

PART B : "CURRENT YEAR ASSESSMENT".

Questions and Answers - Compiled By Ministry of Finance Malaysia & Lembaga Hasil Dalam Negeri (IRB).

Q1: What is meant by "current year assessment system"?

A1: Under the current year assessment system, income derived in the current year will be assessed and liable to tax in the same year. In the 1999 Budget, it is proposed that the current year assessment system be implemented with effect from the years 2000. With this change, it would mean that income derived in the year 2000 will be assessed to tax in the same year.

Q2: What is the difference between "current year assessment" and "preceding year assessment"?

A2: The difference between "current year assessment" and "preceding year assessment" is as follows:

"Current year assessment" means income derived in a current year will be assessed and liable to tax in the same year.

"Preceding year assessment" means income tax charged for a particular year is based on income that has been derived in the preceding year.

We are presently under the "preceding year assessment" system. As such, income derived in 1998 will be assessable in the year 1999 (year of assessment 1999).

Q3: What are the benefits under the "current year assessment system"?

A3: The benefit arising from a current year assessment system is that tax will be assessed and collected on income derived in the same year.

As such, the tax will be collected based on the ability (to pay) and the current cash flow position of the taxpayer. However, under the preceding year assessment basis, tax is collected about a year after the income arises and this has resulted in cash flow problems to the taxpayers in the following year when they have to settle their taxes, particularly in time of recession or economic downturn.

Q4: How does Lembaga Hasil Dalam Negeri (IRB) collect taxes from taxpayers?

A4: The method of payment of income tax is determined following the categories of taxpayers. Taxpayers can generally be categorised into:

(i) Employees (individuals only);

(ii) Business (individuals and companies); and

(iii) Others including co-operatives, associations, Trusts and deceased estates.

Employees

This category of taxpayers are subject to the Schedular Tax Deduction (STD). Under the STD, tax is deducted by the employer from the salaries of the employees based on a schedule as provided by IRB.

Business

The business group comprises individuals (sole proprietors and partners) and companies. This category of taxpayers is subject to the instalment payment scheme. Under the present arrangement, taxpayers are allowed five (5) bimonthly instalments (January, March, May, July and September or February, April, June, August and October).

Others

Same as the business group as mentioned above.

Q5: What is meant by the "Schedular Tax Deduction" (STD)?

A5: The Schedular Tax Deduction (STD) is a collection scheme whereby it is obligatory for each employer to deduct from the salary of each of his employee following a schedule as determined by IRB for payment of income tax of the employees.

Presently, there are 3 categories of employees who are subject to STD:

(i) Employees who commenced employment before 1 January 1995;

(ii) Employees who commenced employment after 1 January 1995;
and

(iii) Employees in Sabah and Sarawak.

Category (i)

For employees commencing employment prior to 1 January 1995, tax deduction is in respect of income derived from the preceding year.

Category (ii) and (iii)

For employees commencing employment after 1 January 1995 and employees in Sabah and Sarawak, tax deduction is for the income derived in the current year.

Q6: What are the implications on taxpayers arising from the implementation of the current year assessment system in year 2000?

A6: With the implementation of the "current year assessment" system in

year 2000, taxpayers will have to pay tax in year 2000 based on the income derived in the year 2000. However, as the assessment in year 1999 is still based on the preceding year basis, income for 1999 will be assessable to tax in year 2000 and payment of tax has to be made in that year too. This means that the taxpayer would have to pay income tax for 2 years in the year 2000.

Q7: How would the Government relieve the burden on the taxpayers having to pay tax for two years in one year as a result of the change to the current year assessment?

A7: To relieve the burden on taxpayers from payment of income tax for 2 years in one year, the Government proposed to waive income tax on the 1999 income. This means that in the year 2000, tax will not be charged on income for the basis period 1999. Tax that needs to be paid in year 2000 is based on income derived in the year 2000 only.

Even though income for basis year 1999 is waived from income tax, taxpayers are required to declare their income for the said year in the Return Form for Year of Assessment 2000.

Q8: What are the types of income that are chargeable to tax?

A8: Income chargeable to tax following the provisions of the Income Tax Act, 1967 are as follows:

- (a) Employment income;
- (b) Business income;
- (c) Dividends, interest and discounts;
- (d) Rents, royalties and premiums;
- (e) Pension, annuities and other periodical payments; and
- (f) Other income not falling under any of the above.

Under section 3 of the Income Tax Act 1967, remittances received by residents, other than companies, from outside Malaysia are chargeable to tax.

Q9: What is meant by income for 1999 being waived from income tax?

A9: Income for 1999 which is to be waived from income tax is in respect of all income as stated under the answer for the question No. 8 above, derived from basis period 1999, except for dividend income. However, income derived by foreign employees and non-resident individuals who commence or terminate their employment in Malaysia in the year 1999 will be subject to tax. Income derived in the basis period 1999 means income arising and does not necessarily mean income received in the basis period 1999. Income received in the basis period 1999 but relates to employment or business transactions in the basis period 1998 or prior years will be subject to tax in the year the income arises and will therefore not be waived from income tax. For example,

compensation received in year 1999 for cessation of employment which took place in 1998 will be considered as income for 1998 and not as income for 1999.

Q10: What are the implications from the waiver of tax on taxpayers?

A10: The assessment and payment positions for each category of taxpayers resulting from the tax waiver on income derived from basis year 1999 are as follows:-

(a) Employees

Based on 3 categories of employees who are subject to STD:

(i) Employees who commenced employment before 1 January 1995;

(ii) Employees who commenced employment after 1 January 1995;

(iii) Employees in Sabah and Sarawak.

Category (i)

For employees under this category, deductions under STD will continue in the year 1999 for payment of tax on 1998 income.

Employees are required to declare their 1998 income in the Return Form for Year of Assessment 1999 which will be issued in the early part of 1999, to be assessed for the Year of Assessment 1999. They will not be taxed on income arising in the year 1999 in year 2000. Beginning from year 2000, they will pay tax based on current year income (year 2000).

Category (ii) and (iii)

For employees under these categories, they are exempted from deduction of tax under STD in the year 1999 because they have already paid tax on their 1998 income through STD in the year 1998. However, such employees are still required to declare their income for 1998 by submitting Return Form for Year of Assessment 1999 to determine their actual tax liability. STD will recommence in respect of these categories in the year 2000.

(b) Business

(c) Others (co-operative, associations, trusts, deceased estates)

For categories (b) and (c) above, they will continue to pay income tax through the instalment scheme as arranged for in 1999 on the income for basis period 1998. They are required to declare income for basis period 1998 for the Year of Assessment 1999. These categories will continue to pay tax in year 2000 but on current year income. These groups of taxpayers will also not be assessed on income for basis period 1999 in the year 2000. However, they will be required to complete Return Form for Year of Assessment 2000 which will be issued in 2000, for declaration of business profits/losses for basis

period 1999, to enable the claim for losses to be carried forward to be determined.

Q11: How is the tax treatment on non-residents as a result of the implementation of "current year assessment" system?

A11: Presently taxpayers who are non-residents are assessed as follows:-

(i) Income Tax

Taxpayer	Rate of Tax (%)
Individuals	30% of chargeable income
Companies	28% of chargeable income

(ii) Withholding Tax

Types of Income	Withholding Tax Rate (%)
Interest	15% on gross income – Final Tax
Technical Fees	10% on gross income – Final Tax
Royalties	10% on gross income – Final Tax
Income of foreign public entertainers	15% on gross income – Final Tax
Contract Payments	15% on contract payment - Not a Final Tax 5% on contract payment for non-resident employees - Not a Final Tax

Non-resident taxpayers are also presently subject to assessment on a preceding year basis and payment of tax for 2 years in one year will also arise in year 2000. Generally the non-resident taxpayers are also waived from tax on income derived in year 1999.

However, non-resident individuals who commence employment in 1999 will be assessed to tax on the 1999 income.

In respect of withholding taxes, the payers in making payments to non-residents are required to withhold and remit to IRB, tax of the non-residents on specific income and at rates specified. The tax waiver on 1999 income will not be applicable to non-residents receiving income which is subject to withholding tax and considered as a final tax.

On the other hand, withholding tax on the service portion of contract payments is provided as a collection mechanism to ensure compliance of the non-residents to submit Return Forms and to settle their tax liability which will only be determined in the following year. Thus, such

withholding tax on the non-resident contractors are not final tax and the non-resident contractors will be given the waiver in respect of income derived in basis period 1999. However, withholding tax will still apply to ensure tax compliance of the non-resident contractors.

Q12: Will the implementation of the "current year assessment" system affect the Government's cash flow?

A12: The implementation of the "current year assessment" system will enable tax on income derived by the taxpayer in a particular year to be collected in the same year too. This means that the Government's cash flow will not be affected by the implementation of current year assessment system but the cash flow will reflect the current economic performance.

Q13: What are the categories of taxpayers which will not be granted the tax waiver on year 1999 income?

A13: The change from the "preceding year assessment" to "current year assessment" system involves the assessment system under the Income Tax Act 1967 and the waiver of tax on basis period 1999 income is given to avoid taxpayers having to pay two (2) years taxes in one year. The categories of taxpayers not given the waiver are as follows:-

(i) foreign employees and non-resident individuals who commence or terminate their employment in year 1999;

(ii) taxpayers subject to withholding tax where it is a final tax.

Q14: Is "current year assessment" system applicable for the Petroleum Income Tax Act 1967 ?

A14: Current year assessment system is not applicable to the Petroleum Income Tax Act 1967. This decision is taken in view of the need for the Government to maximise tax revenue from the upstream petroleum industry which is exploiting the most important natural resource of the country that would be depleted after a period of time. Furthermore, the income tax element has been taken into consideration in the profit sharing contracts of this industry.

Q15: What is the tax treatment on dividends with the implementation of the "current year assessment" system?

A15: With the implementation of the "current year assessment" system, any dividends distributed out of income from basis period 1999 will be exempted in the hands of the recipients (shareholders). For this purpose, companies are required to keep a separate account for income derived in the basis period 1999, which would be waived from the income tax.

Q16: What is the effect of the implementation of the "current year assessment" system on companies enjoying incentives under pioneer status?

A16: If the period of exemption under Pioneer Status overlaps with the basis period 1999 where the tax is being waived, the Government will not extend the relevant pioneer period.

Q17: How is the tax treatment of companies whose financial year is not the same as the calendar year ?

A17: This Ministry takes note that there are companies whose financial year is not the same as the calendar year. For these companies, the implementation of the current year assessment system beginning from the year 2000 will subject them to financial difficulty even though income derived for the basis period 1999 is waived from tax. This is because they are still subject to payment of two - year tax in one year. For example, for a company having a financial year from 1 February to 31 January would have to pay tax on income derived during the period 1 February 1999 to 31 January 2000 as well 1 February 2000 to 31 January 2001 in the year 2000. In line with the objective to avoid the payment of income tax for two years in one year, those companies are required to start making tax payment in the month of January 2000 instead of February 1999 on income derived for the period 1 February 1999 to 31 January 2000. At the same time, those companies will also be allowed to settle their tax on income derived in the basis period 2000 until the end of 2001.