



PESURUHJAYA KHAS CUKAI PENDAPATAN



PUAN ZAHIDA BINTI ZAKARIA



25 SEPTEMBER 2026

SECTION 110B INCOME TAX ACT 1967

SLMAB

V.

**DIRECTOR GENERAL OF INLAND REVENUE
MOF.PKCP. 700-7/1/-1747, MOF.PKCP. 700-
7/1/2190 & MOF.PKCP. 700-7/1/2314**

The Taxpayer is a company carrying on life insurance business. The Taxpayer submitted remission applications for Years of Assessment (“YAs”) 2015, 2016 and 2017. In considering those applications and ascertaining the Taxpayer's final tax liability, the

Director General of Inland Revenue (“DGIR”) found that the Taxpayer had claimed a set-off against actuarial surplus under Section 110B of the Income Tax Act 1967 (“ITA 1967”) for YAs 2015, 2016 and 2017. In computing the set-off, the Taxpayer included amounts attributable to the Unit Linked Fund (“ULF”). However, in the Taxpayer's own Schedule 4 of the set-off computations, actuarial surplus transferred under the Investment Linked Operating Fund (“ILO”) was recorded, whereas RM0.00 was recorded as actuarial surplus transferred under the ULF. The DGIR accordingly excluded the disputed ULF amounts from the Section 110B ITA 1967 computation on the basis that the Taxpayer had not established that those amounts formed part of the actuarial surplus transferred to the Shareholders' Fund. Following the adjustments, the DGIR issued Notices of Additional Assessment (Forms JA) for YA 2015 dated 23.11.2020, YA 2016 dated 15.12.2021, and YA 2017 dated 28.4.2022. The Taxpayer appealed against those additional assessments to Special Commissioner of Income Tax (“SCIT”).

The Taxpayer argued that the ULF and ILO were both part of the larger Life Fund and should therefore be treated as a single fund when applying Section 110B ITA 1967. According to the Taxpayer, money generated by the ULF, including fund management charges, was transferred into the ILO and eventually formed part of the actuarial surplus that was later moved from the ILO to the Shareholders' Fund. The Taxpayer explained that the RM0.00 figure shown for the ULF in Schedule 4 did not mean that the ULF made no contribution to the actuarial surplus. Instead, ULF's contribution had already been absorbed into the ILO before the surplus was transferred to the Shareholders' Fund. In other words, part of the surplus originally came from the ULF but was reflected under the ILO at the time of transfer. The Taxpayer also argued that excluding the ULF amounts would result in double taxation. This was because the income had already been taxed when it formed part of the Life Fund and would effectively be taxed a second time when the actuarial surplus was later taxed in the Shareholders' Fund.

The DGIR did not dispute that the ULF formed part of the Life Fund. However, the key issue was whether the disputed ULF amounts were actually included in the actuarial surplus that was transferred to the Shareholders' Fund. The DGIR pointed out that the Taxpayer's own Schedule 4 showed an actuarial surplus transfer under the ILO, while the amount recorded under the ULF was RM0.00. According to the DGIR, the fact that management fees were transferred from the ULF to the ILO was merely an accounting entry and did not prove that those amounts eventually formed part of the actuarial surplus transferred to the Shareholders' Fund. The DGIR further argued that the Taxpayer had not produced any actuarial evidence, such as an actuarial valuation, report, certificate or reconciliation, to trace the disputed ULF amounts into the actuarial surplus that was transferred. As a result, there was no evidence showing that the ULF amounts formed part of the transferred surplus. The DGIR also rejected the Taxpayer's claim of double taxation as the Taxpayer had not shown that the ULF amounts had already been taxed at the 8% rate before the transfer took place. The DGIR argued that the Taxpayer had failed to provide both the legal basis and supporting evidence for the calculation of the actuarial surplus.

On 25.9.2026, the SCIT held that the Taxpayer had successfully discharged its burden of proof under Paragraph 13, Schedule 5 ITA 1967. Therefore, the Taxpayer's appeals were allowed and the Forms JA for YAs 2015, 2016 and 2017 were 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.*