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Public Ruling No. 1/2001
Ownership of Plant and Machinery for the Purpose of Claiming Capital Allowances

1.0 TAX LAW

This Ruling applies in respect of ownership of plant and machinery for the purpose of claiming initial and annual allowances under paragraphs 10 & 15, Schedule 3 to the Income Tax Act, 1967. It is effective from the year of assessment 2000 (current year basis) and subsequent years of assessment.

2.0 THE APPLICATION OF THIS RULING

This Ruling considers the ownership of plant and machinery and its effect on whether a person qualifies to claim capital allowances in respect of that plant and machinery in determining the statutory income from a business of his.

3.0 HOW THE TAX LAW APPLIES

3.1 Deduction for capital allowances

In computing the statutory income from a business, capital allowances under Schedule 3 of the Income Tax Act 1967 [hereinafter referred to as capital allowances and the Act, respectively] are deductible from the adjusted income of that source.

3.2 Conditions for capital allowances

3.2.1 To qualify for initial allowance in respect of plant or machinery for a year of assessment, a person has to satisfy all the following conditions:

A he was carrying on a business during the basis period;

B he has incurred qualifying plant expenditure in respect of that asset during the basis period;

C that asset was used for the purpose of the business; and

D at the end of the basis period (or, if the asset was disposed of, at the time of disposal), he was the owner of the asset.

3.2.2 To qualify for annual allowance in respect of plant or machinery for a year of assessment, a person has to satisfy all the following conditions:

A. he was carrying on a business during the basis period;

B. he had incurred qualifying plant expenditure in respect of that asset;

C. that asset was used for the purpose of the business; and

D. at the end of the basis period, he was the owner of the asset and the asset was in use.

3.3 Ownership of the asset

3.3.1 "Ownership" of an asset refers to either legal or beneficial ownership.

3.3.2 While it is normal for an asset to be owned and used by the same person in a business of his, it is also possible that:

A. the asset is registered in the name of one person (the legal owner) [see paragraph 4.4 below] although the qualifying plant expenditure has been incurred by another person (the beneficial owner) [see paragraph 4.3 below]; or

B. the asset is registered in the name of one person (the legal owner) although the qualifying plant expenditure has been incurred jointly by the legal owner and another person; and

C the asset is used for the purpose of the business of the legal owner or the business of the beneficial owner.

3.4 Asset owned by and used for the purpose of the business of the same person

A person who is both the beneficial and legal owner of an asset and uses that asset for the purpose of his business is entitled to claim the capital allowances in respect of that asset.

Example:

Encik Salleh purchases a van on 21.06.2000 and registers it in his own name. He uses the van in his grocery business, for which accounts are prepared to 31 December every year. As at 31.12.2000, the van is still in use.

In computing the statutory income from his grocery business for year of assessment 2000, Encik Salleh qualifies for capital allowances on the van as he has fulfilled the prescribed conditions [see paragraph 3.2 above]:

A. he was carrying on a business during the basis period;

B. he has incurred qualifying plant expenditure for the purpose of his business;

C. the asset was used for the purpose of his business during the basis period; and

D at the end of the basis period, he was the owner of the asset and the asset was in use for the purpose of his business.

3.5 Asset used for the purpose of the business of a person but registered in the name of another person

3.5.1 Asset used for the purpose of the business of the beneficial owner but registered in the name of another person

Where a person has:

A. incurred the qualifying plant expenditure on asset; and

B. that asset is used for the purpose of a business of his during the basis period; and

C. the asset was still in use at the end of the basis period; that person (the beneficial owner) is entitled to claim both the initial and annual allowances in respect of that asset, even though he is not the registered owner of the asset.

Example:

Encik Azmi purchases a lorry in basis year 2001 and registers it in the name of Encik Musa.The lorry is used by Encik Azmi in carrying on his transportation business. In computing the statutory income from the business of Encik Azmi for year of assessment 2001, initial and annual allowances may be claimed by him as he has fulfilled the prescribed conditions.Encik Musa is not entitled to claim any of the allowances as he has not incurred the qualifying plant expenditure.

3.5.2 Asset registered in the name of a person and used for the purpose of the business of more than one beneficial owner

Where:

A. more than one person has incurred qualifying plant expenditure on an asset;

B. that asset is used for the purpose of a business of each of them during the basis period;

C. the asset was still in use at the end of the basis period; and

D. the asset is registered in the name of only one of the beneficial owners or in the name of some other person;

each of the beneficial owners of the asset is entitled to claim the capital allowances in respect of that asset in the appropriate proportion as determined by his respective share of the qualifying plant expenditure incurred. [In such a situation, a statement to the effect that more than one person is claiming the capital allowances in respect of the same asset (together with details of the apportionment) must be made in their respective tax computations.]

Note: The above does not apply to a similar situation which involves a partnership, for which there are specific rules: see the Income Tax (Capital Allowances and Charges) Rules 1969 [P.U.(A) 96/1969].

Example:

Brothers Ahmad and Ali, each operating his own restaurant business, together purchase a van costing RM56,000 on 01.09.2001. Ahmad pays RM30,000 and Ali pays RM26,000. The van is registered in Ahmad's name. The van is used in both Ahmad's and Ali's businesses in the basis period for the year of assessment. The accounts of both businesses are closed on 31 December.

Initial and annual allowance should be computed as follows:

Year of assessment 2001	Ahmad		Ali	
Qualifying expenditure		30,00		26,000
Initial allowance (20%)	6,000		5,200	
Annual allowance (20%)	6,000	12,000	5,200	10,400
Residual expenditure		18,000		15,600

For year of assessment 2001, Ahmad can claim capital allowances amounting to RM12,000 and Ali can claim RM10,400 in respect of the van.

3.5.3 Asset registered in the name of, and used for the purpose of the business of, the legal owner but qualifying plant expenditure incurred by another person

Where the qualifying plant expenditure in respect of an asset is incurred by a person (the beneficial owner) but it is registered and used for the purpose of the business of another person (the legal owner), neither the beneficial nor the legal owner is entitled to claim the capital allowances since neither has fulfilled all the prescribed conditions.

Example:

Syarikat X Bhd. purchases a lorry and registers it in the name of its subsidiary company, Syarikat Y Sdn. Bhd. The lorry is used by Syarikat Y Sdn. Bhd. in carrying on its business.

Neither company qualifies for the capital allowances in respect of the lorry, since:

A. although it has incurred capital expenditure, Syarikat X Bhd. did not incur it for the purpose of its business, nor did it use the asset for the purpose of its business; and

B. although it used the asset for the purpose of its business, Syarikat Y Sdn. Bhd. has not incurred qualifying plant expenditure.

4.0 INTERPRETATION

For the purpose of this Ruling:

4.1 "Asset" means plant or machinery used for the purpose of the business on which qualifying plant expenditure has been incurred.

4.2 "Person" includes a company, a co-operative, a club, an association, a Hindu joint family, a trust, an estate under administration, a partnership and an individual.

4.3 "Beneficial owner" means the person who has actually incurred the qualifying plant expenditure on, or who has paid for, the asset and is able to prove such a claim by documentary or other evidence [example: relevant entries made in the books of account of a business, supported by documents such as invoices, vouchers and receipts].

4.4 "Legal owner" means the person in whose name the asset is registered or otherwise recorded [examples: certificate of registration for a motor vehicle; warranty certificate for a machine; etc.].

4.5 "Tax computation" means the working sheets, statements, schedules, calculations and other supporting documents forming the basis upon which an income tax return is made that are required to be submitted together with the return or maintained by the person making the return.

4.6 "Qualifying plant expenditure" means capital expenditure incurred on the provision, construction or purchase of plant or machinery used for the purpose of a business.

4.7 Any reference to "owner" may also be construed as a reference to "owners" where the context so permits or requires.

4.8 Where a person incurs capital expenditure under a hire purchase agreement on the provision of plant or machinery for the purpose of a business of his, he is regarded as the owner of that plant or machinery

4.9 An asset is "disposed of" if it is sold, discarded or destroyed or it ceased to be used for the purposes of the business.

Date of Issue: 18 January 2001

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Public Ruling No. 2/2001 Computation of Initial & Annual Allowances in Respect of Plant & Machinery

1.0 TAX LAW

This Ruling applies in respect of the computation of annual allowances for plant and machinery under paragraph 15, Schedule 3, Income Tax Act 1967 and the Income Tax (Qualifying Plant Annual Allowances) Rules 2000 [P.U.(A) 52/2000]. This Ruling is effective for year of assessment 2000 (current year basis) and subsequent years of assessment.

2.0 THE APPLICATION OF THIS RULING

This Ruling considers:

2.1 The implications of the reclassifying of plant and machinery into the 3 main categories under the Income Tax (Qualifying Plant Annual Allowances) Rules 2000 [hereinafter referred to as the new Rules] with effect from year of assessment 2000 (current year basis) [hereinafter referred to as Y/A 2000 (CY)]; and

2.2 The computation of initial allowances [IA] and annual allowances [AA] for new assets and annual allowances for existing assets for Y/A 2000 (CY) and subsequent years of assessment.

3.0 HOW THE TAX LAW APPLIES

3.1 Classification of Assets

3.1.1 3 main categories

Under the new Rules, assets that qualify for annual allowances under paragraph 15, Schedule 3 of the Income Tax Act [the Act] are classified into 3 main categories with effect from Y/A 2000 (CY). The main categories and the prescribed rates of AA for them are as follows:

Assets	**Rates**
Heavy machinery, motor vehicles	20 %
Plant and machinery	14 %
Others	10 %

For the year of assessment [Y/A] in which qualifying plant expenditure [QE] is incurred, IA at the rate of 20% of the QE (unless otherwise specified: see paragraph 3.1.3) is also to be allowed in addition to AA.

3.1.2 New assets

The prescribed rates in paragraph 3.1.1 above [hereinafter referred to as the new rates] are to be applied to any asset [other than an asset to which paragraph 3.1.3 applies] acquired in the basis period for the Y/A 2000 (CY) and subsequent years of assessment [hereinafter referred to as a new asset], irrespective of the type of industry or the nature of the business in which the asset is used.

3.1.3 Assets for which special Rules or special rates apply

For a new asset that is to be dealt with under any of the following Rules [hereinafter referred to as the special Rules] or an existing asset already so dealt with in a prior Y/A, the person making the claim must ensure that the asset is dealt with (or continues to be dealt with) under the relevant special Rules and the rates of IA and / or AA as set out under those special Rules [hereinafter referred to as the special rates] are applied instead of the new rates under paragraph 3.1.1:

A. Income Tax (Qualifying Plant Allowances) (Scheduled Wastes) Rules 1995 [P.U.(A) 339/1995];

B. Income Tax (Qualifying Plant Allowances) Rules 1997 [P.U.(A) 265/1997];

C. Income Tax (Qualifying Plant Allowances) (No. 2) Rules 1997 [P.U.(A) 474/1997];

D. Income Tax (Qualifying Plant Allowances) (Computers and Information Technology Equipment) Rules 1998 [P.U.(A) 187/1998];

E. Income Tax (Qualifying Plant InitialAllowances) Rules 1998 [P.U.(A) 294/1998];

F. Income Tax (Qualifying Plant Allowances) (Control Equipment) Rules 1998 [P.U.(A) 295/1998]; or

G. Income Tax (Qualifying Plant Allowances) (Cost of Provision of Computer Software) Rules 1999 [P.U.(A) 272/1999].

3.1.4 Classifying or reclassifying an asset

In classifying or reclassifying an asset, the following should be noted:

A. "Motor vehicles" generally include all forms of transport which use motors to operate. [Examples: motorcycle; aircraft; ship; motorized bicycle, etc.]

B. "Heavy machinery" is determined generally by the nature of its usage. [Examples: bulldozer; crane; ditcher; excavator; grader; loader; ripper; roller; rooter; scraper; shovel; tractor; vibrator; wagon; etc.] [Note: for imported heavy machinery used in the following industries, i.e. building & construction, plantation, mining and timber, see paragraph 3.1.3.C above];

C. "Plant and machinery" include general plant and machinery not falling under the category "heavy machinery, motor vehicles". [Examples: air conditioners; compressors; elevators; medical and laboratory equipment; ovens; etc.]

D. "Others" refer to office equipment and furniture & fittings.

3.1.5 Assets with life span not exceeding 2 years: replacement basis

Expenditure on assets that have an expected life span of not more than 2 years (implements, utensils and articles) is to be dealt with on a replacement basis. This means that no IA or AA is to be allowed, as the cost of purchase of such assets is not regarded as QE. However, the cost of replacing such assets is to be allowed as deductible expenditure under section 33(1)(c) of the Act in determining the adjusted income of the business. Any amount recovered from the disposal of the replaced assets will be treated as income of the business.

Example:

[Examples: bedding & linen; crockery & glassware; cutlery & cooking utensils (other than stainless steel or silver); loose tools; accessories.]

[See also Example 1 in paragraph 3.3.1 below.]

3.2 Claims for initial and annual allowances

3.2.1 Claims to be made in the return and in writing

A. Claims for IA and AA must be made in writing in the return for the Y/A. The details of the claim should be shown in a certified statement in the tax computation.

B. After one of the alternative approaches under paragraph 3.3.2.B has been applied, review or reconsideration of that decision (except in cases of mistakes or errors) should be avoided.

3.2.2 Conditions to be satisfied

To qualify for IA and/or AA for a Y/A in respect of an asset, the person making the claim must satisfy all the following conditions:

A. he was carrying on a business during the basis period;

B. in respect of that asset, he has incurred QE in that basis period (to qualify for IA), or has incurred QE in that basis period and / or a previous basis period (to qualify for AA);

C. that asset was in use for the purpose of the business; and

D. at the end of that basis period, he was the owner of the asset and the asset was in use.

[These conditions and other considerations in respect of the ownership of the asset are discussed in detail in Public Ruling No. 1/2001.]

3.3 Computation of capital allowances for y/a 2000 (CY) & subsequent Y/A

3.3.1 New assets

The amount of AA is a percentage of the QE incurred on the asset, calculated according to the rates prescribed in the new Rules.

Example 1:

A company (which has been in business for a number of years) purchases a refrigerator for RM5,000 on 12.04.2000 and uses it in its restaurant business. 200 pieces of dinner plates are purchased for RM2,000 on 15.07.2000 to replace some of the existing crockery that is chipped, cracked or discoloured (disposed of for RM200). The assets are included in the balance sheet of the business, for which accounts are prepared for the financial year ended 30.09.2000.

For Y/A 2000 (CY), IA and AA can be claimed as follows:

Asset	QE	IA [20%]	AA	Total
Refrigerator	5,000	1,000	700 [14%]	1,700

[Capital allowances cannot be claimed in respect of the dinner plates as the expenditure of RM2,000 is not regarded as QE; however, it can be deducted for tax purposes as cost of replacement of crockery. The RM200 received from the disposal of the replaced crockery is to be included as gross income. These adjustments should be made in the tax computation.]

Example 2:

A businessman installs a telephone system (inclusive of a fax machine) in the office of his stationery retail business, incurring expenditure of RM4,000 on 30.06.2000. A secondhand van is later acquired in July 2000 for RM25,000. The assets are included in the balance sheet of the business in the accounts prepared for the year ended 31.12.2000.

For Y/A 2000 (CY), IA and AA can be claimed as follows:

Asset	QE	IA [20%]	AA	Total
Telephone system	4,000	800	400 [10%]	1,200
Van	25,000	5,000	5,000 [20%]	10,000

3.3.2 Existing assets

A. Assets for which special Rules / special rates have been applied

For assets acquired before the basis period for Y/A 2000 (CY) [i.e. in the basis period for **Y/A** 2000 (preceding year basis) and prior years of assessment] for which both IA and AA have been allowed according to the special rates under any of the special Rules mentioned in paragraph 3.1.3 above, the new Rules and the new rates are **not** to be applied, and the relevant special Rules and special rates must continue to be applied for Y/A 2000 (CY) and subsequent years of assessment until all the remaining balance of the QE [i.e., the residual expenditure or RE] in respect of each asset has been completely absorbed.

B. Assets for which the old Rules or old rates have been applied

For assets acquired before the basis period for Y/A 2000 (CY) for which both IA and AA have been allowed according to the existing rates i.e., the rates prescribed under the Income Tax (Qualifying Plant Annual Allowances) Rules 1968 [L.N. 154/1968] (as amended by the Income Tax (Qualifying Plant Annual Allowances) (Amendment) Rules 1980 [P.U. (A) 346/1980] [hereinafter referred to as the old rates and the old Rules], any one of the following 3 alternative approaches may be adopted:

Alternative 1: New rates applied (all existing assets)

A person can apply the new rates to all existing assets for Y/A 2000 (CY) and subsequent years of assessment until all the RE in respect of each asset has been completely absorbed.

Example 1 :

An individual has the following assets:

Details of assets	**Motor van**	**Office equipment**	**Furniture**
QE	75,000	22,000	10,000
Year incurred	1997	1996	1996
Old rate	20%	12%	8%
New rate	20%	10%	10%

The capital allowance computation should be as follows:

	Motor van		Office equipment		Furniture	
QE		75,000		22,000		10,000
Y/A 1997						
IA	-		4,400		2,000	
AA	-		2,640	7,040	800	2,800
RE		-		**14,960**		**7,200**
Y/A 1998						
IA	15,000					
AA	15,000	30,000		2,640		800
RE		**45,000**		**12,320**		**6,400**
Y/A 1999						
AA	15,000			2,640		800
RE	**30,000**			**9,680**		**5,600**
Y/A 2000 (preceding year basis)						
AA		15,000		2,640		800
RE		**15,000**		**7,040**		**4,800**
Y/A 2000(CY)						
AA [new rates]	20%	15,000	10%	2,200	10%	1,000
RE		**Nil**		**4,840**		**3,800**
YA 2001						
AA	-			2,200		1,000
RE		-		**2,640**		**2,800**

Example 2

A company has the following assets:

Details of assets	Machinery	Air conditioners	Furniture
QE	180,000	8,000	10,000
Year incurred	1994	1996	1994
Old rate	10%	12%	8%
New rate	14%	14%	10%

The capital allowance computation should be as follows:

	Machinery		**Air conditioners**		**Furniture**	
QE		**180,000**		**8,000**		**10,000**
Y/A 1995						
IA	36,000		-		2,000	
AA	18,000	54,000	-	-	800	2,800
RE		**126,000**		-		**7,200**
Y/A 1996						
AA		18,000		-		800
RE		**108,000**		-		**6,400**
Y/A 1997						
IA			1,600			
AA		18,000	960	2,560		800
RE		**90,000**		**5,440**		**5,600**
Y/A 1998						
AA		18,000		960		800
RE		**72,000**		**4,480**		**4,800**
YA 1999						
AA		18,000		960		800
RE		**54,000**		**3,520**		**4,000**
Y/A 2000 (preceding year basis)						
AA		18,000		960		800
RE		**36,000**		**2,560**		**3,200**
Y/A 2000(CY)						
AA [new rates]	14%	25,200	14%	1,120	10%	1,000
RE		**10,800**		**1,440**		**2,200**
YA 2001						
AA		*10,800		1,120		1,000
RE		**Nil**		**320**		**1,200**

*AA 25,200 restricted to the amount of RE

Alternative 2: Old rates applied (all existing assets)

A person can continue to apply the old rates for all existing assets for Y/A 2000 (CY) and subsequent years of assessment until all the RE in respect of each asset has been completely absorbed.

Example 3:

If the company in Example 2 (paragraph 3.3.2.B above) had decided not to apply the new rates but to continue applying the old rates to all its existing assets to avoid complications, then the computation of capital allowances would have been:

[Computation for Y/A 1994 to 2000 (preceding year basis): as per Example 2 above]

	Machinery		**Air conditioners**		**Furniture**	
RE		**36,000**		**2,560**		**3,200**
Y/A 2000(CY)						
AA [old rates]	10%	28,000	12%	960	8%	800
RE		**18,000**		**1,600**		**2,400**
Y/A 2001						
AA		18,000		960		800
RE		**Nil**		**640**		**1,600**

Alternative 3: New rates applied to some existing assets and old rates applied to others

A person can apply the new rates for some of his existing assets (for which the new rates are higher than the old rates) and continue to apply the old rates for the rest of his existing assets (for which the old rates are higher than the new rates) for Y/A 2000 (CY) and subsequent years of assessment.

Example 4:

If the individual in Example 1 (paragraph 3.3.2.B above) had decided to apply the new rates in respect of some assets and to continue applying the old rates in respect of others so as to take advantage of the higher rates in both instances, then the computation of capital allowances would have been:

[Computation for Y/A 1997 to 1999: as per Example 1 above]

	Motor van		Office equipment		Furniture	
RE		**30,000**		**9,680**		**5,600**
Y/A 2000 (preceding year basis)						
AA		15,000		2,640		800
RE		**15,000**		**7,040**		**4,800**
Y/A 2000(CY)						
AA	20% [old]	15,000	12% [old]	2,640	10% [new]	1,000
RE		**Nil**		**4,400**		**3,800**
YA 2001						
AA				2,640		1,000
RE				**1,760**		**2,800**
YA 2002						
AA				*1,760		1,000
RE				**Nil**		**1,800**

* AA 2,640 restricted to the amount of RE

4.0 INTERPRETATION

For the purpose of this Ruling:

4.1 "Asset" means plant or machinery used for the purpose of the business on which qualifying plant expenditure has been incurred.

4.2 "Person" includes a company, a co-operative society, a partnership, a club, an association, a Hindu joint family, a trust, an estate under administration and an individual, but excludes a unit trust to which section 63A of the Act applies.

4.3 "Qualifying plant expenditure" [QE] means capital expenditure incurred on the provision, construction or purchase of plant or machinery used for the purpose of a business [other than assets that have an expected life span of not more than 2 years (see paragraph 3.1.4 above)].

4.4 "Residual expenditure" [RE] at any date in respect of an asset means the unabsorbed balance of the qualifying expenditure [QE], arrived at by deducting from the total QE incurred before that date, the aggregate amount of:

4.4.1 any initial allowance [IA] made for any Y/A;

4.4.2 any annual allowance [AA] made for any Y/A before that date; and

4.4.3 any notional annual allowance (i.e., annual allowances that would have been made if it had been claimed or could have been claimed) made or should have been made before that date.

4.5 "Tax computation" means the working sheets, statements, schedules, calculations and other supporting documents forming the basis upon which an income tax return is made that are required to be submitted together with the return or maintained by the person making the return.

4.6 Where a person incurs capital expenditure under a hire purchase agreement on the provision of plant or machinery for the purpose of a business of his, the qualifying plant expenditure incurred by him in the basis period for a year of assessment is taken to be the aggregate of the capital portion of the instalment payments and any down payment made by him under that agreement in that period.

Date of Issue: 18 January 2001

E Public Ruling No 3/2001 Appeal Against an Assessment

1.0 TAX LAW

This Ruling applies in respect of sections 99, 100, 101 and 102 of the Income Tax Act 1967. It is effective for the year of assessment 2001 and subsequent years of assessment.

2.0 THE APPLICATION OF THIS RULING

This Ruling considers:

2.1 the provisions of the Income Tax Act 1967 [hereinafter referred to as the Act] relating to appeals against assessments made or deemed to be made; and

2.2. the requirements to be complied with when making an appeal.

3.0 HOW THE TAX LAW APPLIES

3.1 Right of appeal & time to appeal

3.1.1 A person who is dissatisfied with an assessment that has been made, or is deemed to have been made, on him by the Director General of Inland Revenue [hereinafter referred to as the DG] has a right to appeal against that assessment.

3.1.2 The appeal must be submitted in writing not later than 30 days after he has received the notice of assessment or is deemed to have received the deemed notice of assessment.

Example 1:

An assessment is made on an individual for year of assessment 2001 and notice of assessment is received by him on 15.05.2002.

The appeal should be made not later than 15.06.2002.

Example 2:

A company which normally closes its accounts on 31 March furnishes its return to the DG for year of assessment 2001 on 27.09.2001. Under section 90(1A) of the Act, notice of assessment is deemed to have been served on the company on that same date.

The appeal should be made not later than 27.10.2001.

3.1.3 In the case of an advance assessment, the appeal must be made within the first three months of the year of assessment [the Y/A] following the year of assessment for which the assessment is made.

Example:

An advance assessment is made on 15.08.2001 on an individual for Y/A 2002 as his business (accounts normally closed 31 March) has ceased on 30.06.2001. The final accounts were prepared for the period 01.04.2001 to 30.06.2001.

The Y/A for which the assessment is made is 2002; the Y/A following that is 2003. The appeal against the assessment should therefore be made not later than 31.03.2003.

3.1.4 In the case of a deemed assessment where a person, in the course of making a self-assessment, has complied with a ruling with which he does not agree, the notice of appeal should be filed together with the return.

3.2 Late appeal

3.2.1 If an appeal is made after the expiry of the period allowed [see paragraphs 3.1.2 and 3.1.3], the reason(s) for the late appeal must be given. An acceptable reason would be circumstances beyond the control of the person making the appeal [the appellant]: for e.g., hospitalization for a long period because of a serious illness.

3.2.2 If the reasons for the late appeal are not accepted, the appellant will be requested to submit an application for extension of the period for making an appeal (in the prescribed Form N).

3.2.3 Form N should be sent to the branch office of the Inland Revenue Board [the IRB] where the income tax file of the appellant is located.

3.2.4 Form N, together with a statement by the DG as to why the appellant's reasons for the late appeal have not been accepted, will be forwarded to the Special Commissioners of Income Tax [the SCIT]. The appellant will be notified in writing about this, and a copy of that statement will be furnished to him.

3.2.5 Within 21 days of receipt of the notification, the appellant may make written representation to the SCIT in respect of his application and the statement by the DG.

3.2.6 If the application is refused, the appellant will have no further right of appeal. The decision by one of the SCIT is final.

3.3 Appeal to be made in writing

3.3.1 An appeal must be made in writing. A telephone call or an electronic message (e-mail) is not considered sufficient notice of appeal.

3.3.2 The prescribed form (Form Q) should be used for this purpose. The completed Form Q should be sent to the IRB branch office where the income tax file of the appellant is located.

3.3.3 An appeal made by way of a letter is also acceptable, and will be dealt with as if Form Q had been received. If it subsequently becomes necessary to forward the case to the SCIT [see paragraph 3.6 below], the appellant will be requested to complete Form Q accordingly.

3.4 The grounds of appeal

3.4.1 The appeal against an assessment (whether in the form of a letter or Form Q) should state the reasons for or the grounds of the appeal. Statements such as "the tax is excessive" or "the tax is not computed in accordance with the Act" will be regarded as vague or lacking in necessary detail as they provide no assistance in reviewing the assessment.

3.4.2 The grounds of appeal should be specific, referring to particular items in the tax computation or the assessment with which the appellant disagrees and stating the reasons for doing so. Additional information or copies of documents should be provided if necessary.

3.4.3 Where the appeal is made by way of a letter and the grounds of appeal are found to be so vague or so lacking in necessary detail that a review of the assessment is not possible [see paragraph 3.4.1 above], the appellant will be notified in writing to submit, within 30 days, specific grounds of appeal in the prescribed Form Q. If the appellant fails to furnish Form Q (with or without the specific grounds of appeal required) within the period allowed, the appeal would be considered a late appeal [see paragraph 3.2 above].

3.4.4 Where Form Q has been submitted and the grounds of appeal are found to be so vague or so lacking in necessary detail that a review of the assessment is not possible [see paragraph 3.4.1 above], the case will be forwarded to the SCIT without a review of the assessment [see paragraph 3.5 below].

3.5 Review of the assessment

3.5.1 On receipt of the appeal (subject to paragraph 3.4 above), the assessment under appeal will be reviewed.

3.5.2 If necessary, the appellant may be required to provide further information or to produce books of account or records or other documents relevant to the assessment.

3.5.3 The appellant (or any other relevant person) may also be required to attend in person to give evidence (under oath if necessary).

3.5.4 As a result of the review, a proposal may be made to the appellant to settle the appeal by confirming, reducing, increasing or discharging the assessment.

3.5.5 If the proposal referred to in paragraph 3.5.4 is made orally, a written confirmation will be issued to him and he will have 21 days to reject it in writing.

3.5.6 If the proposal referred to in paragraph 3.5.4 is made in writing, he will have 30 days to reject it in writing.

3.5.7 If the proposal (written or oral) is not rejected within the period of time allowed, it will be deemed that there is an agreement in writing, and the assessment will be treated as having been confirmed, reduced, increased or discharged according to the agreement.

3.5.8 Within 30 days after the agreement is deemed to have been come to, the appellant may apply to the SCIT to set aside the deemed agreement. The decision by one of the SCIT is final

3.6 Where agreement cannot be reached

3.6.1 Where it appears unlikely that an agreement can be reached, the case will be forwarded to the SCIT. If the appeal had been made in the form of a letter [see paragraph 3.3.3 above], the appellant will be requested to complete Form Q accordingly.

3.6.2 The appellant may at any time request the DG in writing to forward the appeal to the SCIT.

3.7 Disposal of appeal

3.7.1 An appeal must be forwarded to the SCIT within 12 months from the date of receipt. If the review [see paragraph 3.5 above] cannot be completed within that period, the DG may apply, not later than 30 days before the expiry of the 12-month period, to the Minister of Finance for an extension of that period. The extension period will not be more than 6 months.

3.7.2 The appellant will be notified in writing when the Form Q is forwarded to the SCIT.

3.7.3 The place and date for hearing of the appeal will be fixed by the Clerk to the SCIT, who will give notice of at least 28 days to the appellant.

3.7.4 At any time before the hearing, the appellant and the DG can still come to an agreement, or the appellant can withdraw the appeal.

3.8 Representation

The appellant can be represented by a lawyer and / or a tax agent at the hearing.

4.0 INTERPRETATION

For the purpose of this Ruling:

4.1 "Tax agent" means a legally authorized auditor of companies, a professional accountant approved by the Minister of Finance and any other person approved by the Minister.

4.2 "Person" includes a company, a co-operative society, a partnership, a Hindu joint family, a trust, an estate under administration, a club, an association and an individual.

4.3 "The Special Commissioners of Income Tax" [SCIT] and "the Clerk to the SCIT" refer to the Special Commissioners and the Clerk appointed under section 98 of the Act.

Date of Issue: 18 January 2001

F

Public Ruling No 4/2001
Basis Period for a Non-Business Source (Individuals & Persons other than Companies)

1.0 TAX LAW

This Ruling applies in respect of sections 20 and 21 of the Income Tax Act 1967. It is effective for the year of assessment 2001 and subsequent years of assessment. This Ruling supersedes Public Ruling No. 1/2000 dated 1 March 2000.

2.0 THE APPLICATION OF THIS RULING

This Ruling considers the determination of the basis period for a non-business source of income [see paragraph 4.1] in respect of individuals and persons other than companies [see paragraph 4.2].

3.0 HOW THE TAX LAW APPLIES

3.1 A person is chargeable to income tax in respect of all his sources of income for a year of assessment.

3.2 The income from a source is determined in relation to the basis period for a year of assessment

3.3 For a non-business source, the basis year for a year of assessment [see paragraphs 4.3 and 4.4] is the basis period for that year of assessment.

Example:

An individual receives 2 dividends, dated 05.01.2001 and 28.12.2001, on 10.01.2001 and 02.01.2002, respectively.

The basis year for the year of assessment 2001 is the calendar year 2001. Both the dividends received in respect of the calendar year 2001 should therefore be taxed for the year of assessment 2001.

3.4 As a concession, a co-operative which has both business and non-business sources may choose that the basis period for its business source be the basis period for all of its non-business sources. If it does so, it should also apply that same treatment consistently thereafter for all its non-business sources.

Example:

A co-operative closes its accounts on 30 June each year. It has income from 2 sources: business and rent.

The basis period for the year of assessment 2001 for the business source is the accounting year 01.07.2000 to 30.06.2001 [see Public Ruling No. 5/2001].

The basis period for the year of assessment 2001 for the non-business source (rent) is year ending 31.12.2001 [see paragraph 3.3 above].

However, the co-operative may choose the basis period of its business source, i.e. 01.07.2000 to 30.06.2001, as the basis period for its non-business source.

3.5 In the case of a company, the basis period for a year of assessment for its non-business sources should be determined in accordance with section 21A of the Income Tax Act 1967 [see Public Ruling No. 7/2001].

4.0 INTERPRETATION

For the purpose of this Ruling:

4.1 "Non-business source" includes employment, pension, dividend, interest, rent and royalties which are not considered as part of a business source.

4.2 "Persons other than companies" include a co-operative, a Hindu joint family, a trust, an estate under administration, a club and an association.

4.3 "Basis year for a year of assessment" means the calendar year coinciding with the year of assessment.

4.4 "Year of assessment" means calendar year.

Date of Issue: 30 April 2001

G

Public Ruling No. 5/2001
Basis Period for a Business Source (Co-operatives)

1.0 TAX LAW

This Ruling applies in respect of sections 20 and 21 of the Income Tax Act 1967. It is effective for the year of assessment 2001 and subsequent years of assessment. This Ruling supersedes Public Ruling No. 2/2000 dated 1 March 2000 where it relates to co-operatives.

2.0 THE APPLICATION OF THIS RULING

This Ruling considers the determination of the basis period for a co-operative:

2.1 commencing a new business;

2.2 changing the accounting date of its existing business; and

2.3 joining a partnership

3.0 HOW THE TAX LAW APPLIES

3.1 A co-operative is chargeable to income tax in respect of all its sources of income for a year of assessment [hereinafter also referred to as Y/A].

3.2 The income from a source is determined in relation to the basis period for a year of assessment.

3.3 General

For a business source, except where paragraph 3.4 below applies, the basis year for a year of assessment [see paragraphs 4.3 and 4.4] is the basis period for that year of assessment.

> ***Example:***
>
> A co-operative prepares its accounts from 01.01.2001 to 31.12.2001.
>
> *The basis year ending 31.12.2001 is the basis period for the y/a 2001 for the co-operative's business source.*

3.4 Accounts made up for 12 months not ending on 31 December

Where the accounts of the business are made up for 12 months ending on a date other than 31 December in a basis year, that accounting period is the basis period for the year of assessment in which the accounts are closed.

Example:

A co-operative makes up its accounts from 01.07.2000 to 30.06.2001.

The period from 01.07.2000 to 30.06.2001 is the basis period for the y/a 2001 for that co-operative's business source.

3.5 Commencement of business

3.5.1 Accounts prepared for less than or more than 12 months ending on 31 December

Where a co-operative commences business and its first accounts are prepared for less than or more than 12 months ending on 31 December, the basis period for a year of assessment is the period ending on 31 December.

Example 1:

A co-operative commences business on 11.05.2001 and the accounts are closed on 31.12.2001.

The accounting period 11.05.2001 to 31.12.2001 is the basis period for the y/a 2001.

Example 2:

A co-operative commences business on 01.09.2001 and the first accounts are closed on 31.12.2002.

The period from 01.09.2001 to 31.12.2001 is the basis period for Y/A 2001.

The period from 01.01.2002 to 31.12.2002 is the basis period for Y/A 2002.

3.5.2 Accounts prepared for 12 months

Where a co-operative commences business and its first accounts are made up for 12 months, that accounting period is the basis period for the year of assessment in which the accounts are closed.

Example:

A co-operative commences business on 01.07.2001 and its first accounts are prepared for the period 01.07.2001 to 30.06.2002.

The accounting period 01.07.2001 to 30.06.2002 is the basis period for the y/a 2002. There is no basis period for the y/a 2001.

3.5.3 Accounts prepared for less than or more than 12 months and not ending on 31 December

Where a co-operative commences business and its first accounts are made up for less than or more than 12 months not ending on 31 December, the basis period for a year of assessment is the year ending on 31 December each year until accounts are made up for a 12-month accounting period.

Example 1:

A co-operative commences a business on 26.06.2001 and its accounts are made up to 30.04.2002 (>10 months), and subsequently to 30.04.2003.

The basis period for the y/a 2001 is 26.06.2001 to 31.12.2001.

The basis period for the Y/A 2002 is 01.01.2002 to 31.12.2002.

The basis period for the Y/A 2003 is 01.05.2002 to 30.04.2003.

Example 2:

A co-operative commences a business on 26.06.2001 and its accounts are made up to 30.09.2002 (>15 months), and subsequently to 30.09.2003.

The basis period for the y/a 2001 is 26.06.2001 to 31.12.2001.

The basis period for the y/a 2002 is 01.01.2002 to 31.12.2002.

The basis period for the y/a 2003 is 01.10.2002 to 30.09.2003.

3.6 Change of accounting date

3.6.1 Normal accounts ending on 31 December

Where accounts are normally closed on 31 December and there is a change of accounting date, the basis period in the year of change is the year ending 31 December. The basis period for the subsequent year of assessment will also be the year ending 31 December unless there is a 12-month accounting period ending in that year, in which case that accounting period will be the basis period. Thereafter, the 12-month accounting period will be the basis period.

Example 1:

A co-operative which normally closes its accounts on 31 December changes its accounting date to 30 September and prepares accounts as follows: 01.01.2001 to 30.09.2001, and subsequently to 30 September each year.

The basis period for the y/a 2001 is 01.01.2001 to 31.12.2001.

The basis period for the y/a 2002 is 01.10.2001 to 30.09.2002.

Example 2:

A co-operative which normally closes its accounts on 31 December changes its accounting date to 31 March and prepares accounts as follows: 01.01.2001 to 31.03.2002, and subsequently to 31 March each year.

The basis period for the y/a 2001 is 01.01.2001 to 31.12.2001.

The basis period for the y/a 2002 is 01.01.2002 to 31.12.2002.

The basis period for the y/a 2003 is 01.04.2002 to 31.03.2003.

3.6.2 Normal accounts not ending on 31 December and new accounts prepared for less than 12 months

A) New accounts ending in the following year

The new accounting period is the basis period for the year of assessment in the failure year [see paragraph 4.5]

Example:

A co-operative's accounts are normally prepared ending on 30 September. The co-operative changes its accounting date and the accounts are now closed on 31 March. Accounts are prepared as follows: 01.10.2000 to 30.09.2001, 01.10.2001 to 31.03.2002 (6 months), and to 31 March for subsequent years.

The basis period for the y/a 2002 (the failure year) is 01.10.2001 to 31.03.2002 (6 months).

The basis period for the y/a 2003 is 01.04.2002 to 31.03.2003.

B) New accounts and the last accounts ending in the same year

The period comprising the new accounting period together with the following accounting period is the basis period for the year of assessment in the failure year.

Example:

A co-operative's accounts are normally prepared ending on 30 June. The co-operative changes its accounting date and the accounts are now closed on 31 December. Accounts are prepared as follows: 01.07.2000 to 30.06.2001, 01.07.2001 to 31.12.2001 (6 months), 01.01.2002 to 31.12.2002, and to 31 December for subsequent years.

Since both the new accounting period 01.07.2001 to 31.12.2001 and the last accounting period 01.07.2000 to 30.06.2001 end in the same basis year:

The basis period for the y/a 2002 (the failure year) is 01.07.2001 to 31.12.2002 (18 months).

The basis period for the y/a 2003 is 01.01.2003 to 31.12.2003.

3.6.3 Normal accounts not ending on 31 December and new accounts prepared for more than 12 months

A) New accounts ending in the following year

The new accounting period is the basis period for the year of assessment in the failure year.

Example:

A co-operative's accounts are normally prepared ending on 31 July. The co-operative changes its accounting date and accounts are now closed on 31 October. Accounts are prepared as follows: 01.08.2001 to 31.10.2002 (15 months), and to 31 October for subsequent years.

The basis period for the y/a 2002 (the failure year) is 01.08.2001 to 31.10.2002 (15 months).

The basis period for the y/a 2003 is 01.11.2002 to 31.10.2003.

B) New accounts ending in the third year

If the new accounting period spans 3 basis years, it is apportioned into 2 periods, and these 2 periods will be taken to be the basis periods for the first 2 years of assessment commencing in the failure year.

Example:

A co-operative's accounts are normally prepared ending on 30 November. There is failure to close accounts to its normal accounting date and accounts are prepared for a period of more than 12 months from 01.12.2000 to 28.02.2002 (15 months), and to 28 February for subsequent years.

The accounting period 01.12.2000 to 28.02.2002 (15 months) is apportioned into 2 periods, so that:

The basis period for the y/a 2001 (the failure year) is the period 01.12.2000 to 31.07.2001 (8 months); and

The basis period for the y/a 2002 is the period 01.08.2001 to 28.02.2002 (7 months).

[In determining the basis periods for the situations in paragraphs 3.6.2 and 3.6.3 above, no accounting period or year of assessment should be left out and there should be no overlapping of basis periods. Any fraction of a month should be treated as falling into the first period.]

3.7 A co-operative joining a partnership

3.7.1 Joining a new partnership

If a co-operative joins a new partnership, the basis period for the co-operative in respect of the partnership source is determined as in the case of a new business [see paragraphs 3.5.1, 3.5.2 or 3.5.3].

Example:

A co-operative joins a new partnership which commences business on 18.02.2001. The first accounts are prepared to 30.09.2001 and accounts are subsequently prepared to 30 September each year.

The basis periods for the co-operative's partnership source are as follows [see paragraph 3.5.3]:

Y/a 2001: 18.02.2001 to 31.12.2001

Y/a 2002: 01.10.2001 to 30.09.2002

3.7.2 Joining an existing partnership and the partnership's normal accounting date is maintained

If a co-operative joins an existing partnership and the partnership accounts continue to be made up to its normal accounting date, the first basis period for the co-operative in respect of its partnership source is from the date the co-operative joins the partnership to the date of closing of the partnership accounts. Thereafter, the basis period will be the partnership accounting period.

Example:

A co-operative joins an existing partnership on 01.02.2001. The accounts of the partnership are normally made up to 31 March. The accounts for the partnership continue to be made up to 31.03.2001.

The basis period for the y/a 2001 for the co-operative's partnership source is 01.02.2001 to 31.03.2001.

The basis period for the y/a 2002 is 01.04.2001 to 31.03.2002.

3.7.3 Joining an existing partnership and the partnership's normal accounting date changes

If a co-operative joins an existing partnership and the partnership changes its normal accounting date, for the purpose of determining the basis period for the co-operative, the partnership is treated as if it were a new partnership and the basis period is determined as in the case of a new business [see paragraphs 3.5.1, 3.5.2 or 3.5.3].

Example 1:

A co-operative (whose accounts are closed on 31 December) joins an existing partnership on 01.07.2001. The accounts of the partnership are normally made up to 31 December, but on admission of the new partner, the accounting date is changed to 30 June. The partnership accounts are made up as follows:

01.01.2000 to 31.12.2000 (old partnership)

01.01.2001 to 30.06.2001 (old partnership)

01.07.2001 to 30.06.2002 (new partnership)

01.07.2002 to 30.06.2003 (new partnership)

The basis periods for the partnership source are as follows:

Partner	Y/A	Basics period
The co-operative (new partner)	2001	None
	2002	01.07.2001 - 30.06.2002
	2003	01.07.2002 - 30.06.2003
Existing partners	2000	01.01.2000 - 31.12 2000
	2001	01.01.2000 - 31.12.2001*
	2002	01.07.2001 - 30.06.2002
	2003	01.07.2002 - 30.06.2003

[*Arising from change of accounting date (see paragraph 3.6.1]

Example 2:

A co-operative (whose accounts are closed on 31 December) joins an existing partnership on 01.04.2001. The accounts of the partnership are normally made up to 30 June, but on admission of the new partner, the accounting date is changed to 31 March. The partnership accounts are made up as follows:

01.07.1999 to 30.06.2000 (old partnership)

01.07.2000 to 31.03.2001 (old partnership)

01.04.2001 to 31.03.2002 (new partnership)

01.04.2002 to 31.03.2003 (new partnership)

The basis periods for the partnership source are as follows:

Partner	Y/A	Basics period
The co-operative (new partner)	2001	None
	2002	01.04.2001 - 31.03.2002
	2003	01.04.2002 - 31.03.2003
Existing partners	2000	01.07.1999 - 30.o6 2000
	2001	01.07.2000 - 31.03.2001*
	2002	01.04.2001 - 31.03.2002
	2003	01.04.2002 - 31.03.2003

[*Arising from change of accounting date (see paragraph 3.6.2.A)]

3.8 Treatment of adjusted income / adjusted loss in overlapping periods

Where the application of paragraph 3.5.3 or paragraph 3.6.1 results in an overlapping of two basis periods [see Examples 1 & 2 in paragraph 3.5.3 and

Y/A & Basis period	Apportionment	Adjusted income
2001 [01.07 2001 - 31.12.2001]	01.07 - 31.12.2001: 6 / 9 x [A] (6 / 9 x RM15,000)	10,000
2002 [01.01.2002 - 31.12.2002]	01.01 - 31.03.2002: 3 / 9 x [A] (3 / 9 x RM15,000) 01.04 - 31.12.2002: 9 / 12 x [B] (9 / 12 x RM24,000)	5,000 18,000 23,000
2003 [01.04.2002 - 31.03.2003]	Adjusted income of overlapping period (01.04.2002 - 31.12.2002) ignored in second basis period: (RM24,000 - RM18,000)	6,000

Examples 1 & 2 in paragraph 3.6.1], the adjusted income or adjusted loss common to both basis periods is ignored in the second basis period.

Example:

The business of a co-operative commences on 01.07.2001 and accounts are prepared as follows: 01.07.2001 to 31.03.2002, 01.04.2002 to 31.03.2003, and subsequently to 31 March.

The adjusted income of the co-operative is as follows:

Accounting period	Adjusted income
01.07.2001 to 31.03.2002 [A]	RM15,000
01.04.2002 to 31.03.2003 [B]	RM24,000

Applying paragraph 3.5.3, the basis periods for the co-operative are:

Y/A	Basis periods
2001	01.07.2001 - 31.12.2001 (6 months)
2002	01.01.2002 - 31.12.2002 (12 months)*
2003	01.04.2002 - 31.03.2003 (12 months)*

[*Overlapping period: 01.04.2002 - 31.12.2002]

The adjusted income should be apportioned as follows:

4.0 INTERPRETATION

For the purpose of this Ruling:

4.1 If changes of accounting date are made in two consecutive accounting periods and the determinations in paragraph 3.6 above cannot be applied because a year of assessment or an accounting period will be left out, the Director General will, upon application by the co-operative, give specific directions.

4.2 In the case of apportionment of accounting periods, any fraction of a month is to be treated as falling into the first period [see the Example in paragraph 3.6.3.B].

4.3 "Basis year for a year of assessment" means the calendar year coinciding with the year of assessment.

4.4 "Year of assessment" means calendar year

4.5 "Failure year" means the year in which there is failure to close the accounts to the normal accounting date (where that normal accounting date is not 31 December).

Date of Issue: 30 April 2001

H

Public Ruling No. 6/2001
Basis Period for a Business Source (Individuals & Persons Other than Companies / Co-operatives)

1.0 TAX LAW

This Ruling applies in respect of sections 20 and 21 of the Income Tax Act 1967. It is effective for the year of assessment 2001 and subsequent years of assessment. This Ruling supersedes Public Ruling No. 3/2000 dated 1 March 2000.

2.0 THE APPLICATION OF THIS RULING

This Ruling considers the determination of the basis period for:

2.1 an individual or a person other than a company or a co-operative commencing a new business;

2.2 an individual or a person other than a company or a co-operative changing the accounting date of his/its existing business; and

2.3 an individual joining a partnership.

3.0 HOW THE TAX LAW APPLIES

3.1 An individual or a person other than a company or a co-operative [see paragraph 4.3] is chargeable to income tax in respect of all his sources of income for a year of assessment [hereinafter also referred to as Y/A].

3.2 The income from a source is determined in relation to the basis period for a year of assessment.

3.3 General

> ***Example :***
>
> An individual prepares his accounts from 01.01.2001 to 31.12.2001.
>
> *The basis year ending 31.12.2001 is the basis period for the y/a 2001 for the individual's business source.*

3.4 Accounts made up for 12 months not ending on 31 December

Where the accounts of the business are made up for 12 months ending on a date other than 31 December in a basis year, that accounting period is the basis period for the year of assessment in which the accounts are closed.

> ***Example :***
>
> An individual makes up his accounts from 01.07.2000 to 30.06.2001.
>
> *The period from 01.07.2000 to 30.06.2001 is the basis period for the y/a 2001 for that individual's business source.*

3.5 Commencement of business

3.5.1 Accounts prepared for less than or more than 12 months ending on 31 December

Where a business is commenced and its first accounts are prepared for less than or more than 12 months ending on 31 December, the basis period for a year of assessment is the period ending on 31 December.

> ***Example 1:***
>
> An individual commences business on 11.05.2001 and the accounts are closed on 31.12.2001.
>
> *The accounting period 11.05.2001 to 31.12.2001 is the basis period for the y/a 2001.*

> ***Example 2:***
>
> An individual commences business on 01.09.2001 and the accounts are closed on 31.12.2002.
>
> *The period from 01.09.2001 to 31.12.2001 is the basis period for Y/A 2001.*
>
> *The period from 01.01.2002 to 31.12.2002 is the basis period for Y/A 2002.*

3.5.2 Accounts prepared for 12 months

Where a business is commenced and its first accounts are made up for 12 months, that accounting period is the basis period for the year of assessment in which the accounts are closed.

Example:

An individual commences business on 01.07.2001 and the first accounts are prepared for the period 01.07.2001 to 30.06.2002.

The accounting period 01.07.2001 to 30.06.2002 is the basis period for the y/a 2002. There is no basis period for the y/a 2001.

3.5.3 Accounts prepared for less than or more than 12 months and not ending on 31 December

Where a business is commenced and its first accounts are made up for less than or more than 12 months not ending on 31 December, the basis period for a year of assessment is the year ending on 31 December each year until accounts are made up for a 12-month accounting period.

Example 1:

A business is commenced on 26.06.2001 and its accounts are made up to 30.04.2002 (>10 months), and subsequently to 30.04.2003.

The basis period for the y/a 2001 is 26.06.2001 to 31.12.2001.

The basis period for the y/a 2002 is 01.01.2002 to 31.12.2002.

The basis period for the y/a 2003 is 01.05.2002 to 30.04.2003.

Example 2:

A business is commenced on 26.06.2001 and the accounts are made up to 30.09.2002 (>15 months), and subsequently to 30.09.2003.

The basis period for the y/a 2001 is 26.06.2001 to 31.12.2001.

The basis period for the y/a 2002 is 01.01.2002 to 31.12.2002.

The basis period for the y/a 2003 is 01.10.2002 to 30.09.2003.

3.6 Change of accounting date

3.6.1 Normal accounts ending on 31 December

Where accounts are normally closed on 31 December and there is a change of accounting date, the basis period in the year of change is the year ending 31 December. The basis period for the subsequent year of assessment will also be the year ending 31 December unless there is a 12-month accounting period ending in that year, in which case that accounting period will be the basis period. Thereafter, the 12-month accounting period will be the basis period.

Example 1:

An individual normally prepares his accounts ending on 31 December. He changes his accounting date to 30 September and prepares accounts as follows: 01.01.2001 to 30.09.2001, and subsequently to 30 September each year.

The basis period for the y/a 2001 is 01.01.2001 to 31.12.2001.

The basis period for the y/A 2002 is 01.10.2001 to 30.09.2002.

Example 2:

An individual normally prepares his accounts ending on 31 December. He changes his accounting date to 31 March and prepares accounts as follows: 01.01.2001 to 31.03.2002, and subsequently to 31 March each year.

The basis period for the y/a 2001 is 01.01.2001 to 31.12.2001.

The basis period for the y/a 2002 is 01.01.2002 to 31.12.2002.

The basis period for the y/a 2003 is 01.04.2002 to 31.03.2003.

3.6.2 Normal accounts not ending on 31 December and new accounts prepared for less than 12 months

A) New accounts ending in the following year

The new accounting period is the basis period for the year of assessment in the failure year [see paragraph 4.6].

Example:

An individual's accounts are normally prepared ending on 30 September. He changes his accounting date and the accounts are now closed on 31 March. Accounts are prepared as follows: 01.10.2000 to 30.09.2001, 01.10.2001 to 31.03.2002 (6 months), and to 31 March for subsequent years.

The basis period for the y/a 2002 (the failure year) is 01.10.2001 to 31.03.2002 (6 months).

The basis period for the y/a 2003 is 01.04.2002 to 31.03.2003.

B) New accounts and the last accounts ending in the same year

The period comprising the new accounting period together with the following accounting period is the basis period for the year of assessment in the failure year.

Example:

An individual's accounts are normally prepared ending on 30 June. He changes his accounting date and the accounts are now closed on 31 December. Accounts are prepared as follows: 01.07.2000 to 30.06.2001, 01.07.2001 to 31.12.2001 (6 months), 01.01.2002 to 31.12.2002, and to 31 December for subsequent years.

Since both the new accounting period 01.07.2001 to 31.12.2001 and the last accounting period 01.07.2000 to 30.06.2001 end in the same basis year:

The basis period for the y/a 2002 (the failure year) is 01.07.2001 to 31.12.2002 (18 months).

The basis period for the y/a 2003 is 01.01.2003 to 31.12.2003.

3.6.3 Normal accounts not ending on 31 December and new accounts prepared for more than 12 months

A) New accounts ending in the following year

The new accounting period is the basis period for the year of assessment in the failure year.

Example:

An individual's accounts are normally prepared ending on 31 July. He changes his accounting date and accounts are now closed on 31 October. Accounts are prepared as follows: 01.08.2001 to 31.10.2002 (15 months), and to 31 October for subsequent years.

The basis period for the y/a 2002 (the failure year) is 01.08.2001 to 31.10.2002 (15 months).

The basis period for the y/a 2003 is 01.11.2002 to 31.10.2003.

B) New accounts ending in the third year

If the new accounting period spans 3 basis years, it is apportioned into 2 periods, and these 2 periods will be taken to be the basis periods for the first 2 years of assessment commencing in the failure year.

Example:

An individual's accounts are normally prepared ending on 30 November. There is failure to close accounts to his normal accounting date and accounts are prepared for a period of more than 12 months from 01.12.2000 to 28.02.2002 (15 months), and to 28 February for subsequent years.

The accounting period 01.12.2000 to 28.02.2002 (15 months) is apportioned into 2 periods, so that:

The basis period for the y/a 2001 (the failure year) is the period 01.12.2000 to 31.07.2001 (8 months); and

The basis period for the y/a 2002 is the period 01.08.2001 to 28.02.2002 (7 months).

[In determining the basis periods for the situations in paragraphs 3.6.2 and 3.6.3 above, no accounting period or year of assessment should be left out and there should be no overlapping of basis periods. Any fraction of a month should be treated as falling into the first period.]

3.7 An individual joining a partnership

3.7.1 Joining a new partnership

If an individual joins a new partnership, the basis period for the individual in respect of the partnership source is determined as in the case of a new business [see paragraphs 3.5.1, 3.5.2 or 3.5.3].

Example:

An individual joins a new partnership which commences business on 18.02.2001. The first accounts are prepared to 30.09.2001 and accounts are subsequently prepared to 30 September each year.

The basis periods for the individual's partnership source are [see paragraph 3.5.3]:

Y/a 2001: 18.02.2001 to 31.12.2001

Y/a 2002: 01.10.2001 to 30.09.2002

3.7.2 Joining an existing partnership and the partnership's normal accounting date is maintained

If an individual joins an existing partnership and the partnership accounts continue to be made up to its normal accounting date, the first basis period for the individual in respect of his partnership source is from the date the individual joins the partnership to the date of closing of the partnership accounts. Thereafter, the basis period will be the partnership accounting period.

Example:

An individual joins an existing partnership on 01.02.2001. The accounts of the partnership are normally made up to 31 March. The accounts for the partnership continue to be made up to 31.03.2001.

The basis period for the y/a 2001 for the individual's partnership source is 01.02.2001 to 31.03.2001.

The basis period for the y/A 2002 is 01.04.2001 to 31.03.2002.

3.7.3 Joining an existing partnership and the partnership's normal accounting date is changed

If an individual joins an existing partnership and the partnership changes its normal accounting date, for the purpose of determining the basis period for the individual, the partnership is treated as if it were a new partnership and the basis period is determined as in the case of a new business [see paragraphs 3.5.1, 3.5.2 or 3.5.3].

Example 1:

An individual joins an existing partnership on 01.07.2001. The accounts of the partnership are normally made up to 31 December, but on admission of the new partner, the accounting date is changed to 30 June. The partnership accounts are made up as follows:

01.01.2000 to 31.12.2000 (old partnership)

01.01.2001 to 30.06.2001 (old partnership)

01.07.2001 to 30.06.2002 (new partnership)

01.07.2002 to 30.06.2003 (new partnership)

The basis periods for the partnership source are as follows:

Partner	Y/A	Basics period
The individual (new partner)	2001	None
	2002	01.07.2001 - 30.06.2002
	2003	01.07.2002 - 30.06.2003
Existing partners	2000	01.01.2000 - 31.12 2000
	2001	01.01.2000 - 31.12.2001*
	2002	01.07.2001 - 30.06.2002
	2003	01.07.2002 - 30.06.2003

[*Arising from change of accounting date (see paragraph 3.6.1]

Example 2:

An individual joins an existing partnership on 01.04.2001. The accounts of the partnership are normally made up to 30 June, but on admission of the new partner, the accounting date is changed to 31 March. The partnership accounts are made up as follows:

01.07.1999 to 30.06.2000 (old partnership)

01.07.2000 to 31.03.2001 (old partnership)

01.04.2001 to 31.03.2002 (new partnership)

01.04.2002 to 31.03.2003 (new partnership)

The basis periods for the partnership source are as follows:

Partner	**Y/A**	**Basics period**
The individual (new partner)	2001	None
	2002	01.04.2001 - 31.03.2002
	2003	01.04.2002 - 31.03.2003
Existing partners	2000	01.07.1999 - 30.06 2000
	2001	01.07.2000 - 31.03.2001*
	2002	01.04.2001 - 31.03.2002
	2003	01.04.2002 - 31.03.2003

[*Arising from change of accounting date (see paragraph 3.6.2.A)]

3.8 Treatment of adjusted income / adjusted loss in overlapping periods

Where the application of paragraph 3.5.3 or paragraph 3.6.1 results in an overlapping of two basis periods [see Examples 1 & 2 in paragraph 3.5.3 and Examples 1 & 2 in paragraph 3.6.1], the adjusted income or adjusted loss common to both basis periods is ignored in the second basis period.

Example:

The business of an individual commences on 01.07.2001 and accounts are prepared as follows: 01.07.2001 to 31.03.2002, 01.04.2002 to 31.03.2003, and subsequently to 31 March.

The adjusted income of the individual is as follows:

Y/A & Basis period	Apportionment	Adjusted income
2001 [01.07 2001 - 31.12.2001]	01.07 - 31.12.2001: 6 / 9 x [A] (6 / 9 x RM15,000)	10,000
2002 [01.01.2002 - 31.12.2002]	01.01 - 31.03.2002: 3 / 9 x [A] (3 / 9 x RM15,000) 01.04 - 31.12.2002: 9 / 12 x [B] (9 / 12 x RM24,000)	5,000 18,000 23,000
2003 [01.04.2002 - 31.03.2003]	Adjusted income of overlapping period (01.04.2002 - 31.12.2002) ignored in second basis period: (RM24,000 - RM18,000)	6,000

The adjusted income of the individual is as follows:

Accounting period	**Adjusted income**
01.07.2001 to 31.03.2002 [A]	RM15,000
01.04.2002 to 31.03.2003 [B]	RM24,000

Applying paragraph 3.5.3, the basis periods for the individual are:

Y/A	**Basis periods**
2001	01.07.2001 - 31.12.2001 (6 months)
2002	01.01.2002 - 31.12.2002 (12 months)*
2003	01.04.2002 - 31.03.2003 (12 months)*

[*Overlapping period: 01.04.2002 - 31.12.2002]

The adjusted income should be apportioned as follows:

4.0 INTERPRETATION

For the purpose of this Ruling:

4.1 If changes of accounting date are made in two consecutive accounting periods and the determinations in paragraph 3.6 above cannot be applied because a year of assessment or an accounting period will be left out, the Director General will, upon application by the individual or person other than a company or a co-operative, give specific directions.

4.2 In the case of apportionment of accounting periods, any fraction of a month is to be treated as falling into the first period [see the Example in paragraph3.6.3.B].

4.3 "Person other than a company or a co-operative" includes a Hindu joint family, a trust, an estate under administration, a club and an association.

4.4 "Basis year for a year of assessment" means the calendar year coinciding with the year of assessment.

4.5 "Year of assessment" means calendar year.

4.6 "Failure year" means the year in which there is failure to close the accounts to the normal accounting date (where that normal accounting date is not 31 December).

Date of Issue: 30 April 2001

I Public Ruling No. 7/2001 Basis Period for Business & Non-Business Sources (Companies)

1.0 TAX LAW

This Ruling applies in respect of section 21A of the Income Tax Act 1967. It is effective for the year of assessment 2001 and subsequent years of assessment. This Ruling supersedes Public Ruling No. 2/2000 dated 1 March 2000 where it relates to companies.

2.0 THE APPLICATION OF THIS RULING

This Ruling considers the determination of the basis period for a company:

2.1 commencing its operations;

2.2 changing the accounting date of its existing operations; and

2.3 joining a partnership.

3.0 HOW THE TAX LAW APPLIES

3.1 A company is chargeable to income tax in respect of all its sources of income for a year of assessment [hereinafter also referred to as Y/A].

3.2 The income from a source is determined in relation to the basis period for a year of assessment.

3.3 General

Except where paragraph 3.4 below applies, the basis year for a year of assessment [see paragraphs 4.3 and 4.4] is the basis period for that year of assessment in relation to all sources of income of a company.

Example:

A company which has a business source and a dividend source prepares its accounts from 01.01.2001 to 31.12.2001.

The basis year ending 31.12.2001 is the basis period for the Y/A 2001 for all of the company's sources..

3.4 Accounts made up for 12 months not ending on 31 December

Where the accounts of a company are made up for 12 months ending on a date other than 31 December in a basis year, that accounting period is the basis period for the year of assessment in which the accounts are closed for all its sources of income.

Example:

A company makes up its accounts from 01.07.2001 to 30.06.2002. Its sources of income are business, rental and interest.

The period from 01.07.2001 to 30.06.2002 is the basis period for the Y/A 2002 for all its sources of income.

3.5 Commencement of operations

3.5.1 Accounts prepared for less than or more than 12 months ending on 31 December

Where a company commences operations [see paragraph 4.5] and its first accounts are prepared for less than or more than 12 months ending on 31 December, the basis period for the year of assessment is the period ending on 31 December.

Example 1:

A company commences operations on 11.05.2001 and the first accounts are closed on 31.12.2001.

The accounting period 11.05.2001 to 31.12.2001 is the basis period for the y/a 2001.

Example 2:

A company commences operations on 01.09.2001 and the first accounts are closed on 31.12.2002.

The period from 01.09.2001 to 31.12.2001 is the basis period for Y/A 2001.

The period from 01.01.2002 to 31.12.2002 is the basis period for Y/A 2002.

3.5.2 Accounts prepared for 12 months

Where a company commences operations and its first accounts are made up for 12 months, that accounting period is the basis period for the year of assessment in which the accounts are closed.

Example:

A company commences operations on 01.07.2001 and its first accounts are prepared for the period 01.07.2001 to 30.06.2002.

The accounting period 01.07.2001 to 30.06.2002 is the basis period for the y/a 2002. There is no basis period for the y/a 2001.

3.5.3 Accounts prepared for less than or more than 12 months and not ending on 31 December

Where a company commences operations and its first accounts are made up for less than or more than 12 months not ending on 31 December, the basis period for the year of assessment is the year ending on 31 December each year until accounts are made up for a 12-month accounting period.

Example 1:

A company commences operations on 26.06.2001 and accounts are made up to 30.04.2002 (>10 months), and subsequently to 30.04.2003.

The basis period for the Y/A 2001 is 26.06.2001 to 31.12.2001.

The basis period for the Y/A 2002 is 01.01.2002 to 31.12.2002.

The basis period for the Y/A 2003 is 01.05.2002 to 30.04.2003.

Example 2:

A company commences operations on 26.06.2001 and accounts are made up to 30.09.2002 (>15 months), and subsequently to 30.09.2003.

The basis period for the Y/A 2001 is 26.06.2001 to 31.12.2001.

The basis period for the Y/A 2002 is 01.01.2002 to 31.12.2002.

The basis period for the Y/A 2003 is 01.10.2002 to 30.09.2003.

3.5.4 Company with existing operations commencing new operations

Where a company which is already carrying on one or more operations commences a new operation, the basis period for the existing operations is also the basis period for the new operation.

Example:

A company has been in operation for several years and makes up its accounts ending on 30 September each year. The company starts a new operation on 01.06.2001.

The basis period for its existing operations is the accounting year ending on 30 September

The basis period for the new operation for the Y/A 2001 is therefore 01.06.2001 to 30.09.2001.

3.5.5 Same accounting date as related companies in a group

Where a company commences an operation and makes up accounts to the same day as that of the other related companies in a group, the first basis period for the company is from the date it commences the operation to the date the accounts are closed.

Example:

A company, being a member of a group of companies, commences operations on 15.01.2001 and closes its first accounts on 30.09.2001 to coincide with the financial year ending for the group of companies, and subsequently closes its accounts on 30 September each year.

The basis period for the Y/A 2001 is 15.01.2001 to 30.09.2001.

The basis period for the Y/A 2002 is 01.10.2001 to 30.09.2002.

3.5.6 Requirement under law of place of incorporation

Where a company commences operations and the law of the place where it is incorporated requires it to close its accounts on a particular date, the period from the date of commencement to that accounting date is the basis period for the first year of assessment.

Example:

A company commences operations on 21.10.2001 and makes up its first accounts to 30.04.2002 as required by the law of the place of its incorporation.

The basis period for the Y/A 2002 is 21.10.2001 to 30.04.2002. There is no basis period for the Y/A 2001.

3.6 Change of accounting date

3.6.1 Normal accounts ending on 31 December

Where accounts are normally closed on 31 December and there is a change of accounting date, the basis period in the year of change is the year ending 31 December. The basis period for the subsequent year of assessment will also be the year ending 31 December unless there is a 12-month accounting period ending in that year, in which case that accounting period will be the basis period. Thereafter, the 12-month accounting period will be the basis period.

Example 1:

A company which normally closes its accounts on 31 December changes its accounting date to 30 September and prepares accounts as follows: 01.01.2001 to 30.09.2001, and subsequently to 30 September each year.

The basis period for the y/a 2001 is 01.01.2001 to 31.12.2001.

The basis period for the y/a 2002 is 01.10.2001 to 30.09.2002.

Example 2:

A company which normally closes its accounts on 31 December changes its accounting date to 31 March and prepares accounts as follows: 01.01.2001 to 31.03.2002, and subsequently to 31 March each year.

The basis period for the y/a 2001 is 01.01.2001 to 31.12.2001.

The basis period for the y/a 2002 is 01.01.2002 to 31.12.2002.

The basis period for the y/a 2003 is 01.04.2002 to 31.03.2003.

3.6.2 Normal accounts not ending on 31 December and new accounts prepared for less than 12 months

A) New accounts ending in the following year

The new accounting period is the basis period for the year of assessment in the failure year [see paragraph 4.6].

Example:

A company's accounts are normally prepared ending on 30 September. The company changes its accounting date and the accounts are now closed on 31 March. Accounts are prepared as follows: 01.10.2000 to 30.09.2001, 01.10.2001 to 31.03.2002 (6 months), and to 31 March for subsequent years.

The basis period for the y/a 2002 (the failure year) is 01.10.2001 to 31.03.2002 (6 months).

The basis period for the y/a 2003 is 01.04.2002 to 31.03.2003.

B) New accounts and the last accounts ending in the same year

The period comprising the new accounting period together with the following accounting period is the basis period for the year of assessment in the failure year.

Example:

A company's accounts are normally prepared ending on 30 June. The company changes its accounting date and the accounts are now closed on 31 December. Accounts are prepared as follows: 01.07.2000 to 30.06.2001, 01.07.2001 to 31.12.2001 (6 months), 01.01.2002 to 31.12.2002, and to 31 December for subsequent years.

Since both the new accounting period 01.07.2001 to 31.12.2001 and the last accounting period 01.07.2000 to 30.06.2001 end in the same basis year:

The basis period for the y/a 2002 (the failure year) is 01.07.2001 to 31.12.2002 (18 months).

The basis period for the y/a 2003 is 01.01.2003 to 31.12.2003.

3.6.3 Normal accounts not ending on 31 December and new accounts prepared for more than 12 months

A) New accounts ending in the following year

The new accounting period is the basis period for the year of assessment in the failure year.

Example:

A company's accounts are normally prepared ending on 31 July. The company changes its accounting date and accounts are now closed on 31 October. Accounts are prepared as follows: 01.08.2001 to 31.10.2002 (15 months), and to 31 October for subsequent years.

The basis period for the y/a 2002 (the failure year) is 01.08.2001 to 31.10.2002 (15 months).

The basis period for the y/a 2003 is 01.11.2002 to 31.10.2003.

B) New accounts ending in the third year

If the new accounting period spans 3 basis years, it is apportioned into 2 periods, and these 2 periods will be taken to be the basis periods for the first 2 years of assessment commencing in the failure year.

Example:

A company's accounts are normally prepared ending on 30 November. There is failure to close accounts to its normal accounting date and accounts are prepared for a period of more than 12 months from 01.12.2000 to 28.02.2002 (15 months), and to 28 February for subsequent years.

The accounting period 01.12.2000 to 28.02.2002 (15 months) is apportioned into 2 periods, so that:

The basis period for the y/a 2001 (the failure year) is the period 01.12.2000 to 31.07.2001 (8 months).

The basis period for the y/a 2002 is the period 01.08.2001 to 28.02.2002 (7 months).

[In determining the basis periods for the situations in paragraphs 3.6.2 and 3.6.3 above, no accounting period or year of assessment should be left out and there should be no overlapping of basis periods. Any fraction of a month should be treated as falling into the first period.]

3.7 Company joining a partnership

If a company joins a partnership, the partnership will be regarded as a new operation of the company. The basis period for its existing operations is, therefore, also the basis period for the partnership source [see paragraph 3.5.4].

Example 1:

A company (whose accounts are closed on 30 June) joins a new partnership which commences business on 18.02.2001. The first accounts of the partner- ship are prepared to 30.09.2001 and accounts are subsequently prepared to 30 September each year.

Notwithstanding the accounting period of the partnership, the basis periods for the company in respect of its partnership source are:

Y/a 2001: 18.02.2001 to 30.06.2001

Y/a 2002: 01.07.2001 to 30.06.2002

Example 2:

A company (whose accounts are closed on 31 December) joins an existing partnership on 01.02.2001. The accounts of the partnership are normally made up to 31 March. The accounts for the partnership continue to be made up to 31.03.2001, and to 31 March for subsequent years.

Notwithstanding the accounting period of the partnership, the basis period for the company in respect of its partnership source for the y/a 2001 is 01.02.2001 to 31.12.2001.

Example 3:

X Sdn. Bhd. (whose accounts are closed on 30 June) and Y Sdn. Bhd. (whose accounts are closed on 30 September) start a joint venture. The accounts of the joint venture are made up as follows: 01.04.2001 to 31.12.2001, and to 31 December for subsequent years.

Notwithstanding the accounting period of the partnership, the basis periods in respect of the partnership source are as follows:

Y/A	X Sdn. Bhd.	Y. Sdn. Bhd.
2001	01.04.2001 - 30.06.2001	01.04.2001 - 30.09.2001
2002	01.07.2001 - 30.06.2002	01.10.2001 - 30.09.2002
2003	01.07.2002 - 30.09.2003	01.10.2002 - 30.06.2003

[Note: In all the situations in Examples 1, 2 and 3 above, the adjusted income from the partnership source for the relevant accounting periods should be apportioned accordingly.]

3.8 Treatment of adjusted income / adjusted loss in overlapping periods

Where the application of paragraph 3.5.3 or paragraph 3.6.1 results in an overlapping of two basis periods [see Examples 1 & 2 in paragraph 3.5.3 and Examples 1 & 2 in paragraph 3.6.1], the adjusted income or adjusted loss common to both basis periods is ignored in the second basis period.

Example:

A company commences a business on 01.07.2001 and accounts are prepared as follows: 01.07.2001 to 31.03.2002, 01.04.2002 to 31.03.2003, and subsequently to 31 March.

The adjusted income of the company's business is as follows:

Y/A & Basis period	Apportionment	Adjusted income
2001 [01.07 2001 - 31.12.2001]	01.07 - 31.12.2001: 6 / 9 x [A] (6 / 9 x RM15,000)	10,000
2002 [01.01.2002 - 31.12.2002]	01.01 - 31.03.2002: 3 / 9 x [A] (3 / 9 x RM15,000) 01.04 - 31.12.2002: 9 / 12 x [B] (9 / 12 x RM24,000)	5,000 18,000 23,000
2003 [01.04.2002 - 31.03.2003]	Adjusted income of overlapping period (01.04.2002 - 31.12.2002) ignored in second basis period: (RM24,000 - RM18,000)	6,000

The adjusted income of the company's business is as follows:

Accounting period	**Adjusted income**
01.07.2001 to 31.03.2002 [A]	RM15,000
01.04.2002 to 31.03.2003 [B]	RM24,000

Applying paragraph 3.5.3, the basis periods for the company are:

Y/A	Basis periods
2001	01.07.2001 - 31.12.2001 (6 months)
2002	01.01.2002 - 31.12.2002 (12 months)*
2003	01.04.2002 - 31.03.2003 (12 months)*

[*Overlapping period: 01.04.2002 - 31.12.2002]

The adjusted income should be apportioned as follows:

4.0 INTERPRETATION

For the purpose of this Ruling:

4.1 If changes of accounting date are made in two consecutive accounting periods and the determinations in paragraph 3.6 above cannot be applied because a year of assessment or an accounting period will be left out, the Director General will, upon application by the company, give specific directions.

4.2 In the case of apportionment of accounting periods, any fraction of a month is to be treated as falling into the first period [see the Example in paragraph 3.6.3.B].

4.3 "Basis year for a year of assessment" means the calendar year coinciding with the year of assessment.

4.4 "Year of assessment" means calendar year.

4.5 "Operations" include an activity which consists of:

4.5.1 the carrying on of a business;

4.5.2 the making of investments;

4.5.3 both the carrying on of a business and the making of investments; or

4.5.4 the making of investments prior to the commencement of a business or after the cessation of a business.

4.6 "Failure year" means the year in which there is failure to close the accounts to the normal accounting date (where that normal accounting date is not 31 December).

Date of Issue: 30 April 2001