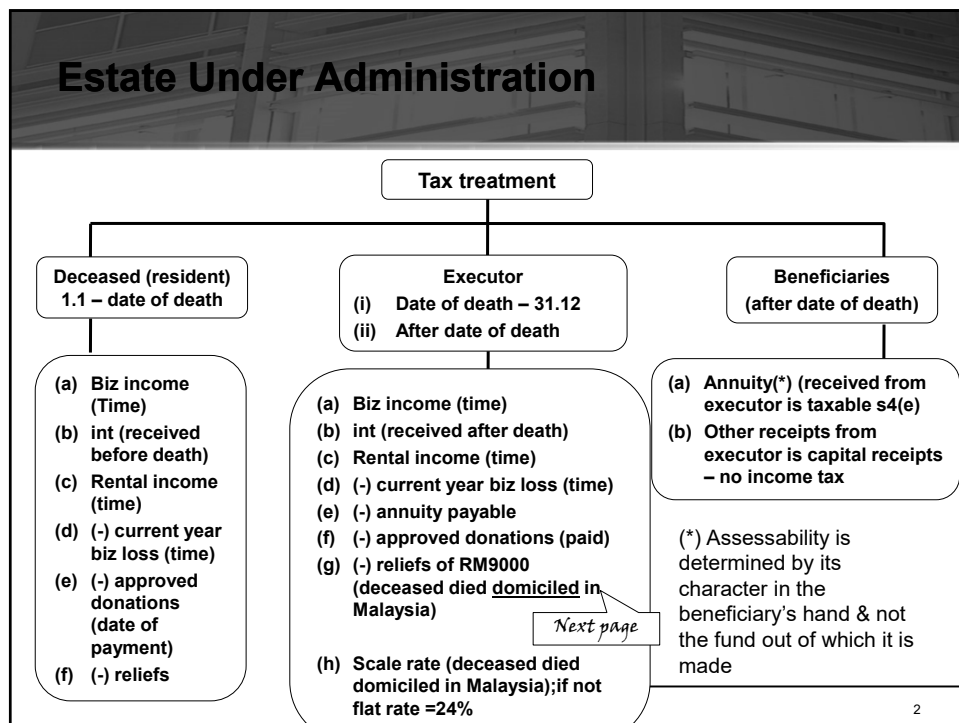


Estates Under Administration

1

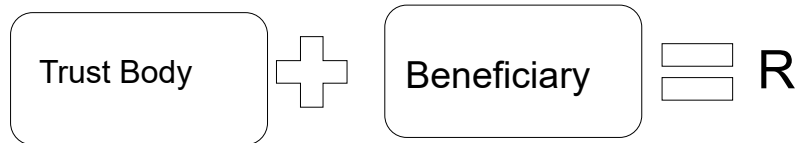


2

Trusts

3

Safeguard cash flow-Section 61(2)

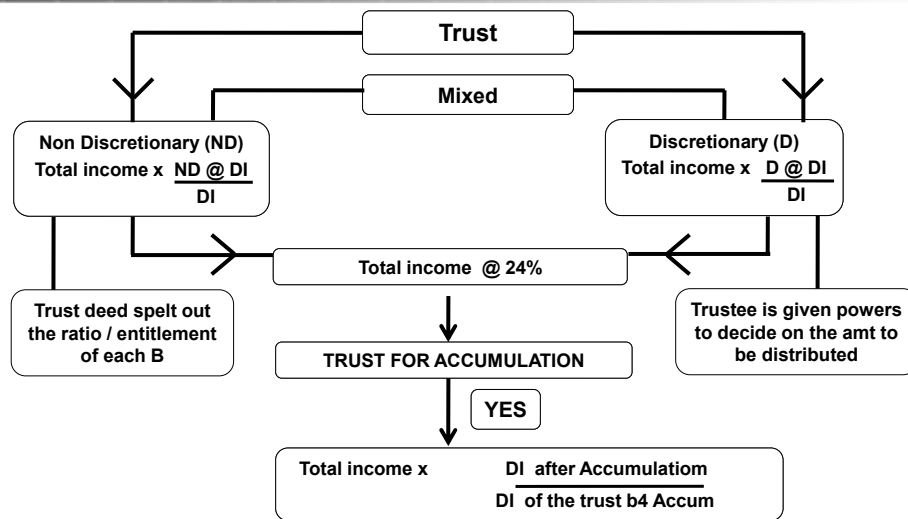


- ◆ The DG may at his discretion, allow the B's share of income as a deduction from the trust total income

4

4

Trust



5

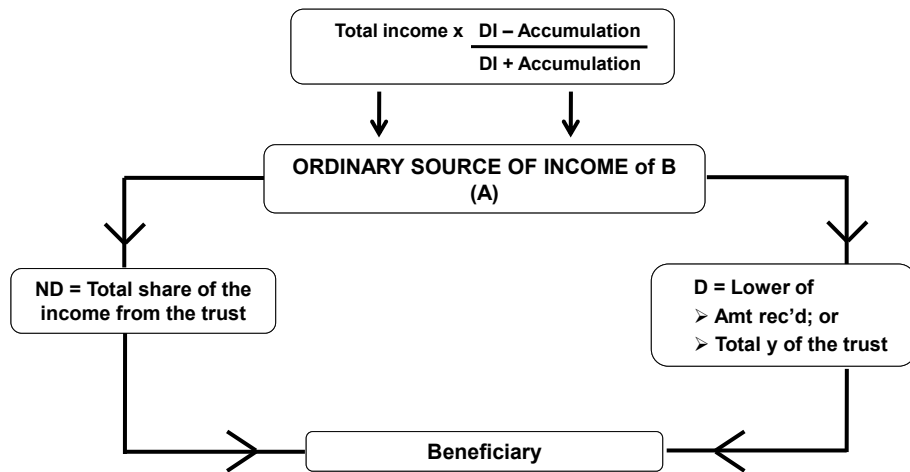
5

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.

6

Trust – Ordinary source of income



7

7

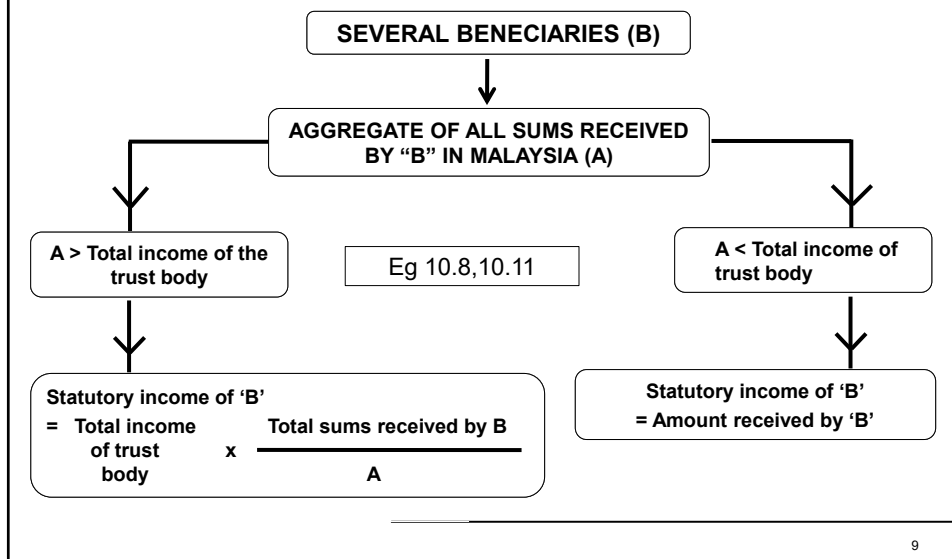
Trust – Ordinary source of Y (B)

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

Net tax liability	xx
	=====

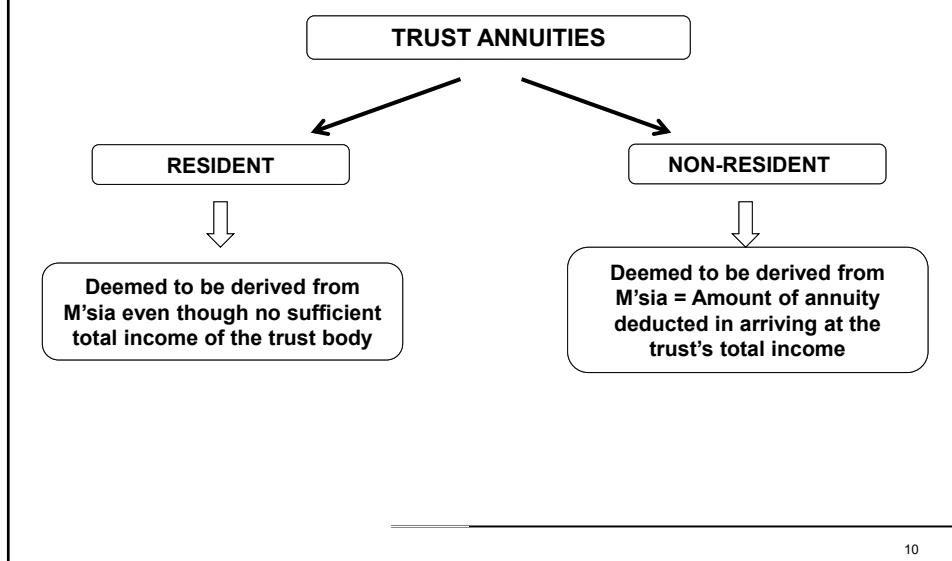
8

DISCRETIONARY TRUST



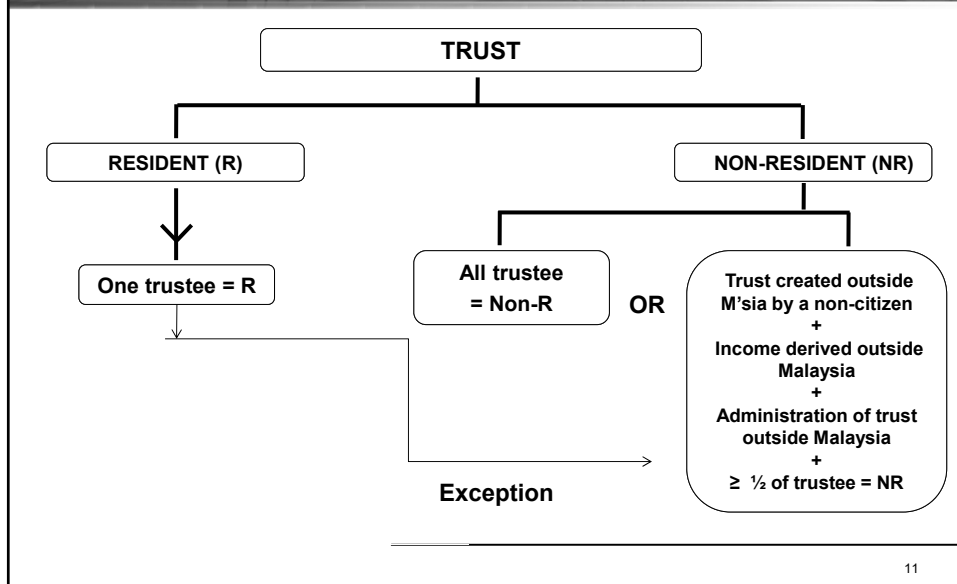
9

TRUST ANNUITIES



10

TRUST – Determination of Resident Status



11

Significance of residence status

A trust body that is resident in Malaysia will enjoy the following tax treatment:

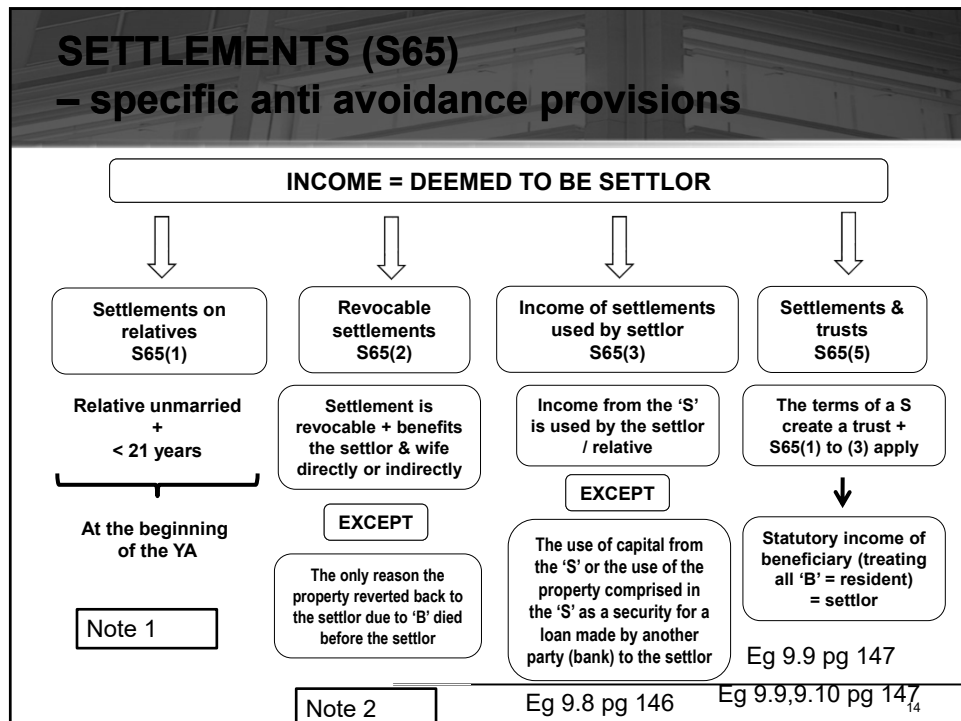
- (a) may deduct from its total income, the beneficiary's share of the total income of the trust body;*
- (b) may deduct any annuity payable to a beneficiary; and*
- (c) any annuity paid by a trust body of a trust that is resident to its beneficiaries is deemed to be derived from Malaysia, whether or not the trust body has any total income in the relevant year of assessment.*

ACCA article : Taxation of trusts in
Msia 22/8/2020; Dec2021 Q2(e)

12

SETTLEMENTS

13



14

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

PR 4/2021, Sept/Dec 2021 Q2(d)

15

15

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	

16

16

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	
•Made for valuable and adequate consideration	
•Results from a court order	
•An agreement made by an employer to pay an employee or his dependant after the employee's death, a reasonable and fair remuneration , pension etc	

17

17

PYQ Dec 2021 Q2€

6 December 2021

1. Rahim, a citizen of Malaysia, has lived in Australia for the last 16 years during which he visited Malaysia for about a month each year. On 30 September 2021, he and his family returned to take up residence in Malaysia to be near his ageing parents.
2. While in Australia, Rahim founded and managed a successful design company. In September 2021, he handed over the day-to-day management to the local team. Rahim remains a director, albeit with a limited role, and expects to return to Australia only for the board meetings which are held in January, May and September each year.
3. In Malaysia, he continues to draw royalties for having created the brand and director's fees from the Australian design company. Since September 2021, from his base in Malaysia, he has been contributing designs to the Australian company for which he is paid design fees. All payments from the overseas company have been paid into his Australian bank account.
4. He is the trustee and a beneficiary of a family trust and each year, he receives trustee remuneration and his share of the trust total income.
5. On 15 November 2021, Rahim signed an agreement to dispose of a commercial property in Kuala Lumpur, Malaysia to raise funds to establish a non-profit design school. He has owned the property for more than ten years. Since the disposal of the property is to raise funds for a good cause, he wants to know if there is any tax exemption which he can apply for, and what his compliance requirements are in respect of this disposal.
6. In January 2021, Rahim's father gifted a landed property in Kuantan, Malaysia, to Rahim's 12-year-old son. The property produces net rental income of RM38,000 a year. As guardian, Rahim receives the rental income on his son's behalf, and deposits the money in a bank account for his son's education fund, which is jointly held by Rahim and his son.

18

18

PYQ Dec 2021 Q2€

(e) Tax computation

Draft a sample computation of aggregate income for Rahim for the year of assessment 2021 based on the information supplied by him in exhibits 1 and 3.

You should list all items referred to in exhibit 3, indicating by the use of zero (0) any item which does not impact the calculation. Ensure you insert brief explanatory notes for the design fees and the family trust income in respect of:

- The tax treatment.
- Any available deductions or reliefs.

Rahim has provided the following information regarding his income for the year 2021:

Exhibit 1		
	Note	RM
Director's fees (last quarter of 2021)	2.	30,000
Royalties (last quarter of 2021)	3.	17,400
Design fees	3.	120,000
Trustee remuneration	4.	24,000
Share of trust total income (tax credit: RM14,400)	4.	60,000
Gain from the disposal of commercial property	5.	850,200
Rental income from the Kuantan property	6.	38,000

19

19

PYQ Dec 2021 Q2€

(e) Computation of aggregate income

	RM	Notes
Director's fees (last quarter of 2021)	0	[Australian source] Expenses incurred wholly and exclusively in the production of design fees are deductible, and capital allowances may be claimed for assets used in the business.
Business: Design fees	120,000	
Royalties (last quarter of 2021)	0	Income for rendering a service; derived in Malaysia as trustee's duties were performed in Malaysia. Tax credit is set off against tax charged.
Rental income from Kuantan property	0	
Trustee remuneration	24,000	
Trust distribution received (tax credit: RM14,400)	60,000	
Gain from disposal of commercial property	0	
Aggregate income	204,000	

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20

PYQ Dec 2021 Q2(d)

In January 2021, Rahim's father gifted a landed property in Kuantan, Malaysia, to Rahim's 12-year-old son. The property produces net rental income of RM38,000 a year. As guardian, Rahim receives the rental income on his son's behalf, and deposits the money in a bank account for his son's education fund, which is jointly held by Rahim and his son.

(d) Settlement income

The gift of property by Rahim's father to Rahim's son constitutes a settlement caught under the law 1s.65, Income Tax Act 1967I, because the following conditions are satisfied:

- The transfer of property was not made for valuable consideration;
- The settlor is alive at the time of the settlement; and
- It was made to a relative, i.e. his grandson, who, as at 1 January 2021, was below the age of 21 years, and obviously unmarried, as the grandson is only 12 years of age in 2021.

Such being the case, the income derived from the settled property will be deemed to be that of the settlor, not the relative. So, even though Rahim had access to the rental income and in fact has deposited the income into his bank account jointly held with his son, neither he nor his son is assessable to income tax on the income.