

Rental Income and Its Sources



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The Income Tax Act 1967 (the Act) imposes taxes on sources of income, being:

- i. business income;
- ii. investment income such as dividend, interest, rental; and
- iii. other income.

Generally, business income is given preferential tax treatment such as availability of current year loss, being able to claim capital allowances on plant, machinery and utilisation of unabsorbed business loss which other non-business sources of income are not entitled to.

In the case of rental, it has been held in the Privy Council's decision *American Leaf Blending Co Sdn Bhd v Director General of Inland Revenue* [1979-1996] AMTC 903 that there is plainly room for overlapping between business income under s4(a) and investment income under s4(d).

In relation to the Act, there is a further distinction between sources and income which are two separate and distinct concepts. This caused confusion to many taxpayers including tax practitioners when doing tax computations. This article attempts to lay down the rule of law as to the meaning of sources of income, income and the required test involved.

Source

Source is defined in s2 as sources of income. This very brief statement literally offers little help as a definition. Generally, income will flow from a definite source. The source is termed as capital. The leading case of source is well established in *CIR v Lever Brothers and Unilever Ltd* (14 SATC 441) where Watermeyer CJ said on p449:

'The source of income is not the quarter from which it comes, but rather the originating cause of its receipts. The originating cause is the work which the taxpayer performs to earn the income, the *quid pro quo* (refers to consideration) given in return for which it is received. It may be a business carried on, or an enterprise undertaken, or an activity engaged in; and it may take the form of personal exertion, mental or physical, or the employment of capital either by using it to earn income or by

letting its use to someone else. Often it is some combination of these.'

In the case of rental, the source of rental income is determined based on the location of the premises and the type of premises. Rental income can be derived from the letting of factory, shophouse, residential property and vacant land. This would mean that there will be three sources of rental income; being commercial property (factory, shophouse), residential property (flat, condominium, single/double story houses) and vacant land.

Business Income and Business Source

Income and source are two separate distinguished terminologies, business income flow from business source. Business source generally refers to the locality of where the management and control of the business is conducted. In the Privy Council's decision, *River*