



# LAWS OF MALAYSIA

REPRINT

**Act 132**

## **INCOME TAX (TIN BUFFER STOCK CONTRIBUTIONS AND REPAYMENTS) ACT 1974**

*Incorporating all amendments up to 1 January 2006*

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**INCOME TAX (TIN BUFFER STOCK  
CONTRIBUTIONS REPAYMENTS)  
ACT 1974**

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**LAWS OF MALAYSIA****Act 132****INCOME TAX (TIN BUFFER STOCK  
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**LAWS OF MALAYSIA****Act 132****INCOME TAX (TIN BUFFER STOCK  
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ACT 1974**

An Act to make provision for the treatment for income tax purposes of contributions and repayments under the Tin Control (Buffer Stock) Regulations 1972.

[14 June 1974]

**BE IT ENACTED** by the Seri Paduka Baginda Yang di-Pertuan Agong with the advice and consent of the Dewan Negara and Dewan Rakyat in Parliament assembled, and by the authority of the same, as follows:

**Short title and effect**

1. (1) This Act may be cited as the Income Tax (Tin Buffer Stock Contributions and Repayments) Act 1974.

(2) This Act shall be deemed to have had effect as from the year of assessment 1973.

**Interpretation**

2. (1) In this Act, unless the context otherwise requires—

“contribution” in relation to a contributor, means a contribution which he is required by the Tin Control (Buffer Stock) Regulations 1972 [*P.U. (A) 64/1972*] (in this Act referred to as the Regulations) to pay, and includes a contribution under the Regulations borne by him by deduction from the price paid to him, and references to contributions paid shall be construed accordingly;

“contribution certificate” means the Buffer Stock Share Certificate issued under regulation 24 of the Regulations;

“contributor” means a person registered as a contributor under regulation 7 of the Regulations and includes any other person who

proves to the satisfaction of the Director General that he has paid or borne contribution under any agreement or arrangement;

“income tax” means income tax imposed by the Income Tax Act 1967 [Act 53] (in this Act referred to as the Income Tax Act);

“repayment” means a sum repaid under regulation 26 of the Regulations.

(2) Words and expressions defined in any provision of the Income Tax Act shall, unless the context otherwise requires, have the defined meaning if used in this Act.

### **Election as to treatment for tax purposes, of contributions**

3. (1) A contributor may by notice in writing to the Director General elect that contributions paid by him in respect of tin concentrates sold by him in the course of the carrying on of a business of his which includes the working of a mine shall be allowed as a deduction in ascertaining his income from that business for income tax purposes.

(2) An election under this section shall not be valid if made after 31 December 1974.

(3) An election under this section shall not be revocable.

### **Treatment for tax purposes, of contributions where there is election**

4. (1) Where a contributor (in this section referred to as the relevant contributor) has made an election under section 3 relating to contributions paid by him in respect of tin concentrates sold by him in the course of the carrying on of a business (in this section referred to as the relevant business) of his which includes the working of a mine, the following provisions of this section shall have effect.

(2) Where for a year of assessment (in this section referred to as the relevant year) the relevant contributor has statutory income

(in this subsection referred to as the relevant statutory income) from the relevant business, ascertained under section 42 of the Income Tax Act—

- (a) if the amount of the relevant statutory income exceeds the amount of the contributions (hereinafter in this section referred to as the relevant contributions) paid by him in the year preceding the relevant year in respect of tin concentrates sold by him in the course of the carrying on of the relevant business, the excess shall be deemed to be the amount of his statutory income for the relevant year from the relevant business for the purposes of section 42 of the Income Tax Act;
  - (b) if the amount of the relevant statutory income is equal to the amount of the relevant contributions, he shall be deemed not to have any statutory income for the relevant year from the relevant business for the purposes of section 42 of the Income Tax Act;
  - (c) if the amount of the relevant contributions exceeds the amount of the relevant statutory income, he shall be deemed not to have any statutory income for the relevant year from the relevant business for the purposes of section 42 of the Income Tax Act and the excess shall be deemed to be an adjusted loss incurred by him in the year preceding the relevant year in the relevant business for the purposes of subsection 44(2) of the Income Tax Act.
- (3) Where for the relevant year the relevant contributor has no statutory income ascertained under section 42 of the Income Tax Act from the relevant business—
- (a) if there is any adjusted loss incurred by him in the year preceding the relevant year in the relevant business, the amount of the relevant contributions shall be added to the amount of such adjusted loss, and the aggregate amount shall be deemed to be the adjusted loss incurred by him in the year preceding the relevant year in the relevant business, for the purposes of subsection 44(2) of the Income Tax Act;
  - (b) in any other case, the amount of the relevant contributions shall be deemed to be an adjusted loss incurred by him

in the year preceding the relevant year in the relevant business, for the purposes of subsection 44(2) of the Income Tax Act.

(4) Where for the relevant year the relevant contributor has statutory income from the relevant business, ascertained under section 42 of the Income Tax Act, the amount of repayments (in this section referred to as the relevant repayments) made to him in the year preceding the relevant year in respect of any contributions paid by him in respect of tin concentrates sold by him in the course of the carrying on of the relevant business, shall be added to the amount of that statutory income and the aggregate amount shall be treated as the amount of his statutory income for the relevant year from the relevant business, for the purposes of section 42 of the Income Tax Act.

(5) Where for the relevant year the relevant contributor has no statutory income from the relevant business, ascertained under section 42 of the Income Tax Act—

(a) if there is no adjusted loss incurred by him in the year preceding the relevant year in the relevant business, the amount of the relevant repayments shall be deemed to be the amount of his statutory income for the relevant year from the relevant business, for the purposes of section 42 of the Income Tax Act;

(b) if there is such an adjusted loss—

(i) where the amount of the relevant repayments exceeds the amount of such adjusted loss, the excess shall be deemed to be the amount of his statutory income for the relevant year from the relevant business, for the purposes of section 42 of the Income Tax Act;

(ii) where the amount of the relevant repayments is equal to the amount of such adjusted loss, he shall be deemed not to have any statutory income for the relevant year from the relevant business, for the purposes of section 42 of the Income Tax Act;

(iii) where the amount of such adjusted loss exceeds the amount of the relevant repayments, the excess shall be deemed to be the amount of the adjusted

loss incurred by him in the year preceding the relevant year in the relevant business, for the purposes of subsection 44(2) of the Income Tax Act.

(6) In the event of any repayment (in this section referred to as the late repayment) in respect of any contributions paid by the relevant contributor in respect of tin concentrates sold by him in the course of the carrying on of the relevant business, being made after the relevant business has ceased to be carried on, the late repayment shall be treated for the purposes of subsections (4) and (5) as having been made in the year preceding the last year of assessment for the assessment of the income from the relevant business, and as having been of an amount equal to the actual amount of the repayment:

Provided that—

- (a) pending the determination of the amount of the late repayment or aggregate amount of the late repayments, the relevant contributor may be treated for the purposes of this subsection as having received late repayments of an aggregate amount equal to the aggregate amount of all the contributions paid by him in respect of tin concentrates sold by him in the course of the carrying on of the relevant business, reduced by the amount of all repayments made to him before the relevant business ceased to be carried on, in respect of any contributions paid by him in respect of tin concentrates sold by him in the course of the carrying on of the relevant business;
- (b) where the relevant contributor is treated in the manner described in paragraph (a) of this proviso then, on the determination of the actual amount of the late repayment or aggregate amount of the late repayments—
  - (i) if the amount of the income tax assessed in accordance with that paragraph is less than the amount of the income tax which ought to have been assessed if the actual amount of the late repayment or aggregate amount of the late repayments had been determined, an additional assessment shall be made accordingly;

- (ii) if the amount of the income tax assessed in accordance with that paragraph exceeds the amount of the income tax which ought to have been assessed if the actual amount of the late repayment or aggregate amount of the late repayments had been determined, the assessment shall be reduced by a sum equal to the amount of the excess.

(7) The right to receive a repayment in respect of any contributions paid by the relevant contributor in respect of tin concentrates sold by him in the course of the carrying on of the relevant business, shall not be assignable except with the consent of the Director General.

(8) The relevant contributor shall surrender his contribution certificates to the Director General for transmission to the Accountant General.

### **Treatment for tax purposes, of repayments where there is no election**

5. Where a contributor has not made an election under section 3 relating to contributions paid by him in respect of tin concentrates sold by him in the course of the carrying on of a business of his which includes the working of a mine, any repayment made in respect of those contributions shall be exempt from income tax.

### **Remission of tax**

6. (1) Any part of the tax computed under section 4 and payable by the contributor may be remitted by the Director General on the grounds of justice and equity.

(2) Where a contributor granted remission under subsection (1) has paid any of the tax to which the remission relates, he shall be entitled to have the amount which he has paid refunded to him as if it were an overpayment to which section 111 of the Income Tax Act applies.

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## LIST OF AMENDMENTS

Amending law	Short title	In force from
	-NIL-	

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## LIST OF SECTIONS AMENDED

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