



**INLAND REVENUE BOARD OF MALAYSIA**

**DISPOSAL OF PLANT AND MACHINERY  
PART II -  
CONTROLLED SALES**

**PUBLIC RULING NO. 1/2018**

*Translation from the original Bahasa Malaysia text.*

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**DIRECTOR GENERAL'S PUBLIC RULING**

Section 138A of the Income Tax Act 1967 (ITA) provides that the Director General is empowered to make a Public Ruling in relation to the application of any provisions of the ITA.

A Public Ruling is published as a guide for the public and officers of the Inland Revenue Board of Malaysia. It sets out the interpretation of the Director General in respect of the particular tax law and the policy as well as the procedure applicable to it.

The Director General may withdraw this Public Ruling either wholly or in part, by notice of withdrawal or by publication of a new Public Ruling.

**Director General of Inland Revenue,  
Inland Revenue Board of Malaysia.**

## 1. Objective

The objective of this Public Ruling (PR) is to explain the -

- (a) meaning of “control” for a company and a partnership; and
- (b) tax treatment on the disposal and the acquisition of an asset between two parties that are related in term of control.

## 2. Relevant Provisions of the Law

- 2.1 This PR takes into account laws which are in force as at the date this PR is published.
- 2.2 The provisions of the Income Tax Act 1967 (ITA) related to this PR are paragraphs 38, 39 and 40 of Schedule 3.
- 2.3 Relevant subsidiary law referred to in this PR is Income Tax (Capital Allowances and Charges) Rules, 1969 [P.U.(A) 96/1969] (ITR 1969).

## 3. Interpretation

The words used in this PR have the following meanings:

- 3.1 “Asset” means plant and machinery used for the purposes of a business and on which qualifying expenditure has been incurred.
- 3.2 “Control” in relation to a company, means the power of a person to conduct the affairs of the company in accordance with its sole discretion by way of shareholding, voting power, the powers conferred by the articles of association or other documents relating to the company.  
  
“Control” in relation to a partnership, means the right to a share of more than one-half of the assets of the partnership, or more than one-half of the divisible profits of partnership.
- 3.3 “Disposed” means an asset is sold, discarded or destroyed or it ceased to be used for the purposes of the business.
- 3.4 “Market value” means the price for the goods sold in a transaction between independent persons dealing at arm’s length.
- 3.5 “Person” includes a company, a body of persons, a limited liability partnership and a corporation sole.

- 
- 3.6 “Residual expenditure” means cost of asset less –
- (a) initial allowances;
  - (b) annual allowances;
  - (c) notional allowance which is equal to the annual allowance if claimed or could have been claimed.
- 3.7 “Qualifying expenditure” means capital expenditure incurred on the provision, construction or purchase of plant and machinery used for the purpose of a business other than assets that have an expected life span of less than two (2) years.

#### 4. Introduction

- 4.1 Where a person disposes of an asset and initial allowance (IA) or an annual allowance (AA) has been claimed and allowed or could be allowed, the disposal will be subject to the control provision if –
- (a) the acquirer of the asset has control over the disposer;
  - (b) the disposer of the asset has control over the acquirer;
  - (c) some other person has control over the disposer and acquirer of the asset;
  - (d) the disposal is effected in consequence of a scheme of reconstruction or amalgamation of companies; or
  - (e) the disposal is effected by way of a settlement or gift or by devolution of the property in the asset on death.
- 4.2 Where a disposal of an asset is subject to control, the sale price and the purchase price are ignored and no balancing allowance or balancing charge is imposed on the disposer. The qualifying expenditure (QE) incurred by the acquirer and the date the asset is deemed to have been acquired by the acquirer is determined in accordance with the ITR 1969.
- 4.3 However, the disposal of an asset which is subject to control under the provisions of paragraphs 38 to 40, Schedule 3 of the ITA, only applies if the following conditions are complied with by the disposer and the acquirer:

- (a) The disposer has claimed capital allowances on the asset disposed of;
- (b) The disposal of assets are as per one of the situations stated in paragraph 4.1 of this PR; and
- (c) Assets are still used for the purpose of the acquirer's business at the end of the basis period for a year of assessment.

## 5. Tax Treatment

Paragraphs 39 and 40 of Schedule 3 of the ITA address the general tax treatment in relation to disposals and acquisitions of assets subject to control. The ITR 1969 explains and specifies the tax treatment in detail.

The application of the interpretation of control would depend on the facts of each case. Where there is a disposal and an acquisition of an asset between two parties that are related in term of control, the onus of proof of the existence of control lies with the taxpayer (company/partnership).

### 5.1 Date of disposal

- 5.1.1. The date of disposal of a plant or machinery which is subject to control shall be deemed to have taken place on the First Day of the Disposer's Final Period (FDDFP).

#### Example 1

|                           |                        |
|---------------------------|------------------------|
| Accounting period         | 1.11.2017 – 31.10.2018 |
| Date of disposal of asset | 25.12.2017             |
| FDDFP of disposer         | 1.11.2017              |

- 5.1.2. **'The Disposer's Final Period'** is the basis period for the year of assessment of a disposer which coincides with the first year of assessment for which an acquirer is eligible to claim capital allowance if the asset is used for the purposes of an acquirer's business.

#### Step 1:

Determine the actual date of disposal.

**Step 2:**

Based on the said date of disposal, determine the first year of assessment the acquirer is eligible to claim for the capital allowances for the asset disposed of.

**Step 3:**

Determine the basis period of the disposer for the year of assessment which coincides with the first year of assessment for which the acquirer is eligible to claim capital allowance as referred to in Step 2. The basis period of the disposer is known as “The Disposer’s Final Period”.

**Example 2**

Mum Sdn Bhd (MSB) and Dad Sdn Bhd (DSB) are controlled companies with financial years ending on 31 October and 30 June respectively. MSB disposed of a machine to DSB on 2.12.2016.

**Step 1:**

The actual date of disposal of the machine to DSB = 2.12.2016

**Step 2:**

The first year of assessment DSB (acquirer) is eligible for the capital allowance is the year of assessment 2017.

| <b>DSB (acquirer)</b>     |                      |
|---------------------------|----------------------|
|                           |                      |
| Actual date of disposal   | 2.12.2016            |
|                           |                      |
| Basis period              | 1.7.2016 – 30.6.2017 |
| <b>Year of assessment</b> | <b>2017</b>          |

**Step 3:**

| <b>MSB (disposer)</b>              |                               |
|------------------------------------|-------------------------------|
| Year of assessment which coincides | 2017                          |
| <b>The Disposer's Final Period</b> | <b>1.11.2016 – 31.10.2017</b> |

**Note:**

The date of disposal of the machine is deemed to have taken place on 1.11.2016 i.e. on FDDFP. Thus, DSB is deemed to have incurred QE on 1.11.2016.

**5.2 Disposal price**

The disposal price of a plant or machinery which is subject to control is deemed equal to the residual expenditure of the disposer. The actual price of the disposal of plant or machinery is disregarded.

**Example 3**

Astana Sdn Bhd (ASB) purchased a machine costing RM150,000 on 2.1.2014. After being used, the machine was sold to Tunis Sdn Bhd (TSB) for RM95,000 on 31.3.2016. Both companies are under the control of Asoka Sdn Bhd and the accounts of both companies closes on 31 December every year.

The computation of the disposal price for ASB is as follows:

| <b>ASB (Disposer)</b>                                  |               |               |
|--|---------------|---------------|
| <b>Year of assessment 2014 (1.1.2014 – 31.12.2014)</b> |               |               |
|  | RM            | RM            |
| QE   |               | 150,000       |
| IA (20% x RM150,000)                                   | 30,000        |               |
| AA (14% x RM150,000)                                   | <u>21,000</u> | <u>51,000</u> |
| Residual expenditure                                   |               | 99,000        |
|  |               |               |

|  |  |                      |
|--|--|----------------------|
| <b>Year of assessment 2015 (1.1.2015 – 31.12.2015)</b> |  |                      |
| AA (14% x RM150,000)                                   |  | <u>21,000</u>        |
| Residual expenditure                                   |  | 78,000               |
| <b>Year of assessment 2016 (1.1.2016 – 31.12.2016)</b> |  |                      |
| <b>Disposal price</b>                                  |  | <b><u>78,000</u></b> |
| Balancing charge or balancing allowance                |  | <u>NIL</u>           |

Since the disposal of machinery is a controlled transfer, the actual selling price of the machinery of RM95,000 by ASB (disposer) to TSB (acquirer) is disregarded in determining the disposal price. The residual expenditure of the disposer's asset of RM78,000 is deemed to be the disposal price. No balancing charge or balancing allowance is imposed on the disposer.

### 5.3 Qualifying expenditure

The acquirer shall be deemed to have incurred QE which is equivalent to the residual expenditure of the disposer. Thus, the capital expenditure incurred by the acquirer to obtain the assets under a disposal of which is subject to control (if any) will not be considered.

5.3.1. The acquirer is deemed to have incurred QE on the FDDFP.  
[Rule 3 of the ITR 1969]

#### Example 4

Aidil Sdn Bhd (ASB) and Besto Sdn Bhd (BSB) are companies under the control of a holding company. The accounting period for both companies are as follows:

| <b>Company</b> | <b>Closing date of account</b> |
|----------------|--------------------------------|
| ASB (disposer) | 31 December                    |
| BSB (acquirer) | 30 Jun                         |

ASB purchased an asset costing RM40,000 on 2.5.2014 and disposed of it to BSB on 31.5.2017 at a price of RM30,000.

This disposal is subject to control.

**Step 1:**

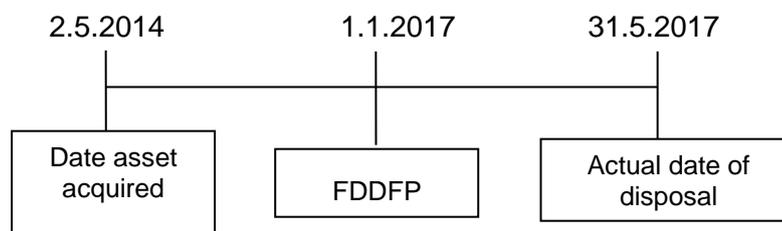
The actual date of disposal = 31.5.2017.

**Step 2:**

The first year of assessment in which an acquirer is eligible for capital allowance for the asset disposed of is the year of assessment 2017 i.e. for the basis period 1.7.2016 to 30.6.2017.

**Step 3:**

“The Disposer’s Final Period” is 1.1.2017 to 31.12.2017 i.e. the basis period which coincides with the year of assessment 2017. Therefore, FDDFP is on 1.1.2017.



The actual date of the disposal is on 31.5.2017 i.e after the date of FDDFP (1.1.2017). Accordingly, the asset is deemed to have been disposed of to the acquirer on 1.1.2017 and the acquirer is also deemed to have incurred the QE on 1.1.2017 which is in the year of assessment 2017.

- 5.3.2. Where the disposer incurred QE (purchase of assets) on or after FDDFP, the QE is deemed to have been incurred by the acquirer on the same date i.e. the date the expenditure was incurred by the disposer [Rule 4 of the ITR 1969].

**Example 5**

Ottawa Sdn Bhd (Ottawa) purchased a machine costing RM80,000 on 25.3.2017. The machine was then sold to Boston Sdn Bhd (Boston) on 31.7.2017 at a price of RM77,000.

Both companies are under the control of Asoka Sdn Bhd and the accounting period for both companies are as follows:

| Company           | Closing date of account |
|-------------------|-------------------------|
| Ottawa (disposer) | 31 December             |
| Boston (acquirer) | 31 August               |

**Step 1:**

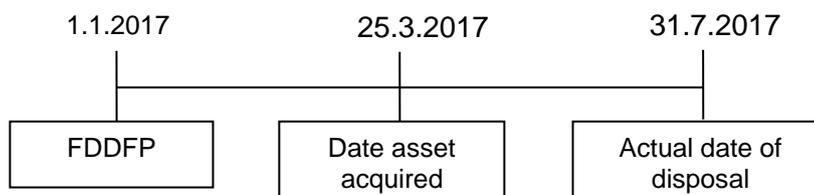
The actual date of disposal = 31.7.2017.

**Step 2:**

The first year of assessment the acquirer is eligible for capital allowances is the year of assessment 2017 i.e for the basis period 1.9.2016 to 31.8.2017.

**Step 3:**

“The Disposer’s Final Period” is 1.1.2017 to 31.12.2017 i.e. the basis period which coincides with the year of assessment 2017. Therefore, FDDFP is on 1.1.2017.



The actual date the disposer incurred QE is on 25.3.2017 i.e. after the FDDFP (1.1.2017). Therefore, the acquirer is deemed to have incurred QE on 25.3.2017. QE for capital allowances was RM80,000. For the year of assessment 2017, the acquirer qualifies for IA and AA on the expenditure of RM80,000.

The disposer is deemed to have disposed of the machine on 1.1.2017, therefore the disposer cannot claim capital allowances on the machine for the year of assessment 2017.

- 5.3.3. When the actual date of disposal of a plant or machinery takes place earlier than the FDDFP, thus the plant or machinery will

be deemed to be owned and in use by the disposer at the end of the basis period immediately preceding the FDDFP.

[Rule 5 of the ITR 1969]

### **Example 6**

Semerah Sdn Bhd (Semerah) is fully controlled by Padi Sdn Bhd (Padi). The closing date for both companies are as follows:

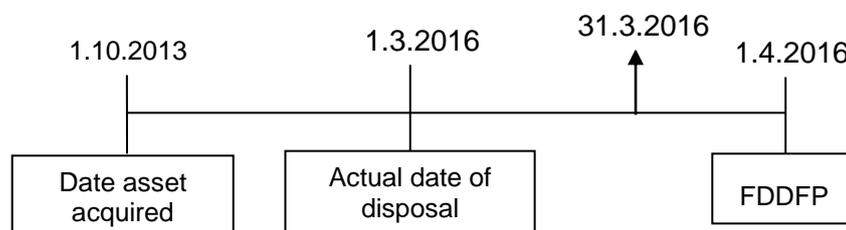
| <b>Company</b>     | <b>Closing date of account</b> |
|--------------------|--------------------------------|
| Semerah (disposer) | 31 March                       |
| Padi (acquirer)    | 31 January                     |

Semerah purchased a machinery costing RM60,000 on 1.10.2013 and sold it to Padi on 1.3.2016 at the price of RM45,000.

The sale is a controlled sale.

Since the machinery is sold to the acquirer on 1.3.2016, then the acquirer will be eligible to claim annual allowance for the year of assessment 2017 i.e. for the basis period of 1.2.2016 to 31.1.2017.

“The Disposer’s Final Period” in connection with the year of assessment 2017 for Semerah is 1.4.2016 to 31.3.2017. Thus, the FDDFP of Semerah is 1.4.2016.



The actual date of disposal of the machinery is on 1.3.2016, which is earlier than FDDFP (1.4.2016). Thus, the machinery is deemed as still owned and used until 31.3.2016. Therefore, the disposer is eligible for capital allowances until the year of assessment 2016.

The computation of capital allowances and disposal price of the machinery are as follows:

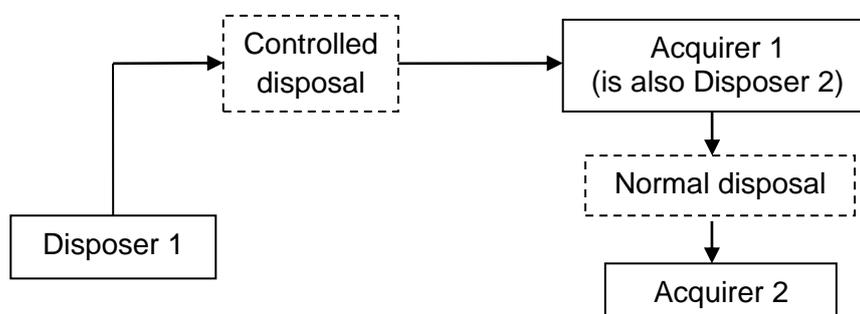
| <b>Semerah (Disposer)</b>                             |              |                      |
|---|--------------|----------------------|
|   |              |                      |
| <b>Year of assessment 2014 (1.4.2013 – 31.3.2014)</b> |              |                      |
|   | RM           | RM                   |
| QE  |              | 60,000               |
| IA (20% x RM60,000)                                   | 12,000       |                      |
| AA (14% x RM60,000)                                   | <u>8,400</u> | <u>20,400</u>        |
| Residual expenditure                                  |              | 39,600               |
| <b>Year of assessment 2015 (1.4.2014 – 31.3.2015)</b> |              |                      |
| AA (14% x RM60,000)                                   |              | <u>8,400</u>         |
| Residual expenditure                                  |              | 31,200               |
| <b>Year of assessment 2016 (1.4.2015 – 31.3.2016)</b> |              |                      |
| AA (14% x RM60,000)                                   |              | <u>8,400</u>         |
| Residual expenditure                                  |              | 22,800               |
| <b>Year of assessment 2017 (1.4.2016 – 31.3.2017)</b> |              |                      |
| <b>Disposal price</b>                                 |              | <b><u>22,800</u></b> |
| Balancing charge or balancing allowances              |              | <u>NIL</u>           |
| <b>Padi (Acquirer)</b>                                |              |                      |
| <b>Year of assessment 2017 (1.2.2016 – 31.1.2017)</b> |              |                      |
| Residual expenditure                                  |              | 22,800               |
| AA (14% x RM60,000)                                   |              | <u>8,400</u>         |
| Residual expenditure                                  |              | <u>14,400</u>        |

The deemed QE incurred by the acquirer on 1.2.2016 is RM22,800 which is deemed equal to the residual expenditure of the disposer. IA is not given to the acquirer. The acquirer is

only eligible to claim AA which is equal to the amount of the AA of the disposer.

- 5.3.4. If an asset is acquired by an acquirer (acquirer 1) from a disposer (disposer 1) in a situation of disposal which is subject to control and then the asset is disposed of to a second acquirer (acquirer 2) under normal disposal circumstances, then the computation of balancing charge or balancing allowance in this disposal to the disposer (disposer 2 who is also acquirer 1) shall take into account the capital allowances which are given to disposer 1 [Rule 6 and Rule 9 of the ITR 1969].

Allowances allowed to disposer 1 is deemed to have been allowed to acquirer 1 under a disposal of asset which is subject to control.



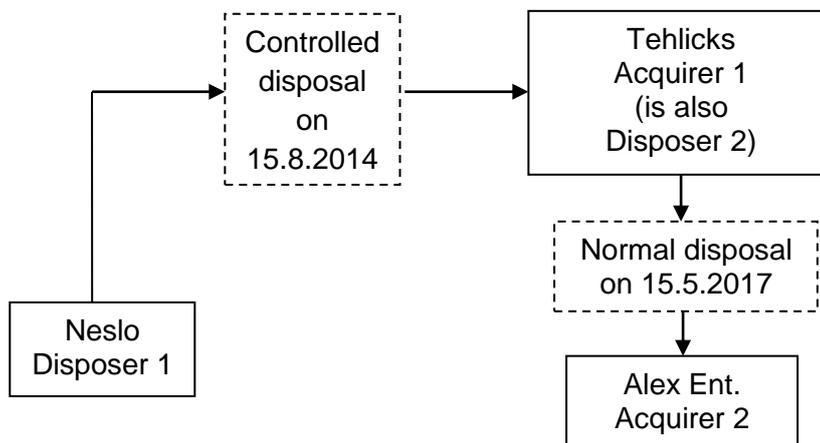
**Example 7**

Neslo Sdn Bhd (Neslo) is a company which is fully controlled by Tehlicks Sdn Bhd (Tehlicks). Neslo purchased an asset for RM50,000 on 1.4.2013 and disposed of it to Tehlicks on 15.8.2014 for RM45,000.

On 15.5.2017, Tehlicks disposed of the asset to Alex Enterprise (Alex Ent.) at a price of RM30,000 which is the market value of the asset.

Neslo and Tehlicks make up their accounts for the period ending June 30. Alex Ent. makes up his accounts for the period ending 31 December.

The disposal of asset between Neslo and Tehlicks is a disposal subject to control, while the disposal of asset between Tehlicks and Alex Ent. is a normal disposal.



There are two dates of disposal i.e. a disposal subject to control on 15.8.2014 and a normal disposal on 15.5.2017.

The first year Tehlicks (acquirer 1) can claim capital allowances for the asset is for the year of assessment 2015 i.e. for the basis period of 1.7.2014 to 30.6.2015.

“Disposer’s Final Period” is 1.7.2014 to 30.6.2015. Therefore, FDDFP of Neslo (disposer 1) is on 1.7.2014.

The computation of capital allowances and the disposal price of the asset are as follows:

| <b>Neslo (Disposer 1)</b>                                |              |               |
|--|--------------|---------------|
|  | <b>RM</b>    | <b>RM</b>     |
| QE asset on 1.4.2013                                     |              | 50,000        |
| <b>Year of assessment 2013</b><br>(1.7.2012 – 30.6.2013) |              |               |
| IA (20% x RM50,000)                                      | 10,000       |               |
| AA (14% x RM50,000)                                      | <u>7,000</u> | <u>17,000</u> |
| Residual expenditure                                     |              | 33,000        |
|  |              |               |

|  |           |                      |
|--|-----------|----------------------|
| <b>Year of assessment 2014</b><br>(1.7.2013 – 30.6.2014) |           |                      |
| AA (14% x RM50,000)                                      |           | <u>7,000</u>         |
| Residual expenditure                                     |           | 26,000               |
|  |           |                      |
| <b>Year of assessment 2015</b><br>(1.7.2014 – 30.6.2015) |           |                      |
| <b>Disposal price (disposal subject to control)</b>      |           | <b><u>26,000</u></b> |
| Balancing charges or balancing allowances                |           | <u>NIL</u>           |
|  |           |                      |
| <b>Tehlicks (Acquirer 1 &amp; Disposer 2)</b>            |           |                      |
|  | <b>RM</b> | <b>RM</b>            |
| <b>Year of assessment 2015</b><br>(1.7.2014 – 30.6.2015) |           |                      |
| Residual expenditure                                     |           | 26,000               |
| AA (14% x RM50,000)                                      |           | <u>7,000</u>         |
| Residual expenditure                                     |           | 19,000               |
|  |           |                      |
| <b>Year of assessment 2016</b><br>(1.7.2015 – 30.6.2016) |           |                      |
| AA (14% x RM50,000)                                      |           | <u>7,000</u>         |
| Residual expenditure                                     |           | 12,000               |
|  |           |                      |
| <b>Year of assessment 2017</b><br>(1.7.2016 – 30.6.2017) |           |                      |
| <b>Disposal price (a normal disposal)</b>                |           | <b><u>30,000</u></b> |
| Balancing charges  |           | <u>18,000</u>        |
|  |           |                      |
| <b>Alex Ent. (Acquirer 2)</b>                            |           |                      |
| QE   |           | 30,000               |

|   |              |               |
|---|--------------|---------------|
| <b>Year of assessment 2017</b><br>(1.1.2017 – 31.12.2017) |              |               |
| IA (20% x RM30,000)                                       | 6,000        |               |
| AA (14% x RM30,000)                                       | <u>4,200</u> | <u>10,200</u> |
| Residual expenditure                                      |              | <u>19,800</u> |

The computation of the balancing charge for Tehlicks should take into account the capital allowances which has been given to Neslo. Thus, the balancing charge of RM18,000 is imposed on Tehlicks although the annual allowance claimed by him is only RM14,000. The total capital allowances claimed by Neslo and Tehlicks are RM38,000.

- 5.3.5. Paragraph 39 of Schedule 3 of the ITA is not applicable if a plant or machinery is not subsequently used for the business of the acquirer after a control sale. Therefore, the disposal under paragraph 38 of Schedule 3 of the ITA does not seem to have occurred and the transfer is deemed as a normal disposal. The disposer will be liable to balancing allowances or balancing charges whichever is relevant.

### Example 8

Adil Cetak Sdn Bhd (ACSB) and Fine Arts Sdn Bhd (FASB) close their accounts on 31 December and are controlled by the holding company, LSE Holding Bhd. Both companies are carrying on the business of printing clothing.

On 15.5.2015, ACSB purchased a T-shirt printing machine for RM300,000. After being used, the machine was sold to FASB on 2.1.2017 for RM200,000.

The market value of the machine is RM100,000. After acquiring the machine, FASB did not use the machine in its business.

The sale of the machine to FASB is a controlled sale. Since the FASB did not use it for its business purposes, thus paragraph 39 of Schedule 3 of the ITA is not applicable. The normal provisions in Schedule 3 of the ITA will apply.

| ACSB (Disposer)   | RM            | RM             |
|---|---------------|----------------|
| <b>Year of assessment 2015</b><br>(1.1.2015 – 31.12.2015)                               |               |                |
| QE  |               | 300,000        |
| IA (20% x RM300,000)  | 60,000        |                |
| AA (14% x RM300,000)  | <u>42,000</u> | <u>102,000</u> |
| Residual expenditure  |               | 198,000        |
|   |               |                |
| <b>Year of assessment 2016</b><br>(1.1.2016 – 31.12.2016)                               |               |                |
| AA (14% x RM300,000)  |               | <u>42,000</u>  |
| Residual expenditure  |               | 156,000        |
|   |               |                |
| <b>Year of assessment 2017</b><br>(1.1.2017 – 31.12.2017)                               |               |                |
| Disposal price (RM200,000)<br>Or Market value (RM100,000)<br><b>whichever is higher</b> |               | <u>200,000</u> |
| Balancing charge  |               | <u>44,000</u>  |

## 6. Controlled Sale of Assets as a Result of Death

The provision for controlled sale under the ITA and ITR 1969 would also apply if an asset that is used in the business of a deceased is transferred to the business of a recipient under the terms of a will.

### Example 9

Mr Teoh passed away on 21.11.2015 after a road accident. The retail shop business that he carried on for 25 years is inherited by his son, David.

The retail business was taken over by David on 21.11.2015 and the accounts are made up for the period ending 31 December i.e. similar to the original business account which was managed by his father.

Among the assets acquired are a coconut milking machine which was purchased on 5.5.2013 for RM20,000.

**Step 1:**

The actual date of disposal = date of death = 21.11.2015

**Step 2:**

The first year of assessment David would be eligible to claim capital allowances for the machine is the year of assessment 2015 i.e. for the basis period 1.1.2015 to 31.12.2015.

**Step 3:**

“The Disposer’s Final Period” is 1.1.2015 to 31.12.2015. Therefore, FDDFP (Mr Teoh) is on 1.1.2015.

| <b>Teoh's business</b>  | <b>RM</b>    | <b>RM</b>     |
|---|--------------|---------------|
| QE  |              | 20,000        |
|   |              |               |
| <b>Year of assessment 2013</b>  |              |               |
| IA (20% x RM20,000)   | 4,000        |               |
| AA (14% x RM20,000)   | <u>2,800</u> | <u>6,800</u>  |
| Residual expenditure  |              | 13,200        |
|   |              |               |
| <b>Year of assessment 2014</b>  |              |               |
| AA (14% x RM20,000)   |              | <u>2,800</u>  |
| Residual expenditure  |              | <u>10,400</u> |
|   |              |               |
| <b>David's business</b>   |              |               |
| QE is deemed incurred on the date the business was taken over i.e. on 21.11.2015. |              |               |
|   |              |               |
| <b>Year of assessment 2015</b>  |              |               |
| QE  |              | 10,400        |
| AA (14% x RM20,000)   |              | <u>2,800</u>  |
| Residual expenditure  |              | 7,600         |
|   |              |               |

---

| Years of assessment 2016 - 2017 |  |              |
|---------------------------------|--|--------------|
| AA (2 x RM2,800)                |  | <u>5,600</u> |
| Residual expenditure            |  | <u>2,000</u> |

## 7. Controlled Sale of Partnership Assets

The provision for controlled sale under the ITA and ITR 1969 would also apply to partnership assets disposed of by a partner to an acquirer that is subject to control as referred to in paragraph 4.1 of this PR. Please refer to the interpretation of control in relation to partnership in paragraph 3.1 in this PR.

### Example 10

Aisyah dan Maria are two partners in a beauty salon business i.e. Qu Lava Partnership. The profitability of the partnership business is divided according to the share capital ratio of the partners, i.e. 1/3 of Aisyah's share and 2/3 of Maria's share. The partnership accounts ends on 31 December each year.

Qu Lava Partnership is controlled by Maria because her share in the partnership is more than half (1/2).

### Example 11

Same facts as in Example 10 except that Maria had disposed of a partnership asset, that is a sauna machine to a company controlled by her i.e. De Molek Sdn Bhd (DMSB). Maria is a shareholder and a director of the company. DMSB closes its business accounts on 31 December each year.

The sauna machine was purchased by the Qu Lava Partnership for RM100,000 on 30.4.2014. Then it was disposed of to DMSB on 15.2.2017 for RM60,000. DMSB has used the sauna machine in its business.

The disposal of the sauna machine to DMSB is a controlled sale, then paragraphs 38 and 39 of Schedule 3 of the ITA will apply.

#### Step 1:

The actual date of disposal of the sauna machine to DMSB = 15.2.2017.

**Step 2:**

The first year of assessment DMSB (acquirer) is eligible for capital allowances is the year of assessment 2017 for the basis period 1.1.2017 to 31.12.2017.

**Step 3:**

The basis period of Qu Lava Partnership (disposer) for a year of assessment which coincides with the first year of assessment for which the acquirer would be eligible to claim capital allowances is the year of assessment 2017.

Thus, the date of disposal of the machine is deemed to have taken place on 1.1.2017 which is the FDDFP. Therefore, the acquirer is deemed to have incurred the QE on 1.1.2017.

| <b>Qu Lava Partnership (Disposer)</b>     | <b>RM</b>     | <b>RM</b>     |
|---|---------------|---------------|
| <b>Year of assessment 2014</b>            |               |               |
| QE  |               | 100,000       |
| IA (20% x RM100,000)                      | 20,000        |               |
| AA (14% x RM100,000)                      | <u>14,000</u> | <u>34,000</u> |
| Residual expenditure                      |               | 66,000        |
|   |               |               |
|   |               |               |
| <b>Years of assessment 2015 - 2016</b>    |               |               |
| AA (RM14,000 x 2)                         |               | <u>28,000</u> |
| Residual expenditure                      |               | 38,000        |
|   |               |               |
| <b>Year of assessment 2017</b>            |               |               |
| Disposal price                            |               | <u>38,000</u> |
| Balancing charges or balancing allowances |               | <u>NIL</u>    |
|   |               |               |
| <b>DMSB (Acquirer)</b>                    |               |               |
| <b>Year of assessment 2017</b>            |               |               |
| Residual expenditure                      |               | 38,000        |
| AA (14% x RM100,000)                      |               | <u>14,000</u> |

|                      |  |               |
|----------------------|--|---------------|
| Residual expenditure |  | <u>24,000</u> |
|----------------------|--|---------------|

**8. Disposal of Assets Within Two Years**

Paragraph 71 of Schedule 3 of the ITA does not apply to the disposal of plants and machinery where a disposal is subject to the control provision. Please refer to paragraph 4.2 in this PR for further clarification.

**Example 12**

Aseanic Sdn Bhd (ASB) is fully controlled by Beto Sdn Bhd (BSB). The closing date for both companies are on 31 December. ASB purchased a machinery costing RM60,000 on 1.6.2017 and disposed of it to BSB on 1.2.2018 at a price of RM55,000.

The first year BSB (acquirer) can claim capital allowances for the machinery is for the year of assessment 2018 i.e. for the basis period of 1.1.2018 to 31.12.2018.

The Disposer's Final Period (ASB) is 1.1.2018 to 31.12.2018. Therefore, FDDFP of ASB (disposer 1) is on 1.1.2018.

Since the disposal is subject to control, then paragraph 71 of Schedule 3 of the ITA does not apply. The computation of capital allowances and the disposal price of the machinery are as follows:

| <b>ASB (Disposer)</b>                               | <b>RM</b>    | <b>RM</b>     |
|---|--------------|---------------|
| <b>Year of assessment 2017</b>                      |              |               |
| QE  |              | 60,000        |
| IA (20% x RM60,000)                                 | 12,000       |               |
| AA (14% x RM60,000)                                 | <u>8,400</u> | <u>20,400</u> |
| Residual expenditure                                |              | 39,600        |
|   |              |               |
| <b>Year of assessment 2018</b>                      |              |               |
| <b>Disposal price (disposal subject to control)</b> |              | <u>39,600</u> |
| Balancing charges or balancing allowances           |              | <u>NIL</u>    |

**Example 13**

Same facts as in Example 12 except that on 1.3.2019, BSB subsequently disposed of the machinery to Classic Enterprise (C Ent.) at a price of RM50,000 which is the market value of the machinery. Disposal of the machinery between BSB and C Ent. is a normal disposal.

| <b>BSB (Acquirer)</b>                     | <b>RM</b> | <b>RM</b>     |
|---|-----------|---------------|
| <b>Year of assessment 2018</b>            |           |               |
| Residual expenditure                      |           | 39,600        |
| AA (14% x RM60,000)                       |           | <u>8,400</u>  |
| Residual expenditure                      |           | <u>31,200</u> |
|   |           |               |
| <b>Year of assessment 2019</b>            |           |               |
| <b>Disposal price (a normal disposal)</b> |           | <u>50,000</u> |
| Balancing charges                         |           | <u>18,800</u> |

The computation of the balancing charges for BSB should take into account the capital allowances which has been given to ASB. The total capital allowances claimed by ASB and BSB are RM28,800. Thus, the balancing charge of RM18,800 is imposed on BSB although the annual allowance claimed by him is only RM8,400 [Rule 6 and Rule 9 of the ITR 1969].

**9. Disclaimer**

The examples in this PR are for illustration purposes only and are not exhaustive.

**Director General of Inland Revenue,  
Inland Revenue Board of Malaysia.**