

---

## **C H A P T E R ONE : INTRODUCTION TO MALAYSIAN TAXATION AND SCOPE OF CHARGE**

### **Chapter Topic List:**

#### Introduction

1. Scope of charge
2. Sources of income
3. Income v Capital receipts
4. Accruing in or derived from
5. Foreign source of income
6. Year of assessment
7. Basis period for individuals

### **Learning Outcome:**

On completion of this chapter, learners should be able to:

1. Explain the statutory compliance requirements and the administrative aspects of tax compliance;
2. State the scope of charge for various taxpayer;
3. Explain the concept of capital versus revenue;
4. Outline the classification of income under Section 4;
5. Explain the various concepts of basis of assessment, year of assessment, basis year, basis period, financial year and accounting year; and
6. Relate the structure of tax rates

### **Introduction**

In Malaysia, the law governing income taxation is the Income Tax Act 1967 (ITA 1967). A transaction must fall within the ambit of ‘scope of charge’ as provided in Section 3 of the Act in order to be liable to income tax.

#### **1. Scope of charge**

Section 3 ITA 1967:

“ Subject to and in accordance with this Act, a tax to be known as income tax shall be charged for each YA upon the income of any person accruing in or derived from Malaysia or received in Malaysia from outside Malaysia.”

Therefore, income tax liability arises when:

- i. the transaction is ‘income’ in nature and such income is accrued in or derived from Malaysia; or
- ii. the transaction is ‘income’ in nature and it is received in Malaysia from outside Malaysia.

Income tax would be imposed by reference to a YA upon a person's income. Such person is known as chargeable person.

## 2. Sources of income

Based on **Section 4 of ITA 1967**, the income upon which tax is chargeable are:-

- (a) gains or profits from business;
- (b) gains or profits from an employment;
- (c) dividends, interest or discounts;
- (d) pensions, annuities or other periodical payments;
- (e) gains or profits not falling under any of the foregoing paragraphs.

**Section 4A Special classes of income:** Notwithstanding the provisions of s4 and subject to this Act, the income of a person not resident in Malaysia for the basis year for a YA in respect of:

- (a) amounts paid in consideration of services rendered by the person or his employee in connection with the use of property or rights belonging to, or the installation or operation of any plant, machinery or other apparatus purchased from, such person;
- (b) amounts paid in consideration of technical advice, assistance or services rendered in connection with technical management or administration of any scientific, industrial or commercial undertaking, venture, project or scheme; or
- (c) rent or other payments, not being payments of film's rentals, made under any agreement or arrangement for the use of any moveable property,

which is derived from Malaysia is chargeable to tax under this Act.

## 3. Income v Capital receipts

| Income receipts                                  | Capital receipts                                 |
|--------------------------------------------------|--------------------------------------------------|
| i. provision of services                         | i. gift                                          |
| ii. sale of goods/trading stock                  | ii. profit from disposal of long term investment |
| iii. trading or adventure in the nature of trade | iii. speculation, windfall gains                 |
|                                                  | iv. gambling                                     |
|                                                  | v. sale of capital assets                        |

## 4. Accruing in or derived from

Income accrued in or derived from Malaysia will be taxed at the time of accrual or derived notwithstanding the fact that the income may not have been received in Malaysia.

Accrued means?

**5. Foreign source of income – received & remitted**

Income that is not physically received in Malaysia would not be liable to Malaysian income tax.

Eg. :       The mere receipt of a cheque in Malaysia would not constitute ‘received’ in Malaysia unless it is credited into a bank account in Malaysia.

‘Received’ and ‘remitted’ are not the same.

Eg:        A cheque payment, may have been lost in the post and may have never been received in Malaysia. Thus it has never been remitted back to Malaysia.

**Exemption?**

W.e.f. YA 2004, foreign source income received by any person (other than a resident company carrying the specialized business) will be exempted from income tax.

**6. Year of assessment**

W.e.f. 1.1.2000, Malaysia is implementing current year assessment. The calendar year coinciding with a YA shall constitute the basis year for that YA.

Eg.:       YA \_\_\_\_ refers to the calendar year 1.1.2007 to 31.12.2007.  
The basis year for the YA 2006 is the calendar year from  
\_\_\_\_\_:

**7. Basis period for individuals**

Self-assessment was fully implemented in YA 2004. Taxpayer on estimation of income tax, payment of tax and submission of return is not later than \_\_\_\_\_ or \_\_\_\_\_ or the following year.