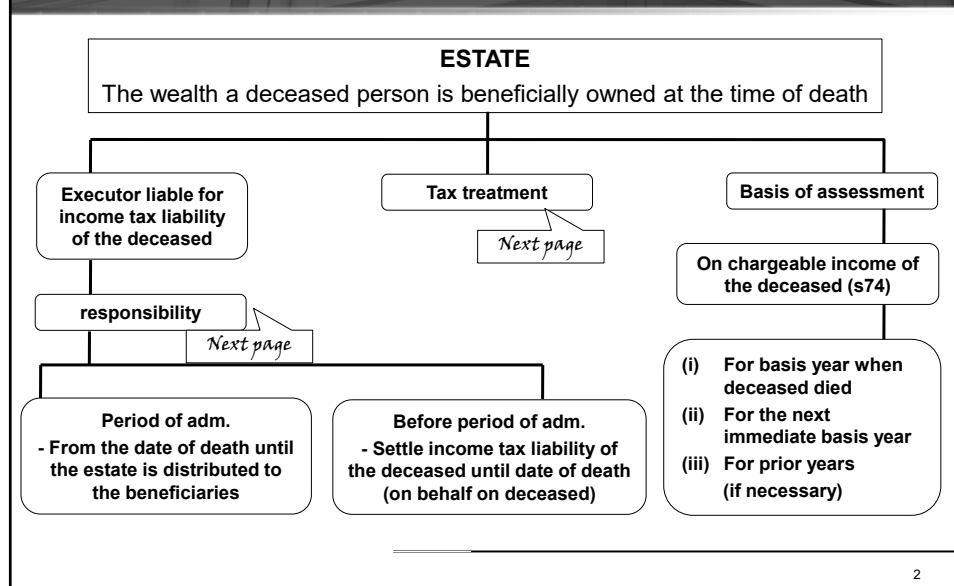


# Estates Under Administration

1

## Estate Under Administration



2

## Estate Under Administration - EXECUTOR

### FAILURE TO FULFILL HIS RESPONSIBILITY



Will render executor jointly & severally liable to pay a penalty = amt of tax which the failure relates

Eg 8.1, pg129

### NON COMPLIANCE PENALTY

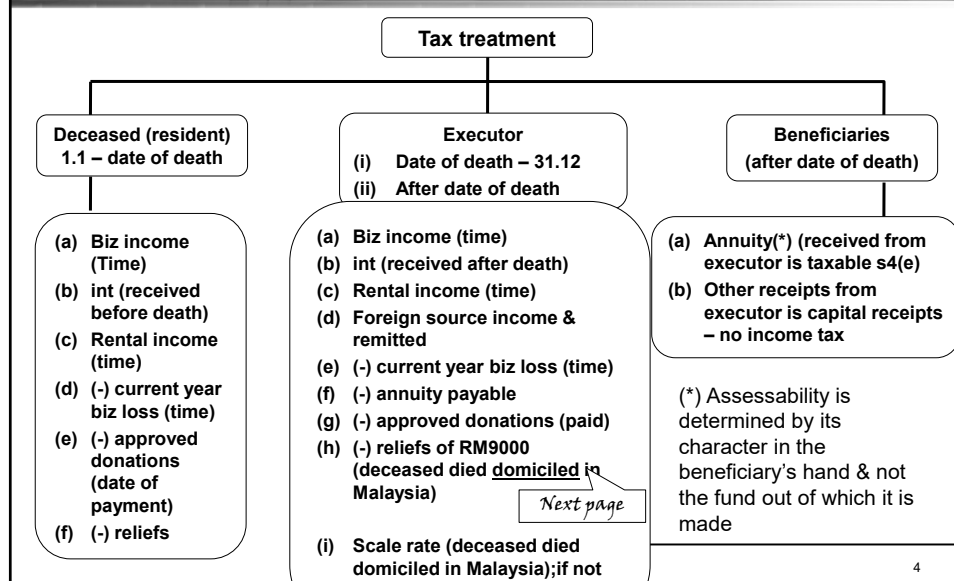


Without prosecution	With prosecution
Penalty of 3x the amt of tax (S112(3))	Fine between RM200 to RM20,000 or 6 mths imprisonment or both (S112(1))

3

3

## Estate Under Administration



4

4

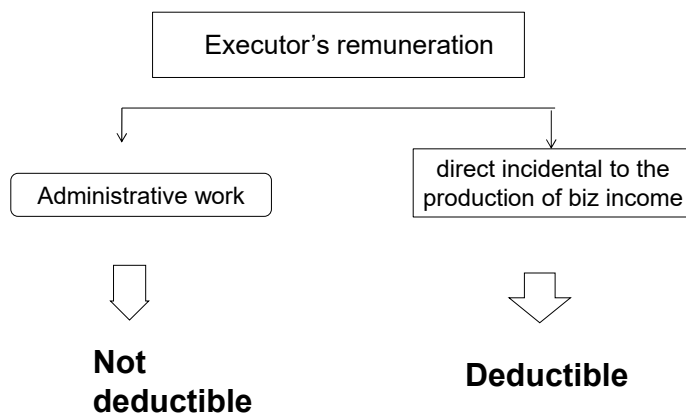
## Estate Under Administration

- ◆ **Meaning of 'domicile'**
  - = permanent home
  - = habitually & physically present & that person has the intention to reside the country permanently
  - = once a person is said to be domiciled in M'sia => presumption of continuity

5

5

## Executor's remuneration



Eg 8.7 -8.10 pg 135

6

6

## Apportionment of Income

Income	Apportionment
Business	Time basis at adjusted income
Interest	Assessed on a receipt basis
Dividends	Exempt
Rental income	Time basis
Foreign income	Date of Remittance

7

7

## Trusts

8

## Trust –Total / adjusted income

**Distributable income** = accounting concept  
= Amount available for distribution

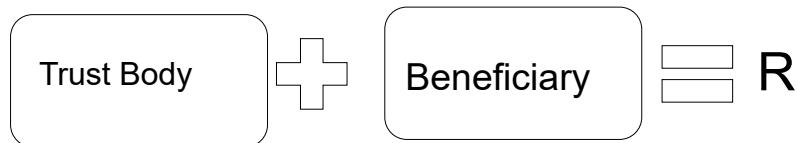
- + All non deductible expenses (eg: trustee's remuneration for admin of trust)
- Non taxable receipt income
- Annuity payable ( *Distribution to beneficiary not deductible*)

***Pg 150 – format of tax computation***

9

9

## Safeguard cash flow-Section 61(2)



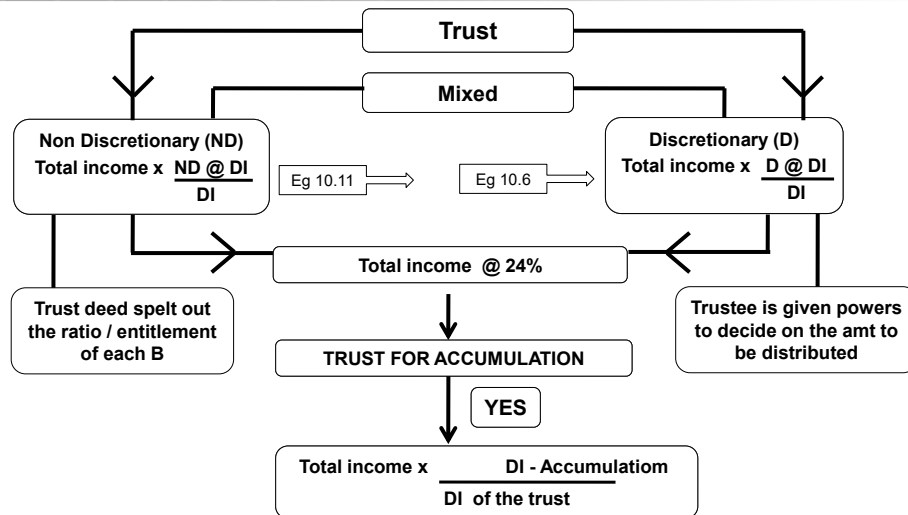
- ◆ **The DG may at his discretion, allow the B's share of income as a deduction from the trust total income**

Eg 10.3, pg 154, 10.4, pg 155

10

10

## Trust



11

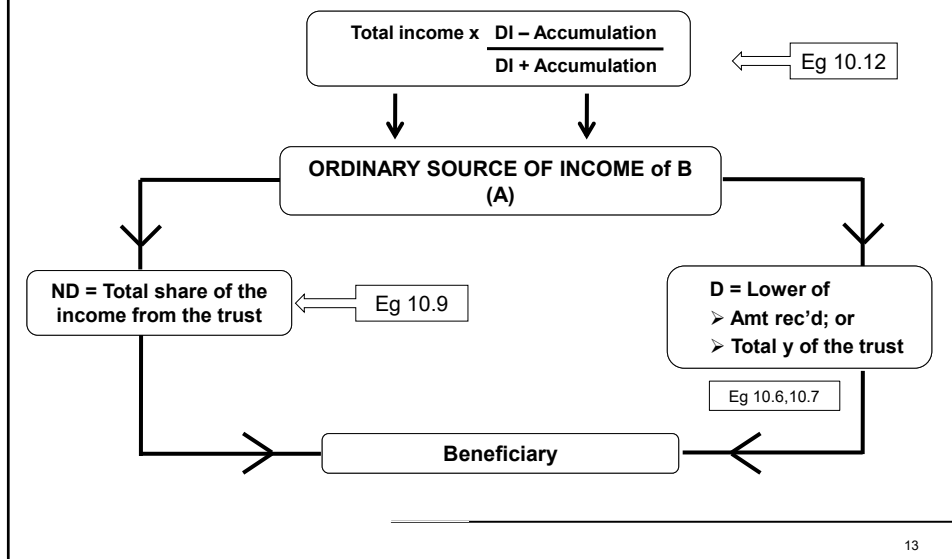
11

## Trust for accumulation

- ◆ Merely affects the tax liability of beneficiaries.
- ◆ Deemed trust total income to be distributed.
- ◆ Tax payable by the trust would remain the same.
- ◆ No further tax would be levied on the beneficiary on such income.

12

## Trust – Ordinary source of income



13

## Trust – Ordinary source of Y (B)

Tax payable (ordinary source of income)	xx
Less: Section 110 set off (tax paid by the trust)	xx
	-----
Net tax liability	xx
	=====

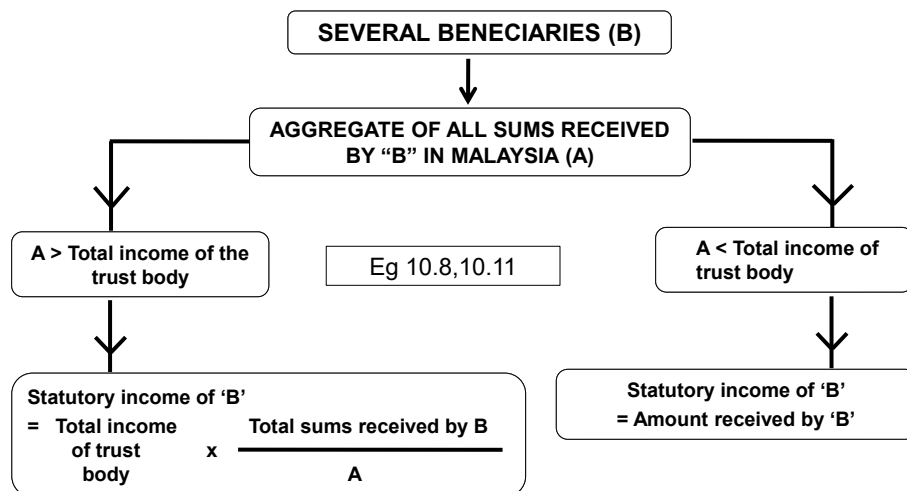
14

## Trust – Further Source of Y (B) –not examinable

Amount received in Malaysia	xx
Amount remitted outside Malaysia	xx
	-----
	xx
Less: Statutory income from ordinary source	(xx)
	-----
Further source	xx
	====

15

## DISCRETIONARY TRUST

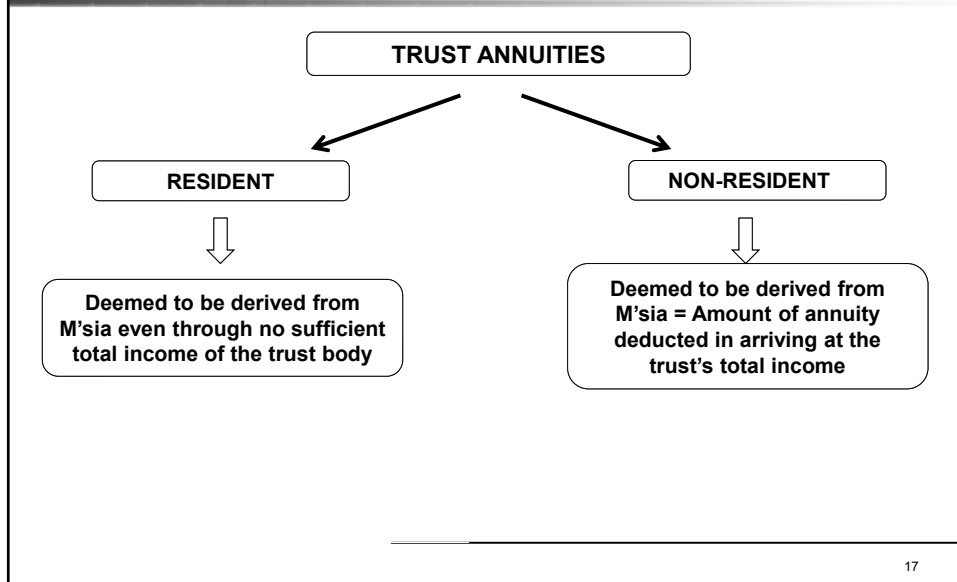


16

16

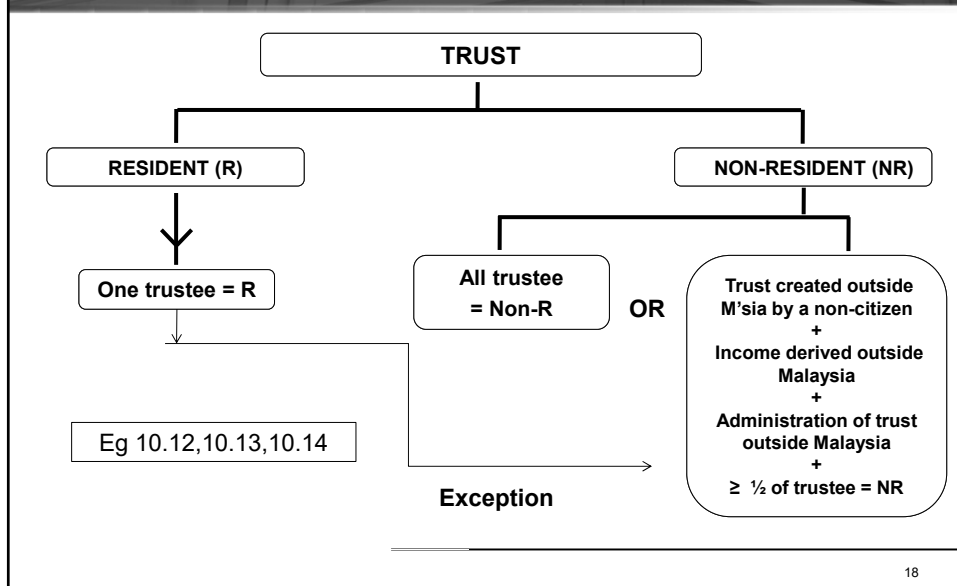


## TRUST ANNUITIES



17

## TRUST – Determination of Resident Status



18

## TAX COMPLIANCE

- ◆ **Basis period** = period covered by the accounts
- ◆ **Tax return** = 7 months from the end of basis period
- ◆ **Tax due** = 7 months from the end of basis period
- ◆ **Tax estimate** = one month before the start of basis period

19

19

## Question

Xavier, who was domiciled in Malaysia, died on 1.12.2013. In his will, he appointed Yeo to be the executor and trustee of his estate. The administration of Xavier's estate was completed on 31.12.2014 by Yeo, who continued to act as the trustee of the estate. Yeo was resident in Malaysia in the basis years 2014 and 2015.

The terms of Xavier's will are as follows:

- (1) The distributable income is for the benefits of 4 beneficiaries: Adam, Ben, Chris, and Don
- (2) RM20,000 is to be accumulated for the benefit of Adam until he attains the age of 21 years. (Adam is currently 15 years old)
- (3) Ben and Chris are to receive one half share each of 3 quarters of the distributable income
- (4) Don is to be given such amounts as the trustee considers necessary for his maintenance. Don received RM15,000 for the year ended 31.12.2015.

20

20

## Question

The income of Xavier's estate for the year ended 31.12.2014 is as follows:

	RM'000
Business (SI)	50
Interest (adjusted income)	15
Dividend	5
	<b>70</b>

The income and expenditure of the trust for the year ended 31.12.2015 are as follows:

	RM'000
Business(gross income)	150
Business expenses (revenue)	(40)
Business expenses (capital)	(10)
Interest income	10
Administrative expenses	(10)
	<b>100</b>

21

21

## Question

There are no CA claimed in respect of the business

**Required:**

Calculate

- The tax payable by the executor of Xavier's estate for the YA 2014
- The tax payable by the trust body for the YA2015
- The SI of each of the beneficiaries of the trust for the YA 2015

22

22

## Answer

### (a) Executor of Xavier's estate -YA2014

	RM
Business - SI	50,000
Interest	15,000
Total income	65,000
Less:Special relief(died domiciled in Malaysia)	(9,000)
CI	<b>56,000</b>
Income tax on 50,000	2,850
6,000 @19%	1,140
	<b>3,990</b>

23

23

## Answer

### (b) Trust body – YA2015

	RM
Business – gross income	150,000
Less: Expenses	(40,000)
Adjusted income/SI	110,000
Interest	10,000
Total income/CI	<b>120,000</b>
Income tax @24%	30,000

24

24

## Answer

### © Distributable income

	RM
Business	150,000
Interest	10,000
	160,000
Less: Expenses-Business	(50,000)
Adminis	(10,000)
DI	<b>100,000</b>
Less: Accumulation(Adam)	<b>(20,000)</b>
Distributable income	80,000
For the purposes of allocation	$80,000/100,000 \times 120,000 = 96,000$
Non discretionary part	$\frac{3}{4} \times 96,000 = 72,000$
Discretionary part	$\frac{1}{4} \times 96,000 = 24,000$

25

## Answer

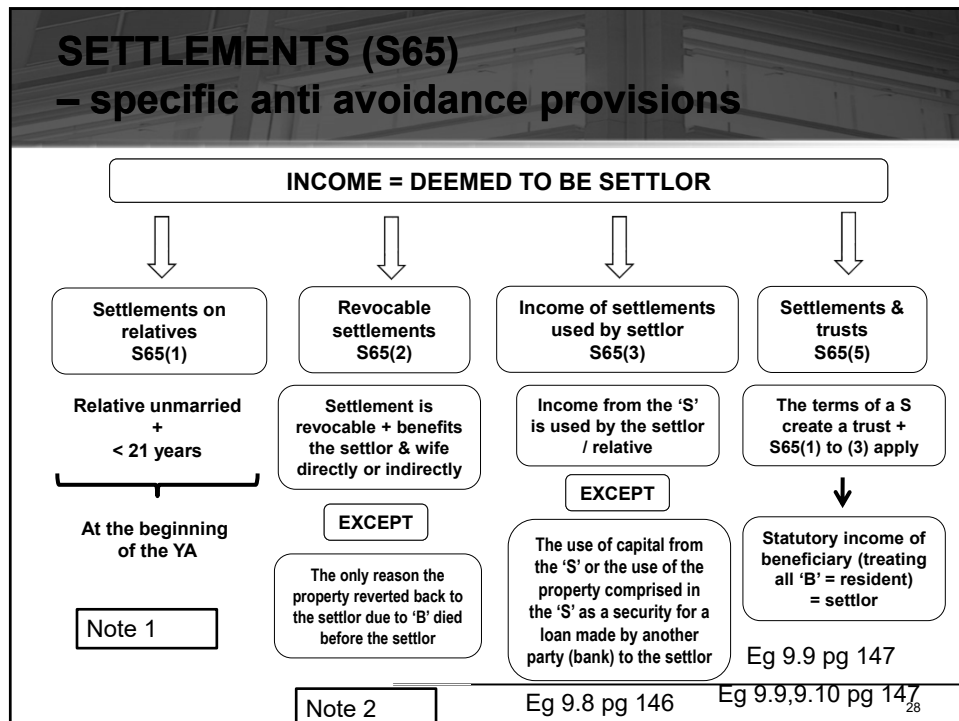
### © Distributable income

SI of beneficiaries	RM
Ben 72,000 x 1/2	36,000
Chris 72,000 x 1/2	36,000
Don (RM24,000 > RM15,000)	15,000
ADam	<b>Nil</b>

26

# SETTLEMENTS

27



28

## SETTLEMENTS (S65) - Relative

- ◆ a child or stepchild of the settlor
- ◆ a child of whom the settlor has custody or maintains at their own expense
- ◆ a child adopted by the settlor or by the settlor's spouse
- ◆ a spouse, grandchild, brother, sister, uncle, aunt, nephew, niece, or cousin of the settlor

29

29

## SETTLEMENTS (S65)

Some Defences for	Note 1
•Settlor is no longer alive at the time when the income arises	
•The relative is married at the beginning of the YA	
• the relative reached the age of 21 at the beginning of the YA	
• the person is not a relative of the settlor	
• there are no circumstances under which income will or may be paid to or for the benefit of the relative during the basis period for the YA concerned	

Eg 9.3, 9.4, pg 143

30

30

## SETTLEMENTS (S65)

Some Defences for	Note 2	
• the settlement no longer contains the offending terms ( i.e.they have lapsed or have been removed)		
•The settlor is no longer living		

Eg 9.5 – 9,7,pg 144