



LHDNM GUIDELINE

UTILISATION OF COMPANIES' INCOME TAX CREDIT AS SET OFF

1. The policy of LHDNM is to refund tax credit.
2. Tax credit for a year of assessment arises:
 - 2.1 When there is excess payment as at the date the assessment is raised (when the assessment is deemed or formal assessment is raised);
 - 2.2 After tax discharge;
 - 2.3 Due to tax credit under section 110 of the Income Tax Act (ITA) 1967 / section 51 of Finance Act 2007.
3. Installment payments under section 107C of ITA 1967 for the current year of assessment and advance payments in respect of investigation or audit cases shall not be taken as tax credit.
4. A tax credit shall first be used to settle tax liabilities in accordance with the following procedure:
 - 4.1 Settle all outstanding tax / tax balances pursuant to ITA 1967, Finance Act 2007 and the Real Property Gains Tax Act 1976;
 - 4.2 Settle all increases in tax imposed on assessments raised pursuant to ITA 1967, Finance Act 2007 and the Real Property Gains Tax Act 1976;
 - 4.3 Settle overdue and unpaid current year's estimated tax installments under section 107C of ITA 1967.
5. Instead of a refund, a company may apply to the Collections Branch / Collections Unit of the relevant LHDNM branch to utilise its tax credit balance after taking into account paragraph 4 above, to set off:
 - 5.1 Non-overdue estimated tax installments for the current year and subsequent year(s) of assessment;
 - 5.2 Tax of other companies within the same group.

6. On the utilisation of tax credit among companies within the same group (excluding associated companies), the following are to be noted:
 - 6.1. Documents to be furnished together with the application letter—
 - 6.1.1 Organisational structure that illustrates the inter-company relationship between the surrendering company and recipient company within the same group;
 - 6.1.2 For A Local Company
 - i. A copy of the Board of Directors resolution pertaining to the transfer of tax credit, sealed (under company's common seal) and fully signed (signed in manuscript) by the company's directors (refer to Appendix 1); and
 - ii. A certified true copy of Form 49 [section 141(6) of the Companies Act 1965] by the Company's Secretary with his name and full address stated (refer to Appendix 2).
 - 6.1.3 For A Foreign Company
 - i. Deed of Assignment; or
 - ii. Board of Directors resolution as stated in paragraph 6.1.2 (i) above.
 - 6.2 The date of utilisation of tax credit to set off the tax of another company within the same group is the date on which the application is received together with complete documents as specified above.
7. The company shall not claim for refund of the tax credit after it has been used as set off.

LEMBAGA HASIL DALAM NEGERI MALAYSIA

2nd September 2008

(NAME OF COMPANY)

(INCORPORATED IN MALAYSIA)

**DIRECTOR'S RESOLUTION IN WRITING MADE PURSUANT TO ARTICLE
(NUMBER) OF THIS COMPANY'S ARTICLE OF ASSOCIATION**

It is hereby RESOLVED:

1. THAT the Director General of Inland Revenue, Malaysia, be and hereby authorised to transfer/refund to the account of **(NAME AND ADDRESS OF RECIPIENT)**, an amount of RM **(AMOUNT IN FIGURES)** (Ringgit Malaysia: **AMOUNT IN WORDS**), from the tax credit available in the company's account with the Inland Revenue Board of Malaysia.
2. THAT the Inland Revenue Board of Malaysia shall be and is hereby indemnified against all persons whatsoever for the payment made in pursuance of the above resolution.
3. THAT the common seal of the company be and is hereby authorised to be affixed on the resolution.
4. THAT this resolution be communicated to the Director General of Inland Revenue.

BOARD OF DIRECTORS

A: Signature: _____ Name of Director _____ Identity Card / Passport No. _____	B: Signature: _____ Name of Director _____ Identity Card / Passport No. _____
C: Signature: _____ Name of Director _____ Identity Card / Passport No. _____	D: Signature: _____ Name of Director _____ Identity Card / Passport No. _____

**FORM 49
Companies Act, 1965**

Company No.

**RETURN GIVING PARTICULARS IN REGISTER OF DIRECTORS, MANAGERS
AND SECRETARIES AND CHANGES OF PARTICULARS
.....(NAME OF COMPANY)**

DIRECTORS

Full Name	Nationality/ Race	Date of Birth	Residential Address	Business Occupation (if any)	Particulars of other Directorship	Nature of Appointment or Change and Relevant Date	Identity Card / Passport Number

MANAGERS AND SECRETARIES

Office in Company	Full Name	Nationality / Race	Residential Address	Other Occupation (if any)	Nature of Appointment or Change and Relevant Date	Identity Card / Passport Number
Managers						
Secretaries						

Dated this _____ day of _____ 20_____

Signature of Director / Secretary