

# PROFILE

**Partner**

Tax, Trade & Customs

Private Client & Family Business

**Shearn Delamore & Co., Kuala Lumpur, Malaysia**

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**Qualifications**

LL.B (Hons), University of London

Certificate in Legal Practice

Advocate & Solicitor, High Court of Malaya

**Languages**

English, Malay

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## PUI CHI FOONG

### ABOUT PUI CHI

All aspects of Malaysian tax and revenue law advisory, structuring, planning, transfer pricing, dispute resolution (including advising taxpayers on the settlement of tax cases or in dealings with governmental authorities), litigation (including tax appeals, declaratory proceedings, judicial review applications, civil suits etc.), audit and investigation work. Pui Chi has appeared as Counsel for taxpayers in numerous tax appeals before the Special Commissioners of Income Tax and in judicial review applications as well as other tax proceedings before the Superior Courts of Malaysia.

### EXPERIENCE

- **Nike Sales (M) Sdn Bhd v. Royal Malaysian Customs Department, Director General of Customs and Government of Malaysia – Federal Court**

Acted as co-counsel for Nike Sales (M) Sdn Bhd in the appeal to the Federal Court (Malaysian apex court) and was successful in setting aside the decision of the Court of Appeal and reinstating the decision of the High Court. This is a landmark case as it is the first in Malaysia on whether royalty payable upon the sale of imported goods into Malaysia should be added to the valuation of those imported goods. This is also the first case in Malaysia on the interpretation of Regulation 5(1)(a)(iv) of the Customs (Rules of Valuation) Regulations 1999 which has been adopted from the WTO Valuation Agreement.

- **Wincor Nixdorf (M) Sdn Bhd v. Minister of Finance and Director General of Customs – Federal Court**

Acted as co-counsel for Wincor Nixdorf (M) Sdn Bhd in successful judicial review proceedings before the High Court following the refusal of the Minister of Finance (“MOF”) and Director General of Customs to grant a remission of import duties and sales tax. The High Court quashed MOF’s decision and granted full remission to Wincor Nixdorf. The Court of Appeal subsequently affirmed the decision of the High

Court and remitted the case to the MOF for assessment on the quantum of the remission. Wincor Nixdorf brought the case to the Federal Court (Malaysian apex court) to determine the quantum of the remission to be given by MOF. Succeeded in concluding the case at the Federal Court with a 50% remission of the import duties and sales tax without any interest and penalties imposed upon Wincor Nixdorf and without any admission of liability/wrongdoing. This is a landmark case being the first Malaysian case on remission of import duties and sales tax and one of very few Commonwealth decisions on the issue of judicial intervention in the exercise of the MOF's power to remit duties and taxes.

- **Director General of Inland Revenue v. CIMB Bank Berhad – Court of Appeal**

Acted as co-counsel for CIMB Bank Berhad in a tax appeal and was successful at all levels from the Special Commissioners of Income Tax, High Court and finally at the Court of Appeal whereby CIMB Bank was allowed to claim capital allowance ("CA") claims on the capital expenditure incurred in acquiring customer databases from another bank. This is a landmark decision affirming that "plant" could also include intangible assets like the databases and CAs should be granted so long as the conditions for claiming CAs under the Income Tax Act 1967 are satisfied. This is also the first case in Malaysia where unlike the usual tangible assets, an intangible asset has been recognised as "asset".

- **Kompleks Tanjong Malim Sdn Bhd v. Director General of Inland Revenue – Court of Appeal**

Acted as co-counsel for Kompleks Tanjong Malim Sdn Bhd in a tax appeal whereby the Court of Appeal finally confirmed the principle that the Revenue have no power under the Income Tax Act 1967 to apportion claims into allowable and non-allowable portions and the Revenue cannot arbitrarily disallow expenses on the basis of supposition and speculation as to the taxpayer's intentions.

- **Director General of Inland Revenue v. United Malacca Berhad – High Court**

Acted as co-counsel for United Malacca Berhad in a tax appeal following the position taken by the Revenue that the late payment charges received on certain compensation for the compulsory acquisition of land and the retrenchment benefits which were reimbursed to the taxpayer should be subject to tax. Succeeded before the Special Commissioners of Income Tax and the High Court and there was no further appeal by the Revenue to the Court of Appeal.

## ACCOLADES

- **Asian Legal Business Malaysia (2022)**

"Rising Star" in Malaysia (under 40)

- **Chambers Asia-Pacific Guide (2024)**

"Band 4" in Tax

*"Pui Chi gives superb client service, is knowledgeable and strategises together with clients."* – Chambers Asia Pacific 2024

- **IFLR-Euromoney Legal Media Group**

Asia Women in Business Law Awards (2015) - "Rising Star in Tax" nominee

- **International Tax Review (2011 - 2013)**

Recognised as Tax Counsel

- **Asialaw Profiles**

*"Ms Foong Pui Chi was technically sound."* – Asialaw Profiles 2019

*"Detailed and responsive."* – Asialaw Profiles 2021

- **Who's Who Legal (2022 and 2023)**  
"National Leader (Southeast Asia)" in Corporate Tax
- **The Legal 500 Asia-Pacific (2021)**  
"Recommended Lawyer" in Tax
- **The Legal 500 Asia-Pacific (2022 - 2024)**  
"Other Key Lawyer" in Tax

*"good analytic skills, thorough, well versed in Industry practices"*. - The Legal 500 Asia-Pacific 2021

- **ITR World Tax**  
Highly Regarded Practitioner
- **Lexology Index – Southeast Asia Guide 2024**  
"Recommended" Corporate Tax

## APPOINTMENTS/MEMBERSHIPS

- Member, Malaysian Bar
- Member, International Bar Association (IBA)
- Member, International Fiscal Association (IFA), Malaysia Branch

## PUBLICATIONS

- One of the authors of Bloomberg BNA's Business Operations in Malaysia
- Contributed to the *Tax Guardian* published by the Chartered Tax Institute of Malaysia
- Contributed to *The Malaysian Accountant* published by the Malaysian Institute of Certified Public Accountants.