

PRACTICE NOTE NO. 1/2025

TAX TREATMENT ON THE ACCEPTANCE OF DONATIONS OR CONTRIBUTIONS

1. This practice note is issued to provide clarification regarding the tax treatment of donations or contributions received by any "person". According to section 2 of the Income Tax Act 1967 (ITA), "person" includes a company, body of persons, a limited liability partnership and a sole proprietorship.
2. Normally, donations or contributions received by any person are for the purpose of raising funds to carry out specific objectives. There are institutions, organizations or funds (IOF) that are established not for the purposes of profit but its establishment is to carry out the objectives of the IOF, which are activities for the public interest without any commercial purposes.
3. Such IOFs typically raise funds through donations or contributions received from various entities including the Government, corporate companies, associations, organizations and also the public. The funds collected through these donations or contributions are used by the IOF to achieve the objectives of its establishment which involves public interests or providing contributions to the public for charitable purposes.
4. There are no specific provisions in the ITA regarding the tax treatment of donations or contributions received. Therefore, the existing scope of charge of income tax applies to IOF. The scope of charge under section 3 of the ITA states that income tax is charged for each year of assessment upon the income of any person accruing in or derived from Malaysia or received in Malaysia from outside Malaysia. Therefore, donations or contributions received are included in the scope of chargeability to tax if the receipts have the characteristics of income or if the elements of badges of trade exists such as:
 - i. income is received repeatedly;
 - ii. income flows from source of income; and
 - iii. income is received in the ordinary course of business.

5. Donations or contributions may be subject to income tax if:
 - i. the recipient of the donations or contributions is engaged in business; or
 - ii. the donations or contributions received are used to increase revenue and to sustain its business activities.

Example 1:

Sekolah Setia Bakti (SSB) was established for the purpose of providing special education to children with disabilities. Fees are charged for each student enrolled in this school. Other than that, SSB also receives donations and contributions from the public in which the funds are collected by the school. These donations and contributions are used to finance school fees for the underprivileged students of SSB. SSB is not an approved IOF under subsection 44(6) of the ITA.

The donations or contributions received by SSB is used for the purpose of increasing its revenue and sustaining its business activities. Hence, the donations or contributions received from the public by SSB is business income that is taxable under paragraph 4(a) of the ITA.

6. For an IOF which receives donations or contributions to carry out its activities, such receipts are revenue which is subject to tax under paragraph 4(a) of the ITA. However, any expenses incurred specifically for the purpose of implementing the objectives of the establishment of the IOF including donations or contributions made for charitable activities are allowed as deduction under subsection 33(1) of the ITA. Only the balance or excess of unutilised sum of the donations or contributions will be taxable as income under paragraph 4(a) of the ITA.

Example 2

Yayasan Jayadiri (YJ) was established as an organization with the purpose of managing and increasing public funds solely to alleviate hardship among vulnerable groups. YJ receives donations or contributions from the public to carry out the foundation's activities. YJ is not an approved IOF under subsection 44(6) of the ITA.

In year 2024, YJ received donations or contributions from the public amounting to RM200,000. Below is YJ's income and expenditure account for the year ended 31.12.2024:

No.	Expenses	RM	Income	RM
I.	Charity Dinner to collect donations	50,000	Donations or contributions	200,000
II.	Contribution to flood victims	60,000		
III.	Food basket program for the homeless	50,000		
IV.	Operating expenses	5,000		
V.	Surplus	35,000		
	Total	200,000	Total	200,000

The expenses incurred by YJ amounting to RM165,000 (item I to IV) is allowed as a deduction under subsection 33(1) of the ITA because the expenses are wholly and exclusively incurred for the purpose of the establishment of the foundation which is for charitable purposes. Any excess income which was not fully utilised amounting to RM35,000 is subject to income tax and is taxable under paragraph 4(a) of the ITA.

- Therefore, an IOF can apply for approval under subsection 44(6) of the ITA if it fulfils the specified eligibility criteria. If an IOF is approved under subsection 44(6) of the ITA, the income received by the IOF is exempt from tax under paragraph 13(1)(a) Schedule 6 of the ITA. Applications for approval under subsection 44(6) of the ITA must be submitted with complete supporting documents to the Tax Policy Department, Inland Revenue Board of Malaysia. The Guidelines for Approval by the Director General of Inland Revenue under subsection 44(6) of the ITA 1967 can be accessed through the website at www.hasil.gov.my.

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

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