Baker Tilly TaxSnaps

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Compulsory Acquisition of Land
Court Upholds Tax Refunds with Interest

A recent Court of Appeal decision reinforces taxpayers' right to recover taxes collected under an unconstitutional provision. The decision provides important guidance on the retrospective application of court rulings and the remedies available to affected taxpayers.

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The Court's Decision
On 19 October 2026, the Court of Appeal upheld the decision of the lower courts to allow income tax refunds for Lush Development Sdn Bhd and Tanda Bestari Development Sdn Bhd on compensation received from the compulsory acquisition of land, together with interest at 5% per annum from the commencement of judicial review proceedings. The Court affirmed that the Federal Court's landmark ruling in Wiramuda (M) Sdn Bhd v Director-General of Inland Revenue, which declared Section 4C of the Income Tax Act, 1967 ("ITA") to be unconstitutional, and to be applied retrospectively.

Key Takeaway
The Court distinguished ordinary tax refund claims from claims for restitution of taxes where such tax was imposed and collected in circumstances that go against Federal constitutional provisions. In this case, compensation for compulsory acquisition of land by the Government was not supposed to be reduced by charges or taxes under the Federal Constitution. The finality of assessments and the statutory five-year refund time limit also did not bar recovery in these cases.

The Court also reaffirmed the IRB's duty to give effect to binding decisions of the superior courts.

However, recovery remains subject to applicable procedural requirements and limitation periods. Taxpayers should act promptly, as a fresh refund request does not automatically restart the time limit for judicial review.

How We Can Assist
This decision underscores the importance of reassessing the tax paid on compensation received from the compulsory acquisition of land under Section 4C of the ITA.

Affected taxpayers should promptly evaluate the merits of a potential recovery claim, taking into account the relevant facts, applicable limitation periods and available remedies.

At Baker Tilly Malaysia, we would be pleased to assist and advise on how we can take your case forward and what remedies may be available on past assessments raised.

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