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Inland Revenue Board of Malaysia Act 1995

Inland Revenue Board of Malaysia

LAWS OF MALAYSIA

RepRint

Act 533

InLAnd Revenue BOARd

OF MALAYSIA Act 1995

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InLAnd Revenue BOARd OF MALAYSIA

Act 1995

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Act 533

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Act 1995

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InLAnd Revenue BOARd OF MALAYSIA

Act 1995

an act to establish and incorporate the inland Revenue board of malaysia, to provide for its functions and powers, and for matters connected therewith.

[1 March 1996, P.U. (B) 76/1996]

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:

Part i

pReliminaRy

Short title and commencement

1. () this act may be cited as the inland Revenue board of malaysia act 995.

() this act shall come into force on such date as the minister may, by notification in the Gazette, appoint.

Interpretation

2. in this act, unless the context otherwise requires-- "appointed day" means the day on which this act comes into force;

"board" means the inland Revenue board of malaysia established under section ;

"body" means a body corporate;

"Chairman" means the Chairman of the board and includes any temporary Chairman of the board;

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"chiefexecutiveofficer"meansthechiefexecutiveofficerappointed under subsection 6a() and includes any person appointed under subsection 6a());

"director General" means the director General of inland Revenue referred to in section 4 of the income tax act 967 [Act 53]; "fund" means the fund established under section ;

"liabilities" means liabilities, debts, charges, duties and obligations of every description whether present or future, actual or contingent, and whether payable or to be observed or performed in malaysia or elsewhere;

"member" means a member of the board referred to under section 6;

"minister" means the minister for the time being charged with the responsibility for finance;

"property" includes all property, movable and immovable, and all estates, interests, easements or rights, whether equitable or legal in, to or out of property, choses in action, money and goodwill; and "vested", in relation to property, includes rights to property which are future or contingent and rights in reversion and remainder; "rights" means all rights, powers, privileges and immunities, whether actual, contingent or prospective;

"vesting date" means the date on which property, rights and liabilities specified by the minister in the order under subsection 4() to which the Government of malaysia was entitled or subject to, are transferred to and vested in the board.

Part ii

establishment of the inland Revenue boaRd

establishment of the Inland Revenue Board

3. there is hereby established a body corporate by the name "inland Revenue board of malaysia" with perpetual succession and a common seal, and which may sue and be sued in its name and, 7Inland Revenue Board of Malaysia

subject to and for the purposes of this act, may enter into contracts and may acquire, purchase, take, hold and enjoy movable and immovable property of every description and may convey, assign, surrender, yield up, charge, mortgage, demise, reassign, transfer or otherwise dispose of, or deal with, any movable or immovable property or any interest therein vested in the board upon such terms as it deems fit.

vesting provisions

4. () subject to this act, the minister may, from time to time, by order published in the Gazette, appoint a vesting date and on such date all property, rights or liabilities of the Government of malaysia specified by the minister in such order shall, by virtue of this act, be transferred to and vested in the board without any conveyance, assignment or transfer whatever.

() every property vested by virtue of subsection () in the board shall be so vested in the board for the like title, estate or interest and on the like tenure as the same was vested or held immediately before the vesting date.

() every chose in action vested by virtue of subsection () in the board may, after the vesting date, be sued on, recovered or enforced by the board in its own name and it shall not be necessary for the board or the Government of malaysia to give notice to the person bound by the chose in action of the vesting effected by subsection ().

(4) every right and liability vested by virtue of subsection () in the board may, on and after the vesting date, be sued on, recovered or enforced by or against the board in its own name and it shall not be necessary for the board or the Government of malaysia to give notice to the person whose right or liability is affected by the vesting under subsection ().

(5) any pending legal proceedings by or against the Government of malaysia which relate to any property, right or liability transferred to and vested in the board by virtue of subsection () may, on and after the vesting date, be continued by or against the board. (6) in the case of rights and liabilities arising under any loans which is vested in the board on the vesting date, the board may enter into such arrangements or agreements over such rights and liabilities with the Government of malaysia or any third party. 8 Laws of Malaysia Act 533

(7) on and after the vesting date, any agreement relating to any property, rights and liabilities transferred to and vested in the board under subsection () to which the Government of malaysia was a party immediately before the vesting date, whether in writing or not, and whether or not of such a nature that rights and liabilities thereunder could be assigned by the Government of malaysia, shall have effect as if the board has been a party to the agreement. common seal

5. () the common seal of the board shall bear such device as the board may approve and such seal may from time to time be broken, changed, altered and made anew by the board as it may think fit. () the common seal shall be kept in the custody of the Chairman and shall be authenticated by any two members generally or specially authorized by the board for the purpose or by one member and the Chairman.

() all deeds, documents and other instruments purporting to be sealed with the common seal and authenticated in accordance with subsection () shall, until the contrary is proved, be deemed to have been validly executed.

(4) the common seal of the board shall be officially and judicially noticed.

Membership of the Board

6. () the board shall consist of the following members: (a) the secretary General to the treasury, who shall be the Chairman;

(b) the attorney General or his representative;

(c) the director General of public service or his representative;

(d) not more than two other persons representing the Government, who shall be appointed by the minister; and

(e) not more than two other persons who shall be appointed by the minister.

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() the members appointed under paragraph ()(e) shall be from among persons of standing and experience in financial, commercial, tax or legal matters.

() (Deleted by Act A997).

(4) in the event of the Chairman being absent or unable to act due to illness or any other cause, the minister shall appoint any member of the board to be the temporary Chairman.

(5) the provisions of the first schedule shall apply to the board.

chief executive officer

6A. () the minister shall, on the recommendation of the board, appoint a chief executive officer who shall be responsible for the day-to-day administration of the board.

() the appointment of the chief executive officer shall be notified in the Gazette.

() in the event the chief executive officer is temporarily unable to perform his duties due to illness or any other cause, another person may be appointed by the minister to act in place of the chief executive officer during the period of inability. terms of office

7. subject to such terms as the minister may determine, a member appointed under paragraph 6()(d) or (e), shall hold office for a term not exceeding three years and shall be eligible for reappointment. disqualification of member

8. no person shall continue to hold office as a member if he-- (a) is convicted of an offence involving fraud, dishonesty or moral turpitude;

(b) is of unsound mind or is otherwise incapable of discharging his duties;

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(c) is adjudicated a bankrupt; or

(d) absents himself from three consecutive meetings of the board without leave of the Chairman.

Revocation and resignation of member

9. () the minister may, at any time, revoke the appointment of any member appointed under paragraph 6()(d) or (e), without giving any reason therefor.

() any member appointed under paragraph 6()(d) or (e) may at any time resign from his office by giving notice in writing to the minister.

Part iii

funCtions and poweRs of the boaRd

Functions of the Board

10. the functions of the board shall be-- (a) to act as agent of the Government and to provide services in administering, assessing, collecting and enforcing payment of income tax, petroleum income tax, real property gains tax, estate duty, stamp duties and such other taxes as may be agreed between the Government and the board;

(b) to advise the Government on matters relating to taxation and to liaise with the appropriate ministries and statutory bodies on such matters;

(c) to participate in or outside malaysia in respect of matters relating to taxation; and

(d) to perform such other functions as are conferred on the board by any other written law.

Board may act as collection agent

10A. () notwithstanding section 0, the board may act as a collection agent for and on behalf of any body for the recovery of loans due for repayment to that body under any written law.
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() for the purposes of this section the minister may, from time to time, give directions and make regulations in relation to the collection of the repayments.

Powers of the Board

11. () the board shall have power to do all things necessary or convenient to be done for or in connection with the performance of its functions.

() without prejudice to the generality of subsection (), the powers of the board shall include power--

(a) to enter into contracts;

(b) to utilize all property of the board, movable and immovable, in such manner as the board may think expedient including the raising of loans by mortgaging such property; (c) to engage in any activity, either alone or in conjunction with other organizations or international agencies, to promote better understanding of taxation;

(d) to provide technical advice or assistance, including training facilities, to tax authorities

of other countries; (e) to impose fees or charges for services rendered by the board;

(f) to grant loans to employees of the board for any purpose specifically approved by the board;

(g) to provide recreational facilities and promote recreational activities for, and activities conducive to, the welfare of employees of the board;

(h) to provide training for employees of the board and to award scholarships or otherwise pay for such training; and (i) to do anything incidental to any of its powers. () for the avoidance of doubt the powers of the board shall not include the powers of the director General or the person holding any of the offices in the third schedule.

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Appointment of committees

12. () for the purposes of performing its functions, the board may establish such committees as it considers necessary, and with such terms of reference as it may specify.

() members of a committee established under subsection () may be appointed from amongst members of the board or such other persons as the board thinks fit.

() persons who are disqualified from being members of the board under section 8 shall also be disqualified from being members of a committee.

(4) a member of the committee shall hold office for such term as may be specified in his letter of appointment and is eligible for reappointment.

(5) the board may revoke the appointment of any member of a committee without assigning any reason therefor.

(6) a member of a committee may at any time resign by giving notice in writing to the Chairman of the board.

delegation of powers

13. () the board may delegate to any committee established under section such of its functions as it may deem necessary or desirable.

() any functions delegated under this section--

(a) maybesodelegatedsubjecttosuchconditionsorrestrictionsas the board may either generally or specifically impose; (b) shall be exercised by the committee in the name and on behalf of the board.

() no delegation made under this section shall preclude the board itself from exercising or performing at any time any of the functions so delegated.

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Power of Minister to give directions and require information

14. () the minister may give to the board such directions of a general character not

inconsistent with this act relating to the performance of the board's functions and the board shall give effect to all such directions.

() the board shall furnish the minister with such returns, accounts and other information as he may, from time to time, require. Part iv

Provisions Relating to employees

employment

15. () the board shall on the appointed day accept into its employment every person who immediately before that date is in the employment or service of the inland Revenue department, malaysia, and who was given an option by the Government of malaysia and has opted to serve as an employee of the board.

() every such person who opts under subsection () to serve as an employee of the board shall be employed by the board on terms and conditions of service not less favourable than the terms and conditions of service to which he was entitled to immediately before the date mentioned in subsection ().

() until such time as terms and conditions of service including the conduct and discipline of its employees are drawn up by the board, the scheme and terms and conditions of service including the conduct and discipline of employees of the Government shall mutatis mutandis continue to apply to every person employed by the board under subsection ().

Salaries, terms and conditions of service of Government employees to be taken into account

16. () the terms and conditions to be drawn up by the board shall take into account the salaries and terms and conditions of service, including any accrued rights to leave, enjoyed by the persons while in the employment of the Government before opting into the service 4 Laws of Malaysia Act 533

of the board; and any such term or condition relating to the length of service with the board shall provide for the recognition of service with the Government by the persons making the option as service with the board.

() where any person in the service of the board whose case does not fall within the scope of any pension or other schemes established under this section retires or dies whilst in the service of the board or is discharged from such service, the board may grant to him or to such other person or persons wholly or partly dependent on him, as the board thinks fit, such allowance or gratuity as the board may determine.

Appointment of other employees, agents and consultants

17. () subject to such regulations as may be made under sections 8 and 4, the board may, from time to time, appoint and employ on such terms and conditions as the board may think fit such other employees as may be necessary for carrying out the purposes of this act.

() the board may appoint and employ such consultants and agents to transact any business or to do any act required to be transacted or done in the execution of its functions or for the better carrying into effect the purposes of this act.

Regulations with respect to discipline

18. () the board may, from time to time, with the approval of the minister make regulations with respect to the discipline of its employees.

() the regulations made under this section may include provisions for--

(a) the interdiction with reduction in salary or in other remuneration; or

(b) the suspension without salary or other remuneration, of an employee of the board during the pendency of disciplinary proceedings against him.

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() the regulations made under this section shall create such disciplinary offences and provide for such disciplinary punishments as the board may deem appropriate, and the punishment so provided may extend to dismissal or reduction in rank.

(4) the regulations made under this section, may in prescribing the procedure for disciplinary proceedings, provide for an opportunity for representations to be made by the person against whom the disciplinary proceedings are taken before a decision is arrived at by the board on the disciplinary charge laid against such person. continuation and completion of disciplinary proceedings

19. () where on the appointed day any disciplinary proceedings is pending or existing against any employee of the Government who has opted into the service of the board, such proceedings shall be continued and completed by the board.

() an order, ruling or direction made or given by a committee pursuant to this section shall be treated as an order, ruling or direction of the board and have the same force or effect as if it had been made or given by the board pursuant to the authority vested in the board under this act.

Imposition of surcharge

20. () if the board is satisfied that any person who is or was in its employment--

(a) is or was responsible for any improper payment of moneys from the fund or for any payment of such moneys which is not duly vouched;

(b) is or was responsible for any deficiency in, or for the destruction of, any moneys, securities, stores or other property of the board;

(c) being or having been an accounting officer, fails or has failed to keep proper accounts or records; or

(d) has failed to make any payment, or is or was responsible for any delay in the payment, of moneys from the board to any person to whom such payment is due under any contract, agreement or arrangement entered into between that person and the board,

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and if a satisfactory explanation is not furnished to the board within a period specified by the board, with regard to the failure to collect, improper payment, payment not duly vouched, deficiency or destruction, or failure to keep proper accounts or records, or failure to make payment, or delay in making payment, the board may surcharge against the said

person a sum not exceeding the amount of any such amount not collected, such payment, deficiency, or loss or the value of the property destroyed, as the case may be; and with regard to the failure to keep proper accounts or records, or the failure to make payment, or the delay in making payment, the board may surcharge against the said person such sum as the board may think fit.

() the board shall cause the chief executive officer to be notified of any surcharge made under subsection () and the chief executive officer shall thereupon notify the person surcharged. () the board may at any time withdraw any surcharge in respect of which a satisfactory explanation has been received or if it otherwise appears that no surcharge should have been made, the board shall at once cause the chief executive officer to be notified of such withdrawal.

(4) the amount of any surcharge imposed under subsection () and not withdrawn under subsection () shall be a debt due to the board from the person against whom the surcharge is imposed and may be sued for and recovered in any court at the suit of the board and may also be recovered by deduction--

(a) from the salary of the person surcharged if the board so directs; or

(b) from the pension of the person surcharged if the board so directs,

by equal monthly instalments not exceeding one-fourth of the total monthly salary or pension, as the case may be, of the person. Protection from personal liability

21. no suit or other legal proceedings shall lie personally against any member, officer or employee of the board or any other person under the direction of the board for anything which is done in good faith or intended to be done in the execution or purported execution of this act.

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Public servants

22. all members of the board and its committee and all officers, employees or agents of the board shall be deemed to be public servants within the meaning of the penal Code [Act 574]. Part v

finanCial pRovisions

Fund of the Board

23. () there shall be established, for the purposes of this act, a fund to be administered and controlled by the board. () the fund of the board shall consist of--

(a) all moneys received by the board for services rendered by the board to the Government as its agent or for services rendered by the board to any person;

(b) all moneys received by the board by way of grants; (c) all moneys derived from the disposal, lease or hire of, or any other dealing with, any property vested in or acquired by the board;

(d) all moneys derived as income from investment by the board;

(e) all moneys borrowed by the board under this act; and (f) all other moneys lawfully received by the board. expenditure and preparation of estimates

24. () the expenditure of the board up to such amount as may be authorized by the minister for any year shall be defrayed out of the fund.

() before the beginning of each year, the board shall submit to the minister an estimate of the expenditure for the following year in such form and containing such particulars as the minister may direct, and the minister shall, before the beginning of that following year, notify the board of the amount authorized for expenditure generally or of the amounts authorized for each description of expenditure. 8 Laws of Malaysia Act 533

() the board may at any time submit to the minister as supplementary estimate for any one year and the minister may allow the whole or any part of the additional expenditure included therein.
Power to borrow

25. the board may, from time to time for the purposes of this act, raise loans from the Government or with the consent of the minister, from any other source.

Grants

26. for the purposes of enabling the board to carry out its functions under this act, the minister may, from time to time, make grants- in-aid to the board of such sums of money as the minister may determine out of moneys to be provided by parliament. Bank accounts and application of revenue

27. () the board shall open and maintain an account or accounts with such bank or banks as the board thinks fit; and every such account shall be operated upon as far as practicable by cheque signed by such person or persons as may, from time to time, be authorized by the board.

() the moneys of the board shall be applied only in payment of discharge of the expenses, obligations and liabilities of the board and in making any payment that the board is authorized or required to make.

Investment

28. the board may, with the approval of the minister, invest any of its funds available for investment in the following manner: (a) by depositing in--

(i) bank negara malaysia;

(ii) banks duly licensed under the banking and financial institutions act 989 [Act 372]; or

(iii) any other financial institution duly licensed under the banking and financial institutions act 989;

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(b) by investing in bonds, mortgage papers, commercial notes, banker's acceptances, money market papers, certificates of deposits and promissory notes and bills of exchange within the meaning of the bills of exchange act 949 [Act 204];

(c) by investing in accordance with the provisions of the trustee act 949 [Act 208]:

provided however, where the board invests in or upon titles to immovable property in Malaysia in accordance with paragraph 4(c) of the trustee act 949, such immovable property may or may not yield any income at the time of such investment. Part vi

General

no proceedings against the Board as agent of Government

29. () no action or legal proceedings shall be brought against the board in respect of any matter relating to any tax for which the board is acting as agent of the Government.

() any action or legal proceedings in respect of any matter relating to tax shall be instituted by or against the Government. Proceedings conducted by officers of the Board

30. () proceedings in respect of any offence under this act or any regulations made thereunder or any of the acts specified in the second schedule or any subsidiary legislation made under any of those acts may with the consent of the public prosecutor, be conducted by an officer of the board who is authorized to conduct such proceedings by the director General.

() notwithstanding the provisions of any written law, a legal officer as defined in the Government proceedings act 956 [Act 359] or a legal officer of the board who has been admitted as an advocate and solicitor under the legal profession act 976 [Act 166] may appear in any civil proceedings involving the board or any person holding any of the offices specified in the third schedule in the performance of his functions under any written law so specified, 0 Laws of Malaysia Act 533

and may make and do all acts and applications in respect of such proceedings on behalf of the board or such person, as the case may be.

Obligation of secrecy

31. () except as provided in this act or for the purpose of any civil or criminal proceedings under any written law, no member, officer, employee or agent of the board, whether during his tenure of office, or during his employment or thereafter, and no other person who has by any means access to any information or document whatsoever relating to the affairs of the board shall give, divulge, reveal or otherwise disclose such information or document to any person. () any person who contravenes subsection () shall be guilty of an offence and shall, on conviction, be liable to a fine not exceeding ten thousand ringgit or to imprisonment for a term not exceeding three years or to both.

Statutory Bodies (Accounts and Annual Reports) Act 1980

32. the provisions of the statutory bodies (accounts and annual Reports) act 980 [Act 240] shall apply to the board. Power of Minister to amend the Second and third Schedules

33. the minister may, by order published in the Gazette, amend the second and third schedules.

Regulations

34. () the board may, with the approval of the minister, make such regulations as may be expedient or necessary for carrying out the purposes of this act.

() without prejudice to the generality of subsection (), the board may make regulations for or with respect to all or any of the following matters:

- (a) the manner of appointment, and the terms and conditions of service of the officers and employees of the board; Inland Revenue Board of Malaysia
- (b) the payment of gratuities and other benefits to officers and employees of the board; and
- (c) the fees or charges to be imposed in respect of anything done under or by virtue of this act.

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First schedule

[subsection 6(5)]

proceedings of the board

Meetings of the Board

1. () the board shall meet for the despatch of its business at least once a month at such time and place as the Chairman may, from time to time, determine. () at every meeting of the board, four members shall form a quorum. () a decision at a meeting of the board shall be adopted by a simple majority of the members present and voting except that, in the case of an equality of votes, the Chairman shall have a casting vote in addition to his original vote. disclosure of interest by members
 2. () a member of the board who is in any way, directly or indirectly, having any interest in any transaction or project of the board shall disclose the nature of his interest at a meeting of the board; and such disclosure shall be recorded in the minutes of the meeting and the member shall take no part in any deliberation or decision of the board with respect to that transaction or project. () for the purpose of determining whether there is a quorum, a member shall be treated as being present at a meeting notwithstanding that under subparagraph () he cannot vote or has withdrawn from the meeting. vacancies
 3. the board may act notwithstanding any vacancy in its membership. Procedure at meetings
 4. () subject to the provisions of this act, the board may make rules to regulate its own procedure generally and, in particular, regarding the holding and proceedings of meetings, the notice to be given of such meetings, the keeping of minutes and the custody, production and inspection of such minutes. () any minutes made of meetings of the board or committee, if duly signed by the Chairman, shall, in any legal proceedings, be admissible as evidence of the facts stated therein and every meeting of the board or committee in respect of the proceedings of which minutes have been so made shall be deemed to have been duly convened and held and all members thereof to have been duly qualified to act.
- validity of proceedings
5. the validity of any proceeding of the board shall not be affected by any contravention of paragraph by any member.

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the Board may invite others to meetings

6. the board may invite any person to attend any meeting or deliberation of the board for the purpose of advising it on any matter under discussion, but any person so attending shall have no right to vote at the said meeting or deliberation. Allowances payable to members of the Board

7. there may be paid to the members of the board or any other person invited to attend any meeting of the board such allowances out of the funds of the board as the minister may determine.

secondschedule

[subsection 0())

speCified aCts

. income tax act 967.

*. supplementary income tax act 967 [Act 54].

. Real property Gains tax act 976 [Act 169].

4. promotion of investments act 986 [Act 327]. **5. estate duty enactment 94 [En. 7 of 1941].

6. stamp act 949 [Act 378].

7. petroleum (income tax) act 967 [Act 543]. ***8. Cinematograph film-hire duty act 965 [Act 434].

9. labuan offshore business activity tax act 990 [Act 445].

0. share (land based Company) transfer tax act 984 [Act 310]. . land speculation tax act 974 [Act 126].

. finance act 965 [No. 2 of 1965].

. investment incentives act 968 [Act 199].

4. betting and sweepstake duties act 948 [Act 201]. *NOTE--the supplementary income tax act 967 [Act 54] has since been repealed by the finance act 99 [Act 497]--see section 6 of act 497.

** NOTE--the estate duty enactment 94 [En. 7 of 1941] has since been repealed by the finance act 99 [Act 476]--see subsection 46() of act 476. ***NOTE--the Cinematograph film-hire duty act 965 [Act 434] has since been repealed by the finance act 997 [Act 557]--see section 6 of act 557. NOTE--the share (land based Company) transfer tax act 984 [Act 310] has since been repealed by the finance act 988 [Act 364]--see section 6 of act 64. NOTE--the land speculation Gains tax act 976 [Act 169] has since been repealed by the Real property tax act 976 [Act 169]--see section 59 of act 69. NOTE--the investment incentives act 968 [Act 199] has since been repealed by the promotion of investment act

[Act 327]--see section 44 of act 7. 4 Laws of Malaysia Act 533

third schedule

[subsections () and 0()]

specified offices

. the director General of inland Revenue under the income tax act

967. . the director General of inland Revenue under the supplementary income tax act 967.

. the Collector of stamp duties under the stamp act 949.

4. the Collector of estate duty under the estate duty enactment 94.

5. the Comptroller General of inland Revenue under the petroleum (income tax) act 967.

6. the director General of inland Revenue under the Cinematograph film-hire duty act 965.

7. the director General of inland Revenue under the Real property Gains tax act 976.

8. the director General of inland Revenue under the labuan offshore business activity tax act 990.

9. the director General of inland Revenue under the promotion of investments act 986.

0. the director General of inland Revenue under the share (land based Company) transfer tax act 984.

. the director General of inland Revenue under the land speculation tax act 974.

. the Comptroller General of inland Revenue under the finance act 965 (no. /965).

. the Collector of stamp duties under the betting and sweepstake duties act 948.

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list of amendments

amending law short title in force from

act a997 inland Revenue board of malaysia 0-08-997 (amendment) act 997

act a00 inland Revenue board of malaysia 0-0-998

(amendment) act 998

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section amending authority in force from

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act a00 0-0-998

6 act a997 0-08-997

6a act a997 0-08-997

7 act a997 0-08-997

9 act a997 0-08-997

0a act a00 0-0-998

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second schedule act a997 0-08-997

third schedule act a997 0-08-997

diCetak oleh

peRCetakan nasional malaysia beRhad,

kuala lumpuR

baGi pihak dan denGan peRintah keRaJaan malaysia

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