



**LEMBAGA HASIL DALAM NEGERI MALAYSIA
INLAND REVENUE BOARD**

PUBLIC RULING

**PROFESSIONAL INDEMNITY
INSURANCE**

Translation from the original Bahasa Malaysia text.

PUBLIC RULING NO. 5/2006

DATE OF ISSUE: 31 MAY 2006

CONTENTS	Page
1. Introduction	1
2. Interpretation	1
3. General	1
4. Professional indemnity insurance	1
5. Deductibility of professional insurance premium expense	2
6. Taxability of insurance proceeds	3
7. Effective date	3

DIRECTOR GENERAL'S PUBLIC RULING

A Public Ruling is issued for the purpose of providing guidance for the public and officers of the Inland Revenue Board. It sets out the interpretation of the Director General of Inland Revenue in respect of the particular tax law, and the policy and procedure that are to be applied.

A Public Ruling may be withdrawn, either wholly or in part, by notice of withdrawal or by publication of a new ruling which is inconsistent with it.

**Director General of Inland Revenue,
Malaysia**

1. This Ruling explains:

- (i) the deductibility of premium expense paid for a professional indemnity insurance policy; and
- (ii) the taxability of insurance proceeds received on professional indemnity insurance.

2. The related provisions for the deductibility of premium expense and the taxability of insurance proceeds are sections 33 and 22 of the Income Tax Act 1967 (ITA).

3. The words used in this Ruling have the following meanings:

- 3.1 "Person" includes an individual, a partnership and a company.
- 3.2 "Profession" includes the profession of lawyers, accountants, architects, doctors, engineers and surveyors or any other profession where its professional status is recognised by a written law or statute.
- 3.3 "Professional" means a person who belongs to a profession where membership in that particular profession is an essential prerequisite for carrying on the business of that professional practice.

4. **General**

Generally, a premium paid on an insurance, which is intended wholly and exclusively to recover moneys that would meet expenses of a revenue nature on the happening of the event insured against, would be allowable as a deduction against the gross income from a business.

5. **Professional indemnity insurance**

- 5.1 A professional, due to the nature of his work, may be exposed to the likelihood of lawsuits for professional negligence for what he had done or what he had said in the course of his work.

Example 1

An accountant may have given advice carelessly on a financial transaction to a client who subsequently lost money after acting on that advice. The client may sue the accountant for the money lost in the transaction and may claim compensation from him.

- 5.2 A professional indemnity insurance is a policy taken to protect the insured against liability for the person's negligence. This insurance is to cover a

liability that would otherwise be borne by the person. The insurance may cover the cost of defending the suit and the cost of the award.

- 5.3 The practice of purchasing professional indemnity insurance may be a requirement under the by-laws or rules of the profession or it may be purchased on grounds of prudence.

6. Deductibility of professional insurance premium expense

- 6.1 Premium paid on a professional indemnity insurance is an expense that is **not** deductible under the ITA as the policy is taken to cover a personal liability or risk. It is an expense to cover a claim made against the personal assets of the person and is not wholly and exclusively incurred in the production of income.
- 6.2 However, in the case of lawyers registered with the Bar Council and accountants registered with the Malaysian Institute of Accountants, where the purchase of professional indemnity insurance is compulsory, the premium paid to purchase the minimum coverage as stated in the Act, rules or by-laws (and for any additional coverage) is allowed as an expense against the income from their profession as a lawyer or an accountant. This concession is given as the purchase of the insurance is required in order to maintain their registration with the professional bodies. (Without this registration they are unable to maintain and practise their profession).
- 6.3 In the case of a professional who is not engaged in professional practice but carries on some other business or is in employment, premium paid on professional indemnity insurance is not deductible against the income from the other business or employment.

Example 2

Ahmad, a lawyer is not engaged in private practice as a lawyer but instead is carrying on a textile manufacturing business full-time. As he is not a practising lawyer and does not satisfy the requirement in respect of professional indemnity insurance, accordingly, is not entitled to deduct professional indemnity insurance expenses paid to maintain his professional status as a lawyer from his gross income from the textile manufacturing business.

- 6.4 The concession stated in paragraph 6.2 above will also be extended to other professional bodies where:
- (a) membership is a statutory requirement in order to practise as a professional; and

- (b) the purchase of professional indemnity insurance is a requirement regulated by its statute or by-laws.

6.5 Where a particular professional body allows its members to practise the profession in the form of a company and where professional indemnity insurance is purchased by the company, the concession as explained in paragraph 6.2 above will also be extended to the company provided the following conditions are satisfied:

- (a) that the purchase of professional indemnity insurance is regulated by the statute, rules or by-laws of that profession and
- (b) that the purchase of professional indemnity insurance is compulsory to maintain the member's professional status with the professional body.

Example 3

Precision Consultants Sdn Bhd, engaged in the engineering profession, was appointed as a consultant for a project involving the feasibility study of potential business from industrial wastewater. As part of the terms of the contract, Precision Consultants Sdn Bhd was required to purchase professional indemnity insurance of not less than RM 1 million. Premium paid for the period of indemnity was RM50,000. Precision Consultants Sdn Bhd made a claim for the deduction of the premium expense. It is not mandatory by law for the professional member to purchase the professional indemnity insurance.

As the purchase of the professional indemnity insurance is not compulsory to maintain the member's professional status with the professional body, the premium paid is not allowed as an expense against the gross income from the business.

7. Taxability of insurance proceeds

Where the premium has been allowed as a deduction, any proceeds received in connection with a professional indemnity insurance will be taxable.

8. Effective date

This Ruling is effective for the year of assessment 2006 and subsequent years of assessment.

**Director General
of Inland Revenue**