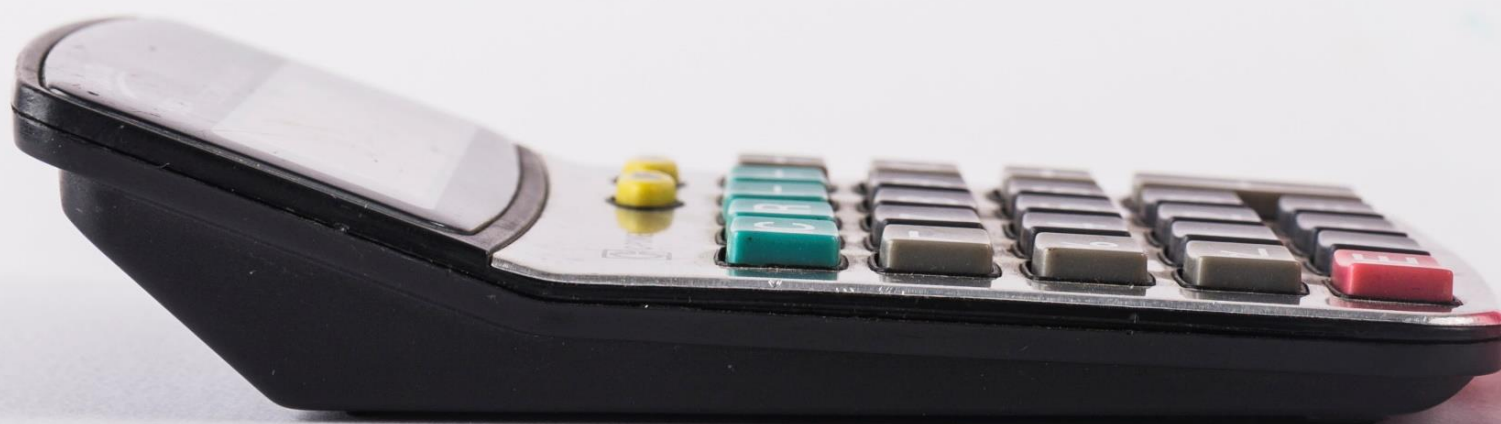


Did You Know

If you owe your company money, your company may have to pay tax

各位老板们，拿自己公司钱用或向自己公司借钱，公司还要还税啊. 您知道吗？

Public ruling No.8/2015



“Do you have any idea what
is this deemed interest?”

您知道什么是认定视利息吗?”



When need to paid deemed interest?

什么时候会需要缴到认定视利息？

The Company that provides loans or advances to director of the company without interest or with interest rate lower than the arm's length rate interest and income deemed to be received by the company from the loans or advances

向公司董事提供无息或利率低于正常交易利率的利息或收入的公司

Under which income tax act?

什么时候会需要缴到认定视利息？

- The Income Tax Act 1967 (ITA) related to this Public Ruling (PR) are sections 2 and 140B, subsections 21A(8), 29(3), 75A(2) and 140(2) and paragraph 4(c).
- 与本PR相关的1967年所得税法（ITA）为第2和140B条，第21A（8），29（3），75A（2）和140（2）条以及第4（c）款。



**Three categories
of funds loans or
advances to
directors of the
company**

**3类资金公司董事的
贷款或垫款。**



1. Internal funds 内部资金

What are internal funds?

Surplus funds that may arise from the injection of capital, retained earnings and company reserves.

内部资金是可能会因注资，留存收益和公司准备金而产生的盈余资金

Subject to:-

If the loans or advances are fully funded from internal funds, the Company shall be receive deemed interest from such loans or advances for that basis period and section 140B of the ITA is applicable.

如果公司向董事提供的贷款或预付款全部由内部资金提供资金，则该公司应被视为在该基准期内的总收入包括此类贷款或预付款的利息，并且适用ITA第140B条。



2. External Funds 外部资金

What are external funds?

Financial resources acquired by a company through loans from third parties such as banks or related companies specifically used to finance loans or advances to directors. The decision to acquire loans from external funds can be referred from the board of directors resolution or board of directors meeting minutes.

外部资金是指公司通过从第三方（例如银行或关联公司）的贷款中获得的财务资源，这些资金专门用于为董事提供贷款或预支。可以从董事会决议或董事会会议记录中参考有关从外部资金获取贷款的决定。

Subject to:-

If the loans or advances to directors are financed from external funds or third party, then the provision of section 140B of the ITA is not applicable.

如果向董事的贷款或垫款由外部资金或第三方提供资金，则ITA第140B条的规定不适用。

3. Mixed Funds 混合资金

What are mixed funds?

If loans or advances to director are from internal funds and external funds, the interest income is computed only on the portion related to amount of internal funds. In such circumstances, the company must prove that some / all of the loans or advances are from external funds and not subject to section 140B of the ITA.

如果向董事的贷款或垫款来自内部资金和外部资金，则利息收入仅按与内部资金金额相关的部分计算.在这种情况下，公司必须证明部分/全部贷款或预付款来自外部资金，并且不受ITA第140B条的约束.



The interest will be computed monthly on the loan balance based on the formula:

利息将根据以下公式每月计算贷款余额:

$$\frac{1}{12} \times A \times B$$

where –

A = the total amount of loans or advances outstanding at the end of the calendar month; and

B = ALR of commercial banks published by BNM on interest free loan or advances at the end of the calendar month or other reference lending rate as may be prescribed by the Director General of Inland Revenue if there is no ALR published .

Total loans or advances outstanding at the end of the calendar month refers to balance of loans or advances after deducting repayment of loans or advances and adding any new loans or advances made during that month



**Let's see the
case scenario**

你看看...



ABC SDN BHD
31.12.2019

Mary, please issue RM100,000 for me to paid my new house deposit.

玛丽，请给我RM100,000，我要付我的新房子低押金。



No, if you take Company's money, the Company need to paid tax.

不，如果您使用公司的钱，公司需要纳税。

Why not? This is my Company and my money. Issue the cheque now!

为什么不？这是我的公司，我的钱。现在开支票！



OK, NOTED. I will issue the cheque now.
好的。我现在开支票。



When tax agent do the tax computation, they found out that Director A had borrow RM100,000 from the Company on May'19 and still not yet pay back to the Company until 31st Dec'19.

当税务代理人进行税收计算时，他们发现，董事A在本财政年度5月借了RM100,000而且尚未归还给公司.

Therefore, the Company will need to pay deemed interest .

那么，公司都必须支付认定视利息.



ABC SDN BHD
Year of assessment 2019
Interest Income

Year	Month	Director A with 50% shareholding	Amount owe by director (A)	ALR % (B)	Interest income (A x B x 1/12)
2019	May	RM 100,000	RM 100,000	4.93%	RM 411
	June	RM 100,000	RM 100,000	4.89%	RM 408
	July	RM 100,000	RM 100,000	4.82%	RM 402
	August	RM 100,000	RM 100,000	4.82%	RM 402
	September	RM 100,000	RM 100,000	4.76%	RM 397
	October	RM 100,000	RM 100,000	4.76%	RM 397
	November	RM 100,000	RM 100,000	4.73%	RM 394
	December	RM 100,000	RM 100,000	4.70%	RM 392

Total Deemed interest: RM 3,201



The amount of interest determined or deemed to be received by the company is subjected to the rate of interest charged

公司确定或认为要收取的利息金额取决于所收取的利率

a) Interest-Free

If the loans or advances made by a company to directors are interest-free, then the amount of interest will be computed or determined based on the prescribed formula with ALR published by BNM in the basis year in which the loans or advances are given.



i. No repayment is made by director

On 1.10.2014, P Sdn Bhd made advances of RM100,000 to directors for personal purposes. The advances are interest-free and sourced from internal funds. There are no fixed terms of repayment by the company to the directors. No repayments have been made by the directors involved as at 31.12.2014. ALR published by BNM for the period October to December 2014 is 4% per annum.

Computation of interest for the year of assessment 2014 is computed as follows-

Month	Advances Balance (RM)	Interest Income Deemed To Be Received (RM)
Oct 2014	100,000 @ 4% x 1/12	333
Nov 2014	100,000 @ 4% x 1/12	333
Dec 2014	100,000 @ 4% x 1/12	333
Total Interest Income Deemed To Be Received		999



ii. Repayment made by director

Director B who is also a shareholder of R Sdn Bhd has obtained an interest-free loan of RM100,000 for the year of assessment 2014 from the company in February 2014.

In April 2014, Director B made payments totaling RM10,000 for payment due in March 2014. In September 2014, R Sdn Bhd made additional advances of RM30,000 to Director B.

Computation of interest income deemed to be received by R Sdn Bhd for the year of assessment 2014 based on the formula in subsection 140B(2) of the ITA (assuming ALR is 3%) is as follows -



Year of Assessment 2014

Month	Loan Balance (RM)	Interest Income Deemed To Be Received (RM)
Mar	100,000 @ 3% x 1/12	250
Apr	(100,000 – 10,000) @ 3% x 1/12	225
May	90,000 @ 3% x 1/12	225
Jun	90,000 @ 3% x 1/12	225
Jul	90,000 @ 3% x 1/12	225
Aug	90,000 @ 3% x 1/12	225
Sept	(90,000 + 30,000) @ 3% x 1/12	300
Oct	120,000 @ 3% x 1/12	300
Nov	120,000 @ 3% x 1/12	300
Dec	120,000 @ 3% x 1/12	300
Total Interest Income Deemed To Be Received		2,575

R Sdn Bhd is deemed to receive interest income for the basis period for the year of assessment 2014 amounting to RM2,575 based on the prescribed formula. Interest income deemed to be received by the company is to be assessed under paragraph 4(c) of the ITA.

b) With interest

If a company charges interest on loans or advances to directors, then the amount of interest that is deemed to be received by the company under section 140B of the ITA will be determined by comparing the amount of interest calculated based on -

- (i) interest rates charged by the company; or
- (ii) formula in subsection 140B(2) of the ITA.

The total interest income, whichever is higher will be taken as the interest income deemed to be received by the company in the basis period for a year of assessment.



i) The interest rate charged by the company is higher than the ALR published by BNM

If the amount of interest charged on the loans or advances by the company is more than the interest computed by using the formula in subsection 140B(2) of the ITA, then the interest due and payable by the director to the company will be taken as the interest income of the company for the basis period for a year of assessment and assessed under paragraph 4(c) of the ITA. The provisions of section 140B of the ITA shall not apply in such cases.

On 1.3.2014, S Sdn Bhd made an advance of RM100,000 to Director C with an interest rate of 5% compared to ALR published by BNM of 3%. In April 2014, Director C made a payment totaling RM10,000. In September 2014, S Sdn Bhd made additional advance of RM30,000 to the Director C.

For the determination of interest income on advances given, the amount of interest which is higher will be taken for the computation of interest income to S Sdn Bhd in the year of assessment 2014. The computation is as follows-



Year of Assessment 2014

Month	Loan Balance (RM)	Interest Charged by Company (5%) (RM)	Interest Income Deemed To Be Received Based On Formula (3%) (RM)
Mar	100,000	$100,000 \times 5\% \times 1/12 = 417$	$100,000 \times 3\% \times 1/12 = 250$
Apr	90,000 (100,000 – 10,000)	$90,000 \times 5\% \times 1/12 = 375$	$90,000 \times 3\% \times 1/12 = 225$
May	90,000	$90,000 \times 5\% \times 1/12 = 375$	$90,000 \times 3\% \times 1/12 = 225$
Jun	90,000	$90,000 \times 5\% \times 1/12 = 375$	$90,000 \times 3\% \times 1/12 = 225$
Jul	90,000	$90,000 \times 5\% \times 1/12 = 375$	$90,000 \times 3\% \times 1/12 = 225$
Aug	90,000	$90,000 \times 5\% \times 1/12 = 375$	$90,000 \times 3\% \times 1/12 = 225$
Sept	120,000 (90,000 + 30,000)	$120,000 \times 5\% \times 1/12 = 500$	$120,000 \times 3\% \times 1/12 = 300$
Oct	120,000	$120,000 \times 5\% \times 1/12 = 500$	$120,000 \times 3\% \times 1/12 = 300$
Nov	120,000	$120,000 \times 5\% \times 1/12 = 500$	$120,000 \times 3\% \times 1/12 = 300$
Dec	120,000	$120,000 \times 5\% \times 1/12 = 500$	$120,000 \times 3\% \times 1/12 = 300$
Total Interest Income		4,292	2,575



Since the interest charged by the company is higher than that computed by using the prescribed formula, then the amount of interest RM4,292 charged and payable by Director C to the company is the interest income of the company for the year of assessment 2014. Interest income deemed to be received by S Sdn Bhd using the prescribed formula in subsection 140B(2) of the ITA amounting to RM2,575 is disregarded.

由于公司收取的利息高于使用规定公式计算的利息，因此由总监C付给公司的应付利息RM4,292是公司在2014课税年度的利息收入。S Sdn Bhd使用ITA的第140B（2）款中规定的公式得出的视为RM2,575的收入被忽略。



**Need further
information and
assistance?**

**Please, don't hesitate
to reach Ecovis
Malaysia**



For more details and case scenario examples you may
refer to:

有关更多详细信息和示例，请参阅：

http://lampiran1.hasil.gov.my/pdf/pdfam/LOAN_OR_ADVANCES_TO_DIRECTOR.pdf





WHY ECOVIS MALAYSIA

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