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BY LEGAL DEPARTMENT

PESURUHJAYA KHAS CUKAI PENDAPATAN

YBHG. DATO' ISKANDAR ALI BIN DEWA

29 JUNE 2026

SECTION 33(1), SECTION 60(3) & SECTION 60(3A) INCOME TAX ACT 1967

EGIB
v.
DIRECTOR GENERAL OF INLAND REVENUE
MOF.PKCP.700.7/1/527 & MOF.PKCP.700.7/1/673

The Taxpayer is an insurance company operating in Malaysia. The Taxpayer disagreed with the Director General of Inland Revenue's ("DGIR") decision in disallowing the Taxpayer's Rental and Property Management Expenses ('the said Expenses') incurred by the Shareholders' Fund, Participating Life Fund, Non-Participating Life Fund, and Investment-linked Fund as deductions under Section 33(1) of the Income Tax Act 1967 ("ITA 1967") for the Years of Assessment ("YA") 2013 and 2014.

The Taxpayer submitted that the said Expenses were wholly and exclusively incurred in the production of rental income and therefore deductible under Section 33(1) ITA 1967. The Taxpayer further contended that Sections 60(3) ITA 1967 and 60(3A) ITA 1967 merely provide a computational framework which does not negate the general deductibility rule. The Taxpayer also argued that the penalties imposed were unjustified as the Taxpayer had acted in good faith and relied on professional advice.

Conversely, the DGIR submitted that the said Expenses were not allowed as deductions under Section 33(1) ITA 1967 as the Taxpayer is operating as an insurance company and subjected to Sections 60(3)(a)(i) ITA 1967 and 60(3A)(a)(i) ITA 1967 which require income to be computed on a gross basis, thereby overriding Section 33(1) ITA 1967 in accordance with the principle of *generalia specialibus non derogant*. The DGIR also contended that the penalties imposed under Section 113(2) ITA 1967 were valid, as the Taxpayer had submitted incorrect returns. A claim of "good faith" is not a defence to the imposition of such penalties.

On 29.06.2026, the Special Commissioners of Income Tax ("SCIT") held that the Taxpayer had failed to discharge the burden of proof under Paragraph 13, Schedule 5 ITA 1967 and accordingly dismissed the appeal. However, the appeal in respect of the penalties was allowed.

Editorial Note:

- *The Taxpayer and the DGIR is entitled to file an appeal against the decision of the SCIT within 21 days from the date of the decision.*