

INCOME TAX ACT 1967

INCOME TAX (EXEMPTION) (No. 11) ORDER 2009

IN exercise of the powers conferred by paragraph 127(3)(b) of the Income Tax Act 1967 [Act 53], the Minister makes the following order:

Citation and commencement

1. (1) This order may be cited as the **Income Tax (Exemption) (No. 11) Order 2009**.

(2) This Order is deemed to have come into operation from 21 May 2003 and shall have effect subject to its application as prescribed in paragraph 3.

Interpretation

2. In this Order, "forest plantation project" means the project referred to in subparagraph 3(2).

Qualification for exemption

3. (1) A company incorporated under the Companies Act 1965 [Act 125] and is resident in Malaysia that undertakes a forest plantation project shall qualify for an exemption under this Order where it surrenders its adjusted loss, in full or in part, in the basis period for a year of assessment in respect of a forest plantation project to one or more of its related companies incorporated under the Companies Act 1965 and is resident in Malaysia (referred to in this Order as a "claimant company"), in the basis period for that year of assessment.

(2) In relation to a forest plantation project referred to in subparagraph (1)—

- (a) the project shall be the first forest plantation project undertaken by a company for the species as specified in the Schedule; and
- (b) the application to undertake the forest plantation project referred to in subparagraph (1) shall be made to the Minister through the Minister charged with the responsibility for that project on or after 21 May 2003 but not later than 31 December 2011.

(3) For the purpose of this Order, a company is related to a claimant company if at the end of the basis period for a year of assessment at least—

- (a) seventy per cent of the issued share capital of the company are directly owned by the claimant company;
- (b) seventy per cent of the issued share capital of the claimant company are directly owned by the company; or
- (c) seventy per cent of the issued share capital of the company and claimant company are directly owned by another company.

Exemption

4. (1) Subject to subparagraph (2), the Minister exempts a company from the payment of income tax in relation to a forest plantation project for a period of ten consecutive years of assessment (referred to in this Order as the “exempt years of assessment”) in respect of its statutory income, commencing from the first year of assessment in which the company derived statutory income from that project.

(2) The statutory income of the forest plantation project referred to in subparagraph (1) in the basis period for each of the exempt years of assessment shall be determined after deducting allowances which fall to be made under Schedule 3 of the Act notwithstanding that no claim for such allowances has been made.

(3) Where an asset used for the purpose of the forest plantation project referred to in subparagraph (1) is also used for the purpose of a project or business other than that project, the allowances which fall to be made under Schedule 3 of the Act shall be deducted as is reasonable having regard to the extent to which the asset is used for the purpose of the forest plantation project.

(4) Nothing in subparagraph (1) shall absolve or is deemed to have absolved the company from complying with any requirement to submit any return or statement of accounts or to furnish any other information under the provision of the Act.

Losses

5. (1) The amount of adjusted loss surrendered shall be allowed as a deduction against the aggregate income of the claimant company pursuant to subsection 44(1) of the Act.

(2) Subject to subparagraph (3), the amount of adjusted loss surrendered by a company in respect of a forest plantation project for any year of assessment shall be adjusted loss from the year of assessment in the basis period in which the forest plantation project commenced to the year of assessment immediately prior to the exempt years of assessment.

(3) Any amount of adjusted loss in any year of assessment from a forest plantation project that is not surrendered to any claimant company in that year of assessment shall not be available to any claimant company for any subsequent year of assessment.

(4) Where the basis period of a company does not coincide with the basis period of a claimant company, an adjusted loss from a forest plantation project shall be deemed to have accrued evenly over the basis period of the company and the amount of adjusted loss surrendered shall exceed such amount that is apportioned to the period that coincide with the basis period of the claimant.

(5) Any claim for a deduction by a claimant under this Order shall be made in a written statement and shall be accompanied by a notice of consent given by a company containing such particulars as to show the amount of adjusted loss being surrendered.

(6) Where it appears to the Director General that any deduction given to a claimant company ought not to have been so given, the Director General may raise such assessment or additional assessment upon that claimant company as may be necessary in order to make good any loss of tax.

(7) Any amount of adjusted loss in respect of a forest plantation project that is not surrendered prior to and during the exempt year or years of assessment shall be carried forward and deducted against the statutory income of the forest plantation project in the post-exempt year or years of assessment until that forest plantation project has utilized the whole amount of the adjusted loss to which it is so entitled.

(8) The amount of the adjusted loss in respect of a forest plantation project that was utilized to reduce the statutory income of that forest plantation project in the post-exempt year or years of assessment shall be disregarded for the purposes of subsections 43(2) and 44(2) of the Act.

Capital allowance

6. For the purpose of this Order, Schedule 3 of the Act shall apply.

Withdrawal of tax exemption

7. The Minister may withdraw the exemption on the statutory income of the project referred to in subparagraph 4(1) if a company fails to comply with the conditions as approved by the Minister.

Separate account

8. A company which is exempted under subparagraph 4(1) shall maintain a separate account for the income derived from the project referred to in that subparagraph.

Application of paragraphs 5 and 6 of Schedule 7A

9. Paragraphs 5 and 6 of Schedule 7A of the Act shall apply, *mutatis mutandis*, to the amount of statutory income exempted from the project referred to in subparagraph 4(1).

Non-application

10. This Order shall not apply to—

- (a) a forest plantation project that commences after one year from the date of approval or after such extended period approved by the Minister;
- (b) a company in the basis period for a year of assessment which—
- (i) has been granted any incentive under the Promotion of Investments Act 1986 [Act 327];
 - (ii) has made a claim for reinvestment allowance under Schedule 7A of the Act;
 - (iii) has been granted any exemption under paragraph 127(3)(b) or subsection 127(3A) of the Act; or
 - (iv) has qualified for a deduction under any rules made under section 154 of the Act including any rules that provides higher fraction for an asset for the purpose of qualifying plant expenditure under Schedule 3 of the Act.

SCHEDULE

Item	Specie	Local Name
1.	<i>Acacia mangium</i> , <i>Acacia auriculiformis</i> , <i>Acacia hybrids</i>	Acacia
2.	<i>Agathis borneensis</i>	Damar minyak (Peninsular)/ Bindang (Sarawak)/ Mengilan (Sabah)
3.	<i>Alstonia angustifolia</i> , <i>Alstonia angustiloba</i> , <i>Alstonia macrophylla</i> , <i>Alstonia pneumatophora</i> , <i>Alstonia scholaris</i> , <i>Alstonia spatulata</i>	Pulai (Peninsular)/Pelai (Sarawak)
4.	<i>Anisoptera costata</i> , <i>Anisoptera curtisii</i> , <i>Anisoptera grossivenia</i> , <i>Anisoptera laevis</i> , <i>Anisoptera marginata</i> , <i>Anisoptera megistocarpa</i> , <i>Anisoptera scaphula</i>	Mersawa/Pengiran (Sabah)
5.	<i>Araucaria cunninghamii</i> <i>Araucarai hunstenii</i>	Hoop pine Klinki pine
6.	<i>Artocarpus altilis</i> , <i>Artocarpus elasticus</i> , <i>Artocarpus lowii</i> , <i>Artocarpus odoratissima</i> , <i>Artocarpus scortechinii</i> , <i>Artocarpus tamaran</i> , <i>Artocarpus teysmannii</i>	Cempedak/Terap
7.	<i>Azadirachta excelsa</i>	Sentang (Peninsular)/Ranggu (Sabah, Sarawak)
8.	<i>Bischofia javanica</i>	Javan cedar/Jitang/Tuai
9.	<i>Calamus manau</i> <i>Calamus caesius</i>	Rotan manau Rotan sega
10.	<i>Calophyllum biflorum</i> , <i>Calophyllum calaba</i> , <i>Calophyllum canum</i> , <i>Calophyllum coriaceum</i> , <i>Calophyllum depressinervosum</i> , <i>Calophyllum ferrugineum</i> , <i>Calophyllum inophyllum</i> , <i>Calophyllum macrocarpum</i> , <i>Calophyllum pulcherrimum</i> , <i>Calophyllum sclerophyllum</i> , <i>Calophyllum symingtonianum</i> , <i>Calophyllum tetrapterum</i> , <i>Calophyllum teysmannii</i> , <i>Calophyllum wallichianum</i>	Bintangor

Item	Specie	Local Name
11.	<i>Campnosperma auriculatum</i> , <i>Campnosperma coriaceum</i> , <i>Campnosperma squamatum</i>	Terentang
12.	<i>Cananga odorata</i>	Kenanga
13.	<i>Canarium apertum</i> , <i>Canarium littorale</i> , <i>Canarium pseudosumatranum</i>	Kedondong (Peninsular)/ Seladah (Sarawak)
14.	<i>Casuarina cunninghamiana</i> , <i>Casuarina equisetifolia</i> , <i>Casuarina glauca</i> , <i>Casuarina junghuhniana</i>	Rhu/Jemara/Chemara
15.	<i>Ceiba pentandra</i> , <i>Bombax ceiba</i> , <i>Bombax valetonii</i>	Kapok (Sabah)/Kekabu
16.	<i>Chukrasia tabularis</i>	Surian batu
17.	<i>Cinnamomum altissimum</i> , <i>Cinnamomum iners</i> , <i>Cinnamomum sintoc</i> , <i>Cinnamomum javanicum</i> , <i>Cinnamomum porrectum</i> , <i>Cinnamomum scortechinii</i>	Pokok Teja/Medang teja/ Medang
18.	<i>Coelostegia borneensis</i> , <i>Coelostegia griffithii</i>	Punggai (Peninsular)/Durian hantu (Sarawak)
19.	<i>Cratoxylum arborescens</i> , <i>Cratoxylum glaucum</i>	Geronggang
20.	<i>Dacrydium beccarii</i> , <i>Dacrydium comosum</i> , <i>Dacrydium elatum</i> , <i>Dacrydium gibbsiae</i>	Sempilor/Ekor (Peninsular)
21.	<i>Dactylocladus stenostachys</i>	Jongkong
22.	<i>Dillenia borneensis</i> , <i>Dillenia excelsa</i> , <i>Dillenia grandifolia</i> , <i>Dillenia pulchella</i> , <i>Dillenia reticulata</i>	Simpoh (Peninsular)/Buan (Sarawak)
23.	<i>Dipterocarpus acutangulus</i> , <i>Dipterocarpus applanatus</i> , <i>Dipterocarpus elongates</i> , <i>Dipterocarpus baudii</i> , <i>Dipterocarpus caudiferus</i> , <i>Dipterocarpus chartaceus</i> , <i>Dipterocarpus concavus</i> , <i>Dipterocarpus cornutus</i> , <i>Dipterocarpus confertus</i> , <i>Dipterocarpus conformis</i> , <i>Dipterocarpus costatus</i> , <i>Dipterocarpus costulatus</i> , <i>Dipterocarpus crinitus</i> , <i>Dipterocarpus dyeri</i> , <i>Dipterocarpus elongatus</i> , <i>Dipterocarpus eurynchus</i> , <i>Dipterocarpus fagineus</i> , <i>Dipterocarpus geniculatus</i> , <i>Dipterocarpus gracilis</i> , <i>Dipterocarpus grandiflorus</i> , <i>Dipterocarpus hasseltii</i> , <i>Dipterocarpus humeratus</i> , <i>Dipterocarpus kerrii</i> , <i>Dipterocarpus kunstleri</i> , <i>Dipterocarpus lamellatus</i> , <i>Dipterocarpus lowii</i> , <i>Dipterocarpus obtusifolius</i> , <i>Dipterocarpus oblongifolius</i> , <i>Dipterocarpus ochraceus</i> , <i>Dipterocarpus pachyphyllus</i> , <i>Dipterocarpus palembanicus</i> , <i>Dipterocarpus pseudofagineus</i> , <i>Dipterocarpus rigidus</i> , <i>Dipterocarpus rotundifolius</i> , <i>Dipterocarpus sarawakensis</i> , <i>Dipterocarpus semivestitus</i> , <i>Dipterocarpus sublamellatus</i> , <i>Dipterocarpus stellatus</i> , <i>Dipterocarpus validus</i> , <i>Dipterocarpus verrucosus</i>	Keruing
24.	<i>Dryobalanops aromatica</i> , <i>Dryobalanops beccarii</i> , <i>Dryobalanops fusca</i> , <i>Dryobalanops keithii</i> , <i>Dryobalanops lanceolata</i> , <i>Dryobalanops oblongifolia</i> , <i>Dryobalanops rappa</i>	Kapur
25.	<i>Duabanga moluccana</i> , <i>Duabanga grandiflora</i>	Magasawih/Sawih (Sarawak) Magas (Sabah)/Berembang bukit (Peninsular)/Tagahas (Sabah)
26.	<i>Durio carinatus</i> , <i>Durio grandiflorus</i> , <i>Durio graveolens</i> , <i>Durio lowianus</i> , <i>Durio malaccensis</i> , <i>Durio oxleyanus</i> , <i>Durio singaporensis</i> , <i>Durio wyatt-smithii</i> , <i>Durio zibethinus</i>	Durian

Item	Specie	Local Name
27.	<i>Dyera costulata</i> , <i>Dyera polyphylla</i>	Jelutong
28.	<i>Endospermum diadenum</i> , <i>Endospermum peltatum</i>	Sesenduk (Peninsular)/ Senduk-senduk mata/ Marapangi (Sabah)/Terbulan (Sarawak)
29.	<i>Eucalyptus deglupta</i> , <i>Eucalyptus grandis</i> , <i>Eucalyptus camadulensis</i> , <i>Eucalyptus pellita</i> , <i>Eucalyptus tereticornis</i> , <i>Eucalyptus hybrids</i>	Eucalyptus
30.	<i>Eusideroxylon zwageri</i>	Belian
31.	<i>Fagraea crenulata</i>	Malabera/ Malabira (Sabah)
32.	<i>Gigantochloa levis</i> <i>Gigantochloa ligulata</i> <i>Bambusa blumeana</i> <i>Dendrocalamus asper</i>	Buluh beting/Buluh poring Buluh tumpat Buluh duri Buluh betong
33.	<i>Gmelina arborea</i>	Yemane
34.	<i>Gonystylus affinis</i> , <i>Gonystylus bancanus</i> , <i>Gonystylus brunnescens</i> , <i>Gonystylus confuses</i> , <i>Gonystylus maingayi</i>	Ramin
35.	<i>Hevea brasiliensis</i>	Rubber/Getah (Timber-Latex Clones)
36.	<i>Heritiera albiflora</i> , <i>Heritiera aurea</i> , <i>Heritiera borneensis</i> , <i>Heritiera globosa</i> , <i>Heritiera javanica</i> , <i>Heritiera littoralis</i> , <i>Heritiera simplicifolia</i> , <i>Heritiera sumatrana</i>	Mengkulang/Dungun/ Kembang (Sabah)
37.	<i>Hopea apiculata</i> , <i>Hopea auriculata</i> , <i>Hopea beccariana</i> , <i>Hopea bilitonensis</i> , <i>Hopea bracteata</i> , <i>Hopea coriaceae</i> , <i>Hopea dryobalanoides</i> , <i>Hopea dyeri</i> , <i>Hopea ferrea</i> , <i>Hopea ferruginea</i> , <i>Hopea glaucescens</i> , <i>Hopea griffithii</i> , <i>Hopea helferi</i> , <i>Hopea johorensis</i> , <i>Hopea mengarawan</i> , <i>Hopea nervosa</i> , <i>Hopea nutans</i> , <i>Hopea odorata</i> , <i>Hopea latifolia</i> , <i>Hopea pachycarpa</i> , <i>Hopea pedicellata</i> , <i>Hopea pierrei</i> , <i>Hopea polyalthioides</i> , <i>Hopea pubescens</i> , <i>Hopea sangal</i> , <i>Hopea semicuneata</i> , <i>Hopea subalata</i> , <i>Hopea sublancoolata</i> , <i>Hopea sulcata</i>	Merawan/Selangan (Sabah)
38.	<i>Ilex cissoidea</i> , <i>Ilex cymosa</i>	Mensirah (Peninsular)/ Kerdam (Sarawak)/Morogis (Sabah)
39.	<i>Intsia palembanica</i> , <i>Intsia bijuga</i>	Mer bau
40.	<i>Khaya ivorensis</i> , <i>Khaya senegalensis</i>	Khaya
41.	<i>Kokoona littoralis</i> , <i>Kokoona ochracea</i> , <i>Kokoona ovata-lanceolata</i> , <i>Kokoona reflexa</i>	Mata ulat (Peninsular)/Bajan (Sarawak)/Perupok Kuning (Sabah)
42.	<i>Koompassia malaccensis</i> <i>Koompassia maingay</i>	Kempas (Peninsular)/Menggaris (Sarawak) Tapang (Sarawak)
43.	<i>Macaranga beccariana</i> , <i>Macaranga conifera</i> , <i>Macaranga gigantea</i> , <i>Macaranga hosei</i> , <i>Macaranga hypoleuca</i> , <i>Macaranga lowii</i> , <i>Macaranga pruinosa</i> , <i>Macaranga tanarius</i> , <i>macaranga triloba</i> , <i>Macaranga winkleri</i>	Mahang (Peninsular)/ Merkubong (Sarawak)/ Merkubong (Sabah)
44.	<i>Maesopsis eminii</i>	Maesopsis

Item	Specie	Local Name
45.	<i>Mallotus macrostachyus</i> , <i>Mallotus leucodermis</i> , <i>Mallotus miqueliana</i> , <i>Mallotus muticus</i> , <i>Mallotus penangensis</i> , <i>Mallotus philippensis</i> , <i>Mallotus wrayi</i>	Balek angin, Mallotus dau/ Dahu (Sabah)
46.	<i>Mangifera applanata</i> , <i>Mangifera caesa</i> , <i>Mangifera foetida</i> , <i>Mangifera griffithii</i> , <i>Mangifera indica</i> , <i>Mangifera longipetiolata</i> , <i>Mangifera laurina</i> , <i>Mangifera odorata</i> , <i>Mangifera pajang</i> , <i>Mangifera parviflora</i> , <i>Mangifera quadrifida</i> , <i>Mangifera torquenda</i>	Machang (Peninsular)/ Embang (Sarawak) Beluno/ Bambangan/Mangga (Sabah)
47.	<i>Neobalanocarpus heimii</i>	Chengal
48.	<i>Neolamarckia cadamba</i> , <i>Anthocephalus chinensis</i> .	Kelempayan (Peninsular)/ Laran (Peninsular, Sabah)/ Selimpoh (Sarawak)
49.	<i>Octomeles sumatrana</i>	Binuang
50.	<i>Palaquium clarkeanum</i> , <i>Palaquium gutta</i> , <i>Palaquium hexandrum</i> , <i>Palaquium hispidum</i> , <i>Palaquium impressinervium</i> , <i>Palaquium maingayi</i> , <i>Palaquium microphyllum</i> , <i>Palaquium obovatum</i> , <i>Palaquium oxleyanum</i> , <i>Palaquium regina-montium</i> , <i>Palaquium rostratum</i> , <i>Palaquium semaram</i> , <i>Palaquium xanthochymum</i>	Nyatoh
51.	<i>Paraserianthes falcata</i> , <i>Albizia falcata</i> , <i>Albizia chinensis</i> , <i>Albizia lebbek</i> , <i>Albizia acle</i> , <i>Albizia pedicellata</i> , <i>Albizia procera</i>	Batai/Kayu machis/Kungkur (Sabah)
52.	<i>Parashorea densiflora</i> , <i>Parashorea globosa</i> , <i>Parashorea stellata</i> , <i>Parashorea parvifolia</i> , <i>Parashorea smythiesii</i>	Urat mata/Gerutu
53.	<i>Parkia speciosa</i> , <i>Parkia singularis</i> , <i>Parkia timoriana</i>	Petai/Kupang (Sabah)
54.	<i>Pentace adenophora</i> , <i>Pentace curtisii</i> , <i>Pentace laxiflora</i> , <i>Pentace macrophylla</i> , <i>Pentace triptera</i>	Melunak (Peninsular)/Baru (Sarawak)/Takalis (Sabah)
55.	<i>Pentaspadon motleyi</i> , <i>Pentaspadon velutinus</i>	Pejon/Pelajau
56.	<i>Peronema canescens</i>	Sungkai
57.	<i>Pinus caribaea</i> , <i>Pinus insularis</i> , <i>Pinus merkusii</i> , <i>Pinus kesiya</i>	Pine
58.	<i>Pithecellobium splendens</i>	Kungkur
59.	<i>Pterospermum diversifolium</i> , <i>Pterospermum jackianum</i> , <i>Pterospermum subpeltatum</i>	Bayor
60.	<i>Pterocarpus dalbergioides</i> , <i>Pterocarpus indicus</i> , <i>Pterocarpus macrocarpus</i> , <i>Pterocarpus marsupium</i> , <i>Pterocarpus santalinus</i>	Angsana/Sena/Narra
61.	<i>Pterocymbium tinctorium</i> , <i>Pterocymbium javanicum</i>	Melembu/Teluto
62.	<i>Pterospermum javanicum</i>	Bayor Batu
63.	<i>Sandoricum beccarianum</i> , <i>Sandoricum koetjape</i>	Kelampu (Sarawak)/Sentul (Peninsular, Sabah)
64.	<i>Santiria apiculata</i> , <i>Santiria conferta</i> , <i>Santiria tomentosa</i>	Kedondong (Peninsular)/ Seladah (Sarawak)
65.	<i>Scaphium linearicarpum</i> , <i>Scaphium longiflorum</i> , <i>Scaphium macropodum</i> , <i>Scaphium scaphigerum</i>	Kembang semangkok

Item	Specie	Local Name
66.	<i>Schima wallichii</i>	Gegatal/ Gatal-gatal (Sabah)
67.	<i>Scorodocarpus borneensis</i>	Kulim (Peninsular)/Bawang hutan (Sabah)/Ungsunah (Sarawak)
68.	<i>Shorea acuminata, Shorea albida, Shorea almon, Shorea andulensis, Shorea argentifolia, Shorea assamica, Shorea bracteolata, Shorea dasyphylla, Shorea fallax, Shorea henryana, Shorea hopeifolia, Shorea hypochra, Shorea laxa, Shorea leprosula, Shorea macroptera, Shorea myrionerva, Shorea ochrophloia, Shorea ovalis, Shorea ovata, Shorea parvifolia, Shorea parvistipulata, Shorea pauciflora, Shorea platyclados, Shorea polyandra, Shorea quadrinervis, Shorea revolute, Shorea retusa, Shorea roxburghii, Shorea rubra, Shorea rugosa, Shorea scabrida, Shorea slootenii, Shorea smithiana, Shorea talura, Shorea teysmanniana, Shorea waltonii</i>	Meranti/ Seraya (Sabah)
69.	<i>Shorea macrophylla</i> <i>Shorea pinanga,</i> <i>Shorea palembanica</i> <i>Shorea splendida</i> <i>Shorea macrantha</i> <i>Shorea hemsleyana</i> <i>Shorea stenoptera,</i> <i>Shorea seminis</i> <i>and other Engkabang</i>	Engkabang jantung Engkabang langgai bukit Engkabang asu Engkabang bintang Engkabang bungkus Engkabang gading Engkabang rusa Engkabang terendak Kawang (Sabah) species
70.	<i>Sindora coriacea, Sindora echinocalyx, Sindora siamensis, Sindora velutina, Sindora wallichii</i>	Sepetir (Peninsular)/Tampar hantu (Sarawak)
71.	<i>Swietenia macrophylla</i>	Mahogany
72.	<i>Tectona grandis</i>	Teak/Jati
73.	<i>Terminalia bellirica, Terminalia calamansanai, Terminalia catappa, Terminalia citrina, Terminalia copelandii, Terminalia foetidissima, Terminalia phellocarpa, Terminalia subspathulata</i>	Talisai (Sabah)/ Jelawai/ Jaha (Semenanjung)/ Kedandi (Sarawak)
74.	<i>Tetramerista glabra</i>	Punah (Peninsular)/Kayu hujan (Sarawak)/Tuyot (Sabah)
75.	<i>Toona calantas, Toona ciliata, Toona sinensis, Toona sureni</i>	Surian/Limpaga/Red cedar
76.	<i>Vatica albiramis, Vatica bella, Vatica cinerea, Vatica cuspidata, Vatica dulitensis, Vatica flavida, Vatica havilandii, Vatica heroptera, Vatica lowii, Vatica maingayi, Vatica mangachapoi, Vatica maritima, Vatica micrantha, Vatica nitens, vatica oblongifolia, Vatica odorata, Vatica pauciflora, Vatica rassak, Vatica sarawakensis, Vatica scortechinii, Vatica venulosa</i>	Resak

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DATO' SERI HAJI AHMAD HUSNI BIN MOHAMAD HANADZLAH
Second Minister of Finance

[To be laid before the Dewan Rakyat pursuant to subsection 127(4) of the
Income Tax Act 1967]