



SECTION 33(1) INCOME TAX ACT 1967

DIRECTOR GENERAL OF INLAND REVENUE  
V.  
TAHORA TRADING SDN BHD  
RAYUAN SIVIL NO.: KCH-14-1-10-2023

 HIGH COURT OF KUCHING

 YA DATO' FARIDZ GOHIM BIN ABDULLAH

 3 DECEMBER 2025

The Taxpayer was a logging contractor. In carrying out its activity, the Taxpayer had entered into the designated forest areas which includes the natives' occupation areas. The Taxpayer had appointed the "Tuai Rumah", "Pengkulu" and assistants ("Committee Members") of the affected

longhouses in the natives' occupation areas to assist in its negotiation with the natives. The Taxpayer contended that they have paid allowances to the Committee Members amounting to RM87,210.00 for the Year of Assessment ("YA") 2009 for their services. The Director General of Inland Revenue ("DGIR") disallowed the expenditure on the basis that it was a form of compensation and raised the additional assessment with a penalty. Dissatisfied, the Taxpayer appealed against the assessment to the Special Commissioners of Income Tax ("SCIT"). The SCIT allowed the appeal on the grounds that the Taxpayer had successfully discharged the burden of proof under Paragraph 13, Schedule 5 of the Income Tax Act 1967 ("ITA 1967"). The DGIR had then appealed against the SCIT's decision to the High Court.

The Taxpayer argued that the disputed expenditure was deductible under Subsection 33(1) ITA 1967. The Taxpayer faced objections from the natives when entering the designated forest areas to conduct logging including road blockages that disrupted its operations. The Taxpayer claimed the expenditure was not only out of business necessity but with the sole intent of an immediate or direct benefit of commercial expediency to facilitate the Taxpayer in carrying out the logging operation. The main purpose of the payments was to obtain the assistance of the Committee Members to negotiate, resolve, and settle the dispute with the natives of the longhouse to enable the Taxpayer to resume its business operation and generate its income.

The DGIR on the other hand argued that the payments to the Committee Members were actually compensation (i.e "wang perlindungan") and the real purpose was to avoid disturbances from the natives. The Taxpayer's own general ledger had classified the payments as "compensation to native", and evidence showed that the Committee Members had requested "wang saguhati". There were also inconsistencies between the amounts stated in the agreements and the amounts actually paid and received and no evidence was provided to show that the Committee Members genuinely performed services to resolve the dispute. The DGIR further questioned the legality of their appointment. Therefore, based on the circumstances, the DGIR concluded that the payments were not wholly and exclusively incurred in the production of gross income under Subsection 33(1) ITA 1967 but rather the payment was in the form of 'protection money'.

On 03.12.2025, the High Court agreed that the SCIT had arrived at the correct findings of fact and applied the law correctly regarding the amount claimed by the Taxpayer as a deduction under Subsection 33(1) ITA 1967. Hence, the High Court subsequently dismissed the DGIR's appeal and affirmed the decision of the SCIT.

### Editorial Notes

- The DGIR has the right to appeal to the Court of Appeal within 30 days from the date of the decision.