

The Development for Social Entrepreneurship Innovation: An Extension Tax Theory of Public Good for Social Enterprise in Malaysia

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ARTICLE INFO

Article history

RECEIVED: 18-Aug-22

REVISED: 10-Oct-22

ACCEPTED: 22-Oct-22

PUBLISHED: 15-Nov-22

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Citation: Rabiatul Adawiyah Mohd Ariffin, Zuhairah Ariff Abd Ghadas and Mohd Shahrilnizam bin Md Radzi (2022). The Development for Social Entrepreneurship Innovation: An Extension Tax Theory of Public Good for Social Enterprise in Malaysia. *Horizon J. Hum. Soc. Sci. Res.* 4 (2), 205–216. <https://doi.org/10.37534/bp.jhssr.2022.v4.n2.id1157.p205>



ABSTRACT

Introduction: The concept of social enterprise (SE) has drawn interest on a global scale as an alternative strategy for promoting community social well-being. With the help of this revolutionary paradigm, corporate organisations' objectives have expanded their conventional focus from making money to addressing social challenges and promoting social cohesion. The idea of social entrepreneurship is not just more broad than that of a non-profit organisation; it also refers to a number of corporate entities or business models that use both profit-making and altruistic objectives. Unlike charitable organisations that received tax exemption treatment, SEs have not received a tax exemption even though Malaysia revised its regulations and accredited SEs.

Objective: Therefore, this article aims to expand the theory of public good to SEs in Malaysia.

Methods: In order to review and analyse legal theories for the development and application to social entrepreneurship, this research followed a legal doctrinal methodology. This study used primary and secondary legal sources to gather its data. Library research was used to find the aforementioned data using legal databases, websites, or textual sources.

Findings: Considering the SE sector's contribution to social development in Malaysia, similar to charitable organisations, it is necessary for the Malaysian government to adopt a special tax treatment to support and promote the existence of SEs in the market.

Results: The Public Good Theory, which primarily states that income tax exemption is granted for non-profit charity organisations owing to their dedication to generating public benefits, is used to justify and derive the tax exemption treatment for charitable organisations. This paper suggests applying the public good theory to SE in order to grant it a certain tax benefit or tax exemption status.

Keywords: SE, tax treatment, Malaysia, Public Good Theory.

Introduction

A business concept known as Social Enterprise (SE) was created to provide entrepreneurs with a platform to accomplish two goals simultaneously. One tool for addressing economic or social problems in a community or nation is SE. Most corporate entities in Southeast Asia are private with fewer social or economic companies. As a result, the United Kingdom (UK) passed unique legislation to oversee and encourage the growth of SE. These were created to remedy the lack of legislation governing the formation of philanthropic social businesses. These rules were created to help SE prioritise social purposes over the interests of private stockholders, in opposition to the commercial legal system. Contrary to other commercial entities, SE was founded for the benefit of the community, with the creation of profit being primarily for long-term sustainability. The existence and operation of SE, which serve as vehicles for community development and have the potential to benefit both the state and society, are autonomous of the federal government. With SE's active involvement, the government would have spent less on general government expenses and allowed the community to establish and maintain its source of income. SE is currently conducted in business entities that resemble commercial businesses, despite their operations and profit sharing being distinct. SE are taxed in a manner comparable to those of businesses that do not have special tax benefits. This paper discusses a plan to use the public good theory to support giving SE a special tax break as a government incentive for its community and local economy contributions. This study was carried out using a legal research methodology that comprised an in-depth analysis of the relevant legal ideas (Nuraisyah Chua Abdullah, 2018)

An Overview of SE in Malaysia

Social enterprise (SE) in Malaysia is defined as a "business entity that is registered under any written law in Malaysia that proactively creates positive social or environmental impact in a way that is financially sustainable" (Malaysian Global Innovation and Creativity Centre, 2019). An organisation that has successfully completed the accreditation process will be listed on SE as an Accredited Social Enterprise. A Ministry of Entrepreneur Development and Cooperatives (MEDAC) internet platform gives consumers and the general public access to information on SEs more effectively.

Most of the SE is handled through cooperative societies and other commercial entities founded by isolated

communities in particular geographic locations and revolving around certain topics (Radzi et al., 2020). SE in Malaysia is divided according to their entrepreneurial activity into two groups. Two forms of SE, social purpose enterprises and entrepreneurial non-profits, are represented by several organisations, including non-profit and non-governmental organisations (NGOs), as well as existing corporate groups.

Those who operate under a non-profit organisation will be governed by either the Trustee (Incorporation) Act 1952 or Society Act 1976 or the Societies Act 1966. In contrast, those in social business are governed by the law applicable to their business organisation, such as the Partnership Act 1961, the Companies Act 2016 and the Limited Liability Partnership Act 2012. Thus, local SE have challenges in selecting the appropriate legal form to register and conduct their social operations (Mokhtar et al., 2016)

In 2017, in response to the rising demand for SE, the Malaysian government released the Malaysian SE Blueprint (MSEB)(MaGIC, 2015), which outlines methods for boosting this sector. The MSEB was created to produce a sizable number of prosperous SE that enable sustained long-term growth for the sector as Malaysia advances in the process of economic transformation towards a healthy and resilient economy. The MSEB outlined a three-year plan to create a sustainable and egalitarian SE sector that would "transform the nation's economy".

In order to ensure social and economic well-being, the Malaysian government has continued to support the development of SE. According to Malaysia's 2019 budget, there was an agenda for SE. Income tax deductions will be provided for contributions from any parties to any social enterprise subject to a maximum of 10% of the aggregate income of a company or 7% of the aggregate income of a person other than a company (MOF, 2018). The Social Enterprise Accreditation (SEA) was established to confirm the legal status of SE in Malaysia. An accredited SE will have more access to the many available support systems as a result (Mansor & Rahman, 2021)

In 2022, this trend continued with introduction of a new framework by MEDAC that included several incentives to attract more players to venture into this new business (MEDAC, 2022). This might include tax treatment for those who have been accredited. The development of SE in Malaysia has a new national direction provided by this framework. According to Prime Minister Ismail Sabri Yaakob, the framework aims to empower social

entrepreneurs by helping them overcome potential obstacles in line with the goals, plans and initiatives outlined in the Shared Prosperity Vision 2030, National Entrepreneurship Policy 2030 and 12th Malaysia Plan. Additionally, Minister of Entrepreneur Development and Cooperative, Noh Omar reaffirms that under SEMy2030, private companies participating in programs to encourage SE would receive a three-year income tax exemption. This exemption is one of the government's incentives for enterprises to support the private sector through social aid. As a result, SE in Malaysia has experienced phenomenal growth in recent years.

Revenue Law in Malaysia

The Income Tax Act of 1967 (often known as "ITA 1967") governs all tax-related issues for income received in Malaysia. According to the Federal Constitution, tax policies are covered in the Federal List of the Ninth Schedule; the Federal capital is subject to the Federation's jurisdiction over financial issues, including tax rates. The Inland Revenue Board (IRB), established as a statutory agency under the Ministry of Finance, is the entity with the legal authority to oversee and administer direct tax legislation. The primary goals of the IRB implementation are the assessment, collection, and enforcement of direct tax payments.

The self-assessment system that underpins Malaysia's tax administration imposes a legal requirement on taxpayers to calculate their own taxable income in conformity with government policy and rules. Since 2001, businesses have been using the self-assessment system, and it has since been expanded to other special class of income on which tax is chargeable is covered in Section 4A of the ITA 1967. As a result, for income to be chargeable, it must fall into one of the categories stated in sections 4 or 4A of ITA 1967. The lists, however, are not exclusive of one another. This indicates that both clauses may apply to such revenue.

The legal definition of income is not mentioned in the ITA 1967. Due to this gap in the law, it has become challenging to distinguish between transactions that are allowed to be counted as income and those that are not because the act only taxes income, not capital gains, that an individual may have acquired. As a result, specific references to court-decided judicial interpretations from earlier judgments are pertinent and must be considered. In the case of *Mamor Sdn Bhd v. Director of Inland Revenue [1981]1MLJ 117*, the High Court established principles for interpreting income in accordance with the Act.

- a) Not every gain or profit-earning by the taxpayer is taxable income according to the Income Tax Act 1967
- b) In order for a transaction to be taxed as an income, the nature of the profit has to fall within the ambit of section 4 (a)–(f)
- c) One has to resort to case law to explore the scope of income
- d) A rigid interpretation of the Act is required

The court had to decide whether money obtained through the cutting and selling wood from state government property given to the corporation for the growth of oil palm would be regarded as revenue under the legislation. The court determined that the money the corporation obtained from the removal of the timber for land development was merely capital and not subject to the "ITA 1967" as a result.

Business and non-business incomes are the two broad categories into which revenue may be divided. Every year, both types of income are assessed, referred to as the Year of Assessment (YA). The method for determining taxable income is outlined in Section 5 of the ITA 1967. Companies, a group of people and a corporation sole are all considered "persons" under Section 2 of ITA 1967. Thus, the Act applies to everyone residing in Malaysia. Any income earned in or derived from Malaysia will be subject to tax in that year under the ITA, which is based on a territorial basis. The territorial definition is expanded by Section 3 of the same act to cover foreign money earned in Malaysia from countries outside Malaysia. According to the aforementioned provisions of the ITA 1967, income tax is levied on all individuals, groups of individuals and corporations residing in Malaysia or earning any income there. Thus, it is necessary to discuss how corporate business entities, such as limited liability partnerships (LLPs), cooperative societies and businesses, are taxed for this research. Additionally, these businesses may qualify for tax breaks and incentives in specific situations. Therefore, it is crucial to examine the present tax treatment of charitable organisations under the Malaysian Income Tax Act 1967.

Taxation for Corporate Entities

The Malaysian Federal Constitution of 1957 gives the federal government the authority to regulate and oversee commercial operations inside its borders. The ITA 1967 is one of the laws set on business organisations. All commercial entities are required to pay income tax for each YA by this act, and the Inland Revenue Board

keeps an eye on them. Corporate entities are subject to corporation tax, as opposed to other business entities such as partnerships and sole proprietorships (subject to individual taxation).

All corporate business entities are subject to corporation tax under Malaysia's tax system. The excess profit that corporate organisations make from their business operations is subject to taxation. The Malaysian government collected more than RM 72 billion in company tax in 2016 (the majority was derived from the income tax on petroleum, offshore operations and electricity levies). This sum rises yearly with the expansion of prosperous corporate entities carrying out business activities. The tax treatment varies according to the characteristics of each corporate entity type.

Company

All businesses with Malaysian incorporation must present financial accounting records for approval and audit. As a result, a company's profits and losses must always depict its financial situation at the conclusion of the fiscal year. The ITA applies to any business approved as a corporate resident in accordance with the aforementioned provision (section 8). Based on the audited accounts presented to the Inland Revenue Board, corporation tax will be assessed. If necessary, the IRB may check these audited reports after seven years. Since 2001, businesses must also conduct self-assessments. According to Section 107C(8) of the Income Tax Act of 1967, both estimated and revised estimated incomes may be paid to the Inland Revenue Board in instalments. Section 107C(9) of the Income Tax Act of 1967 states that any act of non-compliance with section 107C(8) renders the firm subject for a late payment penalty of 10%, to be assessed on the remaining tax instalment if not paid for the month. Each company must submit its tax return (actual tax after subtracting expected tax instalment) to the Inland Revenue Board within seven months of the assessment period's year-end date, per Section 77 (1A) of the Income Tax Act of 1967.

The defendant in *Kerajaan Malaysia v. United Axis Sdn Bhd [2009] AMTC 157* was charged with violating section 77(1A) of the ITA 1967 by failing to pay a tax debt of RM 2,034,300.41. However, the defendant asserted this was erroneous because the sale and purchase agreement should be utilised to calculate the amount of tax owed (which can only be measured or computed upon project completion). According to the complaint, the self-assessment notice system requires the income tax return

to be treated as a notice of assessment under section 77(1A) and served under section 90(1A) (1B). The tax is required and payable when the notification is provided, regardless of any appeals that may be made against the assessment. The court held that the whole tax must be paid under Malaysian income tax law regardless of a disagreement regarding the assessment in the notification. The court will not permit any appeals on the disputed tax payment amount. The defendant should bring up the argument before a special commissioner.

Cooperative Society

Cooperative societies are societies registered under any written law relating to the registration of cooperative societies in Malaysia under the ITA 1967 (Section 2). Section 65 of the ITA 1967 provides special tax treatment for two additional entities:

- Farmers' Associations governed under the Farmer Association Act 1967
- Fisherman's Associations registered under the Fisherman Association Act 1971

Therefore, the ITA 1967 does not apply to any cooperative society registered outside Malaysia. Cooperative societies are subject to tax based on income from both mutual and non-mutual activity. Section 5 of the ITA 1967 is used to compute the chargeable income for cooperative societies. Section 65A(a) and Section 65A(b) of ITA 1967 also provide specific deductions.

A cooperative society would be covered by all company-related provisions of the ITA 1967. This could apply to the clauses in Sections 107C and 77A. Unlike corporations, cooperatives receive tax exemptions from the government for the first five years from the date of registration (Part 1 Paragraph 12(a) 6 Schedule ITA 1967). If the member's funds on the first day of the base period were less than RM 750,000, this privilege might be continued after the five-year period has finished (Part 1 Paragraph 12(b) of Schedule 6 of the Income Tax Act of 1967).

Additionally, cooperative societies' dividend payments are tax-exempt (Part 1 Paragraph 12(a) 6 Schedule of ITA 1967).

Limited Liability Partnership (LLP)

A hybrid corporate business organisation, LLP, was introduced in Malaysia in 2012. Similar to corporations,

an LLP must pay corporate tax at the predetermined rate on its chargeable revenue for the assessment year. The first Schedule of Part 1 of the Income Tax Act of 1967 will generally be used to assess income tax on the LLP. For any LLP with RM 2.5 million or less in paid-up capital during the assessment year, the same schedule's Paragraph 2D applies (2D of 1th Schedule of ITA).

The Malaysian government also offers a tax incentive for new LLPs with capital contributions under RM 2.5 million to cover incorporation costs. This implies that a new LLP is permitted to write off any incorporation costs spent within the assessment year. The income of a LLP for the assessment year derived from sources outside of Malaysia but received in Malaysia is free from tax, according to Paragraph 28(1) of the 6th Schedule of the Income Tax Act of 1967. This exemption, however, does not apply to any LLP that:

- a) operates in the banking business, insurance and shipping or air transport
- b) whose foreign income, although considered as derived from Malaysia, has suffered foreign tax

Profits from LLPs may also be shared by all partners. Any profit received, credited or distributed to partners by a LLP is protected by Paragraph 12C of the sixth schedule of ITA 1967. Regarding the tax treatment of LLP partners, each LLP partner is not required to pay taxes on their portion of the LLP's income. Only compensation, perquisites and benefits-in-kind received from the organisation are subject to tax. The deduction for the partner's income for LLPs is also subject to specific limitations under the Malaysia Income Tax Act of 1967.

Tax Treatment

Tax Benefit

Although corporate companies pay more taxes on their profits, the government provides these entities with several deductions and incentives to help them continue operating. Deductions for business expenses and government incentives for particular activities are some advantages. The ITA 1967 also stipulates a formula for calculating adjusted income before taxable income is determined. Acceptable company expenses, specific allowable expenses and government incentives may all fall under this category.

An adjusted income is normally calculated from the deduction of gross income after all business expenses

have been paid, in accordance with Section 33 (1) of the ITA 1967. To qualify for these deductions, a firm must fulfil two conditions. Despite being separate tests, the "wholly" and "exclusively" tests are always interrelated. Nevertheless, these tests are not defined by the ITA 1967 or any Public Ruling. Therefore, both definitions must be extrapolated from the law. In *Bentley, Stokes and Lowless v. Beeson*, Roman L. J. referred to "exclusively" as the intention or purpose of the money spent alone to generate commercial profit. He defined "wholly" as the amount spent. *Director of Inland Revenue [1982] CLJ 402, Ampat Tin Dredging Ltd., Mohd Azmi J.*, rendered the following decisions:

"The question whether money is wholly and exclusively incurred in the production of gross income within the meaning of s 33(1) of the Income Tax, is a question of fact to be decided on the circumstances of each case. In this particular case, in the fact before the Special Commissioner, there was sufficient evidence to support their decision and they are corrected in law that that the disputed sum is not deductible under s 33(1) of Income Tax Act 1967"

Tax Break for Business Expenses

The ability to deduct company expenses is one of the government's incentives for any business entity for their charges and expenses in developing their earnings. All corporate entities may deduct several expenses from their taxes, including entertainment expenses for business (Section 39)(1), rental of premises (Section 33)(1)(b), repair and renovation costs for premises or machinery (Section 33)(1)(c), licencing expenses (Section 34)(6)(m), training costs for employee (Section 34)(6)(a), bad and doubtful debt (Section 34)(2) and contributions to approved schemes (Section 34)(4).

Tax Incentives

Corporate organisations may benefit from tax incentives in particular industries. Tax incentives are designed to attract more foreign and domestic investors to establish their businesses in Malaysia and encourage the development of specific industries. Corporation entities engaged in Islamic finance, environmental protection, biotechnology and information technology are now eligible to claim a variety of tax incentives, including:

Investment Tax Allowance

The government's plan to promote and support investment activity in Malaysia includes the Investment Tax Allowance. Under the Promotion Investment Act of

1986, this form of incentive has been published in the gazette.

Preferential Tax Treatment

Preferential Tax Treatment is an exemption from paying income tax on certain business operations in particular sectors, such as dividends received by offshore firms from Malaysian resident corporations and dividends paid by offshore companies resulting from their offshore business activities.

Double Deduction

A government incentive known as the double tax deduction is given to legally recognised businesses to encourage and promote specific activities like R&D (as approved by the minister), revenue expenses for the promotion of exports, authorised employee training programs, halal certification and brand promotion advertising. Against the taxable profit, any costs associated with those operations may be deducted twice. Before calculating adjusted income, revenue expenses generated from those operations are given twice as much relief under double deduction.

For instance, the Malaysian government announced in the Budget 2019 that operational expenses incurred by Anchor Companies that adopt Industry 4.0 would be treated as a double tax deduction (MOF, 2018).

Tax Treatment for Charitable Activities

It is important to note that taxation is crucial to the state's ability to function. The government can efficiently carry out its duties for the general welfare in all areas, including social security, public infrastructure and defence. Tax incentives are a method for achieving a goal instead of using direct spending from total receipts. The Pioneer Status and Investment Tax Allowance, the Specific Incentive Scheme and special tax treatments to encourage small and medium-sized enterprises in Malaysia are a few tax incentives the Malaysian Government has implemented to boost economic operations.

Companies may contribute under community development incentives for tax-exempt donations to well-known groups. This shows that the Malaysian government values corporate social responsibility and other charity endeavours as means for corporate companies to contribute to community development. A corporate organisation may actively enhance social well-being through different CSR programs through these engagement platforms.

The ITA 1967 addresses tax incentives for CSR initiatives in three primary ways. Both provisions have distinct effects on how taxes are computed.

1) Charitable Activities under Section 34(6) of the Income Tax Act 1967

Section 34(1) of the ITA 1967 provides special provisions applicable to adjusted income from the business.

“(1) In ascertaining the adjusted income of a person from a business for the basis period for a year of assessment, deductions shall be made from the gross income from the business for that period in accordance with the following subsections (the person, business, period and gross income in question being referred to in those subsections as the relevant person, the business, the relevant period and the relevant gross income respectively)”

Section 34(6) specifically refers to situations in which business entities may deduct from their gross income as compensation for charity actions they have undertaken.

2) Charitable Activities under Section 44(6) Income Tax Act 1967

Further government incentives are included in this legislation to the same goal, in addition to the authorised specified expenses gazette mentioned in section 34(6) of the ITA 1967 above. The Malaysian government also offers tax incentives for businesses engaged in clearly identifiable charitable operations from accredited organisation under Section 44(6) of ITA 1967.

As specified in section 44(7) of the ITA 1967, this provision permits any charitable donation to a federal, state, local or other recognisable institution or organisation to be deducted up to 7% from an individual's aggregate income for the relevant year and 10% from an organisation's aggregate income. However, such contributions must be made voluntarily without expecting anything in return.

3) Charitable Activities under Section 44 (11C) of the Income Tax Act 1967

The Malaysian government has permitted tax deductions of up to 10% of a company's gross income and 7% of individuals for donations given to social businesses (Kementerian Kewangan Malaysia, 2019). When a charitable organisation receives a donation, as per Section 44(6) of the Income Tax Act of 1967, this treatment is equivalent to that. The distinction is in the allowance, based on the minister's administrative authority to permit a tax deduction under Section 44 and the donation to a charitable organisation (11C). Section 44 (11C) of the Income Tax Act of 1967 states that:

“There shall be deducted from aggregate income a relevant person for the relevant year reduced by any deduction for that year in accordance with subsection (1) an amount equal to any gift of money or cost contribution in any kind of made the relevant person in the basis period for that year for any project of national interest approved by the Minister”.

Deductions under Sections 44(6) and 44(11C), in contrast to those allowed by prior rules, must originate from the business entity’s total revenue for the relevant assessment year.

Tax Exemption for Non-profit Organisations

Non-profit organisations can be categorised into two groups for tax purposes: charity organisations and non-charitable organisations. The belief that all non-profit organisations are exempt from paying taxes is not unqualified. Those without charitable status are nevertheless liable for taxes on any income not generated for charitable purposes. This implies that this particular type of organisation is required to pay tax on any revenues obtained from its commercial activity, such as entrance fees for non-members of the association.

Non-governmental organisations (NGOs) are often managed by the private sector in Malaysia and fall under this category. Their organisation’s goal is to foster welfare and philanthropy for society rather than making a profit. Non-profit organisations are “a club or association or similar institution is formed not for commercial purpose but social recreation, sport, art, science, literature or other leisure pursuits for the interest of their members,” according to the Inland Revenue Board of Malaysia.

If a charitable organisation fulfils the conditions, it may apply for recognition to the director general. The English case of *Commissioner of Income Tax v. Pemsel (3 TC 53)* explains a charitable organisation. In this instance, Lord Mac Naughten divided charity into several major categories:

- (a) Trusts for the relief of poverty
- (b) Trusts for the advancement of education
- (c) Trusts for the advancement of religion
- (d) Trusts for the purpose of beneficial to the community not falling under any of the proceeding head

Charitable organisations are also required to submit audited yearly accounts to the Inland Revenue Board as part of their governance procedures at the conclusion of their financial year. This reviewed financial account

must disclose every source of income, including gifts and profits from businesses. Additionally, it must list every expense that the company incurred during the course of the year.

Public Good Theory

Theoretically, Public Good Theory justifies and derives the tax exemption treatment for charity organisations. This viewpoint primarily states that charitable non-profit organisations are granted income tax exemptions because of their dedication to generating public benefits (Weisbrod, 1988). Without a doubt, philanthropic non-profit organisations are better suited to provide for and address social problems than the government. Consequently, such treatment is required.

Non-profit charitable organisations fulfil many government obligations to meet social needs because the government provides the facilities for them to do so. Despite this benefit, the government nevertheless plays a significant role in regulating charitable organisation operations by placing certain limits. Additionally, within the context of tax exemption treatment, the government has the authority to decide what constitutes the public benefit (Rob Atkinson, 1990)

Furthermore, it is standard practice to subject tax-exempt non-profit organisations to several rigorous standards to guarantee they uphold the goals that motivated their founding. The non-distribution of earnings ensures public welfare by informing the organisation’s founders and contributors that any proceeds are not their personal property but rather are for the benefit of others. A tangible mechanism is required to show that public welfare is preferred over private interests if profit distribution is permitted for this type of organisation (Hines et al., 2010). The plan to grant tax benefits to for-profit charitable organisations may be most significant since it may open up new opportunities for the private sector to evade taxes, endangering government revenue.

From a different perspective, it is also possible to see how it recognises the necessity of balancing the supply and demand for social goods and services. Those who support this viewpoint point out that individuals are willing to pay for the social goods that a charitable non-profit organisation provides as a result of social and economic imbalances. In recognition of both parties, the government takes the initiative to give tax exemption to contributors who are prepared to pay for the social benefit, as well as the charity organisation.

Despite the fact that this theory is often related to non-profit organisations, there is a case where the court applied this theory to a for-profit business. The Federal Court of Australia considered the question of whether a commercial corporate organisation could be considered a charitable organisation for the purposes of charity endorsement even though the majority of its profits were donated to another welfare organisation in the case of *Commissioner of Taxation v. Word Investments Ltd [2007] FCAFC 171*. The question before the Federal Court of Australia was whether a for-profit corporation that donates the majority of its revenues to another welfare group might still be considered charitable for the purposes of charity endorsement. According to a report, the Word Investments generated profits through the operation of Bethel Funerals, a funeral home, from 1996 to 2002. The Bethel Funerals engaged in commercial activity to generate cash, cover costs and generate profits. However, most of its earnings were regularly donated to Wycliffe Bible Translators Australia and Christian groups. The business established a trust in 2002 to own and manage Bethel Funerals; thereafter, it was not involved and benefited from that commercial operation.

The court concurred that the goal of producing a profit should be the primary topic of analysis rather than the specifics of the commercial operations. The court rejected the tax authority's notion that a charitable organisation could only engage in commercial activities as a subsidiary or supplementary to the entity's charitable activity. The court further stated that the tax authority's primary responsibility is to oversee an integrated and comprehensive inquiry to determine the precise characteristics of the organisation in light of its goals, purposes and activities. The Federal Court of Australia then ruled that, notwithstanding the fact that the firm engaged in commercial activity and was not a non-profit organisation, its establishment was unmistakably for philanthropic purposes. Therefore, this was enough to classify Word Investments as a charitable organisation.

Tax Treatment for SE

It has been noted that SEs' profit distribution policies are the biggest barrier preventing them from gaining tax treatment equal to that of a non-profit organisation. The non-profit organisation is permitted to engage in commercial operations to support itself financially, but not permitted to distribute any profit from such activities to any individuals who own interests in the organisation. This restriction was put in place to prevent any misuse of funds for personal gain. As a result, all profits from

its commercial endeavours must be put only towards achieving its stated (charitable) goals.

Tax law experts are concerned about the expansion of SEs, which fall between these two categories of entities. Many academics are debating whether for-profit organisations pursuing public benefits are eligible for tax benefits previously available only to charitable organisations (Doeringer, 2010) exhibit ambivalent responses to novelty, altered response to stressors, and cognitive impairments when tested as adults. They also overrespond to stimuli predictive of reinforcement, as shown by their elevated levels of conditioned activity when the presentation of food reliably follows daily activity tests in photocell cages. The dose-effect curve for D-amphetamine is shifted to the left in this situation, confirming the enhanced locomotor and stereotyped behaviours seen following systemic treatment with a variety of other psychomotor stimulant drugs. In vivo measurement of amine activity in isolates using microdialysis shows elevations in dopamine concentration in both the nucleus accumbens (ventral striatum). Those who favour giving charitable organisations the same tax benefits as for-profit businesses contend that the public good principle should be expanded to include for-profit firms that pursue social goals, such as SE (Atkinson, 1990). They stress that public good theory is neither prescriptive nor exclusive to non-profit organisations. The government should therefore offer tax advantages for any initiatives that aid in creating public goods.

Posner and Eric (2007) posit that despite allowing tax exemptions for for-profit organisations, which may make charitable organisations more susceptible to fraud and misconduct from businesspeople who prey on the public's goodwill, each jurisdiction's criminal misconduct laws are sufficient to curtail these offences. Furthermore, SE are subject to a legal framework, encouraging them to pursue their social mission at all times, regardless of the economic conditions, similar to the behaviour of charitable entities than a conventional corporation, contributing to the public good in prosperous times (and turns it off when economies change).

Allowing tax exemptions for SE also results in resource allocation that is reasonably priced. Tax advantages would subtly promote the expansion of for-profit charitable organisations. Due to this tendency, the government would allocate less money for direct community development spending (Surrey et al., 1970). Then, this allocation might be used to meet demand in other sectors, like development and the military. The above-mentioned arguments have their detractors, who

disagree with the tax-exempt status of SEs for various reasons. According to Mayer and Ganahl (2014), it is challenging to communicate the idea of public benefit because non-profit organisations are using it. They contend that the idea of the public benefit is too open-ended, allowing any entity or group to merely assert that it has been pursued. For instance, traditional businesses can assert that by creating jobs for the community, they have had a positive impact on society. They further contend that the SE concept is not appropriate for tax exemption since such treatment could jeopardise its status as a hybrid organisation due to its competitiveness in commercial market activities.

Additionally, it is typical for tax-exempt non-profit organisations to be subject to several severe regulations to guarantee that they uphold the goals that motivated their founding. Since the founders and contributors of the organisation are aware that any revenues are not their private property but are for the benefit of others, the public good is thereby secured through the non-distribution of profits. A tangible mechanism is required to show that public welfare is prioritised over private interests if profit distribution for this type of organisation is permitted (Hines et al., 2010). The plan to grant tax benefits to for-profit charitable organisations may be most significant since it may open up new opportunities for the private sector to evade taxes, endangering government revenue.

Those who oppose giving SE preferred tax treatment are also concerned about governance difficulties. Being a hybrid organisation implies running the danger of governance-related problems, particularly if management does not always strike the right balance between individual interests and the company's social objectives. Therefore, these risk generally undermines the tax base's support for the charity, which could also impact non-profit organisations (Mayer & Ganahl, 2014).

L Hitoshi Mayer suggests that a tax scheme for SEs should consist of three elements:

a) **Investment**

A tax scheme for the SE should promote and encourage investor to provide capital funding for SE (Llyod Hitoshi Mayer, 2017)

b) **Commitment**

The scheme will also play an important role in ensuring that the SEs continuously honour their commitment for social benefit (Mayer & Ganahl, 2014).

c) **Purpose**

The purpose of selection is to encourage other business entities to operate as SE that generate profit and pursue at least one social benefit (Llyod Hitoshi Mayer, 2017).

For the long term, this researcher suggests that the government include SEs in the scope of the public good theory. This principle does not only apply to non-profit organisations, which means any group that promotes social good could use the public good theory (Posner & Eric A, 2007). Therefore, it may be argued that the government should reward their effort and dedication to promoting social well-being with a tax benefit. This idea can therefore be used for all people more effectively, independent of their characteristics and limitations in economic activity.

The public good theory could be applied to the government's tax incentive programs to support social goals by compensating citizens for their good actions.

According to Surrey and McDaniel (1970), there are two components to income tax. The first relates to the fundamental rules of income tax, such as the definition of taxable income, accounting regulations, rate regimes, exemptions and the classification of entities. They state that the second part of the income tax consists of special preferences known as tax subsidies or incentives. Tax incentives are created with a specific goal in mind, favouring certain parties, particularly to meet the needs of the government. It can come in various shapes, including permanent exclusions from income, deductions, exemptions, postponements of tax responsibilities, tax credits and special rates.

Without a doubt, tax expenditures can diminish federal treasury collections when the real tax due is less than the required amount. Even though the government may use direct spending from its annual budget to foster social development, tax expenditure has a number of advantages over direct spending, making it the most desirable method for achieving these goals.

The government may promote private engagement in social development through tax incentives or spending. Additionally, it has been asserted that employing tax incentives rather than direct budgetary decisions from the treasury makes them easier to implement. This is because the private sector will run the project through tax incentives, which minimises interaction with bureaucracy and governmental processes.

The use of tax incentives for the private sector is heavily criticised. Private decision-making may exacerbate power imbalances, while the private sector would preferentially select certain projects suited to their objectives, even though such implementation may decrease government bureaucracy and increase the effectiveness in responding to social development needs.

If the government supports the projects directly from the treasury, this cannot take place (Burman, 2003). Additionally, from the perspective of governance, tax spending would push the price of tax administration and necessitate the creation of a new regulatory agency to oversee it. In this scenario, the allocation and expenditure transparency mechanisms would be under legislative control as opposed to a direct budget. As a result, every legislative decision could be examined within the budget cycle to prevent fraud or misallocation (Bratić, 2006). Most activities are not subject to internal supervision (as in a direct budget), supervised by specified government authorities; therefore, this does not apply to tax expenditures.

According to Malaysia, SE may not obtain preferential treatment regarding taxes; consequently, their number (and growth) may not be as high as that of traditional firms. These SEs are likewise liable to income tax by the government because their business methods are comparable to those of for-profit businesses. According to the ITA 1967, SEs receive the same status as other commercial organisations. The lack of unique tax benefits for SEs may deter social activists from starting firms (Palil et al., 2021).

In order to justify tax exemption for SEs that are equal to charitable organisations as defined in section 44(6) of ITA 1967, the government is strongly advised to apply the public good theory to SE. The concept of SE should be incorporated into the definition of the charity organisation, and the applicable provisions should be modified accordingly.

Conclusion

Malaysia has a thorough tax system regulating all money earned and received inside its borders. All of these incomes are combined and dispersed for the benefit of economic and social development through the ITA 1967 and the IRB.

In Malaysia, all business entities are subject to taxation based on their assessment year. Tax is imposed on the

owners of non-corporate entities, whereas corporate entities are liable in their own names. Corporate enterprises are subject to tax rates from their taxable income of up to 25%. The Malaysian government has a number of programs to encourage private investment in the nation's development, in addition to tight enforcement and high tax rates. These incentives are provided for a number of objectives, including promoting the growth of new businesses and fostering social development. For individuals who meet the requirements, this system grants tax incentives (either in the form of exemptions or incentives). For instance, Malaysia was specifically promoted as a desirable location for foreign investors by the Promotion of Investment Act 1986. Malaysian entrepreneurs are encouraged to boost their export activities by the Income Tax (Allowance for increased export) Rule 1999.

Based on the public good theory, tax benefits for social development are designed to encourage private engagement in advancing social development. This is very different from tax incentives created to promote business. According to the ITA 1967, these incentives can be divided into: aggregate income and adjusted income. Corporations are permitted to deduct contributions and expenses for CSR programs under Section 34(6) of the Act, while corporate entities are qualified for tax relief of up to 10% from their annual taxable income for any donation to recognisable organisations or institutions under Section 44(6) of the same Act.

The advent of SEs in the economic sector sparks discussion among academics about the appropriate tax treatment for them as well as how to best explain their existence. Some academics believe SEs and charitable organisations should be treated similarly because both have a stake in advancing societal well-being. Critics of these viewpoints assert that charitable organisations must adhere to non-profit distribution restrictions when doing public benefit activities. This is carried out to maintain exclusivity and prevent groups from operating for their gain through covert agendas.

It is suggested that SE be awarded a specific tax treatment considering the growth of the SE sector in Malaysia.

Acknowledgement

This article was written as part of the Special Research Grant Scheme, funded by the Universiti Sultan Zainal Abidin.

Declaration of Conflicting Interests

The authors declared no potential conflicts of interest with respect to the research, authorship and/or publication of this article. This article is the sole work of the authors and has not been presented or published elsewhere.

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