

WHAT CONSTITUTES INCOME IN THE CONTEXT  
OF SECTION 4 INCOME TAX ACT 1967 AND  
JUDICIAL INTERPRETATIONS



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WHAT CONSTITUTES INCOME IN THE CONTEXT  
OF SECTION 4 INCOME TAX ACT 1967 AND  
JUDICIAL INTERPRETATIONS

BY

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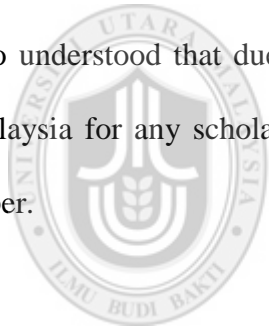


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## Abstract

The study in this project paper is quiet specific whereby the whole discussion revolves around section 4 Income Tax Act 1967 which defines income. Perusing the cases involving income tax, it is obvious that most of the cases revolve around issue of what constitutes income. This is due to the inadequacies of section 4 Income Tax Act 1967 in effectively defining income.

The objectives of this project paper is to discuss the current position involving this section and the definitions judicially elaborated by courts to help fill in the *lacuna* created by the inadequacies this section. It also involves comparative study with other jurisdiction namely with India and United Kingdom and recommendations to solve the problem namely amendments to the section in the form of adding provisos and illustrations.

As the study in this project paper is about what constitutes income in context of Income Tax Act 1967, major portion of the paper involves discussion on the issues which frequently goes to court for the much needed guide as to what forms income. This will greatly help individuals or organizations namely taxpayers looking for a clue of what section 4 Income Tax Act 1967 trying to classify. It will also give the readers an overview of what is income in revenue law.

## Abstrak

Perbincangan dalam kertas projek ini adalah amat khusus di mana keseluruhan perbincangan berkisar mengenai seksyen 4 Akta Cukai Pendapatan 1967 yang mendefinisikan maksud pendapatan. Rujukan kepada kes-kes yang melibatkan cukai pendapatan adalah menjelaskan bahawa kebanyakannya melibatkan isu apakah yang ditakrifkan sebagai pendapatan. Ini adalah kerana seksyen 4 Akta Cukai Pendapatan 1967 gagal menafsirkan maksud pendapatan secara efektif.

Objektif kertas projek ini adalah untuk membincangkan kedudukan semasa melibatkan seksyen ini dan definisi kehakiman yang dihuraikan oleh mahkamah untuk membantu mengisi *lacuna* yang diwujudkan oleh kelemahan seksyen ini. Ianya juga melibatkan kajian perbandingan dengan bidang kuasa negara lain iaitu dengan India dan United Kingdom dan cadangan untuk menyelesaikan masalah ini dalam bentuk pindaan kepada seksyen ini dengan menambah proviso dan ilustrasi.

Oleh kerana perbincangan kertas projek ini adalah berhubung dengan takrifan pendapatan dalam konteks Akta Cukai Pendapatan 1967, maka sebahagian besar perbincangan adalah melibatkan isu yang kerap dirujuk ke mahkamah untuk mendapat panduan berhubung apakah yang membentuk pendapatan. Ini akan membantu individu dan organisasi terutamanya pembayar cukai yang ingin mencari pengertian yang cuba diklasifikasikan oleh seksyen 4 Akta Cukai Pendapatan 1967. Ia juga akan memberikan pembaca satu pandangan menyeluruh akan maksud pendapatan dalam undang-undang cukai pendapatan.

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## **CHAPTER ONE**

### **BACKGROUND**

#### **1.1 Introduction**

Income tax as everyone knows, at its onset forms an important part of everybody's life, be it an individual, a company, an organisation, non-governmental organisation or country. Income Tax form part of revenue for government whilst tax payers see it as unavoidable expenses, pecuniary liability. Thus, as a matter of prudence it is very important to have a good working knowledge of what actually forms income that could be taxed and the exemption thereto.

Generally, Income Tax is the payment levied on the income of individuals and businesses including corporations or other legal entities. Various income tax systems exist, with varying degrees of tax incidence. It could be progressive, proportional or regressive. When tax is levied on the income of companies, it is often called a corporate tax or profit tax. Individual income taxes often tax the total income of the individual subject to certain exemptions. Various systems define income differently, and often allow notional reductions of income.

In Malaysia income tax is generally governed by Income Tax Act 1967 (Act 53/1967). Any particular dealing or transactions must come within the walls of scope of charge particularly as stipulated in section 3 of the act for it to be accounted to chargeable income tax. Any transactions or dealings that fall outside the scope of

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