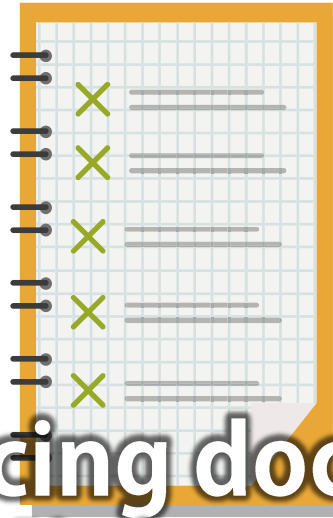
# Transfer pricing audit



IRB can raise additional assessment  
within 7 years after its expiration

**s 91(5) with s 140A(3)**

2023 ..... YA 2016  
31.12.2023



# Transfer pricing documentation (Minimum)

(a) Related parties

(b) Gross income < RM25 million

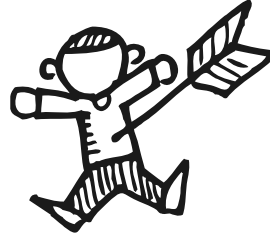
Revenue in Income Statement

(c) Controlled transaction < RM15 million

# Related parties

1. Holding & subsidiary relationship

- Control > 50%



2.



≥ 20% shareholding

+

Dependency of  
proprietary rights

*or*

Price  
influence

*or*

Appointment of  
BOD member(s)



# Scope and contents

- A. Company information
- B. Group information
- C. Controlled transactions
- D. Pricing policy

(Reference: Minimum Transfer Pricing Documentation Template by IRB issued on 10.11.2022)



# Parties responsible to prepare TP Documentation

M Co 1

M Co 2

M Co 1

Overseas related co

Reporting entity

Income earning company

M Co 1

- Sales
- Expense paid

- Purchases
- Management fee
- Training
- Lease rental
- Interest





# Parties responsible to prepare TP Documentation

**M Co 1**

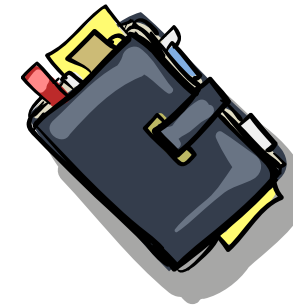


- Shareholder
- Director

**Reporting entity**

**M Co 1**

- Interest expense
- Rental expense





- Agreement is an option
- Agreement if have, must be stamped = valid contract
- Agreement not stamped, amounting to no agreement



**Any Valid Contract /  
Commercial Agreement**

(If Yes, please provide attachment(s))



(Ref: Minimum TPD – IRB template)

# Submission of contemporaneous TP documentation



Not required to be submitted together with annual tax return



Only required to be submitted upon IRB's request







# Failure to submit contemporaneous TP documentation

**With prosecution [s 113B(1)]**

Upon conviction of an offence:

- i.  $\text{RM}20,000 \leq \text{Fine} \leq \text{RM}100,000$ ;
- ii. Imprisonment  $\leq 6$  months; or
- iii. Both.

**Without prosecution [s 113B(4)]**

$\text{RM}20,000 \leq \text{Fine} \leq \text{RM}100,000$

PART F:		PARTICULARS OF COMPANY		
F1	Information for refund: <i>(Info: For refund to a third party account, please submit the application to the branch which handles your income tax file)</i>			
F1a	Method of payment for tax refund	<input type="checkbox"/>	1 = Via own account in Malaysia	2 = Via DuitNow      3 = Via a third party account
F1b	Name of bank	<input type="text"/>		
F1c	Bank account no.	<input type="text"/>	F1d	Bank identification no. <input type="text"/>

F2	Particulars of company directors <i>(Fill in the required appendix)</i>		F3	Particulars of company's major shareholders <i>(Fill in the required appendix)</i>	
F4	Foreign equity in comparison with paid-up capital	<input type="text"/>	.	%	
F5	Government Linked Company (GLC)	<input type="checkbox"/>	1 = Yes	2 = No	
F6	Company listed on Bursa Malaysia	<input type="checkbox"/>	1 = Yes	2 = No	
F7	Has holding company	<input type="checkbox"/>	1 = Yes	2 = No	<i>(If 'Yes', fill in the required appendix)</i>
F8	Carries out controlled transactions under section 139 and 140A	<input type="checkbox"/>	1 = Yes	2 = No	<i>(If 'Yes', fill in the required appendix)</i>
F9	Receives income from sources outside Malaysia which is exempted from tax	<input type="checkbox"/>	1 = Yes	2 = No	<i>(If 'Yes', fill in the required appendix)</i>
F10	Subject to interest restriction under section 140C	<input type="checkbox"/>	1 = Yes	2 = No	<i>(If 'Yes' fill in information on interest subject to section 140C in the following schedule)</i>

F8 Carries out controlled transactions under s 139 and 140A

1 = Yes  
 2 = No



Item F8 (Attachment)

### INFORMATION ON CONTROLLED TRANSACTIONS

#### PART A: COMPANY INFORMATION

1.	Are you required to prepare a Transfer Pricing Documentation?	<input type="checkbox"/>	1 = Yes	2 = No
----	---	--------------------------	---------	--------

1 Are you required to prepare TP Documentation?

1 = Yes  
 2 = No



# Prior year TP documentation

Prior year TP documentation  
is  
only required



- Related parties' transaction
- Disclosure in Form C

TP Documentation Prepared

1

1 = Yes  
2 = No

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# PRE-BUDGET 2023 TAX PLANNING

RPGT

- Updates and developments
  - Moving forward

# RPGT exemption - individual



Malaysian citizen  
PR in Malaysia

## Residential properties

- Condominium
- Service apartment
- SOHO, SOFO
- Bungalow
- Single/double storey



1.6.2020 – 31.12.2021



3 units exempted

## Commercial properties

- Shophouse
- Retail unit
- Factory



> 5 years  
RPGT @ 5%

1.1.2022

Holding period > 5 years  
RPGT @ 0%

Holding period > 5 years  
RPGT @ 0%

w.e.f. 1.1.2022

w.e.f. 1.3.2023

- Malaysian citizen individual
- Partnership
- LLP
- Deceased person (PR)



Disposal  
- Real property  
- RPC shares



**In the 6<sup>th</sup> year or after**

RPGT @ 0%

RPGT @ 5%  
?

[Part I, Sch 5, RPGT Act 1976]



- Created at time of acquisition of real property
- Trust deed clearly identified

- Trustees

- ❖ Director
- ❖ Shareholder

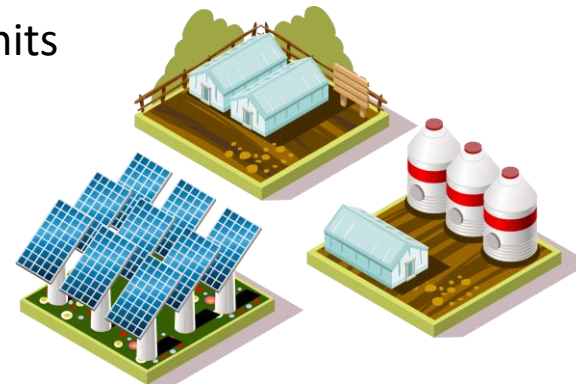


- Trust property

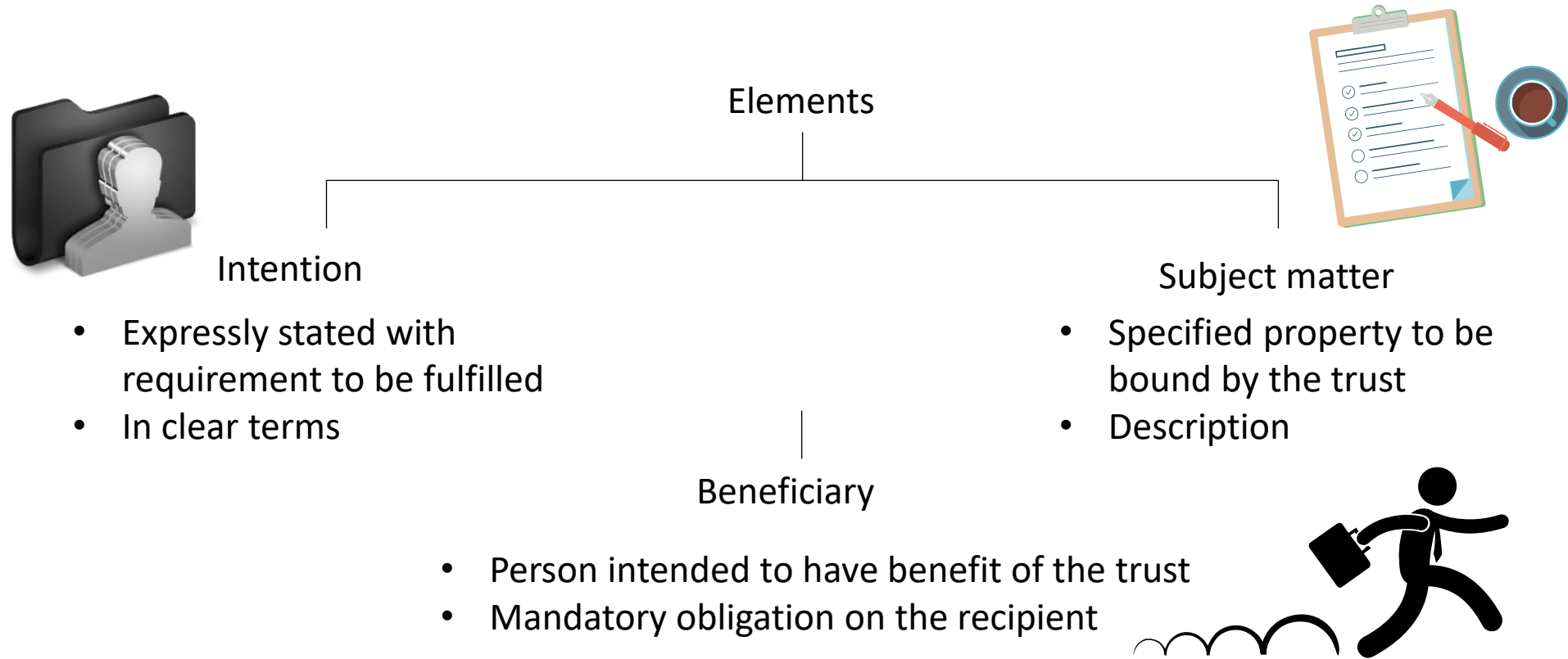
- ❖ Shophouse
- ❖ Factory
- ❖ Retail units
- ❖ Others

- Beneficiary

- ❖ Company

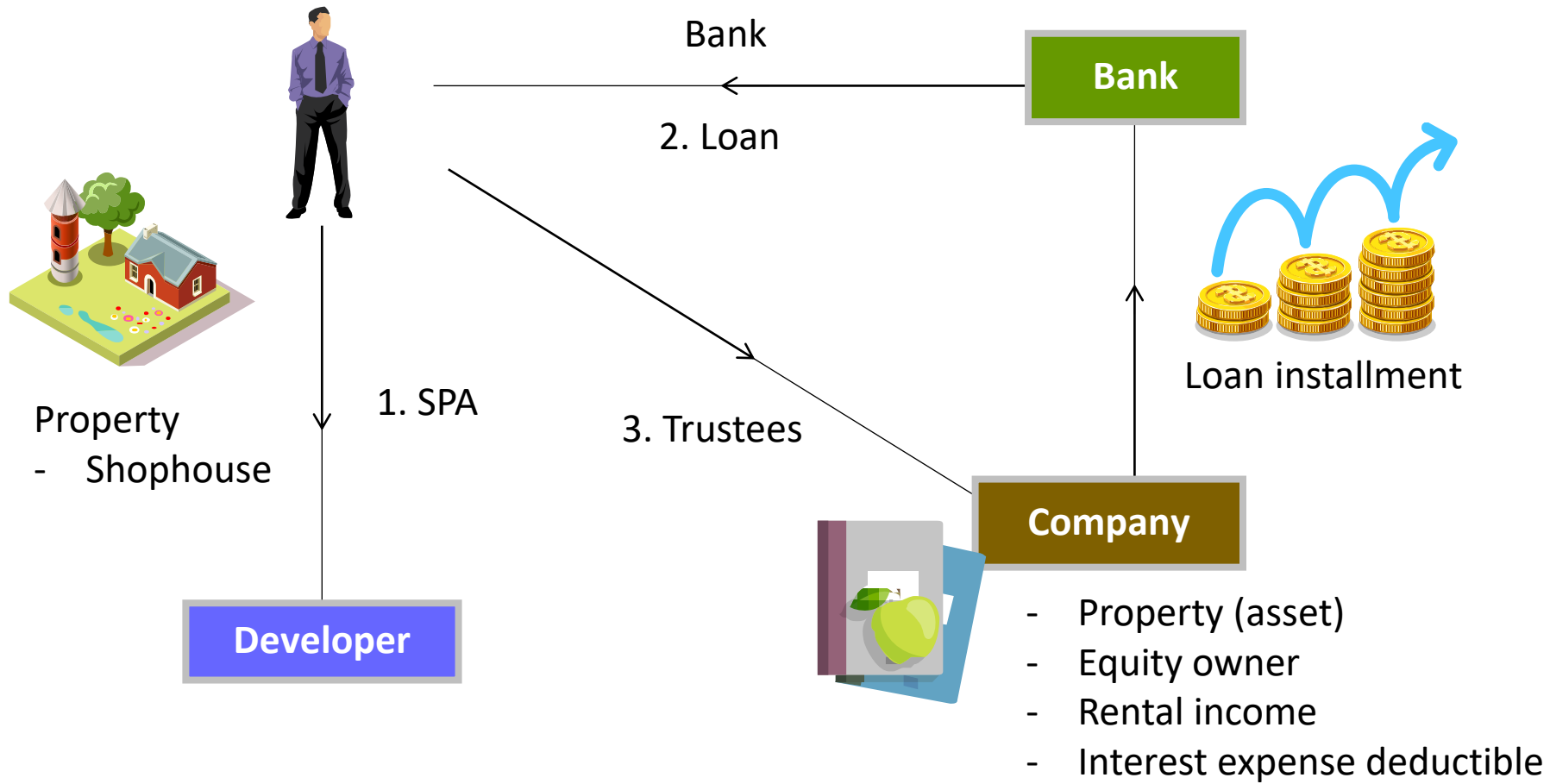


# Trust - elements



*Tan Kah Fatt & Ors v Tan Ying (2021)(CA)*







Shares in property developer  
is  
now  
real property company



*Continental Choice Sdn Bhd & Anor v Ketua Pengarah HDN  
(2021)(CA)*

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# PRE-BUDGET 2023 TAX PLANNING

Foreign source income

- Updates and developments



# Resident individual

Foreign source income received into Malaysia



s 4

1.1.2022 – 31.12.2026

s 4

- (a) Business
- (b) Employment
- (c) Interest
- (d) Rental, royalties
- (e) Annuity
- (f) Other income - commission

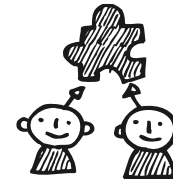
Dividend

(c)

- withholding tax deducted and the highest rate applicable on dividend  $\geq 15\%$



Substantiated by receipt, confirmation from overseas revenue authorities or bank (in relation to interest)

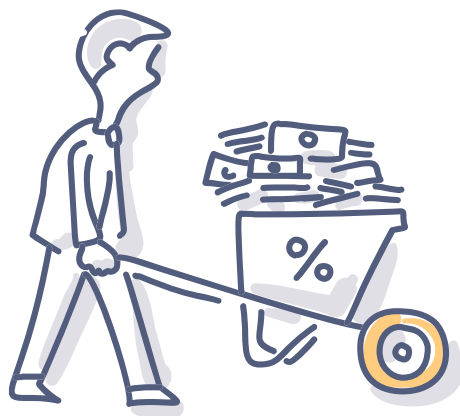


Exclude sale of shares

**Exempted from tax**

1.1.2022 – 31.12.2026

Income Tax (Exemption)(No. 5) Order 2022 [PU(A) 234/2022]  
Income Tax (Exemption)(No. 6) Order 2022 [PU(A) 235/2022]



### Dividend income from overseas company

- withholding tax deducted and the highest rate applicable on dividend  $\geq 15\%$



Received by

Resident

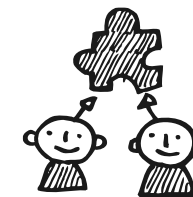
- Company
- LLP

into Malaysia



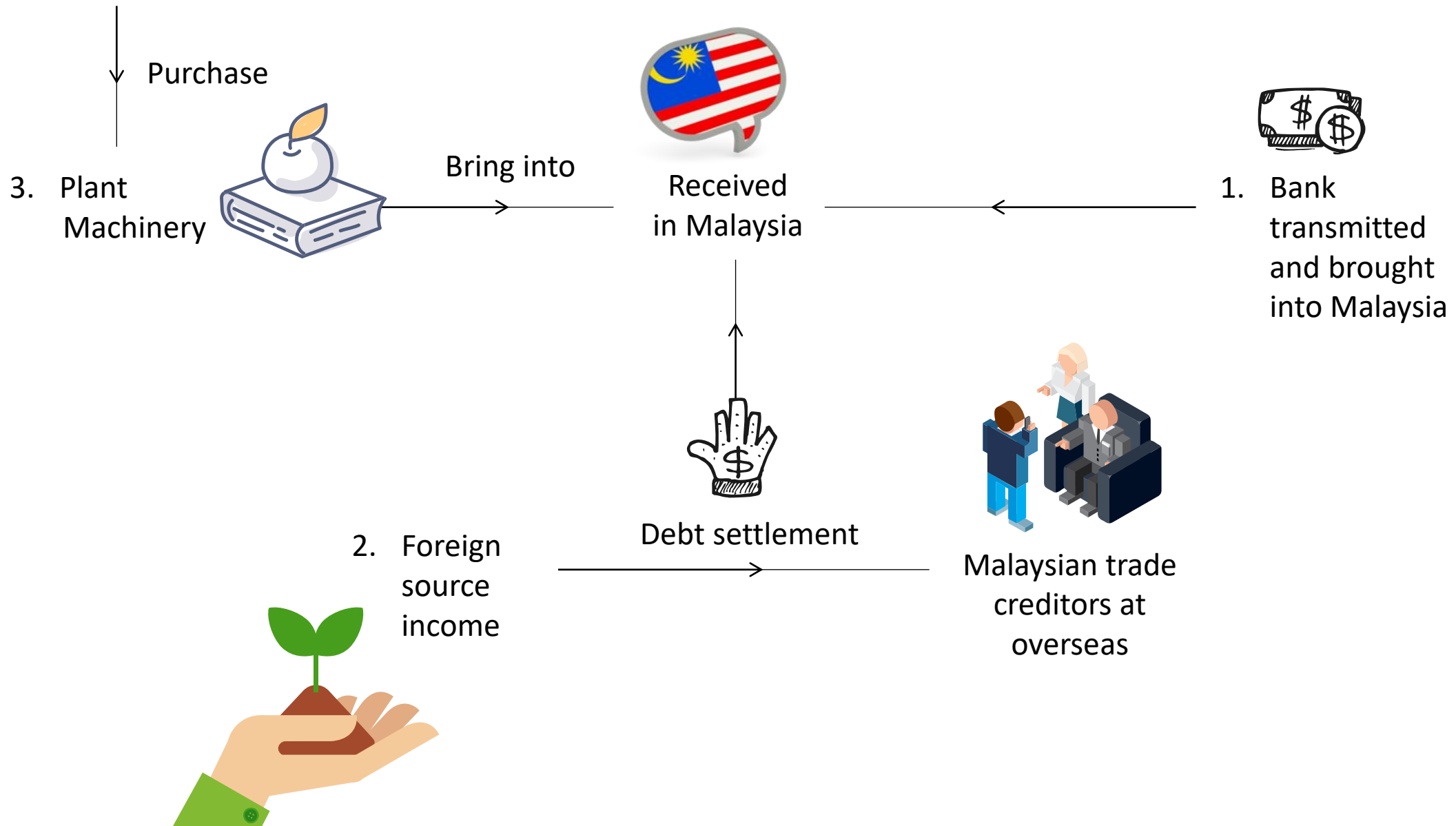
during 1.1.2022 – 31.12.2026

**Exempted from tax**

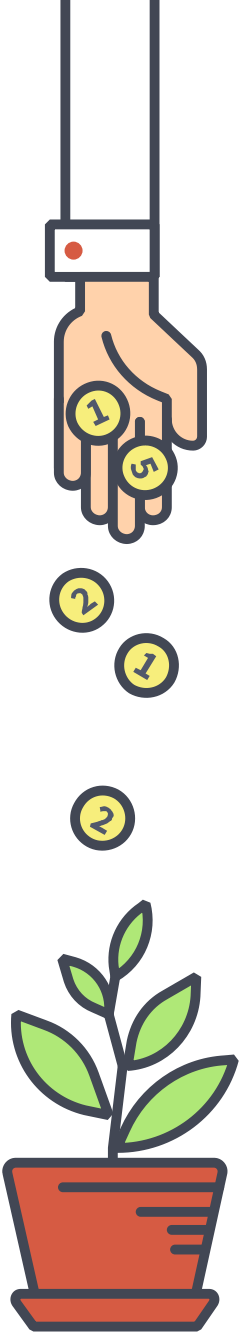


Exclude sale of shares


3. Foreign source income



# Foreign source income (FSI) exemption



No	Taxpayer	FSI exempted	Tax exemption condition
1	<ul style="list-style-type: none"> <li>Resident individuals</li> </ul>	All categories of income	<ul style="list-style-type: none"> <li>Subject to tax in the source country</li> </ul>
2	<ul style="list-style-type: none"> <li>Resident individuals who are partners of conventional partnership</li> </ul>	Dividend income in relation to partnership business in Malaysia	<ul style="list-style-type: none"> <li>i. Subject to tax in the source country</li> <li>ii. Foreign headline tax rate of <math>\geq 15\%</math></li> <li>iii. *Compliance with economic substance requirements:                             <ul style="list-style-type: none"> <li>(a) Employed adequate number of employees with necessary qualifications; and</li> <li>(b) Incur adequate amount of operating expenditure for carrying out the specified economic activities in Malaysia.</li> </ul> </li> </ul>
3	<ul style="list-style-type: none"> <li>Resident companies</li> <li>LLPs</li> </ul>	Dividend income	

\*  *Amended Guidelines on Tax Treatment in Relation to Income Received from Abroad Dated 29.12.2022*



**ONLY FOR PRE-BUDGET 2023 PARTICIPANT**

*Foreign Source Income*  
(with free e-update till 31.3.2023)

**Promo Price [offer until 31 Jan 23]:  
RM160(WM/EM)**

**Market price: RM210**

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17 January 2023

**BUDGET  
2023**

hot tax planning

# PRE-BUDGET 2023 TAX PLANNING

New updates on PU(A) 2022

- Business deduction
- Double deduction

# Tax deduction of secretarial fee and tax filing fee - development

**Prior to YA 2015**  
Without PU(A)

- Not incurred in the production of income under s 33(1)
- Not allowed for deduction

**W.e.f. YA 2015**  
With PU(A)



Deduction	Effective YAs	Tax deduction rule		Allowable deduction amount per YA (Limited to)(RM)
		Incurred and paid	Incurred	
<b>PU(A) 336/2014</b>				
Secretarial fee	2015-2019	✓		5,000
Tax filing fee	2015-2019	✓		10,000
<b>PU(A) 162/2020</b>				
Secretarial fee	2020-2021	✓		15,000
Tax filing fee		✓		
<b>PU(A) 471/2021</b>				
Secretarial fee	2022		✓	15,000
Tax filing fee			✓	

# Qualifying secretarial fee

- secretarial fee charged by a company secretary registered under the Companies Act 2016 (CA 2016)
- in respect of secretarial services provided in compliance to the statutory requirements under the CA 2016.

## Examples

Secretarial fee charged for:

- (a) advisory services in relation to company meetings;
- (b) preparation of directors' resolutions;
- (c) issuance of shares;
- (d) submission of forms prescribed under the CA 2016; and
- (e) other company related matters

Excludes: Out-of-pocket expenses (OPE)



# Monthly retainer fee

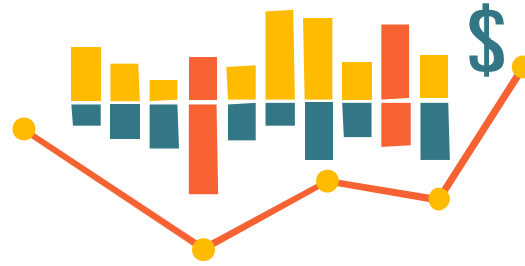


Company secretarial retainer fee  
billed monthly

Deductible?



# Moving forward



Refine and retune monthly retainer fee to be:



Company secretary CA 2016 compliance fees (month xx)

- Maintenance of registered office
- Update register of
  - Shareholders
  - Directors
- Records retention on
  - Financial statement
  - Annual return

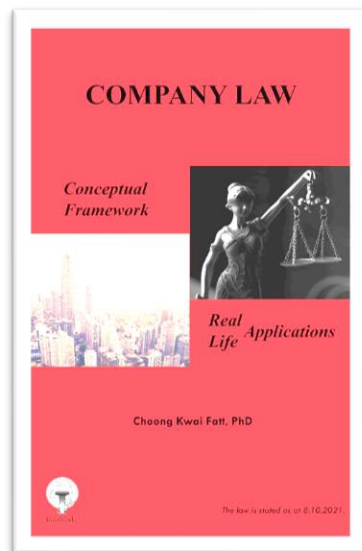


# Retirement planning

- New element

- New habit

- Doing different things, live rich in life



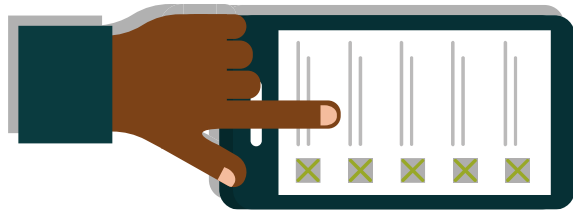
- Company secretary at 56 years old
- Licensed secretary with SSM by interview
- 30 clients approximately fees annual : RM90,000 – RM120,000
- Company secretarial updates and developments (free)

Website: [www.smcmatahari.com](http://www.smcmatahari.com)



**Special price: RM120(WM); RM130(EM)**  
**[ONLY for Pre-budget 2023 participant]**

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# Qualifying tax filing fee

	Preparation and submission of Form	Section	Legislation
(a) Income tax	B, BE C, PT, TA, C1 Amended return CP204, CP204A, CP207, CA204B E, EA, CP21, CP22, CP22A P	77 77A 77B 107C 83 86	Income Tax Act 1967
(b) SST	SST-02 SST-02A	26 26A	Sales Tax Act 2018 & Service Act Tax 2018
(c) Departure levy	DL-02	19	Departure Levy Act 2019
(d) Tourism tax	TTx-03	19	Tourism Tax Act 2017



# Double deduction on sponsorship of scholarship

YAs 2022 – 2025



**Company**

Scholarship agreement executed  
1.1.2022 to 31.12.2025

Sponsorship of scholarship

- i. Payment on course of study
- ii. Educational aid and reasonable cost of living expenses



**Full-time students**

- Technical and Vocational Certificate
- Diploma
- Bachelor's Degree
- Master's Degree
- PhD



- ✓ Malaysian citizen
- ✓ Resident in Malaysia
- ✓ Has no means of his own
- ✓ Household income of parents/guardians ≤ RM10,000 per month

[Income Tax (Deduction for the Sponsorship of Scholarship to Malaysian Student Pursuing Studies at Technical and Vocational Certificate, Diploma, Bachelor's Degree, Master's Degree or Doctor of Philosophy Levels) Rules 2022, PU(A) 49/2022]



# Double deductions on expenditure in relation to Vendor Development Programme (VDP)

(For 3 consecutive YAs)

## Qualifying operating expenses

- (a) Verified by MEDAC
- (b) Total ≤ RM500,000 per YA

incurred

### Anchor company

- Resident company
- Signed MOU with MEDAC under VDP 1.1.2021 to 31.12.2025

*Developing/Strengthening*

### Vendor Company

- i. Manufacturer/Supplier of components; or
- ii. Service provider of the anchor company

### Activities in relation to the VDP

Product development	<ul style="list-style-type: none"> <li>• product quality development</li> <li>• product innovation</li> <li>• R&amp;D</li> </ul>
Capability improvement	<ul style="list-style-type: none"> <li>• certification programme</li> <li>• assessment programme</li> <li>• business process re-engineering</li> </ul>
Human capital	<ul style="list-style-type: none"> <li>• hard skill training</li> <li>• lean management</li> <li>• financial management system</li> <li>• capacity building</li> </ul>



[Income Tax (Deduction for Expenditure in relation to Vendor Development Programme) Rules 2022, PU(A) 2/2022]



# Business loss

## - application, accumulation, utilisation

### 1. Current YA 2022

Aggregate income

xx

(-) Current year business loss [s 44(2)]

(x)

Chargeable income

nil

Excess c/f as unabsorbed business loss  
[s 43(2)]





2. Statutory income from business

Business income [s 4(a)]

Statutory income

Business I – trading

Business II – manufacturing

(-) Unabsorbed business loss [s 43(2)]  
[on FIFO basis]

Other income [ss 4(c), (d), (f)]

Aggregate income

(-) Current year business loss –  
Business III

Chargeable income

x
x
xx
(x)
nil
x
x
(x)
nil
nil



Excess c/f to next YA as unabsorbed  
business loss [s 43(2)]

Excess c/f to next YA as unabsorbed  
business loss [s 43(2)]

Notes:

- (a) Unabsorbed business loss b/f can only be utilised by statutory income of business [s 4(a)].
- (b) Unabsorbed business loss c/f for 10 YAs despite business ceased permanently.
- (c) Change of shareholders > 50%, unabsorbed losses deemed nil.
- (d) Current year business loss in excess c/f to next YA as unabsorbed business loss.
- (e) The utilisation of unabsorbed business loss is on first in first out basis.
- (f) Current year business loss is deducted at aggregate income.



### 3. Unabsorbed business loss



YA 2019	
Balance b/f	xx
(-) Utilisation in YA 2019 to 2028	(x)
	<hr/> nil
YA 2019 unabsorbed business loss	xx
(-) Utilisation in YA 2020 to 2029	xx
	(x)
	<hr/> nil
YA 2020 unabsorbed business loss	xx
(-) Utilisation in YA 2021 to 2030	xx
	(x)
	<hr/> nil
YA 2021 unabsorbed business loss	xx
(-) Utilisation in YA 2022 to 2031	xx
	(x)
	<hr/> nil

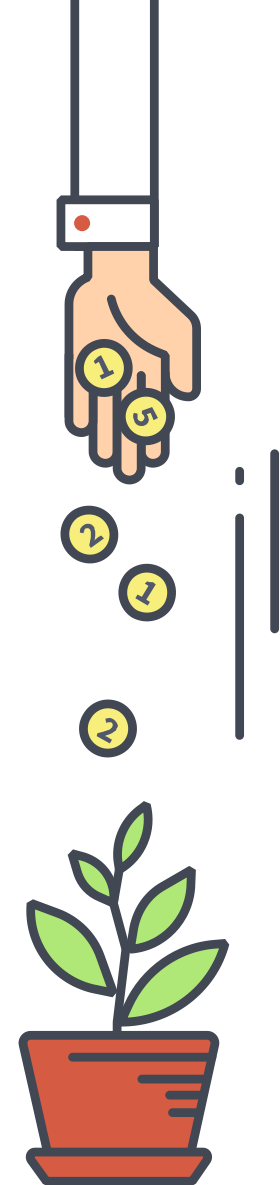
Time limit

Up to  
2028

2029

2030

2031



Note:

The utilisation of unabsorbed loss is on first in first out basis. Balance b/f must be utilised first, expired in YA 2028.



#### 4. Effective date

- (a) The unabsorbed business loss is to be utilised within 10 YAs. This takes effect from YA 2019. (YA 2018 unabsorbed losses c/f to YA 2019 as first year)
- (b) In every YA, any excess current year business loss not able to be utilised in the YA, it would be c/f to the next YA as unabsorbed business loss.
- (c) Unabsorbed business loss is to be utilised against statutory income of the business. It is for a period of 10 YAs.
- (d) Any unabsorbed business loss upon expiration of 10 YAs would be disregarded, i.e. deemed nil.

#### Reference:

- (i) Public Ruling 1/2022 – Time Limit for Unabsorbed Adjusted Business Losses Carried Forward (issued 30.6.2022)

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2023**

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# PRE-BUDGET 2023 TAX PLANNING

Sales tax updates and developments

# Low value goods (LVG)



- e-goods or class of goods
- from outside Malaysia
- that are sold in the online marketplace
- at a price of  $\leq$  RM500
- brought into Malaysia (including Designated Areas & Special Areas)
- via land, sea or air mode.



<i>Not subject to sales tax</i>	<b>Price</b>	RM P ( $\leq$ RM500)
	Transportation	Q
	Insurance	R
	Other tax/duties	S
	<b>(+) Sales tax</b>	<b>0.1P</b>
	<b>Total</b>	<u>xx</u>



# Registration as Registered Seller (RS) of LVG



1.1.2023

Start registration as RS  
Form LVG-01 via MyLVG

- i. any person
  - in Malaysia; or
  - foreigner
- ii. who sell LVG
- iii. brought into Malaysia by
  - land;
  - sea; or
  - air
- iv. total sales value of LVG into Malaysia > RM500,000 within 12 months
  - Historical method; or
  - Future method

1.4.2023

Start charge & levy  
sales tax @ 10% on LVG

Taxable period : 3 months  
Sales tax return : Form LVG-02

## Invoice or any document

Required particulars to be stated:

(may apply to exclude certain particulars)

- i. serial number of invoice or document;
- ii. date of invoice or document;
- iii. name and address of the RS;
- iv. RS registration no.;
- v. Sufficient description to identify sale of LVG;
- vi. total amount payable excluding sales tax;
- vii. rate of sales tax; and
- viii. the total sales tax chargeable shown as separate amount.



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**BUDGET  
2023**

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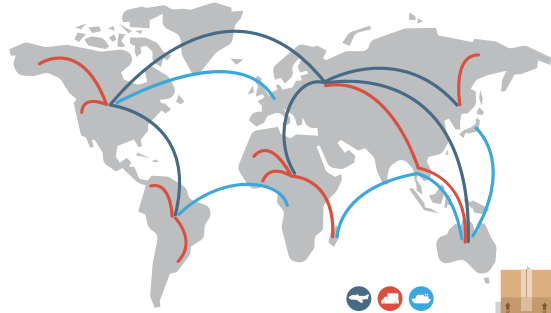
# PRE-BUDGET 2023 TAX PLANNING

Goods and Services Tax

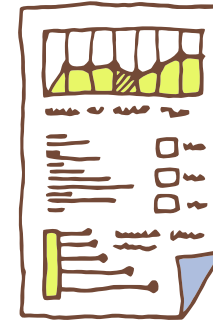


- i. Sep 2024 ; March 2025
- ii. Rate @ 5%

# Inventory



- Clear division between
  - (i) Cost
  - (ii) Freight charges
  - (iii) Customs duty
  - (iv) Sales tax



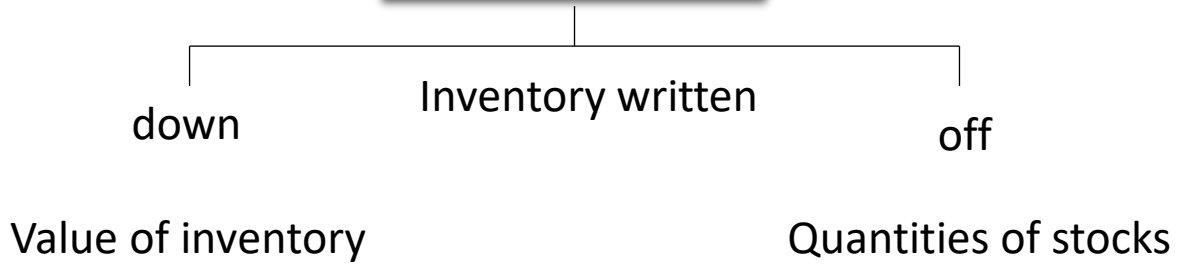
Special refund supported by sales tax payment receipt

- Stock count to extract
  - (i) Poor/defect quality
  - (ii) Expired goods



- Identify stock lost

**Tax optimisation**





# Plant and machinery IT solution services

Artificial intelligence IR 4.0  
towards  
Just in time inventory management

A. Centralised leasing activity

B. Lessor

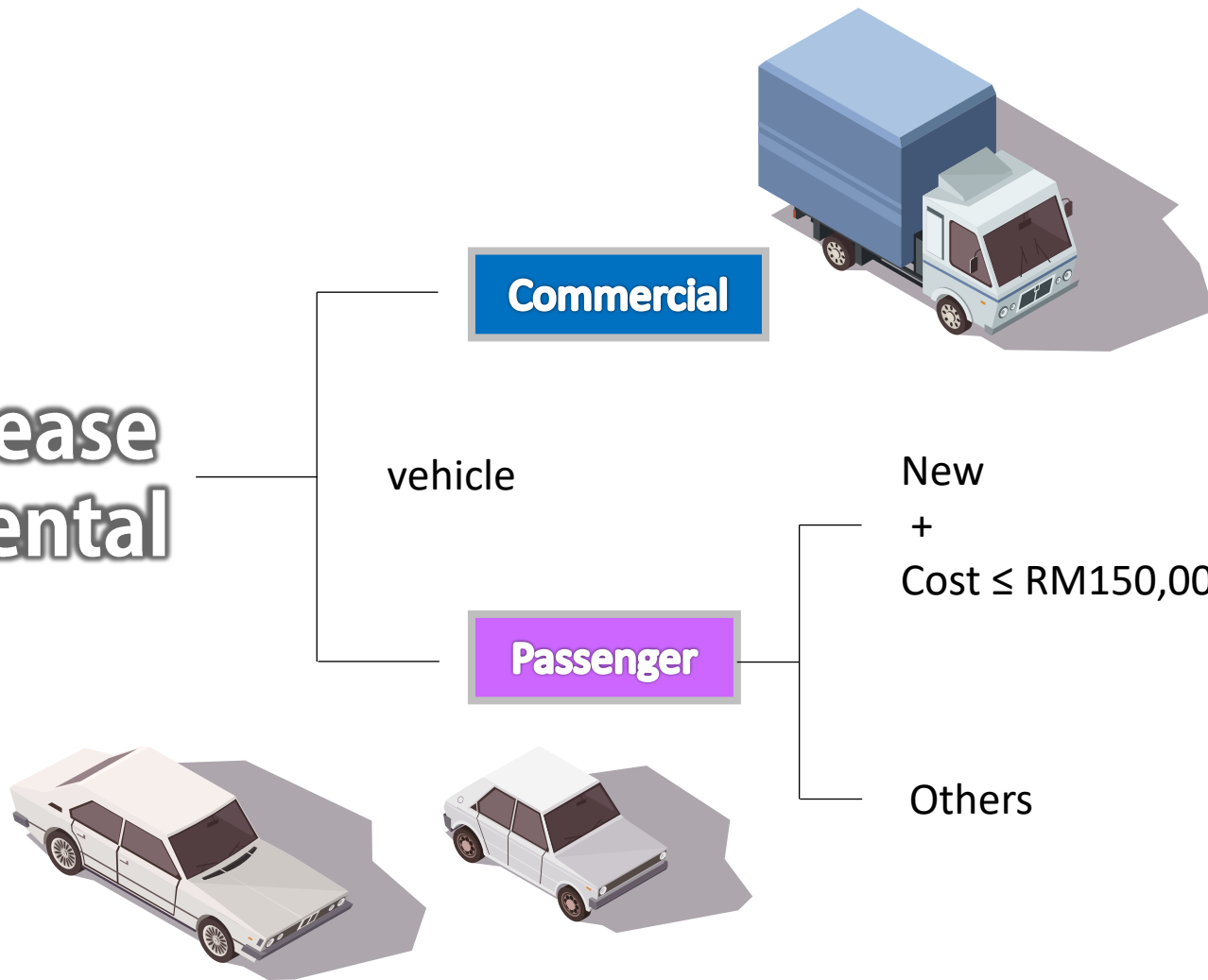
- Lease rental business income
- Lease asset capital allowance

C. Lessee (related company)

- Lease rental as deduction
- Passenger vehicle subject to accumulative lease rental @ RM100,000



# Lease rental



Lease rental  
- Deductible up to  
[s 39(1)(k)]

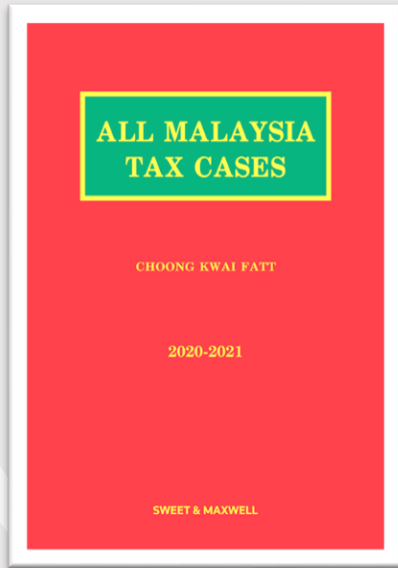


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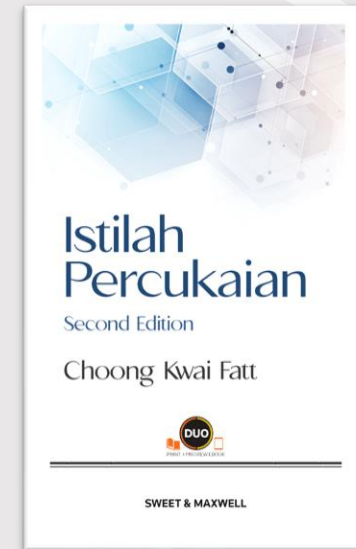
RM100,000

RM50,000

# All Malaysia Tax Cases (AMTC)



- |  |         |
|--|---------|
| (i) 2020 – 2021 (1 volume)                                   | RM420   |
| (ii) 2017 – 2021 (4 volumes)                                 | RM1,680 |
| (iii) 1937 – 2021 (14 volumes)<br><i>* one set available</i> | RM4,530 |
| (iv) <i>Istilah Percukaian (2021, 2<sup>nd</sup> ed)</i>     | RM180   |



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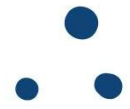


HAPPY CHINESE  
NEW YEAR

2023

YEAR OF THE RABBIT





*Thank you!*

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