

TECHNICAL

Direct Taxation

[TAX AUDIT FRAMEWORK 2015 -- SUMMARY OF CONTENTS](#)

Further to our [e-CTIM TECH-DT 21/2015](#) dated 23 February 2015, the following is a summary of the contents of the [Tax Audit Framework 2015](#) (which is in Bahasa Malaysia):

Paragraph	Summary of Contents
1. Pengenalan	<p><i>Purpose of tax audits</i></p> <p>The tax audit is the main enforcement activity carried out by Inland Revenue Board of Malaysia (LHDNM) to promote compliance with the tax laws under the Self-Assessment System (SAS) of taxation. The Tax Audit Framework (TAF) aims to provide assistance for tax officials to carry out their duties more effectively and efficiently, and for taxpayers to fulfill their responsibilities as taxpayers.</p>
2. Kuasa Undang-Undang	<p><i>Legal authority accorded by tax legislation</i></p> <p>Lists the sections in the ITA that form the basis for the authority invested by law to carry out a tax audit. Also cites other tax legislations like the Stamp Act 1949 and the Labuan Offshore Activities Tax Act 1990.</p>
3. Apa Itu Audit Cukai?	<p><i>Types of tax audits</i></p> <p>The two types of tax audits carried out by LHDNM are (1) the desk audit, and (2) the field audit.</p> <p>The <b>desk audit</b> is carried out in the offices of LHDNM and in general, involves examination of information pertaining to income and expenditure as well as claims made by the taxpayer as declared in his tax return form.</p> <p>The <b>field audit</b> is carried out at the premises of the taxpayer, where business records of the taxpayer are examined. In cases of partnerships and sole-proprietorships, non-business records such as personal bank statements may also be examined.</p>
4. Objektif Audit Cukai	<p><i>Objectives of a tax audit</i></p> <p>The main objective is to promote voluntary compliance with the tax laws by taxpayers and to achieve a higher standard of compliance under the SAS by disclosing their duties and responsibilities as taxpayers under the law.</p>
5. Tahun Taksiran Yang Diliputi	<p><i>Years of assessment (YA) covered</i></p> <p>In general, a tax audit usually covers only one YA but may be extended up to the preceding five YAs, depending on the audit issues encountered. This is not applicable to cases of fraud, willful default or negligence.</p>
6. Pemilihan Kes	<p><i>Selection of cases</i></p> <p>Cases are selected by the computer based on the risk assessment criteria, but other bases may also be used, such as the type of industry or location.</p>

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<p>7. Bagaimana Audit Cukai Dilaksanakan</p> <p>7.1 Tempat Audit</p> <p>7.2 Permulaan Audit</p> <p>7.3 Lawatan Audit</p> <p>7.4 Semakan Rekod</p> <p>7.5 Tempoh Lawatan Audit Luar</p> <p>7.7 Program MDTD</p>	<p><i>The audit process</i></p> <p>A description of the audit process is given. The information provided relates to the following:</p> <ul style="list-style-type: none"> <li>the place of the audit;</li> <li>the initiation process for audits in general and for field audits in particular;</li> <li>the types of records (business and non-business) required to be produced for examination (with reference to the various Public Rulings issued on the subject of record keeping, as well as relevant provisions under the ITA relating to record-keeping);</li> <li>the time-frame for the field audit visit is 1 to 3 days and may be extended depending on several factors;</li> <li>the procedures to be followed in closing the audit and submission of the Audit Report by the audit official to the Manager of the Audit Branch for approval. If tax adjustments are proposed as a result of the audit, the taxpayer will be notified of the adjustments by letter, as well as the reasons for the adjustments. The taxpayer will be given opportunity to discuss the adjustments (with the audit officials), and a period of 21 days from the date of the notification letter, to file his objections, failing which it will be deemed that the adjustments are agreed to. This is followed by the issuance of additional assessment with appropriate penalty, or the notice of non-chargeability. If no adjustments are proposed, the taxpayer will also be notified of this and of the closure of the audit.</li> </ul> <p>The whole audit process should be completed within a period of 4 months from the commencement of the audit. Taxpayers will be informed by LHDNM if more than 4 months is required to complete the audit.</p> <p><i>Programme for Monitoring Deliberate Tax Defaulters (MDTD)</i></p> <p>Taxpayers who have been identified as having failed to comply with the law will be placed in the list of names under the MDTD programme. Those who have “failed to comply (with the law)” are those who are found to have furnished the wrong information in their tax return forms (TRF), including the omission of the business code or the use of the wrong code in their TRF. The taxpayer will be removed from the MDTD list if the monitoring finds that the taxpayer no longer commits offenses in the following YAs.</p> <p>(Please refer to paragraph 7 of the TAF for full details of audit process.)</p>
<p>8. Hak Dan Tanggung Jawab</p> <p>8.1 LHDNM</p> <p>8.2 Pembayar Cukai</p> <p>8.3 Ejen Cukai/Wakil Pembayar Cukai</p>	<p><i>Rights and responsibilities</i></p> <p>The rights and responsibilities of (1) officers of LHDNM, (2) taxpayers, and (3) tax agents, are enumerated.</p> <ul style="list-style-type: none"> <li>In general <b>officials of LHDNM</b> carrying out the audit are expected to comply with the rules and Code of Ethics drawn up by LHDNM which provides guidance on standards of professionalism and ethical behavior.</li> <li><b>Taxpayers</b> are expected to extend their cooperation (to the audit team), to conduct themselves in a courteous and truthful manner, and to treat the audit officials fairly. They are also expected to render reasonable facilities and assistance to the audit team, as set out in Public Ruling</li> </ul>

Paragraph	Summary of Contents
	<p>7/2000. They are prohibited from making any gifts including gifts of money to any audit official, or to obstruct them in carrying out their duties, as provided under <a href="#">S.116</a> of the ITA.</p> <ul style="list-style-type: none"> <li>• <b>Tax agents</b> must be authorized to act for the taxpayer (supported by the letter of engagement). They are also subjected to the Code of Ethics issued by LHDNM, which is based on principles of integrity, accountability, transparency and social responsibility. Tax agents are <i>not allowed</i> to give “wrong advice”, to shirk responsibilities they are entrusted with, or to make any gifts in any form to any audit official.</li> </ul> <p>(Please refer to paragraph 8 for the full list of rights and responsibilities.)</p>
9. Kerahsiaan Maklumat	<p><i>Confidentiality of information</i></p> <p>LHDNM will ensure that all information obtained from taxpayers is used only for purposes of income tax.</p>
10. Kesalahan Dan Penalti	<p><i>Offences and penalties</i></p> <p>Any under-declaration or omission of income discovered during an audit will be subjected to penalties imposed under <a href="#">S.113(2)</a> or <a href="#">S.44B(7)(b)</a> of the ITA. Concessional rates of penalty may be applied in cases of voluntary disclosure by taxpayers (which must be made in writing to the Director of the relevant IRB Branch) before a tax audit is carried out. The rates of penalty that may be applied in cases of this nature are shown in the tables under paragraphs 10.3 and 10.4. For taxpayers whose names are on the MDTD list, a penalty of 100% of tax undercharged will be imposed under <a href="#">S.113(2)</a> of the ITA if they are again found to have failed to comply with the law when they are audited for the second time.</p> <p>(Please refer to paragraph 10 for full details of penalties and offences.)</p>
11. Pengaduan	<p><i>Reporting grievances</i></p> <p>Taxpayers who are not satisfied with the manner in which a tax audit is conducted (including complaints against the attitude of tax officials) may make a (substantiated) report to Director of the Branch/ State/ Compliance Department or the Deputy Director General/ Director General of Inland Revenue. LHDNM will take appropriate and unbiased follow-up action, including making a report to the relevant authorities against the tax agent in cases where the tax agent had failed to cooperate or had conducted himself in an unprofessional or unethical manner.</p>
12. Prosedur Bayaran	<p><i>Payment procedures</i></p> <p>Details of procedures for making payments of additional tax and penalties arising from tax adjustments made as a result of a tax audit are provided in paragraph 12 (please refer).</p>
13. Rayuan	<p><i>Appeals against assessments</i></p> <p>Taxpayers may make an appeal against additional assessments raised by the DGIR in accordance with the provisions of S.99 to S.102 of the ITA within 30 days of the service of the notice of additional assessment. An appeal to the Special Commissioners of Income Tax may be appealed further to the High Court and onwards to the Court of Appeal.</p>
14. Tarikh Kuatkuasa	<p><i>Effective date</i></p> <p>This TAF is effective from 1 February 2015 and replaces the TAF dated 1</p>

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Paragraph	Summary of Contents
	April 2013. It does not apply to tax audits pertaining to issues relating to transfer pricing, thin capitalization and advance pricing arrangement.

Members may read the Tax Audit Framework 2015 in full at the websites of the [Institute](#) and the [LHDNM](#).

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