

Tax Alert

Guidelines on Tax Treatment on the Income of Medical Practitioners (Specialist Doctors) in Private Hospitals

6 April 2022



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Guidelines on Tax Treatment on the Income of Medical Practitioners (Specialist Doctors) in Private Hospitals

1. The guidelines explain whether the fee received by a Specialist Doctor from Private Hospitals in return for services rendered shall be assessed under the following categories:-
 - Business income of an individual to be assessed under Section 4(a) of the Income Tax Act, 1967 (“the Act”)
 - Business income of a company to be assessed under Section 4(a) of the Act; and
 - Employment income assessed under Section 4(b) of the Act.

Services rendered includes: Consultation fee, treatment, surgery, prescription of medication and monitoring the patient's health status.

2. This stand taken by the Inland Revenue Board of Malaysia (“IRBM”) has been communicated to the Malaysian Medical Association (“MMA”) via letter dated 28 June 2018. Effective from the year of assessment (“YA”) 2017, services rendered to the Private Hospitals regardless of the existence or non-existence of a written agreement, the payment received by a Specialist Doctor will be subjected to tax as business income of an individual.

3. INCOME ASSESSED AS BUSINESS INCOME OR EMPLOYMENT INCOME OF THE INDIVIDUAL

- 3.1 Consultancy fees and other forms of payments received from the Private Hospitals from the following scenarios will be subject to tax as business income of the Specialist Doctor under Section 4(a) of the Act:
 - Patients who have visited the Private Hospitals and was referred to a Specialist Doctor who owns a Specialist Clinic (hereinafter refer to as “the Company”) in the hospital or visit the Specialist Clinic in the hospital directly to receive treatment and purchase medicine from the hospital’s pharmacy of which consultation fee and other related payments were made to the Private Hospital;
 - A Company set up by several Specialist Doctors and enter into a written agreement with a Private Hospital to provide specialist services to the patients;
 - The shareholder and director of the Company consist of Specialist Doctor and non-Specialist Doctor providing services in the Private Hospital;
 - Specialist Doctor is a shareholder and director of the Private Hospital and he/she also set up the Company and receive consultation fees and other payments from the Private Hospital;
 - The Specialist Doctor sets up a Specialist Clinic located outside the premises of the Private Hospital and providing services to the Private Hospital.

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3.2 Specialist Doctor will have two different sources of business income which need to be declared in the Income Tax Return Form as separate business source under Section 4(a) of the Act:

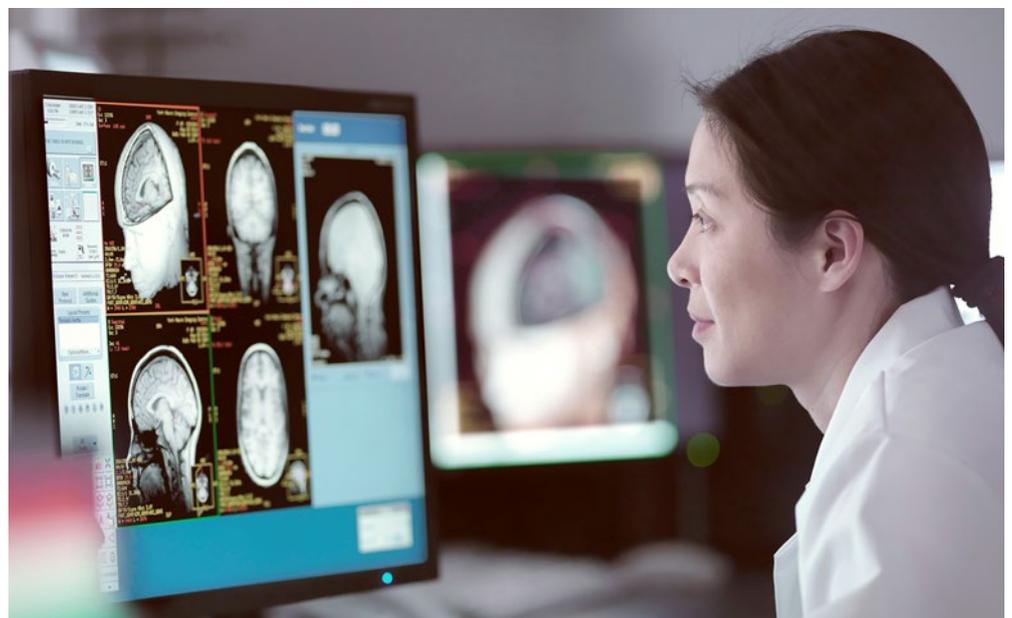
- Consultation fee and other payments received from Private Hospital will be assessed as business income of the Specialist Doctor (Income Tax Return Form e-B)
- Income received from the business in medical related fields such as selling medical products, pharmaceutical products and health aids other than carrying out the profession as a Specialist Doctor in the Private Hospitals will be assessed as business income of the Company (Income Tax Return Form e-C)

3.3 Specialist Doctor who has been appointed under a contract of service as employee and work either full-time or otherwise with the Private Hospital, the salaries received for consultation services, surgery or any forms of treatment provided will be assessed as employment income of the Specialist Doctor pursuant to Section 4(b) of the Act.

4. INCOME ASSESSED AS BUSINESS INCOME OF THE COMPANY

In the following scenarios, the income received by the Specialist Doctor may be assessed as business income of the Company (the Specialist Clinic may be within or outside the premises of the Private Hospital):

- a. Patients who visit the Specialist Clinic directly for treatment without referral from the Private Hospital; and
- b. In carrying out treatment to the patients, the Specialist Doctor does not use any of the Private Hospital's facilities.



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5. DEDUCTIBILITY OF THE EXPENSES INCURRED

Types of deductible expenses pursuant to Section 33(1) of the Act:

- Professional Indemnity Insurance premium;
- Seminars, workshops or conferences fees approved by the Continuing Professional Development (CPD) Review Committee;
- EPF contributions by employers except for employer's contributions made by sole proprietorship where the Specialist Doctor is the sole proprietor;
- Doctor's room/equipment/surgery room rental expenses in the Private Hospital
- Other allowable expenses under Section 33(1) of the Act

Public Ruling references:

1. No. 1/2019 Professional Indemnity Insurance
2. No. 6/2006 Tax Treatment of Legal and Professional Expenses
3. No. 5/2018 Taxation of a Resident Individual Part II – Computation of Total Income and Chargeable Income
4. No. 1/2005 Computation of Total Income for Individual
5. No. 5/2000 Keeping Sufficient Records (Individuals & Partnerships)

6. CAPITAL ALLOWANCE CLAIMS PURSUANT TO SCHEDULE 3 OF THE ACT

Public Ruling references:

1. No. 6/2015 Qualifying Expenditure and Computation of Capital Allowances
2. No. 5/2014 Ownership and Use of Asset for the Purpose of Claiming Capital Allowances
3. No. 3/2021 Special Allowances for Small Value Assets

For further details on the IRB's Technical Guidelines - Tax Treatment on the Income of Medical Practitioners (Specialist Doctors) in Private Hospitals dated 16 March 2022, please refer to the link below:

https://phl.hasil.gov.my/pdf/pdfam/GP_Layanan_Cukai_Ke_Atas_Pendapatan_Doktor_Pakar_Di_Hospital_Swasta_Sama_Ada_Ditaksir_Di_Bawah_Individu_Atau_Syarikat.pdf

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Find out how Grant Thornton can help you with your taxation matters.



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