ReveNews
LHDN MALAYSIA
BY LEGAL DEPARTMENT

SPECIAL COMMISSIONERS OF INCOME TAX

DATIN SAMIHAH BINTI RHAZALI

21 AUGUST 2026

PARAGRAPH 4(a) & PARAGRAPH 4(f)
INCOME TAX ACT 1967

STSB
V.
DIRECTOR GENERAL OF INLAND REVENUE
MOF.PKCP.700-7/1/2982-2985

The Taxpayer is a logging company that undertakes a forest plantation project involving timber extraction, cultivation of timber latex clone rubber trees, rubber tapping, and the eventual harvesting of timber. The project was financed by FPDSB while existing forest produce within the project area was subject to an 80:20 profit-sharing arrangement with KSG. The primary issue in the appeal was whether the profits earned by the Taxpayer from the sale of timber are subject to tax under the Income Tax Act 1967 ("ITA 1967").

The Taxpayer contended that the proceeds from the disposal of leftover timber were capital receipts arising from the development of a long-term Timber Latex Clone plantation project. The timber extraction was merely a necessary land-clearing activity which lacked existing element of badges of trade. The leftover timber was not the Taxpayer's trading stock and was inseparable from the plantation development process. Relying on the case of *Mamor Sendirian Berhad v Director-General of Inland Revenue [1986] 1 MLJ*, the Taxpayer argued that the receipts are capital in nature and therefore not taxable under either paragraph 4(a) or paragraph 4(f) ITA 1967. The Taxpayer further contended that the Director General of Inland Revenue ("DGIR") and the Special Commissioners of Income Tax ("SCIT") were bound by the decision in that case.

The DGIR argued that the timber sale proceeds were taxable because the extraction and sale of timber formed part of the Taxpayer's ongoing commercial forest plantation business. The agreements with KSG provides a profit-sharing mechanism inclusive of the proceeds from the disposal of leftover timber which demonstrates an intention to generate profit from the timber disposal. The DGIR further contended that the present case should be distinguished from the case of *Mamor Sendirian. Bhd.* (supra). In that case the sale of timber was only an incidental activity arising from the clearing of land for the development of an oil palm plantation and was not a separate commercial business. While in the present case the disposal of timber is closely related to the Taxpayer's timber business operation, therefore the proceeds are taxable under paragraph 4(f) ITA 1967 as income from other sources.

On 21.8.2026, the SCIT held that the Taxpayer had successfully proved its appeal as required under Paragraph 13, Schedule 5 of the ITA 1967 and allowed the appeal. The SCIT ruled that the Notice of Assessment for the Year of Assessment 2009 to 2012, along with the imposition of penalties is to be set aside.

Editorial Note

- *The DGIR has the right to file an appeal against the decision by the SCIT within 21 days from the date of the decision.*