

PRACTICE NOTE NO. 3/2020

CLARIFICATION ON DETERMINING THE GROSS INCOME FROM BUSINESS SOURCES OF NOT MORE THAN RM50 MILLION OF A COMPANY OR LIMITED LIABILITY PARTNERSHIP

1. This Practice Note is issued pursuant to the amendment of the Income Tax Act 1967 [Act 53] (ITA 1967) by the Finance Act 2019 [Act 823]. This amendment is regarding an additional criteria applicable to a company or limited liability partnership (LLP) resident in Malaysia to be eligible for the tax treatment under paragraphs 2A and 2D, Part 1, Schedule 1 and subparagraph 19A(3), Schedule 3 of the ITA 1967.
2. The amendment provides that, other than the requirement of having a paid-up capital in respect of ordinary shares of up to RM2.5 million for a company or a total capital contribution of up to RM2.5 million for a LLP, as an additional criteria the company/LLP must also have gross income from business sources not exceeding RM50 million.
3. This Practice Note clarifies that the additional criteria for a company/LLP to have gross income from all business sources shall be determined as follows:
 - 3.1 Subject to sections 22, 24 and 30 of the ITA 1967 - for companies/LLPs engaged in manufacturing/trading/service activities; or
 - 3.2 Subject to specific provisions under the ITA 1967 or specific regulations for certain industries - for companies/LLPs carrying out activities such as banking/insurance/developers/contractors.
4. Issues arising on the implementation of the additional criteria:

No.	Issues	Tax Treatment
1.	Company is an Investment Holding Company	For a company which is an investment holding company and is; (i) subject to section 60F of the ITA 1967, a company which is an

No.	Issues	Tax Treatment
		<p>investment holding not listed on Bursa Malaysia, is deemed to have no gross income from a business source and is not eligible for tax treatment under paragraphs 2A or 2D, Part 1, Schedule 1 and subparagraph 19A (3), Schedule 3 of ITA 1967;</p> <p>(ii) subject to section 60FA of the ITA 1967, a company which is an investment holding listed on Bursa Malaysia, is deemed to have gross income from a business source and is eligible for tax treatment under paragraphs 2A or 2D, Part 1, Schedule 1 and subparagraph 19A (3), Schedule 3 of ITA 1967.</p>
2.	Company/LLP which does not have gross income from business sources but have other incomes such as rent and interest (including temporarily closed business operations).	If other income such as rent and interest are not assessed as income from the source of a business under paragraph 4(a) of the ITA1967, the company/LLP which does not have gross income from business sources is not eligible for tax treatment under paragraphs 2A or 2D, Part 1, Schedule 1 and subparagraph 19A (3), Schedule 3 of ITA 1967.
3.	Company/LLP which has gross income from foreign business sources.	Gross income from foreign business sources shall be taken into account in determining gross business income not exceeding RM50 million.

No.	Issues	Tax Treatment
4.	Company/LLP enjoying certain incentives/tax incentives such as pioneer status or investment tax allowance.	Exempted gross income from business source shall be taken into account in determining gross business income not exceeding RM50 million.

**Director General of Inland Revenue
Inland Revenue Board of Malaysia**

DATE OF ISSUE: 18 MAY 2020