

**ANNOUNCEMENT REGARDING THE APPLICATION OF SUBSECTION 77A(4)
AND SECTION 140B OF THE INCOME TAX ACT (ITA) 1967**

1) Submission Of Income Tax Return Form (ITRF) Based On The Audited Account - Subsection 77A(4) Of The ITA 1967

Subsection 77A(4) of the ITA 1967 is intended to ensure that income reported in the ITRF is based on information that is true and fair, as reported in the audited accounts .

The amendment is in line with the provisions of the Companies Act (CA) 1965 which requires every company to submit audited accounts to the Companies Commission of Malaysia (CCM) within 6 months after the account is closed.

If there are provisions under the CA 1965 **which state that a company need not submit audited accounts to the CCM, then provision of subsection 77A(4) would not apply. However, the company must submit its ITRF based on information in the final accounts.**

2) Loan Or Advances To Director By A Company - Section 140B Of ITA 1967

Section 140B of the ITA 1967 provides that a company that gives loan or advances to its director without interest or with interest below arm's length rate, the company is deemed to have received interest on the loans or advances given. This interest is taxable under paragraph 4(c) ITA 1967. The determination of the amount of interest income is based on the formula provided under subsection 140B(2).

The provision **applies to a directors who is defined under subsection 75A(2) of the ITA 1967 and loans or advances which are financed by the company's internal fund only. It does not apply to loan or advances made by the company from loans obtained from external funds or third parties.**

The provision is effective from the year of assessment 2014. **However, if the basis period of a company for the year of assessment 2014 commenced in 2013 the computation of interest income is based on the outstanding loans or advances from 1/1/2014.**

Example

A Sdn Bhd closes its accounts on 30 April each year. For the accounting period 1 May 2013 to 30 April 2014 (year of assessment 2014), the company gave interest-free loan to a director on 1/7/2013 amounting to RM50,000. The director did not make any repayments throughout the whole accounting period for the year of assessment 2014.

For the purposes of section 140B, **the interest income of the company for the year of assessment 2014 is computed based on the outstanding balance at the end of each calendar month from 1/1/2014 to 30/4/2014 only.** The interest rate charged is based on the Average Lending Rate (ALR) published by Bank Negara Malaysia every month at its website www.bnm.gov.my.

**Deemed Interest Income To ABC Sdn Bhd Based On ALR For
The Year of Assessment 2014**

| Month | Loan Balance (RM) | ALR (%)* | Deemed Interest Income Under Paragraph 4(c) ITA 1967 (RM) |
|--------------|----------------------------------|---------------------|--------------------------------------------------------------------------|
| Jan 2014 | 50,000 | 4.3 | $50,000 \times 4.3\% \times 1/12 = 176$ |
| Feb 2014 | 50,000 | 4.3 | $50,000 \times 4.3\% \times 1/12 = 176$ |
| Mar 2014 | 50,000 | 4.1 | $50,000 \times 4.1\% \times 1/12 = 171$ |
| Apr 2014 | 50,000 | 4.1 | $50,000 \times 4.1\% \times 1/12 = 171$ |
| Total | | | 694 |

*** Note –**

The ALR used in the example is for illustration purpose only. The actual rate can be obtained from the website Bank Negara Malaysia at www.bnm.gov.my.

19 March 2014

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