

MINIT DIALOG BIL. 1/2010
ANTARA LHDNM JOHOR DENGAN PERSATUAN AKAUNTAN

Tarikh : 24 Ogos 2010 (Selasa)
Masa : 10.00 pagi hingga 1.00 petang
Tempat : Bilik Persidangan, Tingkat 14,
Bangunan HASiL
Johor Bahru, Johor

Kehadiran : Wakil-wakil LHDNM Johor

1	YBhg. Datin Noor Izzah bt. Mansor	Pengarah Negeri Johor (Pengerusi)
2	Tn. Haji Muhammad b. Ali	Pengarah Cawangan Johor Bahru
3	En. Shuhaimi b. Salleh	Pengarah Cawangan Siasatan Johor Bahru
4	En. Wan Zulfikri b. Wan Ab Hamid	Pengarah Cawangan Muar
5	Tn. Haji Azmi b. Mohamed	Pengarah Cawangan Kluang
6	Tn. Haji Wan Mohd Zain b. Wan Ngah	Pengarah Cawangan Siasatan Kluang
7	Pn. Mas bt. Abdul	Timbalan Pengarah Cawangan Siasatan Johor Bahru
8	En. Muhamad Nashir b. Abd. Majid	Timbalan Pengarah Cawangan Johor Bahru
9	Pn. Hasnah bt. Mohd Angsor	Timbalan Pengarah Cawangan Johor Bahru
10	En. Hamdan b. Ismail	Timbalan Pengarah Cawangan Muar
11	En. Ahyad b. Abu Hasan	Timbalan Pengarah Cawangan Siasatan Kluang
12	Pn. Kalthom bt. A. Hamid	Ketua Penolong Pengarah Cawangan Johor Bahru
13	En. Md Kamal b. Johan	Ketua Penolong Pengarah Cawangan Johor Bahru
14	Pn. Norshita bt. Mohd Nawawi	Ketua Penolong Pengarah Cawangan Johor Bahru

15	Pn. Norazah bt. Harun	Ketua Penolong Pengarah Cawangan Johor Bahru
16	Pn. Salbiah bt. Ishak	Ketua Penolong Pengarah Cawangan Johor Bahru

Kehadiran : Wakil-wakil Persatuan

1	En. Sam Soh Siong Hoon	Malaysian Institute of Accountants (MIA)
2	En. Huang Shze Jiun	MIA
3	En. Phang Kok Kwen	MIA
4	En. Se Kuo Shen	MIA
5	Cik Chan Hua Seng	MIA
6	En. Azman b. Md Taib	Malaysian Association of Tax Accountants (MATA)
7	Tn. Haji Tumingan b. Ismail	MATA
8	Pn. Anizah bt. Ishak	MATA
9	Tn. Haji Shafie b. Sian	MATA
10	Cik Tan Lay Beng	Chartered Tax Institute of Malaysia (CTIM)
11	Tn. Dr. S Sivamoorthy	CTIM
12	En. Teoh Siew Hoon	CTIM
13	En. Wong Kok Keng	CTIM
14	Cik Lee Li Ming	MIA
15	Cik Hing Soh Tee	MIA
16	Cik Helen Tang	MIA
17	Cik Thean Szu Ping	MIA
18	Cik Ng Heng Chee	MIA

19	En. Tang Sim Cheow	MIA
20	En. Rajendran AL S.A. Kannusamy	MIA
21	Cik Lim Soh Keng	MIA
22	Cik Ngu Mee hung Theresa	MIA
23	En. Edward Chong	MIA
24	Cik Navarajoh D/O Supramaniam	MIA
25	En. Lim Hwa Yu	MIA
26	YBhg. Datuk Chua Teck Hwee	MIA

Urusetia

1	En. Syaiful Izam b. Othman	Penolong Pengarah Pejabat Pengarah Negeri Johor
2	Cik Chan Hua Seng	Pengurus MIA Cawangan Johor Bahru

1. Pendahuluan

YBhg. Datin Pengerusi mengaluakan kedatangan ahli-ahli mesyuarat. Mesyuarat diadakan untuk membincang isu-isu yang dikemukakan oleh wakil-wakil MIA, CTIM dan MATA Negeri Johor. Beliau memaklumkan perbincangan isu-isu di peringkat Negeri adalah terhad kepada isu-isu operasi sahaja. Manakala isu-isu berkenaan dasar tidak akan dibincangkan.

Encik Sam Soh Siong Hoon, Ahli Jawatankuasa Percukaian MIA mewakili ahli-ahli Persatuan Akauntan yang hadir menyampaikan terima kasih kepada LHDNM Johor kerana setuju mengadakan perjumpaan dan perbincangan dengan Persatuan Akauntan dan agen-agen cukai. Beliau berharap mesyuarat kali ini dapat memberi manfaat kepada kedua-dua belah pihak.

2. Isu-Isu daripada MIA, MATA dan CTIM

BIL	ISU/CADANGAN	JAWAPAN LHDNM
1.	<p>We still have clients who prefer to use the hardcopy version of Borang C and R to file their company's tax return. The IRB front desk officer informed my despatch boy the forms for YA 2010 are already available but upon waiting for his turn to meet the officer in charge of forms distribution, he is told that IRB does not release hardcopy forms any longer. Obviously there is an inconsistent policy practised between the front desk and back office. While we appreciate IRB's attempt to encourage e-filing, I feel it should not make it inconvenient for taxpayers to file their tax returns under the hardcopy format.</p>	<p>Pihak LHDNM sentiasa melayan permohonan borang retan . Walau bagaimanapun setiap permohonan mestilah mengikut prosidur untuk mengelakkan pembaziran pengeluaran borang. Jika permohonan borang adalah dari wakil cukai, permohonan mestilah diiringi surat yang mempunyai cop firma wakil cukai tersebut berserta nama dan nombor rujukan fail pc/ syarikat yang diminta.</p>
2.	<p>Under hard copy filling, we are able to raise the voluntary disclosure on the cover letter during submission on the return form (to avoid penalty to be imposed during field audit). Under e-filing, we are unable to do so and ending up that we need to write in to IRB. Do IRB consider to add in a section to raise critical issue in the e-filing module ? Or advice on how to do the voluntary disclosure in the e-filing ?</p>	<p>Polisi Ibu Pejabat</p>
3.	<p>We understand that IRB don't accept the accountants' cheques for payment of stamp duties. However I understand that IRB accepted cheques from to solicitors. Please clarify on this discrepancy in treatment.</p>	<p>Polisi Ibu Pejabat.</p>

4.	<p>Certain officers tried to convince the tax payers to accept the audit luar findings by implied undue influence that unless such acceptance otherwise the officers would have to perform further years on the audit luar matters!</p>	<p>Pegawai sentiasa diberi peringatan agar tidak melakukan sebarang unsur-unsur ugutan dalam menyelesaikan kes audit. Sekiranya ada perkara seperti ini berlaku agen cukai dinasihatkan membuat aduan kepada Pengarah Cawangan atau Pengurus Audit.</p> <p>Sila beri maklumat lanjut tentang kes begini.</p>
5.	<p>We note that in certain situations the IRB has disputed the deductibility and/or quantum of salary & EPF contribution of family member(s) (wives and/or children) are employees or Directors. Could the IRB please provide clarification on this matter?</p>	<p>Perbelanjaan ini adalah dibenarkan dibawah Sek 33(1) sekiranya Pembayar Cukai dapat membuktikan bahawa perkhidmatan yang diberikan adalah benar-benar dilakukan dan bayaran dibuat <i>at arms length</i>.</p>
6.	<p>Construction Contracts.</p> <p>Where a contract ends up as a loss case (in contrast to the estimated results which was a profit or a smaller loss) the public ruling 2/2009 provides for the prior years to be revised accordingly.</p> <p>Q1. Does the taxpayer have the option not to reopen the prior year assessments and instead absorb the loss in the year the contract is completed? (This would not result in loss of revenue for the IRB as the prior year tax rates were higher).</p>	<p>Prosedur adalah berdasarkan polisi yang telah ditetapkan dalam Ketetapan Umum 2/2009.</p> <p>Jika terdapat rugi sebenar kerugian sebenar mestilah dikira mengikut tahun taksiran terlibat. Prinsip padanan digunakan dengan mengambil kira nilai kontrak dan kos kontrak</p>

7.

Compounds for Form E

Case 1: A company received a notice for compound in 2008, for non-submission of Form E 2005. But actually they submitted the form in good time. A letter was given to IRB explaining, together with evidence of submission by courier & copy of Form E etc. & these were acknowledged by the IRB.

Now in Aug 2010, the same company receive a letter saying the compound is RM200.

Case 2: Notice for compound issued for 2008. When arrangement is made for the submission of the form and payment of the compound, we are told there are more years to compound.

Many of these cases are dormant companies or companies that have ceased operations, where they no longer have a full-time staff to take care of such matters. The compound is a heavy burden on them. Besides it may be difficult to get the directors now.

[Very often the forms were sent to ex-registered address or even the ex-secretary's residential address, whereas the notices for compounds are sent to the current tax agents' address.]

Suggest: IRB consider to reduce the compound in such situations.

Mengikut Jadual (Kaedah 3) Potongan Cukai Bulanan walaupun Borang E telah dihantar dalam tempoh dan jika sekiranya didapati tidak lengkap. ianya dianggap tidak diterima dan tidak akan di "key -in" didalam sistem. Ini menyebabkan sistem akan mengeluarkan kompaun kerana tidak ada borang diterima.

Sila beri maklumat tentang kes untuk tindakan.

Adalah menjadi tanggungjawab majikan memberitahu kedudukan syarikat mereka samaada dormant atau telah berhenti operasi atau ada perubahan alamat. Kegagalan pihak majikan berbuat demikian akan menyebabkan kompaun dikeluarkan. Kompaun hanya akan disemak sekiranya Pengarah Cawangan berpuas hati dengan alasan dan bukti yang diberikan.

<p>8.</p>	<p>Losses b/f in the case of Investment Holding Company</p> <p>A co. holds some properties for rental collection. Since the beginning of the company they had been assessed under Sec 4a – business income. IRB had issued a confirmation (JBR 391) stating that the computation was accepted. It was also confirmed that there were losses carried forward of a certain amount. Then wef YA 2006 there was a re-definition of ‘Investment Holding Co’. Between 2000 & now there were some properties disposed. Other than that there was no change in activities of the co.</p> <p>Q1. Can the co continue to be assessed under sec 4a since this was accepted in the past?</p> <p>Q2. If wef YA 2006 the co is assessed under Sec 60F, can they still carry forward the losses since it was agreed upon up to YA 2000 CY?</p> <p>Q3. Can they also carry forward losses from 2001 to 2005, before the new definition came in?</p>	<p>Sekiranya sebuah syarikat telah diberi layanan sebagai menjalankan perniagaan sewaan dan tertakluk di bawah subseksyen 4(a) ACP 1967 di bawah Ketetapan Umum Ketua pengarah 1/2004, layanan ini akan diteruskan selagi tiada berlaku perlupusan asset yang mengakibatkan syarikat tidak layak untuk mendapat layanan tersebut.</p> <p>Jika dalam Tahun Taksiran 2006 syarikat telah di taksir di bawah seksyen 60F, mengikut peruntukan subseksyen 60F(1) syarikat tidak layak untuk menuntut rugi hantar hadapan.</p> <p>Jika pendapatan sewa syarikat ditaksir dibawah seksyen 60F mulai Tahun taksiran 2006, syarikat tidak layak menuntut, rugi hantar hadapan dari tahun 2001 hingga 2005.</p>
<p>9.</p>	<p>Building used to collect birds’ nests – Plant?</p> <p>A company buys a building for the sole purpose of attracting swallows to deposit their saliva which when accumulated and processed can then be sold as birds’ nests. Is such a building consider as ‘PLANT’?</p>	<p>Bangunan tersebut dianggap sebagai loji mengikut peruntukan perenggan 2(1) (c) Jadual 3 ACP 1967.</p>

<p>10.</p>	<p>A tax payer has outstanding tax liabilities which arose before 1997, however his business failed during the economic crisis and as he no longer has the financial ability to settle the outstanding tax liabilities, he has since been barred from leaving the country. Now in his old age, his children would like to bring him overseas however the children are only salaried employees and are unable to settle the entire amount of outstanding tax liability as it is quite substantial. The children have tried to contact IRB JB where the file is held but were informed that negotiations on installment payment will need to be made by KL. As such to expedite matters they have attempted to liase with the KL office directly on this, however the officer they met in KL informed them that this is a matter which needs to be handled by the JB office.</p> <p>Q1. For negotiation on settlement of outstanding balances, should the taxpayer approach JB office or KL office?</p> <p>Q2. Due to the special circumstances is it possible for the tax to be settled at less than the full amount owed, i.e. for waiver on portions of the principal sum, penalties and/or interest? If so how should the taxpayer proceed with this?</p>	<p>Had kelulusan ansuran telah ditetapkan oleh ibu pejabat. Di mana rayuan bayaran ansuran melebihi 36 kali perlu mendapat kelulusan di peringkat ibu pejabat. Walau bagaimanapun semua rayuan bayaran ansuran perlu dikemukakan kepada cawangan.</p> <p>Seksyen 129 ACP memberi kuasa meremit cukai atas alasan kemiskinan atau alasan keadilan dan kesaksamaan oleh Menteri.</p>
<p>11.</p>	<p>The PDF form C and form R from the IRB website are for viewing only and not meant for submission. The forms collected from IRB JB are identical to PDF forms printed out from the website, save and except for the IRB JB chop and initials which are only on the first page. As such there is the possibility in cases where the manual forms are not received by the client, submissions done using forms</p>	<p>LHDNM telah membangunkan system e-filing khusus untuk kegunaan agen cukai (TAeF). Dengan demikian semua agen cukai dikehendaki menggunakan TAeF. Walau bagaimanapun borang daripada mana mana cawangan LHDN adalah diterima di pusat pemprosesan selagi terdapat cop cawangan.</p>

	collected from IRB JB might be rejected due to the close similarities between forms collected and those printed out from the website.	
12.	We note that the submission extension for manual forms in 2011 has been reduced to only (3) days and no extension for e-filing. However, we hope that IRB can consider to grant additional extensions for both e-filing and manual filing solely for the cases ending on 31 December, this is due to the sheer volume of cases which end on that date.	Polisi Ibu Pejabat
13.	<p>During a recent PCB audit at one of my client's, the PCB audit team from IRB, Kluang advised the following :</p> <p>PCB deduction must be deducted from foreign general workers for the first 6 months of commencing employment as they are considered to be "Non Resident's" for the first 6 months or 182 days at non resident rate of 26% (Rate for YA 2010).</p> <p>After 6 months or 182 days, the foreign workers would have attained "Resident Status" and therefore employer can stop deducting PCB as the foreign workers being general workers would probably not earn enough to be liable to PCB.</p> <p>On attaining "Resident Status" the foreign general worker can then file Return Form and PCB deducted and remitted to IRB by employer will be refunded to foreign worker.</p> <p>I spoke to En. Musa of PCB Division at Kluang IRB who</p>	<p>Mengikut prosedur biasa, majikan dinasihatkan supaya membuat potongan PCB pada kadar 26% bagi tempoh enam bulan pertama pekerja asing itu berada di Malaysia. Bagi pekerja asing yang datang selepas bulan Jun, majikan perlu membuat potongan PCB pada kadar 26% bagi tempoh enam bulan dalam tahun berikutnya.</p> <p>Tindakan tersebut diambil kerana terdapat :-</p> <p>(a) pekerja asing menamatkan tempoh perkhidmatan mereka lebih awal dari tempoh yang tercatat dalam kontrak misalnya dalam tempoh 24 jam dan ini mengakibatkan cukai terhutang yang tidak dapat dipungut.</p> <p>(b) pekerja asing tidak mematuhi syarat perenggan 7(1)(b) Akta Cukai Pendapatan 1967 kerana tempoh ketiadaan sementara ("temporary absence") bagi lawatan sosial sering melebihi 14 hari.</p> <p>PCB hanya boleh dibuat pada kadar cukai untuk</p>

<p>advised and explained the following :</p> <p>i. No minimum is stipulated for salary or wages earned by "Non Resident" for purpose of PCB, thus even if a foreign worker earned RM 1/- in exercising employment, he would be liable to PCB.</p> <p>ii. I pointed out that in the case of abovesaid client, foreign workers recruited had a valid 2 year contract and work permit and as such doesn't this fact indicate their intention to work for a least 2 years and thus IRB should take this into consideration as after lapse of first 6 months, foreign worker will attain "Resident Status" and as the foreign workers were general workers and earned only about RM500 to RM600 and therefore will not be taxable as residents.</p> <p>To this En. Musa, advised that his interpretation was in accordance to Income Tax Act.</p> <p>Query :</p> <p>i. I would like to clarify with IRB if this policy on PCB is going to be implemented and enforced in future so as to enable us to advise and prepare clients' to deduct PCB from foreign general workers in the first 6 months.</p> <p>Comment : I wonder if IRB has considered the impracticality of this policy as PCB deduction has to be made, PCB form submitted with payment and then in order to obtain refund foreign workers have to file Return Form.</p>	<p>pemastautin jika dapat dibuktikan bahawa pekerja asing itu berada di Malaysia sekurang-kurangnya 182 hari dalam tahun pertama.</p> <p>Majlis Dialog Operasi Bil . 1/2006 antara LHDNM dengan persatuan Akauntan Bertauliah yang diadakan pada 10 April 2006 telah membincangkan isu ini.</p>
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14.

Penalties for voluntary disclosure

A taxpayer had voluntarily revised his YA 2007 tax computation (say on 1.9.2008) due to the omission of income. The revision was finalized by IRB in Year 2009 which is after the issuance of new Tax Audit Framework, and the IRB has imposed the consequent penalties [S.113(2)] based on the new rates of penalties for voluntary disclosures.

Voluntary disclosure	Period from due date of submitting return	Old rates	New rates
Before case is selected for audit	< 60 days	15%	10%
	> 60 days but not later than 6 mths		15.5 %
	> 6 mths to 1 year		20%
	> 1 year to 3 years	20%	25%
	> 3 years and above	30%	30%
After taxpayer have been informed but before commencement of audit visit		35%	35%

We opine that the rate of penalty should be based on the old rate since the revision was submitted before the issuance of new Tax Audit Framework

Pembayar cukai yang telah dikenakan penalti pada kadar yang lebih tinggi mengikut RKAC 2007, dan merayu terhadap kenaaan penalty tersebut, cawangan boleh meminda penalty mengikut kadar baru seperti di RKAC pindaan 2009.

Pembayar cukai yang telah dikenakan penalti pada kadar yang lebih rendah mengikut RKAC 2007 daripada penalti RKAC pindaan 2009, tiada sebarang pindaan ke atas penalti tersebut.

15.

Foreign exchange transaction

1) Forex gains/losses arising from acquisitions of fixed assets are capital in nature.

- If capex liabilities have been fully paid during the year, CA will be claimed based on the forex rate on the date of actual payment.
- If the capex is still outstanding at the end of the FY, CA will be claimed based on the forex rate on the date of acquisition.

During a tax audit, an IRB officer had advised taxpayer to revise the capital allowance claimed in previous YA due to the gain/loss arising from the settlements in the following YA ~ which results in additional *unnecessary* work for the taxpayer, tax agent and IRB, and possibly, under/over payment of taxes in prior year.

Please clarify the above. We opine that such differences would not be material and revisions of prior year's CA claims should not be necessary or warranted.

2) Forex gains/losses arising from the sales/purchase of trading stock are revenue in nature and it is taxable/allowable for tax purposes.

During a tax audit an IRB officer had advised that the recognition of the foreign exchange rate should be based on the forex rate as stated in the custom declaration form instead of the forex rate as determined by taxpayer.

- Taxpayers may have their own basis for

Peruntukan subperenggan 55(b) Jadual 3 ACP 1967 terpakai. Iaitu

'Hari yang mana amaun apa-apa perbelanjaan kena dibayar adalah hari yang mana amaun perbelanjaan dilakukan'.

Kadar matawang asing yang diguna oleh LHDNM seperti yang di dapati dari laman web rasmi LHDNM berdasarkan sumber dari Bank Negara Malaysia.

	<p>determining foreign exchange rates (holding/group companies) or find that bank rates maybe more representative for their business purposes.</p> <ul style="list-style-type: none"> ▪ The use of customs rate may thus not be practical. Additionally, opine that the determination of foreign exchange rate is a business decision, and as such should not be subject to scrutiny by IRB. <p><i>Please clarify the above. We further opine that the determination of forex rates is a business decision, and as such should not be subject to scrutiny by IRB. Any forex differences would be brought to tax eventually.</i></p>	
16.	<p>Rationale for tax audit adjustment on bona-fide expenses/small expenses</p> <p>1) Bona-fide expenses (ie. taxi fares, runner fees, refreshments & etc) have been disallowed during various tax audit on the following grounds:</p> <ul style="list-style-type: none"> ▪ the taxpayer is unable to provide receipt or recipient's particular due to the nature of such expenses, although the taxpayer had maintain a proper records (ie. date incurred, purposes & its respective amounts); ▪ IRB's assertion that the recipient did not or may not have reported the income. <p><u>2) Examples of tax audit experiences:</u></p> <ul style="list-style-type: none"> ▪ Fees paid to custom clearance runners were disallowed even though cash receipts were issued 	<p>Sekiranya jumlah perbelanjaan yang dituntut adalah berpatutan dan munasabah dan dapat dibuktikan di bawah Sek 33(1) ACP bahawa perbelanjaan itu dilakukan kesemuanya dan semata-mata dalam menghasilkan pendapatan maka ianya boleh dibenarkan.</p>

by the runners on the basis that the cash receipts are not valid as they do not bear any company/business names, and that as such, the IRB would not be able to determine whether the runners had properly declared their income.

The IRB cannot, for all practical purposes expect JPJ or customs clearance runners to register businesses and issue proper receipts

- Purchases by a taxpayer, supported by purchase invoices bearing the names of the *suppliers'* business/company and evidence of cash payments by the taxpayers were disallowed. The *suppliers'* businesses/companies were subsequently found to be unregistered when the taxpayer had been instructed to perform SSM searches. The purchases were then consequently disallowed by the IRB on the basis that it's the responsibility of the taxpayer to ensure that they deal only with properly registered businesses.

Reasonable alternative supporting evidence of the expenditure i.e. cash payment records, should have been accepted by the IRB. Is the taxpayer being penalized unfairly for business practices of others?

3) *We opine that in the above circumstances:*

- *The IRB should understand the business environment in which the taxpayer operates, and take a more business-friendly approach in its tax audit assessments, rather than apply its pre-conceived mindset that taxpayers will under-declare their tax liability discriminately to all.*

Sekiranya hasil dari semakan audit didapati perbelanjaan itu meragukan, maka beban pembuktian bahawa pembelian itu adalah sah dan benar adalah dibawah tanggungjawab pembayar cukai.

	<ul style="list-style-type: none"> ▪ <i>Bona-fide expenses should be granted tax deduction,</i> <p><i>It should be responsibility of the IRB to pursue under declaration of income from the recipient, rather than from the taxpayer</i></p>	
17.	<p>E-filing is permitted until 31 July 2010 which is until Saturday, however the bank only operate 5 days a week that is from Monday to Friday. If we could only able to compute on 31 July which is on Friday than the Tax payer can only pay on Monday which is already on the 2nd of August, and IRB will penalise 10% for late payment.</p> <p><i>Can IRB consider on this matter and wave any penalty for those did e-filing and did the payment on the 1st 6 days in the Month of August.</i></p>	Polisi Ibu Pejabat
18.	<p>CKHT submission made to LHDN by Tax agents are not replied on the tax clearance however they are sent directly to the seller although the cover letter upon submission to IRB is from the Tax agent. We as the Tax agent are unable to control on the status of this submission as we are not notified by IRB, in most cases when we call the officer we are told that it has already being sent to the seller. I would like to highlight here that in most cases the address of the seller is the address of the house being sold and as a result this letter do not reach the seller.</p>	<p>Bagi kes-kes “NL”, “tax clearance” akan dipos terus kepada pembayar cukai (pelupus). Notis Taksiran akan dipos berdasarkan alamat yang telah diisi didalam Borang CKHT 1A/1B. Tiada salinan diposkan kepada pihak ejen cukai/peguam kerana tiada jumlah wang yang telah ditahan/diremtikan hasil daripada penjualan asset tersebut.</p> <p>Walau bagaimanapun, bagi kes bercukai satu salinan notis taksiran dihantar kepada pihak ejen cukai/peguam.</p>

	<p><i>We would like to suggest that it will be good if the tax agent or the agent who does this submission be also notified of this clearance in order for us to keep track and advise our client.</i></p>	
19.	<p>Tax refund for company and individual by IRB do not indicate for which year of assessment the refund is made and only upon request form IRB the tax status is given.</p> <p><i>We would appreciate if IRB can attach the tax status together with the notification letter on the repayment or together with the cheque in order for us to reconcile with our records. Most of the time the client would like to know the repayment is for which year of assessment and counter check on any penalty deducted from the repayment.</i></p>	<p>Kedudukan cukai/akaun perlu dikeluarkan kepada pembayar cukai sekiranya amaun bayaran balik seperti dalam surat permohonan yang dituntut adalah berbeza dengan amaun yang di bayar balik.</p> <p>Jika amaun bayaran balik adalah sama seperti yang dituntut pembayar cukai, kedudukan cukai tidak akan dikeluarkan kepada pembayar cukai.</p>
20.	<p>Some of our clients who did e-filing in the JB IRB office thought they would not be a penalty for instalment payment made for OG on the balance tax payable for YA 2009, when they were given the slip for instalment payment, however only later in July they received the penalty letter imposing on them 10% penalty. In April the same slip was issued to the SG cases for balance tax outstanding and deduction were made as additional PCB, to tax payer.</p> <p><i>We suggest that, imposition of penalty be stated in the instalment slip itself in order to give a clear picture to the tax payer as some of them was mislead that IRB is willing</i></p>	<p>Bukan pelanggan agen cukai jika PC sendiri membuat e-filing.</p> <p>Isu tidak dibincangkan.</p>

	<i>to accept instalment on the balance tax due without any penalty.</i>	
21.	<p>Issuing of Notice of Additional Assessment (Form JA)</p> <p>There are occasions where Form JAs were raised by the IRB where the IRB had not made known to the taxpayers that there are disputed issues. The IRB had not highlighted the issues prior to issuing the Form JAs. This has resulted in a great deal of unnecessary time spent by both the taxpayers and the IRB thereafter to resolve the matter.</p> <p><i>We suggest for meetings to be held between taxpayers and the IRB to discuss appeals made by taxpayers. The meetings would allow taxpayers to present their views and respond to contentions made by the IRB and for taxpayers and the IRB to reach an amicable agreement prior to the issuance of the Form JAs.</i></p> <p><i>In order to shorten the response time, we suggest that taxpayers be allowed to correspond with the IRB via emails.</i></p>	<p>Surat penyelesaian audit bersama pengiraan dikeluarkan kepada syarikat. Dan syarikat diberi tempoh 14 hari jika terdapat sebarang perbezaan pandangan sebelum Notis Taksiran tambahan dikeluarkan.</p> <p>Audit Meja Selain Syarikat mengeluarkan Borang JA bersama pengiraan cukai bagi kes yang berikut:</p> <ol style="list-style-type: none"> I. Tarik balik pelepasan yang tiada dokumen sokongan II. Pendapatan terkurang lapor
22.	<p>Filing of tax revisions under Section 131(1) of the ITA, 1967</p> <p>We have numerous revisions filed by taxpayers under Section 131(1) of the ITA, 1967 – Relief in respect of Error or Mistake which are still pending the agreement of the Assessment Branch of IRB. A</p>	<p>Bagi kes syarikat, sila hubungi Pn Norshita Mohd Nawawi dengan menyatakan nama syarikat , nombor rujukan dan pegawai yang mengendalikan kes berkenaan.</p>

	<p>list of such cases had been forwarded to IRB upon the request of the IRB 6 months ago but until today no reply has been received. Some of these revisions were filed more than 2 years ago.</p> <p><i>We would like to request for the IRB to expedite its response to these revisions.</i></p>	
23.	<p>Finalisation of desk audit</p> <p>We noted that the time lapse for the IRB in reverting to taxpayers subsequent to the furnishing of information and supporting documents requested in some cases is more than 5 years. We also noted that in several cases, there was no progress from the IRB despite numerous reminders and follow-ups with the IRB officers. The response given is that tax audit team's resources are limited.</p> <p><i>We would like to suggest that the IRB expedite the desk audit finalisation process.</i></p>	<p>Bagi kes syarikat, sila hubungi Pn Norshita Mohd Nawawi dengan menyatakan nama syarikat , nombor rujukan dan pegawai yang mengendalikan kes berkenaan.</p>
24.	<p>Tax repayment cases pending refunds</p> <p>We were advised by the IRB that tax repayable cases will be processed once the original dividend warrants (for Section 110 set-off purposes) have been verified/acknowledged by Pusat Pemrosesan of the IRB.</p> <p>In this respect, original warrants which have been</p>	<p>Bagi kes syarikat, sila hubungi Pn Norshita Mohd Nawawi dengan menyatakan nama syarikat , nombor rujukan dan pegawai yang mengendalikan kes berkenaan.</p>

	<p>verified by Pusat Pemprosesan and all complete information have been given to the Assessment Branch of IRB Johor Bahru for finalisation of tax repayable cases that are currently being audited. For some of these cases, the warrants were furnished to the IRB 6 to 8 years ago and a list of such cases had been also been furnished to the IRB in March 2010. However, we have not received any reply from the Assessment Branch with regards to this matter.</p> <p><i>We would like to request that the Assessment Branch expedite the finalisation of these cases as soon as possible.</i></p>	
25.	<p>CKHT</p> <p>Minta diselaraskan supaya Agen Cukai Berlesen dibenarkan membuat Cukai Keuntungan Harta Tanah (CKHT), kerana Firma Peguam yang dilantik adakala mengisi Borang tidak betul / tidak lengkap serta tidak memahami dalam Pengisian Borang CKHT.</p>	Polisi Ibu Pejabat.
26.	<p>Penghantaran Borang Cukai Pendapatan</p> <p>Tarikh Akhir menghantar Borang secara 'online' adalah sehingga 30 June setiap tahun dan sekiranya dihantar secara manual ia diberi masa sehingga seminggu dari tarikh tamat tempoh penghantaran.</p> <p>CADANGAN</p>	Polisi Ibu Pejabat.

	<p>Minta selaraskan tarikh penghantaran Borang secara online juga diberi lanjutan sehingga 7hb. Julai, ini selaras dengan sasaran LHDN mengalakkan E-Filing.</p>	
27.	<p>PENGHANTARAN BORANG RETAN SELEPAS 30 JUNE</p> <p>Agen Cukai tidak dibenarkan menggunakan Borang Retan yang dimuat turun daripada Laman Web LHDN dan hanya boleh menggunakan Borang yang dicetak oleh LHDN serta dicop / disahkan atau menggunakan Borang Asal sekiranya dihantar secara manual manakala orang awam boleh menggunakan borang yang dimuat turun apabila menghantar Borang Secara manual selepas tamat tempoh (30 june) .</p> <p>SOALAN</p> <p>Diharap pihak tuan dapat memberi penjelasan kenapa terdapat perbezaan dan perkara ini menyukarkan Agen Cukai dan tiada keistimewaan kepada kami sedangkan kami telah dilatih dan diwajibkan mengikuti kursus dan sebagainya serta tertakluk etika Agen Cukai.</p>	<p>Ejen cukai telah diberi kemudahan menggunakan sistem TAef dan mempunyai perancangan yang lebih sistematik dan efisien. Sewajarnya tidak timbul masalah memuat turun Borang untuk mengemukakan secara manual.</p>

28	<p><u>Tax investigation</u></p> <p>1. There are instances whereby the IRB resorted to take legal action against tax payer for not submitting information on time without requesting information from the tax agent in writing.</p> <p><u>Comment :</u></p> <p>It is more efficient to obtain the relevant information from the tax agent as the tax payer may not be able to furnish the complete information requested by the IRB. Tax agent will always give full cooperation to the IRB whenever necessary. As a measure to expedite the finalization of the tax investigation, we would suggest that relevant information should be requested from the tax agent in writing.</p> <p>2. The IRB conducted investigation on the tax payers for the second time on the basis that income tax returns had not been submitted for a few years. The penalty imposed on late submission under S112(3) is 55% instead of the normal rate even though there is no omission found.</p> <p><u>Comment:</u></p> <p>The rate of penalty should be reviewed based on the merit of each case and should not be</p>	<p>1. Tindakan Undang-undang dibawah Sek. 81 ACP 1967, akan diambil keatas p/c sekiranya Notis memohon maklumat tidak diberi jawapan. Notis terakhir akan di hantar ke alamat terakhir p/c.</p> <p>Kebiasaanya maklumat akan dipohon dari agen cukai terlebih dahulu, sekiranya p/c diwakili oleh agen cukai dan salinan surat akan dihantar kepada p/c.</p> <p>2. Polisi LHDNM telah menetapkan kes siasatan kedua akan dikenakan denda tambahan 10 peratus. Walaubagaimana pun peruntukan Sek. 112 (3) ACP 67 memperuntukkan denda boleh dikenakan 300 peratus.</p> <p>Dalam kes ini p/c telah gagal mengembalikan Borang Retan walaupun beliau sebelum ini telah disiasat. Ini menunjukkan objektif “Deterrent” masih tidak berkesan. Kegagalan mengembalikan Borang Retan adalah satu kesalahan jenayah.</p>
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	<p>more than 45% if there is no evidence of repeating offence/ fraud.</p> <p>3. Some branches have been scrutinizing cheque withdrawals as low as RM200 – RM300 to identify listing of expenses.</p> <p><u>Comment :</u> Perhaps the IRB has to look at larger picture and examine capital statement on a broad side perspective.</p> <p>4. In most of the tax investigation, the taxpayer is represented by a tax agent. Nevertheless, there are cases in the past whereby the taxpayer was encouraged to opt for “direct negotiation”. Sometimes tax consultants are “imported” from Klang Valley.</p> <p><u>Comment:</u> Tax agents are prepared to give full cooperation to the IRB in all tax investigation so that it can be settled in an amicable manner.</p>	<p>3. ‘<i>cut off point</i>’ untuk menyemak penyata bank atau kaki cek berbeza antara kes. Kebiasaanya jumlah melebihi RM 5,000.00 akan dipilih.</p> <p>4. Dalam setiap kes siasatan, p/c diberi kebebasan memilih agen cukai untuk mewakili beliau atau tidak. Polisi di LHDNM adalah tidak menentukan atau member nasihat untuk memilih mana-mana agen cukai untuk dilantik. Laman web LHDNM ada senarai agen cukai berdaftar sekiranya p/c ingin membuat rujukan.</p>
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29	<p><u>Field audit</u></p> <ol style="list-style-type: none"> 1. Too many trees are fell as IRB needs tax payer to photocopy documents. In some cases, the entire general ledger for the 3 years under review. <p><u>Comment:</u></p> <p>It would be more environmental friendly and more appropriate to photocopy only the relevant documents.</p> <ol style="list-style-type: none"> 2. There is an incidence that the IRB's officers told the accountant or clerk in an accusation tone that the company or the company director is manipulating the accounts. <p><u>Comment:</u></p> <p>Tax audit can be finalized in an amicable manner with the cooperation from all parties involved without accusation for manipulating.</p> <ol style="list-style-type: none"> 3. Not all the notification or audit findings for field audit is faxed to both taxpayer and tax agent. There are cases whereby notification or audit findings had only been faxed to client and tax agent is not aware of the field audit/ audit findings until notified by tax payer. 	<p>Jika Pembayar Cukai tidak dapat menyediakan salinan dokumen dan 'general ledger' maka pegawai audit akan meminjam dan membuat salinan di LHDN dengan kebenaran pembayar cukai.</p> <p>Sekiranya perkara seperti ini berlaku Pembayar Cukai hendaklah membuat aduan kepada Pengarah Cawangan atau Pengurus Audit. Pegawai Audit telah dilatih untuk mengendalikan kes secara professional. Manual Prosedur Kerja Audit juga menggariskan tatacara pegawai mengendalikan kerja audit.</p> <p>Memang menjadi amalan penemuan audit akan dihantar terus kepada Pembayar Cukai dan satu salinan diberikan kepada wakil cukai.</p>
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	<p><u>Comment:</u></p> <p>We suggest that all correspondences relating to tax audit, including notification of field audit and audit findings, be copied and faxed to the tax agent.</p> <p>4. We reckon that it is indeed a good practice the IRB holds a closing meeting on the last day of field audit regarding the potential issues with taxpayer. However, not all the Groups have this practice.</p> <p><u>Comment:</u></p> <p>Good practices should apply to all field audit cases.</p> <p>5. Documents requested during field audit should only be limited to the Company concerned. There are instances the IRB officer has verbally requested for information of a related party or related companies during the audit.</p> <p><u>Comment:</u></p> <p>Documents concerning other Group of the Companies should be requested in writing, this will facilitate the process in getting the documents from the related companies as consent may need to be obtained from other shareholders or management of the related parties or companies.</p>	<p>Menjadi amalan dan berdasarkan kepada Rangka kerja audit, 'Exit conference' perlu diadakan pada hari terakhir lawatan.</p> <p>Permohonan lisan untuk mendapatkan dokumen dan maklumat pihak ketiga atau yang berkaitan oleh Pegawai Audit boleh ditolak oleh Pembayar Cukai dan Pegawai Audit akan mengambil tindakan bersesuaian untuk mendapatkan maklumat tersebut dari pihak yang berkenaan.</p>
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	<p>6. Sufficient time should be given to taxpayer to photocopy and compile documents as needed by the officer during the last day of field audit</p> <p><u>Comment:</u></p> <p>As not all the taxpayers have advanced photocopying machine and sufficient manpower (especially the clients of small practitioners) and therefore they need to spend much more time in photocopying.</p> <p>7. In some instances, expenses that have been usually allowed previously are picked up for disallowance. Some of the expenses are too small or insignificant to take up on appeal.</p> <p>Examples of expenses are as follows:</p> <ul style="list-style-type: none"> i. Interest on loan on property owned by the Company. (The Director has already declared BIK on this benefit) ii. Travelling expenses for a professional exercising his profession in more than one location. iii. Course and Seminar expenses for a professional which are required to maintain / update knowledge of his profession. iv. Capital Allowance disallowed on Electrical Fittings (3 phase wiring & 	<p>Tiada masalah untuk Pembayar Cukai memohon lanjutan masa untuk menyediakan salinan dokumen yang diperlukan atau Pembayar Cukai boleh memberi kebenaran kepada Pegawai Audit meminjam dan membawa balik ke Pejabat LHDN untuk dibuat salinan secukupnya.</p> <p>Jawapan seperti soalan di no 16.</p>
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	<p>switch installed to operate high powered machinery)</p> <p>8. Tax Audit's primary objective is to act as deterrent and normally extended to period of 2-3 years. Recently the IRB has extended the period to more than 3 years ?</p>	<p>Berdasarkan Sek 91(3) ACP 1967 LHDN mempunyai hak untuk membangkitkan taksiran 6 tahun kebelakang sekiranya terdapat unsur-unsur penipuan dan pelarian yang jelas walaupun di dalam rangka kerja audit menyatakan 2/3 tahun sahaja.</p>
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3. Isu-Isu Tambahan

3.1 Piagam Pelanggan LHDNM Dalam Memproses Borang Q

Wakil Persatuan membangkitkan tempoh masa yang dinyatakan dalam Piagam Pelanggan LHDNM dalam memproses Borang Q untuk dikemukakan kepada Pesuruhjaya Khas Cukai Pendapatan adalah 5 bulan daripada tarikh penerimaannya. Berdasarkan pengalaman beliau terdapat kes Borang Q yang melebihi tempoh masa yang ditetapkan dalam Piagam Pelanggan LHDNM. Didalam Akta Cukai Pendapatan 1967 jelas menyatakan tempoh pemprosesan Borang Q selama 12 bulan. Sehubungan itu meminta supaya LHDNM mengkaji semula perkara ini.

JAWAPAN

Datin Pengerusi memaklumkan penetapan piagam pelanggan berkenaan diputuskan di peringkat Ibu Pejabat. Beliau menasihatkan supaya perkara ini di bawa ke pengetahuan pengurusan LHDNM.

4. Perkara-Perkara Lain Yang Dibangkitkan Oleh LHDNM

4.1 Kes bayaran balik lebih cukai

Pengarah Cawangan Johor Bahru Tuan Haji Muhammad Bin Ali memaklumkan kepada ahli-ahli persatuan supaya dapat menyalurkan terus permohonan pelanggan sekiranya terdapat kes dimana bayaran balik lebih cukai lewat dikembalikan. Ini membolehkan Cawangan Johor Bahru, Kluang dan Muar membuat semakan dan mengambil tindakan lanjut secepat mungkin.

4.2 Sistem e-Filing agen cukai (TAeF)

YBhg Datin Pengerusi menggalakkan ahli persatuan menggunakan sistem TAeF yang dapat memudahkan agen cukai memfailkan borang retan pelanggan.

4.3 Informasi yang tepat dan betul

Puan Hasnah bt. Angsor daripada Cawangan Kluang meminta ahli persatuan memberikan khidmat nasihat dan maklumat percukaian yang tepat dan betul kepada pelanggan terutama dalam penyediaan dokumen bukti bagi tujuan audit.

5. Perkara-Perkara Lain Yang Dibangkitkan Oleh Pihak Persatuan

5.1 Cadangan mengadakan dialog dengan lebih kerap

Wakil persatuan mencadangkan supaya dialog seperti ini diadakan dengan lebih kerap disamping menjadi platform untuk persatuan dan pengurusan LHDNM Cawangan menyelesaikan isu percukaian dan membolehkan ejen cukai memberi maklum balas.

6. Penutup

YBhg. Datin Pengerusi mengucapkan terima kasih kepada semua yang hadir. En. Sam Soh Siong Hoon mewakili pihak Persatuan Akauntan mengucapkan selamat maju jaya kepada YBhg. Datin Pengerusi yang akan bersara wajib dan melahirkan penghargaan atas kerjasama yang diberikan sepanjang perkhidmatan beliau. Mesyuarat ditamatkan pada pukul 12.45 tengahari.