

**PARAGRAPH 4(a), PARAGRAPH 4(d) & SECTION
60F INCOME TAX ACT 1967**

GLENMARIE ESTATES SDN BHD

V.

DIRECTOR GENERAL OF INLAND REVENUE

WA-14-28-07/2023, WA-14-29-07/2023 &

WA-14-30-07/2023

The Taxpayer is an investment holding company which owns 14 properties ('Properties') that were rented out. The issue to be determined is whether the rental income

received by the Taxpayer is a business income under paragraph 4(a) of the Income Tax Act ("ITA 1967") or a rental income under paragraph 4(d) ITA 1967. The Special Commissioners of Income Tax ("SCIT") on 14.07.2023 dismissed the Taxpayer's appeal. Dissatisfied with the SCIT's decision, the Taxpayer further appealed to the High Court.

The Taxpayer alleged that the rental income received is a business income and is taxable under paragraph 4(a) of the ITA 1967. The Taxpayer further contends that it is not a 'passive' service provider as the Taxpayer maintains the Properties to keep them in a tenantable condition at all times and mostly hires third parties to carry out the maintenance and security services. Furthermore, the employees of the Taxpayer will also attend to the general needs of the tenants. The Taxpayer alleged that the Director General of Inland Revenue ("DGIR") had wrongly applied Public Ruling No. 12/2018 ('PR 12/2018') in assessing the tax to be imposed on the Taxpayer as PR 12/2018 cannot be applied retrospectively. PR 12/2018 only came into force on 19.12.2018 and the additional assessment is for financial years ending 2015, 2016 and 2017.

The DGIR submitted that since the Taxpayer is an investment holding company and is not listed on Bursa Malaysia, the tax treatment for the Taxpayer is under Section 60F ITA 1967 where any income received from investment holding such as [interest, dividend, rent (non-business) and rent (investment holding business)] is considered as a non-business source. Further, it was not mentioned or stated in the tenancy agreement that the Taxpayer has to provide comprehensive maintenance on the Properties, and no evidence shows that the maintenance or support services were comprehensively and actively provided by the Taxpayer on the Properties other than upon request or complaint by the tenants. The DGIR further submitted that he was correct in relying on the PR 12/2018 as it replaced Public Ruling No. 4/2011 (issued on 10.03.2011) which was issued as a guidance in determining whether a rental income is subjected to paragraph 4(a) or paragraph 4(d) ITA 1967.

On 22.04.2026, the High Court of Kuala Lumpur had dismissed the Taxpayer's appeal with costs.

Editorial Notes:

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



 **HIGH COURT OF KUALA LUMPUR**

 **YA ALICE LOKE YEE CHING**

 **22 APRIL 2026**