



LEMBAGA HASIL DALAM NEGERI MALAYSIA

TAX TREATMENT OF MALAYSIAN SHIP

PUBLIC RULING NO.XX/2024

Translation from the original Bahasa Malaysia text

DATE OF ISSUE: 1: XX XX 2024



INLAND REVENUE BOARD OF MALAYSIA

**TAX TREATMENT OF
MALAYSIAN SHIP**

**Public Ruling No. X/2024
Date of Issue:: XX XX 2024**

Published by
Inland Revenue Board of Malaysia

Second edition

First edition on 13 December 2012

© 2024 by the Inland Revenue Board of Malaysia

All rights reserved on this Public Ruling are owned by the Inland Revenue Board of Malaysia. One print or electronic copy may be made for personal use. Professional firms and associations are permitted to use the Public Ruling for training purposes only. Systemic or multiple reproduction, distribution to multiple location via electronic or other means, duplication of any material in this Public Ruling for a fee or commercial purposes, or modification of the content of the Public Ruling is prohibited.

PUBLIC CONSULTATION

CONTENTS	Page
1. Objective	1
2. Related Provisions	1
3. Application Of Tax Laws	1
4. Interpretation	2
5. Malaysian Ship	3
6. Exemption Of Shipping Income From Malaysian Ship	5
7. Exemption Of Statutory Income	14
8. Capital Allowance Deemed Claimed	15
9. Malaysian Ships As A Single Source	16
10. Compliance with Conditions for Annual Verification	34
11. Separate Accounts For Malaysian Ships	36
12. Exempt Income, Exempt Account And Dividend	36
13. Non-Application	38
14. Income Derived From Sources Outside Malaysia	38
15. Payments To A Non-Resident	40
16. Documents Required For Claim For Exemption	40
17. Updates and Amendments	41
18. Disclaimer	42



INLAND REVENUE BOARD OF MALAYSIA

**TAX TREATMENT OF
MALAYSIAN SHIP**

**Public Ruling No. X/2024
Date of Issue:: XX XX 2024**

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 that is 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.**

PUBLIC CONSULTATION

1. Objective

This Public Ruling (PR) explains the tax treatment of a Malaysian ship and the exemption of shipping income in respect of a person resident in Malaysia.

2. Related Provisions

The provisions of the Income Tax Act 1967 (ITA) and the Income Tax Orders related to this PR are as follows:

- 2.1 Subsection 44A(10), sections 52, 54 and 54A and paragraph 28, Schedule 6 of the ITA,
- 2.2 Income Tax (Exemption) (No. 29) Order 1998 [*P.U.(A) 473/1998*],
- 2.3 Income Tax (Exemption) (No. 2) Order 2012 [*P.U.(A) 167/2012*],
- 2.4 Income Tax (Exemption) Order 2018 [*P.U.(A) 38/2018*],
- 2.5 Income Tax (Exemption) (No. 2) Order 2018 [*P.U.(A) 48/2018*],
- 2.6 Income Tax (Exemption) (No. 7) Order 2022 [*P.U.(A) 312/2022*], and
- 2.7 Income Tax (Exemption For Malaysian Ship) Order 2024 [*P.U.(A) 184/2024*].

3. Application of Tax Laws

- 3.1 Sections 54A(1) and 54A(2) of the ITA have been amended under section 11 of the Finance Act 2012 [Act 742]. However, implementation of the amendments has been deferred due to the following subsidiary legislations:
 - (a) Income Tax (Exemption) (No. 2) Order 2012 [*P.U.(A) 167/2012*] is for the year of assessment (YA) 2012 and 2013,
 - (b) Income Tax (Exemption) Order 2018 [*P.U.(A) 38/2018*] is for the YA 2014 to 2015,

- (c) Income Tax (Exemption) (No.2) Order 2018 [*P.U.(A) 48/2018*] is for the YA 2016 to 2020,
- (d) Income Tax (Exemption) (No.7) Order 2022 [*P.U.(A) 312/2022*] is for the YA 2021 to 2023, and
- (e) Income Tax (Exemption for Malaysian ships) Order 2024 [*P.U.(A) 184/2024*] is for the YA 2024 to 2026.

3.2 This PR covers the tax treatment until the YA 2026.

3.3 In this PR, any reference to subsection 54A(1) or 54A(2) or paragraph 54A(1)(a), 54A(1)(b), 54A(2)(a) or 54A(2)(b) of the ITA shall be interpreted as a reference to such subsection or paragraph of the ITA align to the amendments under section 11 of the Finance Act 2012 [*Act 742*].

4. Interpretation

The terms used in this PR have the following meanings:

- 4.1 "Malaysian ship" means a sea-going ship registered as such under the Merchant Shipping Ordinance 1952 (MSO 1952), other than a ferry, barge, tug-boat, supply vessel, crew boat, lighter, dredger, fishing boat or other similar vessel.
- 4.2 "Cargo" includes mail, currency, specie, livestock and all kinds of goods.
- 4.3 "Person" includes a company, a group of persons, a limited liability partnership, and a sole proprietorship.
- 4.4 "Resident" means resident in Malaysia for the basis year for a year of assessment under section 8 and subsection 61(3) of the ITA.
- 4.5 "Source" means a source of income.

5. Malaysian Ship

A shipping or sea transport undertaking has been accorded special tax treatment under sections 54 and 54A of the ITA.

A resident person who operates a Malaysian ship which has the same meaning as in subsection 54A(6) of the ITA is eligible for tax exemption provided that the qualifying criteria under subsection 54A(1) of the ITA are satisfied.

5.1 Definition of Malaysian Ship

5.1.1 Malaysian ship as defined under subsection 54A(6) of the ITA means a sea-going ship registered as such under the MSO, other than a ferry, barge, tug-boat, supply vessel, crew boat, lighter, dredger, fishing boat or other similar vessel.

5.1.2 To qualify for Malaysian ship status under subsection 54A(6) of the ITA, a vessel has to be:

- (a) registered as a Malaysian ship under the MSO,
- (b) a sea-going ship, and
- (c) not a ferry, barge, tugboat, supply vessel, crew boat, lighter, barge, dredger, fishing boat or other similar vessel.

All the three conditions above have to be fulfilled. If any one of them is not fulfilled, the vessel will not be a Malaysian ship.

5.2 Registration under MSO

5.2.1 A vessel registered as a Malaysian ship with the Certificate of Registry under the MSO is not necessarily a Malaysian ship under the ITA because the definition of a Malaysian ship in the MSO differs from that in the ITA.

5.2.2 In order to qualify for Malaysian ship status under the ITA, a vessel has to be a sea-going ship that goes beyond port limits besides being registered as a Malaysian ship under the MSO. In addition, it should not fall within the exclusion clause of "... a ferry, barge, tugboat, supply vessel, crew boat, lighter, dredger, fishing boat or other similar vessel".

5.2.3 A vessel that is not registered or has been deregistered under the MSO does not qualify for Malaysian ship status under the ITA.

5.3 Sea-going ship

5.3.1 Sea-going ship is not defined in the ITA. In line with the MSO, a sea-going ship refers to any ship going beyond port limits. Port limits vary in accordance with the by-laws of each port. Therefore, a ship

sailing in Malaysian waters that does not sail beyond the port limit is not considered as a seagoing ship.

5.3.2 A vessel used exclusively for navigation on the lakes, canals, rivers or coastal areas is not a sea-going ship.

5.3.3 A vessel that is not a sea-going ship does not qualify for Malaysian ship status under the ITA.

5.4 Exclusion clause “... a ferry, barge, tugboat, supply vessel, crew boat, lighter, dredger, fishing boat or other similar vessel”

5.4.1 Vessels which fall within the above exclusion clause are specifically excluded from the definition of Malaysian ship under subsection 54A(6) of the ITA.

Example 1

A Sdn Bhd owns a barge which has been registered as a Malaysian ship under section 11 of the MSO. As a result of advancement in the shipping industry, that barge is not merely a support vessel but possesses huge engine power enabling it to be used in the deep sea. It is used to carry cargo from Malaysia to other Asian countries as far as Korea. A Sdn Bhd claims the barge to be a Malaysian ship for income tax purposes.

Since a barge is specifically excluded from the definition of Malaysian ship under subsection 54A(6) of the ITA, A Sdn Bhd's barge does not qualify for Malaysian ship status for income tax purposes despite the fact that it can be used in the deep sea.

5.4.2 A vessel similar in type, category or function to a ferry, barge, tugboat, supply vessel, crew boat, lighter, dredger, or fishing boat is also excluded from the definition of a Malaysian ship under the ITA.

Example 2

B Sdn Bhd is the owner of two vessels that are registered as Malaysian ships under the MSO. The first vessel, as described in the Certificate of Malaysian Registry, is a maintenance support vessel with a cargo capacity of 500 tons and 270 cabins for accommodation. It is used for transporting goods, supplies, and

equipment to the offshore oil platform, in addition to providing accommodation and other facilities for the workers. The second vessel, a landing craft capable of transporting cargo between the ports, is used to carry the necessities for oil platform operation.

Both vessels are similar in category and functions to the supply vessels specifically excluded from the definition of a Malaysian ship. Consequently, both are not Malaysian ships within the context of subsection 54A(6) of the ITA.

5.5 Ships not in the exclusion clause

Examples of ships that are not in the exclusion clause are ocean liners, petroleum or oil tankers, LNG carriers, container ships, chemical tankers, and etc. These ships have to be sea-going ships and registered under the MSO in order to qualify for Malaysian ship status under subsection 54A(6) of the ITA.

6. Exemption of Shipping Income from Malaysian Ship

6.1 Qualifying person and business

6.1.1 Pursuant to subsection 54A(1) of the ITA, where a person who is resident in Malaysia for the basis year for a year of assessment carries on the qualifying business of –

- (a) transporting passengers or cargo by sea on a Malaysian ship, or
- (b) letting out on charter a Malaysian ship owned by him on a voyage or time charter basis,

70% of the statutory income for the year of assessment shall be exempted from tax. However, a full exemption on the statutory income has been granted from the YA 2012 until YA 2026 through the subsidiary legislation listed in paragraph 3.1 of this PR. Nevertheless, effective from the YA 2021 companies that get full exemption must comply with the substantive conditions based on *P.U.(A) 312/2022* and *P.U.(A) 184/2024*. These substantive conditions will be explained in paragraph 10 of this PR.

- (c) "Person" includes a partnership as specified in subsection 54A(6) of the ITA.
- (d) "Malaysian ship" has the same meaning as described in paragraph 5.1 of this PR.

6.2 Business of transporting passengers or cargo by sea

- 6.2.1 In accordance with paragraph 54(2)(a) of the ITA, the gross income of a resident person from the business of transporting passengers or cargo by sea shall be ascertained by reference to his income from wherever derived or accrued. It means the income of a resident person from the business of transporting passengers or cargo by sea is ascertained on the world income scope basis.
- 6.2.2 Income of a resident person from the business of transporting passengers or cargo by sea from wherever arising or accruing includes –
 - (a) income received and receivable in Malaysia, and
 - (b) income received and receivable outside Malaysia, irrespective of whether it is remitted to Malaysia.

Example 3

C Sdn Bhd, a company resident in Malaysia, carries on the business of transporting cargo by sea between Westports in Klang, Malaysia and Port of Shenzhen as well as other ports in China. The company's income statement for the year ended 31.12.2023 is as follows:

TAX TREATMENT OF MALAYSIAN SHIP

INLAND REVENUE BOARD OF MALAYSIA

Public Ruling No. X/2024
Date of Publication: XX XX 2024

No	Freight		Gross Income (RM'000)		Total (RM'000)
	From	To	Remitted to Malaysia	Not remitted to Malaysia	
i	Shenzhen Port China	Westports Malaysia	6,000	2,000	8,000
ii	Westports Malaysia	Shenzhen Port China	4,600	-	4,600
iii	Shenzhen Port China	Other ports in China	500	3,000	3,500
iv	Other ports in China	Shenzhen Port China	200	1,000	1,200
Total (RM'000)			11,300	6,000	17,300

The total gross income of the resident company from the business of transporting cargo by sea for the year ended 31.12.2023 equals to RM17,300,000.

6.2.3 The world income of a resident person from the business of transporting passengers or cargo is taxable within the scope of subsection 4(a) of the ITA, unless it qualifies for exemption under paragraph 54A(1)(a) of the ITA.

6.2.4 To qualify for the exemption under paragraph 54A(1)(a) of the ITA, the business of transporting passengers or cargo has to be carried on by a resident person on a Malaysian ship. The Malaysian ship can be owned or chartered by the resident person.

The exemption came into effect from the YA 1984.

6.2.5 A resident person carrying on the business of transporting passengers on a ferry does not qualify for exemption because a ferry is not defined as a Malaysian ship for income tax purposes.

Even though a ferry is required to be registered as a Malaysian ship under the MSO, tax exemption under paragraph 54A(1)(a) of the

ITA shall not be given since a ferry is specifically excluded from the definition of Malaysian ship under subsection 54A(6) of the ITA.

Example 4

Non-Malaysian Ship and non-qualifying business

D Sdn Bhd provides services for the off-shore petroleum industry in Malaysia and overseas. The services rendered include works like examination, installation, repair and maintenance of oil platforms and pipelines. D Sdn Bhd has a workforce comprising professional divers and technical groups. The ships owned by D Sdn Bhd are used as platforms for bringing down the divers and unloading the equipment. The ships have been registered under the MSO. Certificates issued by the Registrar of Malaysian ships show that these ships are survey and support vessels. D Sdn Bhd applies for exemption of income derived from its services.

Although the ships concerned are registered as Malaysian ships under the MSO and carry out activities beyond the port boundary, D Sdn Bhd does not qualify for exemption as the ships concerned are not Malaysian ships. They are similar in category or functions to the supply vessel which falls within the exclusion clause "... a ferry, barge, tugboat, supply vessel, crew boat, lighter, dredger, fishing boat or other similar vessel" in the definition of Malaysian ship. Apart from that, the services rendered do not constitute a qualifying business within the context of paragraph 54A(1)(a) of the ITA.

Example 5

Non-qualifying business

E Sdn Bhd is the owner of a ship registered under the MSO. It possesses the Domestic Shipping Licence which permits its ship to call at any port in Malaysia to carry on its business. Its business activities involve the transferring of cargo at the port from the supply vessels into its ship and from its ship to other ships. Its operation now focuses on the Johor Port region. E Sdn Bhd applies for exemption in respect of its income derived from its business activities.

The activities of transferring cargo between the ships at the port are more inclined to supporting services provided by using feeder

vessels. The services rendered by E Sdn Bhd do not fall within the ambit of the qualifying business under paragraph 54A(1)(a) of the ITA. As such, no exemption is granted.

6.3 Letting out Malaysian Ship on a voyage or time charter

- 6.3.1 With effect from the YA 1999, tax exemption is extended to a resident person carrying on the business of letting out on charter a Malaysian ship owned by him on a voyage or time charter basis under paragraph 54A(1)(b) of the ITA.
- 6.3.2 In addition, the Income Tax (Exemption) (No. 29) Order 1998 [*P.U.(A) 473/1998*] provides a retrospective exemption for YA 1984 to 1998.
- 6.3.3 In short, effective from the YA 1984, where a person who is resident for the basis year for a year of assessment carries on the qualifying business of letting out on charter a Malaysian ship owned by him on a voyage or time charter basis, the statutory income for that year of assessment from that business shall be exempted from tax.
- 6.3.4 The Malaysian ship must be owned by the resident person for this particular exemption to apply.

Example 6

F Sdn Bhd, a company resident in Malaysia, does not own any ships but carries on the business as a ship operator and hirer. It charters five cargo ships from another company that qualify for Malaysian ship status under subsection 54A(6) of the ITA. Under the agreement, F Sdn Bhd supplies the crew and maintains the Malaysian ships. The Malaysian ships are then let out to other companies on a voyage charter basis for the purpose of transporting cargo by sea. F Sdn Bhd applies for exemption under section 54A of the ITA.

Exemption shall not be granted because the Malaysian ships are not owned by F Sdn Bhd. The Malaysian ships must be owned by the company that is carrying out the business of letting out a Malaysian ship on a voyage charter basis in order to qualify for the exemption.

6.3.5 Time charter and voyage charter

Time charter and voyage charter are not defined in the ITA.

Generally, time charter refers to the chartering of a ship based on a specific period for the use of the ship.

Voyage charter in general refers to the chartering of a ship based on a particular voyage from one port or place to another.

The word voyage refers to the whole time and the whole distance between the ship's port of place of departure and her final port or place of arrival.

For both time and voyage charters,

- (a) the ship owners normally supply the crew and provide the services of equipping, bunkering, and maintaining the ship,
- (b) possession and control of the ship remain in the hands of the ship owners, and
- (c) the word charter refers to the chartering of the whole ship and not part of the ship.

Example 7

G Sdn Bhd is a company resident in Malaysia. It owns two ships that qualify for Malaysian ship status under subsection 54A(6) of the ITA. Under the charter-party contract, both ships were chartered together with crew to another shipping company H Sdn Bhd for the purpose of transporting cargo.

The first ship was let out for a year from 1.1.2023 to 31.12.2023 during which –

- (a) G Sdn Bhd managed the first ship while H Sdn Bhd gave orders for the use of the first ship and directed the first ship where to go, and
- (b) H Sdn Bhd paid for the hire, fuel and port charges to G Sdn Bhd on a monthly basis.

The second ship was let out for freight charges based on a series of voyages between certain ports. G Sdn Bhd applies for tax

exemption in respect of the business income derived from letting out the two ships.

In this case, since the first and second ships owned by G Sdn Bhd were let out based on time and voyage charter respectively, G Sdn Bhd is eligible for exemption under paragraph 54A(1)(b) of the ITA.

6.4 Letting out Malaysian ship on bareboat charter

6.4.1 A bareboat charter, also referred to as a demise charter, is different from a voyage charter or time charter. Under a bareboat charter, a ship is normally let out by the ship owner without crew while the responsibilities of supplying the crew and maintaining the ship lie with the charterer. Possession and control of the ship are in the hands of the charterer who has the exclusive use of the ship for a period of time or for a voyage.

6.4.2 Letting out a ship based on a bareboat charter basis is not a qualifying business under paragraph 54A(1)(b) of the ITA.

Example 8

J Sdn Bhd is a company resident in Malaysia. It owns three ships which qualify for Malaysian ship status under subsection 54A(6) of the ITA. These ships are let out without crew, administration, or technical maintenance to another shipping company who has the possession and control of the ship along with the legal and financial responsibility for it. J Sdn Bhd applies for tax exemption for the income derived from letting out its Malaysian ships.

No exemption is granted as the ships are let out on bareboat charter basis. The Malaysian ships have to be let out on a voyage or time charter basis in order to qualify for the exemption.

6.5 Business of operating cruise tours

Profits derived from the business of operating cruise tours on board a Malaysian ship shall not qualify for exemption under paragraph 54A(1)(a) of the ITA. The primary activity and purpose of the business are not transportation of passengers or cargo but recreation or leisure activity.

6.6 Both Malaysian ship and non-Malaysian Ship are used in business

Where the exemption under section 54A of the ITA applies and Malaysian ships and non-Malaysian ships are used in the business of a resident person, the exemption is restricted to the income derived from the Malaysian ship only.

Example 9

Container ships and barge are used

K Sdn Bhd, a resident company, owns three container ships and a barge. All the vessels are registered under the MSO and are used in the company's business of transporting general goods by sea between Malaysia and Japan. K Sdn Bhd claims for exemption in respect of its income derived from the sea transport business.

The exemption is only granted in respect of the statutory income derived from operating the business on the three container ships which qualify for Malaysian ship status. However, since the barge is excluded from the definition of a Malaysian ship under subsection 54A(6), income derived from operating the business on the barge is not tax exempt.

Example 10

Malaysian ships and foreign ships are used

L Sdn Bhd, a company resident in Malaysia, does not own any ships but carries on the business of transporting crude palm oil by sea. It charters four ships which qualify for Malaysian ship status under subsection 54A(6) of the ITA from its parent company. In addition, it charters a foreign ship that is not registered under the MSO from an overseas client. All the ships are used in the company's business.

L Sdn Bhd is eligible for exemption in respect of the income derived from operating the business on the Malaysian ships. However, income derived from operating the business on a foreign ship is taxable.

6.7 Summary of shipping income exemption

Shipping Income from Malaysian Ship Exemption Under Section 54A ITA	
Qualifying person	A person resident in Malaysia
Qualifying business	(a) Transporting passengers or cargo by sea on a Malaysian ship, or (b) Letting out on charter a Malaysian ship (owned by the person) on a voyage or time charter basis.
Exempt income	100% of statutory income
Effective date	Until YA 2026

7. Exemption Of Statutory Income

Where the business of a person who is resident for the basis year for a year of assessment qualifies for exemption under section 54A of the ITA, tax exemption is given in respect of 100% of the statutory income for that year of assessment from that business.

Example 11

M Sdn Bhd, a company resident in Malaysia with paid-up capital of more than RM2.5 million, carries on the business of specialising in ocean transport of gas and crude oil on LNG carriers and oil tankers plying between Malaysia and Europe. These ships are registered under the MSO. The income statement of the company for the year ended 31.12.2023 are as follows:

	RM'000	RM'000
(a) Shipping business		
Gross income from wherever derived or accrued		120,000
(b) Interest – section 4(c)		<u>600</u>
		120,600

**TAX TREATMENT OF
MALAYSIAN SHIP**

INLAND REVENUE BOARD OF MALAYSIA

**Public Ruling No. X/2024
Date of Publication: XX XX 2024**

Less: Expenditure		
Salary and wages		20,000
Repairs & maintenance of ships		16,000
Bunkering		30,000
Insurance		2,000
Port and canal charges		1,000
Other allowable operating expenses		3,000
Depreciation		<u>5,000</u>
		<u>77,000</u>
Net profit		<u>43,600</u>

Other information:

- (i) Capital allowance allowed for the YA 2023 is RM800,000.
- (ii) The ships used in the business qualify for Malaysian ship status under subsection 54A (6) of the ITA.

Tax Computation For the YA 2023

	RM'000	RM'000
Shipping business		
Net profit	43,600	
Less:		
Other Income: Interest	<u>600</u>	
	43,000	
Add: Depreciation	<u>5,000</u>	
Adjusted Income	48,000	
Less: Capital Allowance	<u>800</u>	
Statutory Income	<u>*47,200</u>	
*Amount credited to the exempt account		
Other Income: Interest - section 4(c)		<u>600</u>
Aggregate /Chargeable Income		<u>600</u>
Tax charged = RM144,000.00 (RM600,000 @ 24%)		

100% of the statutory income of shipping business is tax exempt.

8. Capital Allowance Deemed Claimed

Where the business income of a resident person is exempt, under subsection 54A(1A) of the ITA, the capital allowance for every asset owned and used in the business is deemed to have been claimed and given, effective from the YA 2009. This provision has the effect of reducing the exempt income.

Example 12

N Sdn Bhd, a resident company, commenced operation in the year 2021 and owns a general cargo ship Anggerik which qualifies for Malaysian ship status under subsection 54A(6) of the ITA. The company carries on the business of letting out Anggerik on a time charter basis and qualifies for exemption under section 54A of the ITA. However, the company did not claim capital allowance for YA 2021 and YA 2022. The particulars of the company's assets used in its business are as follows:

Cost of Assets Acquired in 2021	RM
(a) Ships	50,000,000
(b) Motor vehicle and machinery	1,000,000

Computation of residual expenditure for the YA 2023:

Malaysian Ship: Anggerik			
		Ship	Motor Vehicle & Machinery
YA	Cost (RM)	50,000,000	1,000,000
2021	Annual allowance (20%)	<u>10,000,000</u>	<u>200,000</u>
	Residual expenditure	40,000,000	800,000
2022	Annual allowance (20%)	<u>10,000,000</u>	<u>200,000</u>
	Residual expenditure	30,000,000	600,000
2023	Annual allowance (20%)	<u>10,000,000</u>	<u>200,000</u>
	Residual expenditure	20,000,000	400,000

Capital allowance is deemed to have been claimed and granted to determine statutory income which is exempted for YA 2021, 2022 and 2023 under section 54A of the ITA.

9. Malaysian Ships As A Single Source

9.1 Business income from two or more Malaysian ships

Where there is more than one Malaysian ship in determining the income of a person exempt under section 54A of the ITA, the business income derived from all the Malaysian ships shall be treated as one source.

Example 13

P Sdn Bhd, a resident company, owns and operates three chemical tankers and a barge. All the vessels are registered as Malaysian ships under the MSO and used in the company's business of transporting industrial chemicals and other goods by sea between Malaysia and Japan. All the vessels except the barge qualify for Malaysian ship status under subsection 54A(6) of the ITA. The adjusted income and capital allowances for the YA 2023 are as follows:

Business Of Transporting Industrial Chemicals and Other Goods				
YA 2023	Malaysia Ship			Non-Malaysian Ship
	Chemical Tanker 1 (RM'000)	Chemical Tanker 2 (RM'000)	Chemical Tanker 3 (RM'000)	Barge (RM'000)
Adjusted Income	100,000	50,000	70,000	14,000
Capital Allowance	3,000	1,000	4,000	2,700

Tax Computation For the YA 2023

Shipping income exempt under section 54A	RM'000
Adjusted income from Malaysian ships	220,000
Less: Capital allowance	<u>8,000</u>
Statutory income exempted from tax	<u>*212,000</u>
*Amount credited to the exempt account	
Taxable shipping income	RM'000
Adjusted income from non-Malaysian ship (barge)	14,000
Less: Capital allowance	<u>2,700</u>
Statutory Income	<u>11,300</u>
Aggregate / Chargeable Income	<u>11,300</u>

Business income from all the Malaysian ships is treated as one source in the computation of exempt income.

9.2 Capital Allowance for Malaysian Ships

Pursuant to paragraph 54A(2)(a) of the ITA, in determining the income of a person under section 54A, the capital allowance claimed or deemed to have been claimed in respect of any Malaysian ship is deductible against the income of other Malaysian ships exempt under section 54A of the ITA.

Example 14

Q Sdn Bhd is a company resident in Malaysia and owns two container ships, Tanjung I and Tanjung II. The ships are registered under the MSO and used in the company's business activity of transporting cargo by sea between Johor Port and Vietnam. Both ships qualify for Malaysian ship status under subsection 54A (6) of the ITA. Details of the income and expenditure of the company for the year ended 31.2.2023 are as follows:

**TAX TREATMENT OF
MALAYSIAN SHIP**

INLAND REVENUE BOARD OF MALAYSIA

**Public Ruling No. X/2024
Date of Publication: XX XX 2024**

YA 2023	Business Of Transporting Cargo by Sea on Malaysian Ships	
	Tanjung I (RM)	Tanjung II (RM)
Gross Income	27,950,000	28,500,000
Direct Cost	24,024,358	25,975,642
Depreciation	400,000	600,000
Profit	3,525,642	1,924,358

Other information:

- (a) Indirect cost of RM5,000,000 is allocated on gross income basis and accepted by the Director General of Inland Revenue (DGIR).

Tanjung I: $RM5,000,000 \times 27,950,000 / 56,450,000 = RM2,475,642$

Tanjung II: $RM5,000,000 \times 28,500,000 / 56,450,000 = RM2,524,358$

- (b) Capital allowance allowed for the YA 2023 are as follows:

	Tanjung I	Tanjung II
Current year	RM 250,000	RM 450,000
Brought forward	RM 500,000	-

**TAX TREATMENT OF
MALAYSIAN SHIP**

INLAND REVENUE BOARD OF MALAYSIA

Public Ruling No. X/2024
Date of Publication: XX XX 2024

Tax Computation For the YA 2023

Business Of Transporting Cargo by Sea	Malaysian Ships	
	Tanjung I (RM)	Tanjung II (RM)
Profits	3,525,642	1,924,358
Add: Depreciation	400,000	600,000
Less: Indirect cost	(2,475,642)	(2,524,358)
Adjusted income	1,450,000	Nil
Less: Capital allowance		
Tanjung I: Current year	250,000	
Brought forward	500,000	
Tanjung II: Current year	450,000	
	1,200,000	
Statutory income exempted under sec. 54A <i>*Amount credited to the exempt account</i>	* 250,000	Nil

Capital allowance of RM450,000 claimed in respect of Tanjung II is deductible against the income from Tanjung I.

9.3 Balance of Capital Allowance of Malaysian Ships

9.3.1 Where exemption under section 54A of Chapter 8 in Part III of the ITA applies, special treatment is accorded to the capital allowance and adjusted loss of a Malaysian ship. Such special treatment is covered by section 52 of the ITA.

9.3.2 Section 52 of the ITA provides that in the application of section 54A, provisions regarding ascertainment of chargeable income in Chapters 1 to 7 in Part III of the ITA (foregoing chapters) shall also apply but shall be modified to the extent necessary to conform with section 54A. Where there is any inconsistency between section 54A and the foregoing chapters, the foregoing chapters shall be void to the extent of the inconsistency.

9.3.3 The following paragraphs 9.3.4, 9.4.3 and 9.6.2 of this PR illustrate the applications of section 52 in relation to the operation of special

treatment of capital allowance and adjusted loss in respect of a Malaysian ship under section 54A of the ITA.

- 9.3.4 By virtue of paragraph 54A(2)(a) of the ITA, the unabsorbed capital allowance of a Malaysian ship shall not be available as a deduction against other income. It shall only be deducted against the exempt income under section 54A.

As a consequence, where both Malaysian ship and non-Malaysian ship are used in the business, the unabsorbed capital allowance in respect of the Malaysian ship for a year of assessment is not deductible against the taxable income of the non-Malaysian ship. The unabsorbed capital allowance has to be carried forward to the following year of assessment to be deducted against the exempt income only.

The above treatment deviates from the normal treatment of capital allowance in respect of a business source. Under the normal treatment where section 54A does not apply, the unabsorbed capital allowance of a ship used in a business would have been deductible against the income of other ship used in the same business for the year of assessment.

Example 15

The facts of this case are the same as Example 14. In the year 2021, the company purchased a barge for business use. The adjusted income and capital allowance for businesses for YA 2022 and YA 2023 are as follows:

**TAX TREATMENT OF
MALAYSIAN SHIP**

INLAND REVENUE BOARD OF MALAYSIA

Public Ruling No. X/2024
Date of Publication: XX XX 2024

YA	Business Of Transporting Cargo by Sea			
		Malaysian Ships		Non-Malaysian Ship
		Tanjung I	Tanjung II	Barge
2022	Adjusted Income	1,000,000	-	700,000
	Capital Allowance	750,000	800,000	40,000
2023	Adjusted Income	2,000,000	1,000,000	890,000
	Capital Allowance	300,000	400,000	60,000

(a) **Computation For the YA 2022**

Exempted shipping income under section 54A		
Adjusted income of Malaysian ships		RM
Tanjung I		1,000,000
Tanjung II		<u>NIL</u>
Total adjusted income		1,000,000
Less:		
Capital Allowance ⁽¹⁾		
Tanjung I	750,000	
Tanjung II	<u>800,000</u>	
	1,550,000	<u>1,000,000</u>
Capital allowance carried forward ⁽²⁾		
= 550,000 (1,550,000 – 1,000,000)		
Exempted statutory income under section 54A		<u>NIL</u>
Taxable shipping income		
Adjusted income of non-Malaysian ship		700,000
Less: Capital allowance		<u>40,000</u>
Statutory income		<u>660,000</u>
Aggregate / Chargeable income		<u>660,000</u>

**TAX TREATMENT OF
MALAYSIAN SHIP**

INLAND REVENUE BOARD OF MALAYSIA

**Public Ruling No. X/2024
Date of Publication: XX XX 2024**

- (1) Capital allowance of RM800,000 claimed in respect of Tanjung II is deductible against the exempt income of Tanjung I.
- (2) The unabsorbed capital allowance of RM550,000 in respect of Malaysian ships is not deductible against the non-Malaysian ships taxable income used in the shipping business. It is carried forward to the following year of assessment to be deducted against the exempted Malaysian ship's income.

(b) Computation For the YA 2023

Exempted shipping income under section 54A		
Adjusted income of Malaysian ships		RM
Tanjung I		2,000,000
Tanjung II		<u>1,000,000</u>
Total adjusted income		3,000,000
Less: Capital Allowance		
(i) Current year		
Tanjung I	300,000	
Tanjung II	400,000	
(ii) Brought forward ⁽³⁾	<u>550,000</u>	<u>1,250,000</u>
Statutory exempt income under section 54A		*1,750,000
*Amount credited to the exempt account		
Shipping income assessable to tax		RM
Adjusted income of non-Malaysian ship		890,000
Less: Capital allowance		<u>60,000</u>
Statutory income		<u>830,000</u>
Aggregate / Chargeable income		<u>830,000</u>

- (3) The balance of capital allowance RM550,000 in respect of Malaysian ships brought forward from the YA 2022 is deducted against the exempted income of Malaysian ship's income for the YA 2023.

9.4 Adjusted Loss of Malaysian Ships

9.4.1 Pursuant to paragraph 54A(2)(b) of the ITA, in the ascertainment of income under section 54A, an adjusted loss incurred in respect of the operation of a Malaysian ship for any year shall only be deducted against the exempt income under section 54A of the ITA. The balance of such loss for any year shall not be deductible against other income.

9.4.2 As a consequence, in the ascertainment of income from a qualifying business under section 54A of the ITA:

- (a) The adjusted loss suffered in the operation of a Malaysian ship is deductible against the income of other Malaysian ships exempted under section 54A.
- (b) The unabsorbed adjusted loss of the operation of a Malaysian ship in the basis year for a year of assessment is prohibited to be deducted against the non-exempt income for that year of assessment from –
 - (i) non-Malaysian ships used in the business, or
 - (ii) other sources of income.
- (c) The unabsorbed adjusted loss of the operation of a Malaysian ship in a basis year has to be carried forward to the following year of assessment to be deducted against the exempted income under section 54A of the ITA until the adjusted losses are fully absorbed.
- (d) The unabsorbed adjusted loss of the operation of a Malaysian ship brought forward from the previous year of assessment is prohibited to be deducted against –
 - (i) the income from non-Malaysian ships used in the business, or
 - (ii) the aggregate statutory income from all business sources

for that year of assessment.

9.4.3 The treatment of adjusted loss for the operation of a Malaysian ship under paragraph 54A(2)(b) of the ITA deviates from the normal treatment of adjusted loss from a business source under subsections 43(2) and 44(2) of the ITA. The differences are as follows:

- (a) Subsection 44(2) of the ITA provided, the adjusted loss from a business source for the basis year for a year of assessment can be set off against the aggregate income from all sources for that year of assessment.

However, under paragraph 54A(2)(b) of the ITA, the adjusted loss suffered in the operation of the Malaysian ship in the basis year for a year of assessment is prohibited from being deducted against the aggregate income from all sources for that year of assessment.

- (b) Subsection 43(2) of the ITA provided, the unabsorbed adjusted loss of a business brought forward from the previous year of assessment is deductible against the aggregate of statutory income from all businesses for a year of assessment.

However, the unabsorbed adjusted loss of a Malaysian ship brought forward from the previous year of assessment is prohibited from being deducted against the aggregate of statutory income from all businesses for a year of assessment.

9.4.4 The special treatment of adjusted loss in respect of Malaysian ships under paragraph 54A(2)(b) of the ITA is covered by section 52 of the ITA as mentioned in paragraph 9.3.2 of this PR.

Example 16

R Sdn Bhd, a resident company, owns three ships (Dolphin I, Dolphin II and Dolphin III) which are registered as Malaysian ships under the MSO. Certificates of Malaysian Registry issued by the Marine Department show that these ships are tanker ships. All three of them are let out by R Sdn Bhd, on either voyage or time charter basis, to another shipping company for transporting cargo between Malaysia and other Asian countries. All the tanker ships qualify for Malaysian ship status under subsection 54A(6) of the ITA.

**TAX TREATMENT OF
MALAYSIAN SHIP**

INLAND REVENUE BOARD OF MALAYSIA

**Public Ruling No. X/2024
Date of Publication: XX XX 2024**

R Sdn Bhd also carries on the business of lorry transport in Malaysia. The adjusted income and capital allowances for YA 2021 to YA 2023 are as follows:

YA		Type of Business			
		Business of Letting Out of Own Malaysian Ships on Voyage or Time Charter Basis			Business of Lorry Transport
		Dolphin I	Dolphin II	Dolphin III	
		RM	RM	RM	RM
2021	Adjusted income	3,500,000	(500,000)	(300,000)	Nil
	Capital allowance	700,000	300,000	200,000	Nil
2022	Adjusted income	1,300,000	(700,000)	(200,000)	500,000
	Capital allowance	300,000	300,000	100,000	50,000
2023	Adjusted income	2,700,000	(600,000)	(100,000)	990,000
	Capital allowance	400,000	100,000	100,000	90,000

(a) Computation For the YA 2021

	RM	RM
(i) Shipping income exempt under Section 54A		
Adjusted income from Malaysian ships	3,500,000	
Less: Capital Allowance		
Dolphin I	700,000	
Dolphin II	300,000	
Dolphin III	<u>200,000</u>	<u>1,200,000</u>
		2,300,000
Less: Adjusted Loss ⁽⁴⁾		
Dolphin II	(500,000)	
Dolphin II	<u>(300,000)</u>	<u>(800,000)</u>

**TAX TREATMENT OF
MALAYSIAN SHIP**

INLAND REVENUE BOARD OF MALAYSIA

**Public Ruling No. X/2024
Date of Publication: XX XX 2024**

Statutory income (Exempted)	<u>*1,500,000</u>	Nil
*Amount credited to exempt account		
 (ii) Other business income (Lorry Transport)		
Adjusted income	Nil	
Less: Capital allowance	<u>Nil</u>	<u>Nil</u>
 (iii) Aggregate / Total / Chargeable Income		
		<u>Nil</u>
 (4) Adjusted loss in respect of Dolphin II and Dolphin III is deducted from the Malaysian ship's exempted income.		

(b) Computation For the YA 2022

	RM	RM
 (i) Shipping income exempt under section 54A		
Adjusted income from Malaysian ships	1,300,000	
Less: Capital Allowance		
Dolphin I	300,000	
Dolphin II	300,000	
Dolphin III	<u>100,000</u>	
	<u>700,000</u>	
	600,000	
Less: Adjusted Loss ⁽⁵⁾		
Dolphin I	(700,000)	
Dolphin II	<u>(200,000)</u>	
	(900,000)	
	Restricted	<u>(600,000)</u>
 Basis year adjusted loss c/f: ⁽⁶⁾ = 300,000 (900,000 – 600,000) Paragraph 54A(2)(b)		
Statutory income (Exempted)		Nil
 (ii) Other business income (Lorry Transport)		
Adjusted Income	500,000	
Less: Capital Allowance	<u>50,000</u>	<u>450,000</u>

**TAX TREATMENT OF
MALAYSIAN SHIP**

INLAND REVENUE BOARD OF MALAYSIA

**Public Ruling No. X/2024
Date of Publication: XX XX 2024**

(iii)	Aggregate of statutory income from businesses	450,000
	Less: Business losses b/f – Subsection 43(2)	<u>Nil</u>
(iv)	Aggregate income	450,000
	Less: Basis year adjusted loss from businesses (⁽⁶⁾ Subsection 44(2))	<u>Nil</u>
(v)	Total / Chargeable income	450,000

(5) Adjusted loss in respect of Dolphin II and Dolphin III is deducted from the Malaysian ship's exempted income.

(6) The balance of adjusted loss (RM300,000) of Dolphin II and Dolphin III in the basis year cannot be utilised to set off against the aggregate income from all sources in the basis year under subsection 44(2) of the ITA. It is carried forward to the following YA 2022 to be deducted against the Malaysian ship's exempted income only.

(c) Computation For the YA 2023

	RM		RM
(i) Shipping income exempt under section 54A			
Adjusted income: Malaysian ships			2,700,000
Less: Capital allowance			
Dolphin I	400,000		
Dolphin II	100,000		
Dolphin III	<u>100,000</u>		<u>600,000</u>
			2,100,000
Less: Adjusted loss current year			
Dolphin II	(600,000)		
Dolphin III	(100,000)		
Less: Adjusted loss b/f(⁽⁷⁾)	(300,000)		
Paragraph 54A(2)(b)			<u>(1,000,000)</u>
Statutory income (Exempt)			<u>*1,100,000</u>
*Amount credited to exempt account			
(ii) Other business income (Lorry Transport)			
Adjusted income	990,000		
Less: Capital allowance	<u>90,000</u>		<u>900,000</u>

**TAX TREATMENT OF
MALAYSIAN SHIP**

INLAND REVENUE BOARD OF MALAYSIA

**Public Ruling No. X/2024
Date of Publication: XX XX 2024**

(iii)	Aggregate of statutory income from businesses	900,000
	Less: Business losses b/f – Subsection 43(2)	<u>Nil</u>
(iv)	Aggregate income	900,000
	Less: Basis year adjusted loss from businesses Subsection 44(2)	<u>Nil</u>
(v)	Total Income/Taxable Income	<u>900,000</u>
(7)	The unabsorbed adjusted loss amounting to RM300,000 brought forward from the previous YA 2022 cannot be utilised to be set off against the aggregate statutory income from all businesses under subsection 43(2) of the ITA. It is deducted against the Malaysian ship's exempted income for the YA 2023.	

9.5 Disposal of a Malaysian Ship

Where exemption under section 54A of the ITA applies and one of the Malaysian ships is disposed of, any balancing allowance in relation to that Malaysian ship is deductible against the exempt income of the Malaysian ships. Any unabsorbed allowance of that Malaysian ship shall be carried forward to be deducted against the exempt income of the same Malaysian ships.

If the disposal results in a balancing charge, the amount of balancing charge shall not exceed the total amount of capital allowance given in respect of that Malaysian ship pursuant to paragraph 37 of Schedule 3 of the ITA. The amount of balancing charge is not affected by the amount of capital allowance absorbed or utilised in respect of that Malaysian ship in the years of assessment prior to the year of assessment in which that Malaysian ship is disposed of.

Example 17

S Sdn Bhd is a resident company carrying on the business of transporting cargo by sea on two Malaysian ships (MS I and MS II) and qualifies for exemption under section 54A of the ITA. The Malaysian ships were purchased in 2021 as follows:

**TAX TREATMENT OF
MALAYSIAN SHIP**

INLAND REVENUE BOARD OF MALAYSIA

**Public Ruling No. X/2024
Date of Publication: XX XX 2024**

Name of Ship	MS I	MS II
Purchase price (RM'000)	60,000	40,000

The adjusted income of the Malaysian ships are as follows:

YA	Adjusted Income of Malaysian Ships (RM'000)	
	MS I	MS II
2021	20,000	15,000
2022	12,000	7,000
2023	22,000	(1,000)

One of the Malaysian ships, MS II, is sold in 2023 at the market price of RM43,000,000.

(a) Computation For the YA 2021

	RM'000	RM'000
Adjusted income of Malaysian ships		
MS I	20,000	
MS II	15,000	35,000
Less: Capital allowance		
MS I - IA 20% x 60,000	12,000	
- AA 20% x 60,000	12,000	
MS II - IA 20% x 40,000	8,000	
- AA 20% x 40,000	<u>8,000</u>	
	<u>40,000</u>	<u>35,000</u>
Capital allowance c/f	5,000	
Statutory income (exempted under section 54A)		<u>Nil</u>

**TAX TREATMENT OF
MALAYSIAN SHIP**

INLAND REVENUE BOARD OF MALAYSIA

Public Ruling No. X/2024
Date of Publication: XX XX 2024

(b) Computation For the YA 2022

	RM'000	RM'000
Adjusted income of Malaysian ships		
MS I	12,000	
MS II	<u>7,000</u>	19,000
Less: Capital allowance		
Brought forward (MS I & MS II)	5,000	
MS I - AA 20% x 60,000	12,000	
MS II - AA 20% x 40,000	<u>8,000</u>	
	<u>25,000</u>	<u>19,000</u>
Capital allowance c/f	6,000	
Statutory income		
(exempted under section 54A)		<u>Nil</u>

Computation Of Schedule 3 Allowance						
YA		Rate	MS I		MS II	
			RM'000	RM'000	RM'000	RM'000
2021	IA	20%		60,000		40,000
	AA	20%	<u>12,000</u>	<u>24,000</u>	<u>8,000</u>	<u>16,000</u>
	RE			36,000		24,000
2022	AA	20%		<u>12,000</u>		<u>8,000</u>
	RE			24,000		16,000
2023	AA	20%		<u>12,000</u>	Sale	<u>43,000</u>
	RE			12,000		<u>27,000</u>
					Balancing Charge = 24,000 Para 37, Sch 3 ITA	

IA, AA and RE mean initial allowance, annual allowance and residual expenditure respectively.

**TAX TREATMENT OF
MALAYSIAN SHIP**

INLAND REVENUE BOARD OF MALAYSIA

**Public Ruling No. X/2024
Date of Publication: XX XX 2024**

(c) Computation For the YA 2023

	RM'000	RM'000
Adjusted income of Malaysian ships		
MS I	22,000	
MS II	<u>Nil</u>	22,000
Add: Balancing charge MS II		<u>24,000</u>
		46,000
Less: Capital allowance		
Brought forward (MS I & MS II)	6,000	
Annual allowance (MS I) 20% x 60,000	<u>12,000</u>	<u>18,000</u>
		28,000
Less: Adjusted loss of MS II	Less:	<u>(1,000)</u>
Statutory income (exempted under section 54A)		<u>*27,000</u>
*Amount credited to the exempt account		

9.6 More than one qualifying business activity

9.6.1 Besides carrying on the business activity of transporting cargo or passengers by sea, a resident person who owns more than one Malaysian ship may also carry on the activity of letting out his Malaysian ship on a voyage or time charter basis. In such a case, under paragraph 54(1)(a) of the ITA, the activities shall be deemed to be two separate and distinct business sources of that person.

9.6.2 When a resident person carries on two business activities in respect of which his income is exempted under section 54A of the ITA, in determining the exempted income, the capital allowance or adjusted loss in respect of a Malaysian ship used in one business activity shall be deducted against the exempted income of another business activity under paragraphs 54A(2)(a) and 54A(2)(b) of the ITA.

Such treatment deviates from the normal treatment under the provisions of the forgoing chapters by virtue of section 52 of the ITA as mentioned in paragraph 9.3.2 of this PR.

Example 18

T Sdn Bhd, a resident company, owns two ships which qualify for Malaysian ship status under subsection 54A(6) of the ITA. One ship

**TAX TREATMENT OF
MALAYSIAN SHIP**

INLAND REVENUE BOARD OF MALAYSIA

**Public Ruling No. X/2024
Date of Publication: XX XX 2024**

is used in the company's business of transporting cargo by sea. The other ship is let out to another company on a voyage charter basis.

The adjusted income and capital allowance for the YA 2023 are as follows:

YA 2023	Qualifying Business Activities	
	Transporting Cargo by Sea on Malaysian Ship	Letting Out Malaysian Ship on Voyage Charter
Adjusted Income / (Loss) (RM)	(600,000)	2,300,000
Capital Allowance (RM)	100,000	200,000

Computation For The YA 2023

Shipping income exempted under section 54A

	RM	RM
Adjusted income: Letting out Malaysian ship		2,300,000
Less: Capital Allowance		
Letting Out Malaysian ship	200,000	
Transporting Cargo	100,000	<u>300,000</u>
		2,000,000
Less: Adjusted loss: Transporting Cargo		<u>600,000</u>
Statutory income exempted from tax		*1,400,000
* Amount credited to the exempt account		

10. Compliance with Conditions for Annual Verification

10.1 A resident person who is eligible for tax exemption on the statutory income under section 54A of the ITA is subject to the substantive conditions that have been set for every Malaysian ship effective from the YA 2021 as follows:

- (a) annual operating expenditure; and
- (b) full-time employees.

10.2 Compliance with these conditions has been provided in the Income Tax (Exemption) (No. 7) Order 2022 [*P.U.(A) 312/2022*] and the Income Tax (Exemption for Malaysian ship) Order 2024 [*P.U.(A) 184/2024*]. Annual verification of the conditions set for each Malaysian ship shall be obtained from the Malaysian Ministry of Transport.

10.3 The details of the conditions that shall be complied with for every Malaysian ship are as follows:

10.3.1 Conditions for Operating Expenditure

The annual operating expenditure incurred by each Malaysian ship is at least Ringgit Malaysia two hundred and fifty thousand (RM250,000.00). A minimum annual operating expenditure must be fulfilled for each ship used in the business.

10.3.2 Conditions for Full-time Employees

The minimum requirements for the number of full-time employees in Malaysia for each Malaysian ship are as follows —

- (a) at least four shore employees and the majority of the employees shall be Malaysian citizens, namely:
 - (i) a chief executive officer;
 - (ii) an administrative and finance officer;
 - (iii) an operating officer; and
 - (iv) an officer having charge of the health, protection, safety and environmental affairs; and
- (b) the employees who are ship personnel under Part III of the Merchant Shipping Ordinance 1952 [Ord. 70/1952], the employees shall be subject to the minimum requirement as specified in the Safe-Manning Certificate issued by the Marine Department of Malaysia.

Example 19

U Sdn Bhd carries on the sea transport business of carrying cargo by sea and lets out other ships to other companies on a voyage charter basis. For the YA 2021 to 2023, U Sdn Bhd has a cargo ship for transporting cargo by sea and another ship to let out, used in the company's business. Both ships owned by U Sdn Bhd qualify for Malaysian ship status.

The annual operating expenditure for each Malaysian ship used by U Sdn Bhd for the YA 2021 to YA 2023 are as follows:

YA	Annual operating expenditure (RM)	
	Ship 1 Transporting Cargo	Ship 2 Letting Out On Voyage Charter
2021	250,000	255,000
2022	260,000	265,000
2023	265,000	267,000

For the YA 2021 to YA 2023, every Malaysian ship owned by U Sdn Bhd has four on-shore Malaysian employees; a chief executive officer, an administrative and finance officer, an operating officer, and an officer having charge of the health, protection, safety and environmental affairs.

U Sdn Bhd shall obtain an annual verification from the Ministry of Transport for each Malaysian ship used in its business for the YA 2021, YA 2022 and YA 2023 regarding compliance with the operating expenditure and full-time employees before it can claim full tax exemption.

11. Separate Accounts for Malaysian Ships

- 11.1 Where a person carries on a business in respect of which his income is exempt under section 54A of the ITA, he is required to maintain a separate account for the income derived or deemed to be derived from each Malaysian ship from that business pursuant to paragraph 54A(3)(a) of the ITA.

- 11.2 Expenses directly attributable to a Malaysian ship shall be ascertained for each Malaysian ship.
- 11.3 Where the general and administrative expenses incurred are not directly attributable to a Malaysian ship, these expenses are categorized as common expenses and have to be apportioned among the ships based on gross income. If the DGIR is of the opinion that the common expenses are not apportioned on a reasonable and fair basis, the DGIR may allocate as expenses to a particular ship such amounts as might reasonably and properly have been incurred in the normal course of the business in respect of such ship.
- 11.4 Interest expenses incurred on the purchase of more than one ship are not common expenses. Such interest expenses are directly attributable to each ship.

12. Exempt Income, Exempt Account and Dividend

- 12.1 Under paragraph 54A(3)(b) of the ITA, the exempt income of a Malaysian ship has to be credited to an exempt account.
- 12.2 Dividend, if paid out of exempt income, is debited to the exempt account. Where the credit in an exempt account is less than the dividend paid, to debit the exempt account less than the dividend paid, an amount equal to such credit shall be debited to such account in accordance with paragraph 54A(3)(c) of the ITA 1967.

Example 20

V Sdn Bhd, a shipping company, has an exempt income of RM200,000 under section 54A of the ITA for the year 2023. The company paid a dividend of RM150,000 and RM90,000 in June and December 2023 respectively. The exempt account is as follows:

Exempt Account			
Dividend – June	150,000	Balance (Exempt income) for year 2023	200,000
Dividend – December (restricted)			
	<u>50,000</u>		
	<u>200,000</u>		<u>200,000</u>

In the above example, the second dividend of RM90,000 was paid in December 2023 when the credit balance in the account was only RM50,000. The maximum amount that shall be debited to the account should not exceed RM50,000. A dividend of RM50,000 could be regarded as tax exempt being paid out of the company's exempt income.

The tax treatment of companies in Malaysia is based on the imputation system before 1.1.2008. Therefore, before 1.1.2008, dividends that were not distributed out of the exempt account were taxable in the hands of the shareholders. However, on or after 1.1.2008, when the single-tier system was introduced, the remaining dividend of RM40,000 issued by V Sdn Bhd was also exempted from tax in the hands of the shareholders, at the gross income level under paragraph 12B, Schedule 6 of the ITA and was not eligible for tax credit under section 110 of the ITA.

- 12.3 Dividend paid, credited or distributed out of the exempt account is exempt from income tax in the hands of the shareholders under paragraph 54A(3)(d) of the ITA.
- 12.4 Pursuant to paragraph 54A(3)(e) of the ITA, where the recipient of a dividend is a company, any dividend paid by that company to its shareholders is also exempt from tax in the hands of the shareholders, provided the DGIR is satisfied that the dividend so paid is paid out of such exempt income.
- 12.5 Subsection 54A(5) of the ITA provides that if any income of a person or a dividend in the hands of a shareholder ought not to have been exempt, then –
- (a) assessments or additional assessments upon that person or shareholder must be made to recover the loss of tax, and
 - (b) the exempt account must be debited with such an amount.

13. Non-Application

Group relief for companies under section 44A of the ITA shall not apply to a company for the basis year for a year of assessment during the period in which the company enjoys exemption of shipping income under Section 54A of the ITA.

14. Income Derived from Sources Outside Malaysia

- 14.1 The gross income, adjusted income or adjusted loss and statutory income from the business of sea transport or shipping of a resident person shall be ascertained by reference to his income therefrom wherever accrued or derived (world scope) in accordance with paragraph 54(2)(a) and subject to section 54A of the ITA.
- 14.2 Sea transport or shipping is not defined in the ITA. Under the ITA, the specific provisions with regard to sea transport or shipping are sections 54 and 54A. In line with these two provisions, sea transport or shipping carried on by a person is construed to include the business of –
- (a) transporting passengers or cargo by sea on a Malaysian ship, or
 - (b) letting out on charter a Malaysian ship owned by him on a voyage or time charter basis.
- 14.3 A resident company enjoys an exemption of income under section 54A of the ITA for carrying on the business of sea transport and letting out its Malaysian ships within the context of paragraphs 14.2(a) and 14.2(b) above. Other Income derived from sources outside Malaysia and received in Malaysia is subject to tax in Malaysia.

Example 21

W Sdn Bhd, a resident company, carries on the sea transport business of carrying cargo by sea on a Malaysian ship plying between Sabah and Manila. The following information was submitted by the company for the year ended 31.12.2023:

Statutory Income	RM
Sea transport business	2,500,000
Other business income from Manila, The Philippines	360,000
Income from investment in Manila, The Philippines	708,000

Additional information:

- (a) Income from the sea transport business is based on the world income from wherever accrued or derived, including amounts not remitted to Malaysia.
- (b) W Sdn Bhd also operates an employment agency business in Manila. In 2023, 90% of such business income was remitted to Malaysia.
- (c) Income from investment in Manila consists of dividend income. Only 1/3 of the dividend income was remitted to Malaysia in the year 2023.

Computation For the YA 2023

	RM
Statutory income from sea transport business 2,500,000 ⁽⁸⁾ (tax exempt under section 54A)	NIL
Other business income from outside Malaysia 360,000 x 90% ⁽⁹⁾	324,000
Dividends from outside Malaysia 708,000 x 1/3 ⁽¹⁰⁾	<u>236,000</u>
Aggregate / Total / Chargeable Income	<u>560,000</u>

⁽⁸⁾ Income from the business activity of transporting cargo by sea is based on the income from wherever accrued or derived, irrespective of whether it is remitted to Malaysia, pursuant to paragraph 54(2)(a) of the ITA.

^{(9) & (10)} Income derived from sources outside Malaysia and received in Malaysia by a resident sea transport company.

14.4 Where income from sources outside Malaysia is subject to tax in Malaysia and a foreign country, double taxation relief may be available for foreign tax suffered pursuant to sections 132 or 133 and Schedule 7 of the ITA. The bilateral and unilateral credits are discussed in detail in the PR No. 11/2021 issued on 31 December 2021.

15. Payment to Non-Residents

A resident shipping operator may make rental or other payments to a non-resident. Matters regarding withholding tax on such payments are described in the PR No. 10/2019 issued on 10 December 2019.

16. Documents Required to Claim for Exemption

16.1 In the event of a tax audit, a shipping operator is required to substantiate a claim for the exemption of the shipping income by providing documentary evidence to prove that the operator –

- (a) is resident in Malaysia, and
- (b) carries on a qualifying business within the context of section 54A of the ITA.

16.2 In addition, the following documents may also be required:

- (a) certificates issued by the Marine Department, e.g. the Certificate of Registry and Domestic Shipping Licence
- (b) port clearance issued by the Royal Malaysian Customs Department
- (c) documents of shipping routes
- (d) charter-party contracts or agreements, if any, made between the ship owner and the charterer for the use of a ship, or
- (e) Reports and documents of compliance with conditions and annual verification from the Malaysian Ministry of Transport (starting YA 2023); or
- (f) any other relevant documents.

17. Updates and Amendments

<p>This PR replaces PR No. 10/2012 dated 13 December 2012 (First Edition)</p>	<p>The content of this PR has been updated and amended by Finance Act 742/2012 as follows:</p> <table border="1" style="width: 100%;"> <thead> <tr> <th style="width: 15%;">Paragraph</th> <th>Details</th> </tr> </thead> <tbody> <tr> <td style="text-align: center;">1</td> <td>Content is updated</td> </tr> <tr> <td style="text-align: center;">2</td> <td>Paragraph 2.1 is updated. New paragraphs 2.4 until 2.7 are inserted</td> </tr> <tr> <td style="text-align: center;">3</td> <td>Subparagraphs 3.1(a) to 3.1(c) are inserted Paragraph 3.2 is updated. Paragraph 3.3 is updated, the words 'before the amendment' are updated to 'parallel with the amendment'.</td> </tr> <tr> <td style="text-align: center;">4</td> <td>Paragraph 4 are updated. Paragraph 4.3 is deleted. Paragraphs 4.4, 4.5 and 4.6 are replaced to Paragraphs 4.5, 4.6 and 4.7.</td> </tr> <tr> <td style="text-align: center;">5</td> <td>Subparagraph 5.3.1 are updated.</td> </tr> <tr> <td style="text-align: center;">6</td> <td>The content of subsection 6.1.1 is updated. Subparagraphs 6.2.1 and 6.2.4 are updated. The information in the table in paragraph 6.7 is updated.</td> </tr> <tr> <td style="text-align: center;">9</td> <td>Paragraphs 9.2, 9.4.2-9.5 and 9.6 are updated.</td> </tr> <tr> <td style="text-align: center;">10</td> <td>New paragraphs 10.1 to 10.3 are inserted to replace paragraphs 10.1 to 10.3 of the original PR. New example 19 is inserted in subparagraph 10.3.</td> </tr> </tbody> </table>	Paragraph	Details	1	Content is updated	2	Paragraph 2.1 is updated. New paragraphs 2.4 until 2.7 are inserted	3	Subparagraphs 3.1(a) to 3.1(c) are inserted Paragraph 3.2 is updated. Paragraph 3.3 is updated, the words 'before the amendment' are updated to 'parallel with the amendment'.	4	Paragraph 4 are updated. Paragraph 4.3 is deleted. Paragraphs 4.4, 4.5 and 4.6 are replaced to Paragraphs 4.5, 4.6 and 4.7.	5	Subparagraph 5.3.1 are updated.	6	The content of subsection 6.1.1 is updated. Subparagraphs 6.2.1 and 6.2.4 are updated. The information in the table in paragraph 6.7 is updated.	9	Paragraphs 9.2, 9.4.2-9.5 and 9.6 are updated.	10	New paragraphs 10.1 to 10.3 are inserted to replace paragraphs 10.1 to 10.3 of the original PR. New example 19 is inserted in subparagraph 10.3.
Paragraph	Details																		
1	Content is updated																		
2	Paragraph 2.1 is updated. New paragraphs 2.4 until 2.7 are inserted																		
3	Subparagraphs 3.1(a) to 3.1(c) are inserted Paragraph 3.2 is updated. Paragraph 3.3 is updated, the words 'before the amendment' are updated to 'parallel with the amendment'.																		
4	Paragraph 4 are updated. Paragraph 4.3 is deleted. Paragraphs 4.4, 4.5 and 4.6 are replaced to Paragraphs 4.5, 4.6 and 4.7.																		
5	Subparagraph 5.3.1 are updated.																		
6	The content of subsection 6.1.1 is updated. Subparagraphs 6.2.1 and 6.2.4 are updated. The information in the table in paragraph 6.7 is updated.																		
9	Paragraphs 9.2, 9.4.2-9.5 and 9.6 are updated.																		
10	New paragraphs 10.1 to 10.3 are inserted to replace paragraphs 10.1 to 10.3 of the original PR. New example 19 is inserted in subparagraph 10.3.																		
<p>This PR replaces PR</p>																			

**TAX TREATMENT OF
MALAYSIAN SHIP**

INLAND REVENUE BOARD OF MALAYSIA

**Public Ruling No. X/2024
Date of Publication: XX XX 2024**

No. 10/2012 dated 13 December 2012 (First Edition)	11	The previous content 10 is amended and rearranged into content 11.
		Paragraphs 11.1 to 11.4 refer to paragraphs 10.1 to 10.4 of the original PR.
	12	The previous content 11 is amended and rearranged into content 12.
		Paragraphs 12.1 to 12.5 refer to paragraphs 11.1 to 11.5 of the original PR.
		The content of the previous example 19 is amended and rearranged into example 20.
	13	The previous content 12 is amended and rearranged into content 13.
	14	The previous content 13 is amended and rearranged into content 14.
		Paragraphs 14.1 to 14.4 refer to paragraphs 13.1 to 13.4 of the original PR.
		The amended content of paragraphs 13.1, 13.3 and 13.4 has been rearranged into the updated paragraphs 14.1, 14.3 and 14.4.
		The content of the previous example 20 is amended and rearranged into example 21.
	15	The previous content 14 is amended and rearranged into content 15.
	16	The previous content 15 is amended and rearranged into content 16.
New subparagraph 16.2(f) is inserted to replace subparagraph 16.2(e) of the original PR.		

18. Disclaimer

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

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

PUBLIC CONSULTATION