



**Section 4(a) &  
Section 60 Income Tax Act 1967**

**ZURICH LIFE INSURANCE MALAYSIA BERHAD**

**v.**

**KETUA PENGARAH HASIL DALAM NEGERI**

**[W-01(A)-629-11/2023]**

 **COURT OF APPEAL**



**YA DATUK SUPANG LIAN  
YA DATO' AZMI BIN ARIFFIN  
YA DATUK ISMAIL BIN BRAHIM**



**17<sup>th</sup> MARCH 2025**

The Court of Appeal unanimously dismissed the Taxpayer's appeal against the High Court's decision. The dispute revolved around the Taxpayer, being an insurance company, claiming that it operated two 'distinct' businesses that were unrelated to its insurance business, namely, sub-lease of unoccupied premises in Menara MAA in Kuching and Kota Kinabalu and operation of Casa Rachado Resort in Port Dickson.

The lease of Menara MAA Kuching and Kota Kinabalu and the acquisition of Casa Rachado Resort were funded by the Life Fund of its life insurance business. Initially, the income from these sources was declared as rental income but was later reclassified as business income under Section 4(a) of the Income Tax Act 1967 ("ITA 1967"). The Revenue rejected this reclassification, treating the income as Life Fund income, as it was gross income from investments made from the Taxpayer's Life Fund that would fall under Section 60(3)(a) of the ITA 1967.

The Taxpayer contended that these businesses should be taxed separately as business income under Section 4(a) of the ITA 1967 as the businesses by its very nature, do not qualify as an investment. On this basis, all related expenditures of the two sources were claimed as deductions under Section 33(1) of the ITA 1967. The Taxpayer also sought to set-off the adjusted losses from the two sources against the General Fund and Shareholders' Fund income asserting that the income derived from the two sources cannot be treated as investments as they were not passive income given the Taxpayer's active involvement in managing the resort and maintaining the sub-leased premises.

The Revenue countered that as an insurer, the Taxpayer was legally prohibited from carrying out any other business other than insurance. Section 60 of the ITA 1967 was primarily based on the laws regulating the insurance industry and thus, its construction must take into account the legal framework of the insurance business. Further, the Taxpayer had declared in its statutory return to Bank Negara that the resort was the investment property of the Life Fund and the income from both sources was reported as the investment income of the Life Fund.

The term "investments" was defined in Section 60(11) of the ITA 1967 to include any accretions thereto but did not clarify what constituted an investment. The Revenue argued that based on the ordinary meaning of investment as derived from dictionaries, investment would not necessarily mean passive income. When money being put into something or used to generate a profit, then such an act qualified as an investment. Thus, when the money from the Life Fund was used to purchase the Casa Rachado Resort, it would constitute an investment made from the Life Fund. Similarly, when money from the Life Fund was used to rent out Menara MAA Kuching and Kota Kinabalu and the rental lead to sub-leasing of parts of the unused premises, it represented the use of Life Fund money to generate a profit and hence, an investment. Further, based on Sections 60(10A) and 60(10D) of the ITA 1967, the computation of the Life Fund's total income had been quarantined to Life Fund. Thus, the adjusted losses arising out of the two sources from the Life Fund could not be set-off with the General Fund and Shareholders' Fund income.

The Court of Appeal held that there was no appealable error in the decision of the High Court Judge in dismissing the Taxpayer's appeal, and thus, the appellate intervention was unwarranted. Consequently, the High Court's order was affirmed, and the Taxpayer's appeal had been dismissed with costs of RM15,000 to be awarded to the Revenue.