

# INCOME TAX ACT 1967

## SCHEDULE 7

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Sections [132](#) and [133](#)

### Double taxation relief

#### Bilateral credit

##### 1

Subject to this Schedule, the amount of Malaysian tax payable for a year of assessment shall be reduced by the amount of any bilateral credit.

##### 2

Bilateral credit shall not be allowed against Malaysian tax for any year of assessment unless the person chargeable to the Malaysian tax is resident for the basis year for that year of assessment.

##### 3

Where foreign income charged to foreign tax is income for a period which overlaps the basis period for a year of assessment, that income shall be apportioned in the manner provided by paragraph [3A](#) and for that year of assessment bilateral credit may be given only in respect of so much of that income as is apportioned to the part of the overlapping period which overlaps the basis period.

#### History

Sch. 7 para. 3 amended by Act 773 of 2015, s. 27(a), effective for the year of assessment 2016 and subsequent years of assessment, by substituting "paragraph 3A" for "subsection 25(4)".

#### 3A

**3A(1)** For the purposes of paragraph [3](#), where a foreign income is receivable in respect of a period which overlaps the basis period (which is referred to in this paragraph as the overlapping period), that foreign income when received shall be apportioned between the part of the overlapping period which overlaps the basis period and the remaining part of the overlapping period.

**(2)** The apportionment under subparagraph [\(1\)](#) shall be made in the proportion that the number of days of the overlapping period that fall into the basis period bears to the total number of days of the overlapping period, unless the Director General, having regard to the facts of any particular case, otherwise directs.

**(3)** So much of that foreign income as is apportioned to the overlapping part of the overlapping period shall be treated as foreign income of the person for the basis period.

#### History

Sch. 7 para. 3A inserted by Act 773 of 2015, s. 27(b), effective for the year of assessment 2016 and subsequent years of assessment.

##### 4

Where foreign income (being income for a particular period) is charged to Malaysian tax for more than one year of assessment or is charged to foreign tax more than once, bilateral credit may be allowed for a year of assessment for the total amount of foreign tax charged on that foreign income:

Provided that—

(a) the credit so allowed should not exceed the total amount of Malaysian tax charged on that foreign income; and

(b) where credit has been allowed for a year of assessment for any foreign tax, no credit shall be given for the same tax for any other year of assessment.

## 5

The bilateral credit to be allowed to a person in respect of any foreign income for a year of assessment shall not exceed a sum equal to so much of the Malaysian tax payable by him for that year (before the allowance of any credit under this Schedule) as bears to the whole of that Malaysian tax the same proportion as his statutory income in respect of that foreign income bears to his total income for that year.

### History

Sch. 7 para. 5 amended by Act 661 of 2006, s. 33(a), effective for the year of assessment 2007 and subsequent years of assessment, by inserting after the words "proportion as" the words "his statutory income in respect of".

## 6

Notwithstanding paragraph 5, the total bilateral credit to be allowed to a person for a year of assessment shall not exceed the total Malaysian tax payable by him on his chargeable income for that year before the allowance of any credit under this Schedule.

## 7

Bilateral credit shall not be allowed against Malaysian tax payable by a person for a year of assessment if he elects that credit shall not be allowed for that year.

## 8

*(Deleted by Act 591 of 1998.)*

### History

Sch. 7 para. 8 deleted by Act 591 of 1998, s. 12, effective for year of assessment 1999 and subsequent years of assessment. Para. 8 formerly read:

8 Subsections (5), (6) and (7) of section 130 shall apply to claims for relief under this Schedule as they apply to claims for relief under that section, subject to any necessary modifications and subject in particular, as regards subsection (7) of that section, to the modification that—

- (a) that subsection shall be applicable in any case where a claim is made before the making of an assessment; and
- (b) the relief may be computed by the Director General in whatever amount he considers appropriate.

## 9

Any claim for bilateral credit for a year of assessment shall be made in writing to the Director General not more than two years after the end of that year; and, where the claimant is aggrieved by the Director General's decision on the claim, section [131\(5\)](#) shall apply (with any necessary modifications) as it applies where an applicant is aggrieved by the Director General's decision on an application under section [131\(1\)](#).

## 10

Where the amount of any bilateral credit given is rendered excessive or insufficient by reason of any adjustment of the amount of any Malaysian tax or foreign tax, nothing in this Act limiting the time for making assessments, for making applications for relief or for giving notice of appeal shall apply to any assessment, application for relief or notice of appeal to which the adjustment gives rise, being an assessment, application or notice made or given not more than two years after the time when all such assessments, adjustments and

other determinations have been made (in Malaysia or elsewhere) as are material in determining whether any and if so what bilateral credit falls to be given.

## Special provisions for trusts

### 11

Where the trust body of a trust is resident for the basis year for a year of assessment and the total income of the trust body includes foreign income which has suffered foreign tax, every beneficiary of the trust who is resident for that basis year shall be deemed for the purposes of this Schedule—

(a) to have a part of that foreign income proportionately equal to the share of the total income of the trust body to which he is entitled; and

(b) to have paid on that part of that foreign income a part of that foreign tax proportionately equal to that share of the total income of the trust body.

### 12

Where a trust is not resident for the basis year for a year of assessment, any beneficiary of the trust (including an annuitant) who is resident for that basis year shall, if he satisfies the Director General that—

(a) he has paid or suffered foreign tax on his income from his further source (within the meaning of section [61\(5\)](#)) in relation to the trust body or on so much of the annuity as is derived from outside Malaysia; or

(b) any income from such further source or any annuity so derived was paid by the trust body from income which had suffered foreign tax,

be allowed bilateral credit in respect of that foreign tax in accordance with this Schedule.

## Unilateral credit

### 13

Subject to paragraphs 14 and 15, unilateral credit shall be allowed in the same way as bilateral credit, and paragraphs 1 to 12 shall apply accordingly.

### 14

The unilateral credit allowed in respect of any foreign income for a year of assessment shall not exceed half the foreign tax payable on that income for that year.

### 15

Where an employee pays Malaysian tax and foreign tax in respect of income from an employment exercised outside Malaysia, then, whether or not he was resident for the basis year for the year of assessment for which the Malaysian tax was paid, unilateral credit may be allowed for foreign tax.

## Interpretation

### 16

In this Schedule—

**"bilateral credit"** means credit in respect of foreign tax which, by virtue of any arrangements having effect under section [132](#), is to be allowed as a credit against Malaysian tax;

**"foreign income"** means income derived from outside Malaysia or in the case of bilateral credit, includes income derived from Malaysia charged to foreign tax;

## History

Definition of "foreign income" amended by Act 661 of 2006, s 33(b), effective for the year of assessment 2007 and subsequent years of assessment, by inserting after the word "Malaysia" the words "or in the case of bilateral credit, includes income derived from Malaysia charged to foreign tax".

**"Malaysian tax"** means tax imposed by this Act;

**"unilateral credit"** means credit in respect of foreign tax payable under the laws of a territory outside Malaysia with respect to which no arrangements under section [132](#) are in force.