



# MEDIA RELEASE

For Immediate Release

## **CATA MEMBER COUNTRIES SERIOUS IN OVERCOMING TRANSFER PRICING AND BASE EROSION AND PROFIT SHIFTING ISSUES (BEPS)**

Melaka, November 17<sup>th</sup> - During the second day of CATA's 36<sup>th</sup> Annual Technical Conference, the delegates are having serious discussion on how to overcome the transfer pricing (TP) and abuse of treaties in base erosion and profit shifting (BEPS) issues. These issues are currently faced by tax administrators globally where multinational companies are taking advantage to minimise their tax payable and to evade from being taxed in certain countries.

In this conference, Inland Revenue Board of Malaysia (IRBM) shared the lists of actions taken by Malaysia to overcome both the TP and BEPS issues. As for the TP issue, below are the lists of actions taken:

- 1) IRBM has placed a general tax avoidance provision, Section 140 of the Income Tax Act (ITA), 1967 in order to combat tax avoidance.

- 2) IRBM had introduced a specific TP legislation under Section 140A of the ITA, 1967 in 2009 which is supplemented by Income Tax (TP) Rules 2012 (P.U. [A] 132), to address transfer pricing related issues.
- 3) IRBM has released the 2012 Malaysian Transfer Pricing Guidelines (TPGL) on 20<sup>th</sup> July 2012 to replace the original Transfer Pricing Guidelines issued in 2003. The revised TPGL provide further guidance for the application of the transfer pricing legislation in Malaysia, as well as the administrative requirements of IRBM on the types of records and documentation to maintain.
- 4) Besides that, IRBM has also issued the Audit Framework 2013, which superseded the previous framework issued in January 2009. This framework provides guidance on how TP audits would be conducted and enforced in Malaysia. Since 2003, IRBM has conducted numerous audits on MNCs to scrutinise their TP practices in effort to ensure they pay their fair share of taxes. Below is the number of TP audit case for the year of 2012, 2013 and 2014:

<b>Year</b>	<b>Number of solved cases</b>	<b>Total Tax Collection (RM million)</b>
2012	78	116.44
2013	156	160.67
2014	160	156.60

## **Actions to overcome BEPS issues**

BEPS is caused by the rapid cross-border transactions which are not in line with the development of tax legislation between countries in the world. Such disadvantage is an opportunity for all multinational companies to exploit the gap and differences in current tax laws to shift their profits to low tax rates or tax-free countries.

In order to overcome BEPS issue, IRBM has taken actions as below:

- 1) As a dynamic organisation, IRBM will update and revise the ITA and other relevant provisions, to align with international standards, where such standards are applicable and relevant locally.
- 2) Currently, IRBM is in the process of reviewing the relevant tax legislations to keep abreast with the changes and development of the BEPS projects under the mandate of Organisation for Economic Co-operation and Development (OECD).
- 3) IRBM is actively involves in selected BEPS Working Party (WP) and OECD meetings to discuss the BEPS Action Plan.
- 4) BEPS Action Committee was set up in IRBM. It acts as the coordinating forum to discuss results from various BEPS meetings, suggestions or follow up on certain issues, implications on domestic law, as well as recommendations to the government, where applicable.

**IRBM point of view:**

IRBM comments that the BEPS Action Plan may not be applicable in all instances for Malaysia given that our tax system and policy goals are different from any developed countries. However, the fact that we have largely reliance on corporate income tax, particularly from multinationals reflects the importance of handling the transfer pricing and BEPS issues. Therefore, it is important for IRBM to follow closely with the development of the TP and BEPS issues in order to overcome the existing gap in the current provision tax law, maintain the basis of taxation and reduce leakages in the collection.

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**THANK YOU**



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