Memorandum on 2014 Budget Proposals (Summary)

[Theme: *Fulfilling Promises, Accelerating Transformation*]

No.	Issues	Proposals
I	**STRATEGY 1: INCREASING TAX BASE AND REDUCING REVENUE LEAKAGE - TO FINANCE TRANSFORMATION PROGRAMMES**	
1	**<u>Enhancing Tax Compliance of Small and Medium-sized Businesses</u>** It is perceived that the rate of tax compliance for the small and medium-sized businesses (SME) currently is very low. The reasons may include the following: **(i) Complicated tax compliance requirements** SMEs find the tax system to be complicated and difficult to comply with. For example, many SMEs which are sole proprietorships and partnerships, are required to file their tax returns by the following calendar year. However, for various commercial and other reasons, the financial year-end may not close on 31 December. Hence, the SME is required to apportion the income, revise the tax estimate and submit the revised tax computation in the following year, etc. However, they still have to follow the tax instalment payment scheme which is based on the estimate of the current year performance. **(ii) High costs of compliance** The current tax system does not differentiate between a big corporation and an SME. The compliance requirements are huge and complicated. Consequently, the cost of compliance is very high and reduces the SME's profitability.	**To encourage SMEs to come within the tax net and to broaden our tax base as well as enhancing the growth of SMEs, it is proposed as follows:** ***(i) Simplified tax compliance requirements for SMEs*** **(a) Simplifying determination of basis period** SMEs should be allowed to file their returns within a specified period after the close of financial year-end as is done for companies. **(b) Simplifying Tax Relief and Exemption** The personal relief and exemption should be simplified into fewer categories. Please refer to the *Memorandum on the Improvement of Individual Taxation* submitted to the MOF by CTIM for detailed proposal. ***(ii) Mitigating costs of tax compliance*** ***(a) Deduction of Professional Fees on Tax Compliance and Advice.*** *As SMEs are less resourceful, they have to rely on external professionals to assist them ~~to~~ in complying with the tax legislation. It is suggested that the professional fees for tax*

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	(iii) Hefty potential back duty In addition, with the exception of the new "entrants", the existing SMEs who are not yet complying with the tax law, are reluctant to come forward to pay their dues for fear that the potential impact of back duty might drive them bankrupt.	*compliance and advisory be allowed a deduction. This is to mitigate the high costs of tax compliance and assist SMEs in engaging tax professionals to ensure that their businesses are conducted in a tax efficient manner. Please also refer to our proposal No. 4 below.* ***(b) Exemption from Complicated and Burdensome Reporting.*** *As the businesses of SMEs are small, the information requested from them may not be cost effective in serving the purpose of information collection. Hence, SMEs should be excluded from complicated reporting requirements such as CP58, transfer pricing requirements, etc.* **(c) Removal of restriction on Tax Estimates** *SME are allowed to dispense with the requirement to estimate their tax liability in advance. Instead, their estimated tax payable will be automatically based on the assessment of the preceding year unless the SME applies for an adjustment. No penalty on underestimation shall be imposed on the difference between the actual tax and the estimated tax payable, unless the SME applies for a downward adjustment. In such cases, the normal rule of 10% penalty on excess of 30% of actual tax payable shall apply.* ***(iii) Back duty*** *It is proposed that the Government provides an amnesty period of 5 years for SMEs to report their income and be included in the tax system. During the amnesty period,* *(a) income will be reported on the current year basis and any back duty will not go beyond 5 years.*

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		(b) Penalty on back duty will not exceed 10% of tax outstanding. *The IRB shall, during the amnesty period, conduct a campaign with the various trade associations and professional bodies, to promote the concession given, and to stress the consequences following the expiry of the amnesty period.* **(iv) Preferential income tax rate** *It is proposed that SMEs be assessed at 10% flat rate on the chargeable income. The preferential rate proposed is to reduce the costs of compliance and provide a level playing field with the big corporations. It should be noted that many SMEs are not eligible for the various incentives available to the big corporations.*
2	**<u>Business exit tax on restructuring exercise</u>** Malaysia offers good infrastructure and attractive incentives to both local and foreign multi-nationals to develop their business in the country. However, upon expiry of the incentive or after having successfully built their market presence, some of these businesses may, by way of downsizing or restructuring or directly shutting down local operations, shift their businesses to another country to enjoy a lower tax rate. Such activities have a negative effect on the national economy. CTIM is of the view that since Malaysia has contributed to building up the business, it should be rewarded for its efforts. Hence, any migration of business out of Malaysia should be compensated with an exit tax on the value of business transferred out. This would discourage the moving out of businesses and will not increase the tax burden of the existing businesses.	***To discourage tax-motivated business migration and allow for the healthy growth of the Malaysian economy, it is proposed as follows.*** • *Any migration of any valuable part of a business in Malaysia off-shore shall be subjected to an exit tax, a one-time tax calculated based on the capital value of the business transferred out.*
3.	**<u>Rental paid to Foreign Landlords</u>**	***To prevent the leakage of revenue from rental source, it is***

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	Currently, rental income is assessed based on voluntary disclosure. There is no mechanism to ensure that the landlords pay the income tax due, except through tax audit. Foreigners, whether tax residents or non-tax residents in Malaysia, who are landlords receive rental income from property situated in Malaysia. These foreign landlords sometimes do not pay income tax on their rental income. This causes a leakage in revenue collection.	***proposed as follows:*** • *Requiring all non-resident individuals to appoint a property management agent upon acquisition of a real property. The title of the real property will not be transferred to the non-resident individual without this condition being met.* • *The non-resident individual shall inform the Inland Revenue Board (IRB) of its property management agent via CKHT Form 2A upon acquisition of a real property.* *[CKHT Forms to be amended to include details of property management agent.]* • *Requiring the property management company to deduct a 26% withholding tax on the gross rental received and attributable to a non-resident person, i.e. individual or otherwise.* *[A new section similar to S109B(1)(c) may be introduced to empower deduction from rental income and payment of withholding tax on rental income received on behalf of the non-resident person.]* • *Real property agents are required to issue an annual rental income statement to the non-resident person and submit the same to the IRB.*
II	**STRATEGY 2: TRANSFORMATION FOR TAX COMPLIANCE**	
4	**<u>Easing the cost of tax compliance</u>** The introduction of self-assessment has shifted the heavy responsibilities from the IRB onto the taxpayers to correctly interpret tax laws and to ensure full compliance. With the increasing complexity in tax compliance, there is a greater need for taxpayers to seek the services of the tax professional in areas such as transfer pricing, stamp	**To improve tax compliance, both in terms of quantity and quality, the following measures are proposed:** **<u>Deduction For Fee Paid to Approved Tax Agents for Tax Compliance Services</u>** *Taxation fee paid to an approved tax agent be allowed a tax deduction. This also serves as a recognition of the contribution made*

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	duty, e-Commerce, etc. in filing their tax returns.	*by the qualified tax agents in the efficient tax administration of the country.* [In New Zealand, it is specifically legislated that a person is allowed a deduction for expenditure incurred in connection with matters relating to calculating or determining the income tax liability. Countries such as United Kingdom, Canada, Ireland and Hong Kong allow a deduction for such expenses under the general deduction provision in their respective legislation. In Australia, business taxpayers rely on the general deduction provision whilst the individual taxpayer can rely on a specific legislative provision. CTIM is of the view that all expenses incurred for compliance with the various laws and requirements of government agencies, including professional tax fees incurred on compliance with the legislation and guidelines of the authorities, are incurred in the production of income and should be allowed under Section 33(1) of the ITA. Such business expenses are essential in operating a business. The Institute would highlight that the salary paid to a tax professional who is employed by an organisation to provide in-house tax services would be fully deductible as staff/salary costs of the organisation. In reality, to achieve cost efficiency and to minimise the internal operational cost, most organisations will outsource such tax services to professionals. It must be noted that without a deduction being granted, taxpayers will be tempted to pay the lower fee offered by unqualified personnel, thereby jeopardising the quality of tax compliance.] ***Alternatively**, it is proposed that professional fees on taxation services be legislated to allow for specific deductions, aligned with the tax treatment of statutory audit fees, i.e. deduction is given via a Gazette Order [Income Tax (Deduction for Audit Expenditure) Rules 2006] [P.U.(A)129/2006].* .

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5	**<u>Simplification of Tax Compliance</u>** The Income Tax Act 1967 (ITA) had been drafted based on preceding year basis of assessment under the official assessment regime more than 40 years ago. With the introduction of the current year basis of assessment and subsequently the self-assessment regime, some of the provisions of the ITA may be redundant and inappropriate. In addition, there has been a significant change in the business environment and tax practice in the last 30 years. As a result, there is a need to have a thorough review to improve the current tax system. Some suggestions of the areas for review are listed as follows: **(i) Capital Allowance (CA) Claims** Currently, depreciation charged as an expense in the accounts is not deductible for tax purposes. Instead, capital allowances are given on qualifying capital expenditure on assets calculated at a prescribed rate under the relevant rules. The varying rates of capital allowances (with normal rates, accelerated CA, and the 100% claim for small-value assets), the functions and uses of the assets, etc vary between industries. Taxpayers spend a significant amount of time and resources to compute capital allowances in arriving at their chargeable income. This is not cost effective and places a tremendous strain on the limited resources. **(ii) Computation of Section 33(2) Interest Restriction** Companies today are generally funded by borrowings for their business ventures and day-to-day operations. However, not all ventures generate income immediately. As such, there generally is a mismatch between interest expense incurred and the income generated, causing a challenge (entry barrier) to the entrepreneur. Due to sophisticated methods of financing, it is difficult to identify where the borrowed funds have been channeled to.	**To simplify tax compliance for the purposes of greater efficiency, and reduction in costs of tax compliance, CTIM proposes the following:** **(i) Simplify Capital Allowance computation** • *Consider convergence of capital allowance claims with accounting depreciation; or* • *Adopt a simplified method of claiming capital allowances on a broad basis to replace the current "detailed analysis" approach.* • *Consider a pooling basis. In essence, if the asset is eligible for CA, the sales proceeds of assets that are sold should be deducted from the brought forward written down value, and any excess (equivalent of the balancing charge) should be taxable.* **(ii) Remove or Simplify Interest Restriction Calculation:** • *The interest restriction provision should be removed to stimulate business activities.* • *Alternatively, the computation of interest restriction should be simplified. The example of a simplified formula for computation of interest restriction may be as follows:* *<u>(Non-business assets)</u> X total interest cost* *(Total assets)*

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	In addition, the deductibility of interest against business income is very complicated and has given rise to many litigation cases. The need for a Public Ruling on the matter attests to the need to spell out the desired (by the Inland Revenue Board (IRB)) method of computation of the restriction on interest expense. The current method takes into account various factors, such as: the property, whether rented out; investments, whether exempted from tax, etc.	*Any unabsorbed interest should be allowed to be carried forward for future set off against the non-business source of income.*
	(iii) Onerous Laws and Provisions **(a) Basis periods for companies / Malaysian branches** Currently, a company / Malaysian branch is assessed from the date of commencement of business to the end of that financial year if that is a 12-month period. Otherwise, the basis periods for the relevant years of assessment will be directed by the DGIR, i.e., from the date of commencement to 31 December and thereafter annually to 31 December until the first set of accounts are made up for a period of 12 months. This creates a lot of administrative burden as income and expenses have to be apportioned according to the basis periods, in the event of an overlapping of basis periods for two years of assessment.	**(iii) Remove or Simplify Onerous Laws and Provisions** **(a) Determination of basis periods:** *The accounting periods from the date of incorporation / registration to the financial year-end for new companies or Malaysian branches should be adopted as the basis periods in line with the basis periods of members of a group of companies. This will facilitate compliance without the need to direct their basis periods for the relevant years of assessment.* *Please also refer to our **proposal No. 3(i)(b).***
	(b) Disclosure of exempt benefits in Employment Cases Currently the information required in Form E and Form EA is too onerous and administratively burdensome. Valuation of various categories of benefits-in-kind (BIK) and perquisites is done according to different methods of determination. Certain BIK and perquisites that are exempted from tax must be ascertained and disclosed in the Employer returns (Form E and EA). Disclosure of tax exempt benefits in Form EA and Form E takes up a lot of the	**(b) Disclosure of exempt benefits in Employment Cases:** *The requirement should be removed as the benefits are already tax exempt and there is no revenue to be derived by its disclosure.*

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	employer's effort and time but does not generate tax revenue, resulting in an increase in the cost of doing business. **(c) Restriction on eligibility of Group Relief** A company may surrender not more than 70% of its adjusted loss in the basis period for a year of assessment to one or more related companies, resident and incorporated in Malaysia. The shareholding of the claimant and surrendering companies in the group, whether direct or indirect, must not be less than 70%.	**(c) Simplifying Claims on Group Relief** • *The definition of related companies be amended in line with the provisions of the Companies Act, 1965, and* • *The restriction of a 70% shareholding should be removed.* • *The losses to be surrendered be restricted only by the aggregate income of the claimant company and not* ***limited to only 70% being surrendered.***
6	**<u>Transparency and Clarity of Laws and Regulations</u>** **i) <u>Unavailability of Decided Tax Cases</u>** Since no legislation can be complete, case law provides the opinions of the Courts on the interpretation of the legislation which is relied upon by taxpayers, practitioners and tax officers. However, the reports of recent decisions are not readily available to both the public and the tax practitioners. This puts the taxpayers/tax practitioners in an unfair position as, under the self-assessment regime, they are expected to know the law. Currently, the IRB has published some of the cases on their website but essential details are lacking. It is insufficient for public guidance. Publishing the full judgement will be preferred and more cost effective action as the judgement is already prepared in softcopy format. Recently, some important Court decisions were made but the written judgements were still unavailable. The lack of written Court judgements will lead to wide interpretations as the public will not know the rationale of the decision and therefore cannot comply with the law appropriately. **ii) Non-application of Decided Tax Cases**	**To enhance transparency and clarity of tax laws and regulations for better compliance, the following are suggested:** **(i) Publication of Decided Tax Cases** • *Tax cases decided by the Special Commissioners of Income Tax (SCIT), Customs Appeal Tribunal (CAT) and the Courts should be made available to the public through timely dissemination via the IRB's and Customs' websites, or other means. This practice is adopted in certain developed nations.* • *It would be good that a timeline be set for the publication of the judgement.* • *In addition, the SCIT and CAT should also place their judgments on their own websites.* **(ii) Application of Decided Tax Cases** *In preparing their tax computations, taxpayers should be allowed to adopt the decisions and interpretation of the Courts*

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	There are concerns over the practice that the tax authorities continue to apply their own interpretation despite a court decision having already been made, on the grounds that the Revenue is appealing the case. This is unfair to the taxpayers as the appeal may take years to be decided and meanwhile costs will be incurred to appeal, and the cash flow of the business will be strained (since payment of tax is required despite the appeal). It is submitted that the decision of a Court represents the law of the land until it is overruled by a higher Court, irrespective of whether the tax authority has filed an appeal on the decision to the higher Court. It is from this perspective that the tax authority should respect the law decided by a Court and allow the taxpayer to apply the decision of the Court. **iii) Unavailability of Legislative Framework** It is common to find that the legislative framework of Budget proposals is only available much later after the Budget Announcement. In addition, some of these legal frameworks contain restrictions that have not been mentioned in the Budget Announcement. Such occurrence cost the Government the public's and investor's confidence. **iv) Retrospective Application of Guidelines and Public Rulings** Currently several Guidelines and Public Rulings issued by the tax authorities are effective retrospectively. This has been a cause for concern to the investors and taxpayers as they are unable to take the views of the tax authorities into consideration at the time of submission of their tax returns and although they may wish to comply with them.	*irrespective of the stage of appeal of the case. Until such time the decision is overruled by a higher Court, the law of the land should be what has been decided. There should be no penalty imposed on the taxpayer for following such Court decisions* **(iii) Timely Legislative Framework** • *It would be a good practice to set a timeline for the legal framework to be issued after the Budget announcement.* • *In addition, to minimise the problems that may arise during implementation, stakeholders and the professionals in the relevant areas be consulted on the draft legislation before finalisation.* **(iv) Prospective Guidelines and Public Rulings** *All Guidelines and Public Rulings issued by the tax authorities should be applied prospectively.*
7	**Review of Penalty Provisions** The penalty provisions were drafted based on the preceding year basis	**To encourage compliance and mitigate the sense of injustice felt by the taxpayers, CTIM suggests the following:**

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	of assessment under the official assessment regime. As the tax system has now changed to a self-assessment regime with a current-year basis of assessment, there is a need to review all the penalty provisions in the ITA. Currently, the penalty applicable on late filing of tax returns is causing a major concern to taxpayers. Under the official assessment regime, tax will be raised after the tax return has been filed with the IRB. Late filing will result in late assessment and hence late payment of tax. In addition, under the preceding-year basis of assessment, assessment will only be made on income earned in the preceding year. Hence there is a perceived need to impose a heavy penalty to deter the taxpayers from filing their tax returns late (with the advantage of a "delay" in paying the tax). With regard to the current-year basis of assessment, at least 70% of the tax would have been collected before the filing of the return. Any under-estimation of the tax payable is subject to a penalty. In many cases, there are refunds to be made to the taxpayers. Unlike the preceding-year basis of assessment, under the official assessment regime, there is generally no tax advantage in late filing. It is from this perspective that there is a perceived unfairness in the penalty regime, especially when penalty is imposed on the tax payable, although in reality the tax outstanding (which is tax payable less the tax paid to date) is minimal. Where all the tax due has been fully settled, the penalty imposed will be seen as inequitable since there is no outstanding tax liability.	**(i) The following guiding principles be adopted in reviewing the penalty provisions in the ITA:** • *That an independent Penalty Review Panel, comprising representatives from Ministry of Finance, Inland Revenue Board, Chartered Tax Institute of Malaysia and industry & commercial sectors, be established to look into the revision of the penalty provisions.* • *That penalty should commensurate with the gravity of the offence. Where there is no tax advantage to be gained from the error, the penalty should be nominal.* • *When imposing a penalty, there is a need to differentiate between the occasional oversight or unintentional mistake committed by an "ordinary" taxpayer, from that committed by a repeated offender.* **(ii)** *Discretionary power should be given to the Director General to mitigate the effects of the penalty provision in extenuating circumstances. However, clear guidelines must be spelt out as to when and how the discretionary power may be used.* **(iii)** *Section 112(3) be amended to impose penalty based on tax liability outstanding (i.e. after set-off and deduction for tax instalment payments paid and credit balance in account), instead of tax payable before any set off.* **(iv)** *For transparency and clarity, clear guidelines with examples on how the penalty would be imposed and criteria for discretion to be used for extenuating circumstances, be issued and made available to the public.*
III	**STRATEGY 3: FULFILLING PROMISES BY SPURRING THE INVESTMENT AND FACILITATION OF BUSINESS GROWTH**	

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8	**<u>Enhancing the Growth of Service Industry</u>** It has been said that the driving sector for our economic growth has shifted from the manufacturing sector to the service sector. As a result, the Government has been actively promoting the service sector and knowledge economy; however the tax policy and incentives remain manufacturing-oriented. **(a) Restriction on recognition of professional courses** Fees expended for any course of study up to tertiary level undertaken for the purpose of acquiring law, accounting, Islamic financing, technical, vocational, industrial, scientific or technological skills or qualifications in any institution or professional body in Malaysia recognised by the Government or approved by the Minister, is allowed under S. 46(1) (f) of the Income Tax Act 1967 ("ITA") as a relief subject to a maximum of RM5,000. However, the list of local professional institutions recognised by the Government comprises of only 10 professional bodies. This is not sufficient to promote the services sector in general. In line with the promotion of a knowledge-based economy, individuals should be encouraged to pursue more diverse courses of interest and be allowed deductions (as reliefs) for expenses incurred. More "highly equipped" individuals generally command a higher remuneration. *Such policy will assist in strengthening our educational industry. It will also encourage and support the spirit of lifelong learning.* **(b) IBA for business buildings** Currently, only buildings used in specific sectors (e.g. hospital, educational institution, hotel) and approved serviced project (in transportation, communications, utilities, etc.) qualify for industrial building allowances. There is no allowance accorded to capital	**To reflect the change of our economic structure and align the tax policy to facilitate the change, CTIM proposes the following:** **(a) Widening the scope of professional courses** *The list of local professional institutions recognised by the Government for the purposes of allowing a deduction under S.46(1)(f) of ITA in respect of educational expenses incurred in pursuing a local course/ professional examination be extended to include others, such as CTIM, MICPA, etc. which conduct their respective professional examinations.* *The relief is to be also available for pursuing a foreign course/ professional examination where such a course/professional examination is not available locally.* **(b) Building Allowance for all business buildings** **To promote the growth of services sector, it is proposed that** • *The scope of Schedule 3 Paragraph 63 of the ITA be extended so that building allowances are given to capital*

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	expenditure incurred on commercial buildings and office complexes. Capital expenditure incurred in acquisition/construction of office buildings is generally the single largest capital expenditure for a service entrepreneur. Commercial buildings are recognised as industrial buildings in Hong Kong. **(c) CA for renovation costs** Alteration or renovation of business premises is often necessary to make it suitable for business operations. Under the second economic stimulus package introduced on 10 March 2009, renovation or refurbishment expenditure incurred on premises between 10 March 2009 and 31 December 2010 will be given accelerated capital allowance of 50% with effect from the year of assessment 2009, subject to a maximum of RM100,000.	*expenditure expended on or after 1 Jan 2014, on all buildings which are used solely for the purposes of a business.* • *The eligibility to claim building allowances be extended to the owners or lessors of non-industrial buildings.* **(c) CA for renovation costs** *Building allowances be allowed on expenditure on renovation and alteration of all business premises incurred on or after 1 January 2014 without any limit on the amount of capital expenditure incurred.*
9	**<u>Spurring Growth by Innovation</u>** Currently the incentives for innovation are available in various aspects e.g. in Research and Development, in acquisition/registration of intellectual property (IP), etc. **(i) Research and Development (R & D)** Currently only scientific and technological research is eligible for R&D incentive. The double deduction incentive on R&D expenditure under Section 34A is restrictive. **(ii) Malaysia as a IP and R&D hub** **(a) Restriction on incentives for acquisition of proprietary rights** Pursuant to *the Income Tax (Deduction for Cost of Acquisition of Proprietary Rights) Rules 2002*, among others, the cost of acquisition of proprietary rights such as patents, industrial designs	**To encourage investment in innovation, CTIM proposes the following:** **(i) Research and Development (R & D)** • *To extend the definition of R&D on science and technology to cover development or improvement of processes and commercial processes.* • *To simplify the claim for double deduction on R&D expenditure incurred by a Malaysian company.* • *To encourage continued R&D activities, a R&D allowance of say 20 % will be granted on the increase in R&D expenditure incurred in Malaysia during the year* **(ii) Developing Malaysia into a IP and R&D Hub** *(a) The incentive in respect of income tax deduction for IP rights be extended to all companies, in particular service*

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	and trademarks may be claimed over five years of assessment by a manufacturing company which has incurred the same or by the manufacturing company's subsidiary if the proprietary rights are transferred to the latter. However, the Government has not introduced any incentive to encourage the acquisition of intellectual property in the non-manufacturing sectors. The restriction on eligibility for the incentive to only the manufacturing company is not aligned to the country's current economic objective, i.e. transitioning to the service and knowledge economy **(b) Incentives for setting a R&D base in Malaysia** Currently, there is no special incentive to attract multinationals to set up their R&D bases in Malaysia.	*providers, to encourage these companies to acquire new technologies and intellectual properties to evolve into innovation-driven and knowledge-based companies.* *(b) For a company resident in Malaysia and having its IP registered in Malaysia, a special tax rate of say 10% is accorded as an incentive for income derived from the IP.*
10	**<u>Promoting Small and Medium-sized Businesses</u>** SMEs play a significant role in supporting the growth of our economy. The tax policy should be reviewed to promote the development of SMEs. As mentioned above, SMEs are usually managed by the owners and their family members. These members may not draw the salaries from the business. As such, when tax is assessed under the name of the owner, the chargeable income would tend to be inflated	***To promote the growth of SMEs and broaden our tax base, it is proposed as follows:*** *It is suggested that SMEs be assessed at a preferential income tax rate of10% flat rate. This will make compliance easier and also promote the growth of SMEs.* ***To encourage the use of IT to enhance efficiency, it is suggested*** ***a)*** *Additional 50% of the capital expenditure incurred on IT software and hardware be granted for the purpose of claiming capital allowances.* ***b)*** *Additional 50% of expenditure on IT spending eg on implementation of services, training, travel costs, etc, be given a deduction.*
11	**<u>Promotion of Digital Economy</u>** To ensure that Malaysia has its share in the growing global digital	***It is suggested that***

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	economy, the Government must provide the necessary infrastructure and ensure that tax policies in place would facilitate the operations of a digital economy. From the tax perspective, e-commerce is conducted in a borderless world and this poses difficulties in assessing the income under the traditional concept of derivation of income. **(i) Delivery network for electronic commerce** For e-commerce to succeed, one of the requirements is that there must be an efficient and competitive delivery network available for the players. The delivery system may take two forms: one, by way of electronic facility; and the other, by way of international delivery companies such as City Link, DHL, etc. The recent increase in postage has attracted a lot of criticism from the e-Commerce players and the consumers. **(ii) Promotion for setting-up regional servers** Attracting foreign companies to host their websites in Malaysia and web-hosting providers to host their servers in Malaysia may in the long run increase the tax base of the country, and have a multiplier effect on the economy.	***i) Incentive for Delivery*** *It is proposed that e-commerce players may obtain a subsidy on delivery costs within Malaysia on goods supplied. This will reduce the costs of operations and make local e-commerce operators more competitive.* ***ii) Incentives for setting-up regional servers*** *To encourage local and international persons to set up regional servers in Malaysia, CTIM proposes that these persons be given a tax holiday of 5 to 10 years.* ***iii) Improvement in infrastructure to facilitate e-commerce activities:*** *In addition, the Government should ensure that the latest generation of 4G LTE telecommunication system be rolled out as soon as possible and the fibre optics be deployed extensively in the whole country. This will give us some competitive edge.*
12	**<u>Transformation For Human Resources (HR)</u>** **(i) Incentives for Professional Training** Whilst there is a huge gap in competency between the graduates from our education system and market expectations, the success enjoyed by professional bodies in producing suitable professionals has somewhat mitigated the problem. It appears that professional bodies are more familiar with market needs and hence are more appropriate for conducting training and education for the industry players and the relevant professions. **(ii) Restriction to Approved Training Institutions** Currently, double deduction is given for training conducted by approved	***To encourage the investment in human resources and attract professional bodies to participate , the following incentives are suggested:*** ***(i) Incentives for Professional Training*** • *double deduction be granted on fees and expenses incurred by companies on training and/or retraining of employees through programmes conducted by professional bodies* • *accelerated building allowance of 20% on costs incurred on the construction or purchase of buildings used as a training centre.*

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	institutions. However, there are only a few approved training institutions and the courses offered are limited **(iii) Non application of Double Deduction for Training Expenditure** Currently, expenses on in-house training will need approval before being eligible for a double deduction. Outsourced training will not qualify for double deduction. Similarly, double deduction on Scholarships for the poor will not be elligible for double deduction if the scholarship is for a course leading to a degree. To maintain and ensure the quality of the continued professional development (CPD) of members with regard to their professional skills, competence and values in providing services, professional bodies impose on its members a requirement to complete a stipulated number of CPE hours within a specific time frame. This would have the effect of capacity building in the educational sector and the relevant professional sector. However, the CPD/CPE courses conducted by the professional bodies are not given any training incentives..	***(ii) Double deduction of training expenses be extended*** *to cover* *(a) all resident service providers;* *(b) a wider variety of courses including education and training programmes conducted by professional bodies which lead to the attainment of a professional qualification.* *(c) more approved training institutions, including professional bodies.* ***(iii) Building Human Resource Capacity*** *(a) Additional 50% deduction for training conducted internally or outsourced.* *(b) Double deduction on scholarships given to poor people extended to include scholarships for diploma courses and vocational schools* ***(c)*** *CPD/CPE course fees be allowed a deduction under S. 46(1)(f) of the Income Tax Act 1967 ("ITA").*
13	**Professional indemnity insurance (PII)** PII is a necessary tool for service providers to hedge the risks that may arise in the course of their professional undertakings. However, currently, the IRB takes the view that i) PII is a policy taken to protect the personal assets of the insured against personal liability or risk and thus is not an expense wholly and exclusively incurred in the production of income. Only members of professions whose professional status is legislated into Malaysian law are allowed to deduct premium on PII. ii) Where a professional stands in for another professional, or is acting as a temporary consultant, he is expected to take the full responsibility for the service he renders. There is no master-servant relationship between him and the person he stands in for.	***To assist the development of the services sector, CTIM is of the view that the tax authorities could consider a change in the law to give justice to the matter. The Institute proposes as follows:*** ***(i)*** *All professional service providers be allowed to claim a tax deduction on premium paid on PII to a local insurer. This will allow them to hedge their business risks and ensure a healthy growth of the services sector.* ***(ii)*** *Income of a professional from the stand-in duties, including that of a locum, be treated as business income from carrying out his profession and the premium on PII be allowed as a deduction against such income.* ***(iii)*** *Proceeds from PII be taxable and the payment (out of the proceeds received) to the claimant be deductible.*

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	iii) Based on the Public Ruling No.3/2009, proceeds received from the PII are taxable but the amount paid out to the claimant is not deductible. Such a stand, in effect, negates the purpose for taking up a PII. Imagine, if a tax practitioner is being sued for RM1 million, and the PII covers the full payment (in practice it may be less than that), the individual will have to pay tax of RM260,000 (tax of 26% on the proceeds) and yet the premium paid is not deductible.	
IV	**STRATEGY 4: FULFIL THE PROMISES OF INCLUSIVE DEVELOPMENT**	
14	**Improving the Consultation Process** To create an inclusive society, it is the government's policy currently to engage all the stakeholders when implementing a policy change. However, the consultation process is usually in stages, with priority set by the relevant department, and many have a time constraint to provide effective input. In addition, there is protocol in place which prevents the relevant authorities from sharing the draft with the stakeholders until it is almost finalised. This further reduces the efficiency and effectiveness of consultation. In some countries, the authorities publish a consultation paper on a certain topic on public websites and call for feedback. The consultation remains open for 2-3 months. After the consultation period, the authorities will work on the relevant legislation/rules/guidelines for another 2-3 months. Upon completion, the draft legislation/rules/guidelines will then be published, with the formal response to the feedback received published on the relevant website for public comments for another 1-2 months. The comment on the draft will then be taken into account for final amendments and then sent to the Parliament for debate. At the same time, a response to the feedback	*CTIM suggests that the consultation be made in a single stage and a full draft be published on the relevant government agency's website and consultation be open for at least two months from the date of issue/publication.* *CTIM is of the view that such a process will create trust between the rakyat and the Government as well as enhance the acceptance of the legislation by the public. The extensive discussion also reduces any flaws that may arise in the legislation.*

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	received is published, explaining the rationale of the Government.	
15	**Allowing basis year business loss to be set off against income of the spouse** This will strengthen the social support net and enhance the ties of family. It is in line with developing a caring society.	***To strengthen the social safety net and to instill the family spirit, CTIM suggests*** *that Section 45 of the ITA be amended to allow a husband and wife to utilise the basis year business loss of one spouse to be offset against the income of the other.*
16	**Donations to approved institutions** There should be flexibility in limiting the amount of donation to 10% of aggregate income of a company. There could be a small company which made a small profit say, RM100,000 and which wishes to donate say RM25,000 to a charitable institution. Under the current law, this will be restricted to RM10,000.	***To promote a caring society, it is proposed that*** *The law should be amended to stipulate the higher of 10% of aggregate income or RM25,000 (or some other practical threshold). In addition, the provision should apply to all taxpayers, including individuals, instead of only companies.*
17	**Combating Tax Evasion and Bribery** To improve the international standing in the eyes of foreign investors, Malaysia needs to take aggressive steps to combat corruption. The OECD Anti-Bribery Convention explicitly disallows tax deductibility of bribes to foreign public officials or expenditures incurred in the furtherance of corrupt conduct for all tax purposes. However, there is no specific provision in the Malaysian law to prohibit the deductibility of such expenses. However, the IRB in general will disallow such expenses as a matter of public policy.	***To combat tax evasion and bribery, CTIM suggests that*** • *Specific provision be incorporated into the Income Tax Act 1967 to disallow bribes and other expenditures incurred in the furtherance of corrupt conduct, whether paid to local or foreign officials, to secure an advantage in arriving at the adjusted income from the business.* • *In addition, any wrongful claim of such expenses shall be heavily penalised.*
18	**Enhancing carry back of current year losses** In an effort to mitigate the impact of the economic contraction resulting from the global meltdown in the financial sector on the domestic economy, the Government has, in the Second Stimulus Package 2009, allowed a taxpayer to irrevocably elect to carry back its current year business losses of up to RM100,000 to the immediately preceding year	***To assist businesses to survive in this rapid changing business environment, CTIM proposes that:-*** ***(i)*** *The cap of current year losses eligible for the carry back be increased from RM100,000 to a higher amount or be determined based on a certain percentage of the losses, in order for the incentive to be more appealing to the taxpayers*

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	of assessment to reduce its tax liability for the said year of assessment. However, this incentive is only applicable for the years of assessment 2009 and 2010 and the carry back will only benefit a taxpayer with a current year loss in one year and chargeable income in the immediately preceding year. Due to the stringent conditions for eligibility, the number of taxpayers who would have benefitted from the incentive would be limited. In addition, based on the prevailing corporate tax rate of 25%, the potential tax savings a taxpayer could have derived from the carry-back losses of up to RM100,000 would only be RM25,000.	*(ii) The loss carry-back period be extended from one year to at least 3 preceding years;* *(iii) The carry-back loss relief be made a permanent feature in the Malaysian taxation system*

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