

**e-CTIM TECH-DT 17/2014**

**13 March 2014**

**TO ALL MEMBERS**

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**TECHNICAL**

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## **Direct Taxation**

### **Dialogue with the Ministry Of Finance (MOF) and the Inland Revenue Board (IRB) on issues arising from 2014 Budget and Finance Act 2014**

A 7-member CTIM delegation, led by the President, Mr SM Thanneermalai, had a dialogue with the MOF and IRB, chaired by the Under-Secretary, Tax Analysis Division of MOF, Dato' Siti Halimah Ismail on 5 March 2014. This is a dialogue following CTIM's earlier meeting with both MOF and IRB on 19 November 2013.

The following are the key updates by the MOF and IRB on the issues raised by the Institute.

### **Section 99(4) – Restriction on Appeal Against Deemed Assessment**

The Institute reiterated its concerns on the amendment to Section 99(4).

The IRB acknowledged the concerns of tax practitioners and informed that a public ruling on Appeals under Section 99 will be issued by the IRB by the end of September 2014. This public ruling will address issues raised by the Institute.

### **Section 39(1A) – Disallowance of Expense Due to Failure to Furnish Information on Time**

The Institute explained that the failure to furnish information within the time specified by the DG may be due to various reasons and denying a tax deduction for the item of expense automatically is unjust.

The IRB informed that IRB will apply Section 39(1A) judiciously and application for extension of time to furnish information with reasonable excuse would be considered by IRB.

For purposes of clarity and transparency, the Institute requested that a statement be issued by the IRB or an exchange of letters between IRB be carried out to document this understanding.

### **Redefinition of “Director” – Amendment to Section 75A, Income Tax Act and Paragraph 5(4)(b), Schedule 1, Real Property Gains Tax Act**

The Institute is concerned with the impact of the widening of the definition of “director” on the growth of business start-ups, small and medium enterprises, public listed companies and the capital market in general.

The IRB reaffirmed its view that it is the responsibility of directors of companies to ensure timely payment of taxes to the Government.

#### **Section 77A(4) -- Filing of Corporate Tax Returns Based on Audited Accounts**

The IRB has noted the Institute's explanation that there are situations where audited accounts are not required to be prepared under provisions of the Companies Act. The IRB advised that it will issue a statement to clarify the scope of application of Section 77A(4) and address the concerns raised.

#### **Section 140B -- Special Provision Applicable to Loan or Advances to Director**

The Institute pointed out the effective date of the provision (i.e. year of assessment 2014) has a retrospective effect on taxpayers with early financial year-end. In addition, the Institute sought clarification on issues raised in the memorandum to the MOF dated 25 November 2013.

The IRB informed that Section 140B will apply from 1 January 2014. A written reply to this issue as well as other issues raised will be issued to the Institute soon.

#### **Deduction for consultation fee for the implementation of GST**

The MOF informed that no deduction will be given for consultation fee incurred for the implementation of GST.

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