



## SECTION 4(f) INCOME TAX ACT 1967

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OASB  
V.  
DIRECTOR GENERAL OF INLAND REVENUE  
MOF.PKCP.700.7/1/1208

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 SPECIAL COMMISSIONERS OF INCOME TAX

 PUAN NIK SERENE BINTI NIK HASHIM

 24 FEBRUARY 2023

The Taxpayer rented a shop lot for its principal activity of trading in audio, video equipment and related products from the year 2004 to 2017. Due to a compulsory acquisition, the Taxpayer was awarded

a compensation of RM2,341,817 by *Jabatan Ketua Pengarah Tanah dan Galian Persekutuan Negeri Selangor* (“JKPTG”) pursuant to Section 16 Land Acquisition Act 1960 as stated in Form H (*Pemberitahu Pemberian dan Tawaran Pampasan*).

Pursuant to a tax audit conducted on the Taxpayer for the year of assessment (“YA”) 2017, the Director General of Inland Revenue (“DGIR”) raised a Notice of Additional Assessment inclusive penalty dated 29 June 2020 under Section 113(2) Income Tax Act 1967 (“ITA 1967”) against the Taxpayer in relation to the compensation received.

The Taxpayer took the position that pursuant to Form H, the compensation received for ‘*kos penambahbaikan bangunan*’ is a capital receipt. It is contended that the compensation was awarded in order to restore the Taxpayer to its original condition based on the replacement cost at the time of compulsory acquisition.

The Taxpayer further argued that the compulsory acquisition has resulted the Taxpayer to temporarily shut down its business and was unable to conduct sales and generate profits.

On the other hand, the DGIR asserted that the total amount received by the Taxpayer as compensation from JKPTG as a tenant of the shop lot is a revenue receipt and taxable under Section 4(f) ITA 1967 since the Taxpayer did not own the land and building which has been granted for compensation.

The DGIR also argued that Section 4(f) ITA 1967 allows gains or profits that do not fall under Section 4(a) to 4(e) ITA 1967 to be taxed.

In dismissing the Taxpayer’s appeal, the Special Commissioners of Income Tax (“SCIT”) decided that the Notice of Additional Assessment raised against the Taxpayer for YA 2017 is reasonable and just. The SCIT also ruled that there is a basis in law and facts for the DGIR to impose penalty under Section 113(2) ITA 1967.

### *Editorial Note:*

- *The Taxpayer has the right to file an appeal against the decision by the Special Commissioners of Income Tax within 21 days from the date of the decision.*