

**TO ALL MEMBERS**

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**TECHNICAL**

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**Special Dialogue on Tax Audit and Investigation with IRB**

A Special Dialogue on Tax Audit and Investigation with Inland Revenue Board (IRB) initiated by CTIM was held on 29 January 2013 (refer to our [e-CTIM No.178/2012](#) dated 13 December 2012).

The purpose of the Dialogue is to seek clarification from the IRB on the procedure and practice of criminal investigation and investigation under Anti-Money Laundering and Anti-Terrorism Financing Act 2001 (Act 613) (AMLA). CTIM is pleased to inform members of the following based on our understanding:

- 1) The IRB informed that there will be only one investigation process, i.e. all investigations will be carried out in accordance with the criminal investigation requirements. Whether a case will be prosecuted under criminal investigation depends on the strength of evidence gathered in the investigation. Where the evidence gathered does not warrant a criminal prosecution, the IRB will then seek for a civil settlement.

IRB has indicated that unless it is certain that some criminal activities are involved, it will not go ahead to prosecute a taxpayer under criminal investigation. It has also indicated that repeated late filing of Income Tax Return Form (ITRF) may trigger suspicion for criminal investigation or investigation under AMLA.

- 2) An investigation under AMLA usually involves proceeds arising from serious offences. When an investigation commences, taxpayers will be informed upfront as to whether the investigation is one under AMLA. The investigation will be handled by the same investigating officers for both IRB tax investigations and AMLA cases. A person will be prosecuted under AMLA if there is sufficient evidence as determined by the Attorney General.
- 3) The IRB has provided the following comments in answer to certain questions raised on current standard practices:
  - As to whether a tax agent can be present with a taxpayer at an interview in relation to a criminal tax investigation, the IRB confirmed that a tax agent will continue to be allowed to present and advise or represent the taxpayer when the investigation or interview is in progress;
  - The IRB commented that, except for the case where Section 114(1A) applies, a tax agent will not be prosecuted on the statement or advice made on behalf of the taxpayer based on the information provided by the taxpayer;
  - The IRB confirmed that a tax agent may be called upon by the IRB to be a witness for a criminal tax investigation case if he has knowledge of the tax matters of the taxpayer and is able to assist in providing information on possible tax evasion.
- 4) Members are advised by IRB to read the *Tax Audit Framework* and *Tax Investigation Framework* for the purpose of a tax agent licence interview as questions may be asked on these Frameworks. Currently the *Tax Investigation Framework* is being reviewed by the authority.

CTIM has requested the IRB to consider the following:

- That the Revised Tax Investigation Framework (draft) be shared with the professional bodies for input before it is finalized.
- That the statement recorded in a criminal investigation be shared with the tax agent and taxpayer.

The requests were received positively.

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