

**TECHNICAL**

**Direct Tax**

**OPERATIONS GUIDELINES NO. 1/2015 – IMPOSITION OF PENALTY UNDER S.112(3) OF THE INCOME TAX ACT 1967**

The above-mentioned Guidelines is dated 5 March 2015 and has been recently uploaded on the website of Inland Revenue Board Malaysia (LHDNM). The following is a summary of the contents:

Para. No.	Summary										
1 & 2	<p><i>Introduction &amp; Objective</i></p> <p>The requirement for the submission of an annual income tax return forms (ITRF) within the stipulated period is found in <a href="#">S.77</a> and <a href="#">S.77A</a> of the Income Tax Act 1967 (Act). <a href="#">S.77A</a> applies to a company, limited liability partnership, trust body or co-operative society, while <a href="#">S.77</a> applies to a person other than those mentioned in <a href="#">S.77A</a>. The Guidelines seek to provide clarification on the imposition of penalties under <a href="#">S.112(3)</a> of the Act for the late submission of ITRF.</p>										
3	<p><i>Deadlines for submission of returns</i></p> <table><tr><th>Section</th><th>Taxable person</th><th>Submission deadline</th></tr><tr><td rowspan="2"><a href="#">77</a></td><td rowspan="2">A person other than those to whom <a href="#">S.77A</a> applies</td><td>Not later than 30 June in the year following that year of assessment (YA) for persons carrying on a business</td></tr><tr><td>Not later than 30 April in the year following that YA for persons who are not carrying on a business</td></tr><tr><td><a href="#">77A</a></td><td>A company, limited liability partnership, trust body or co-operative society</td><td>Within 7 months from the date following the close of the accounting period which forms the basis period for that YA</td></tr></table> <p>The different categories of taxpayers, their respective file classifications, and the type of ITRF applicable to each category of taxpayer are listed under paragraph 3.3 of the Guidelines (please refer).</p>	Section	Taxable person	Submission deadline	<a href="#">77</a>	A person other than those to whom <a href="#">S.77A</a> applies	Not later than 30 June in the year following that year of assessment (YA) for persons carrying on a business	Not later than 30 April in the year following that YA for persons who are not carrying on a business	<a href="#">77A</a>	A company, limited liability partnership, trust body or co-operative society	Within 7 months from the date following the close of the accounting period which forms the basis period for that YA
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4.	<p><i>Penalty Rates</i></p> <p>Under <a href="#">S.112(3)</a>, the maximum penalty which may be imposed on those found to have failed to comply with <a href="#">S.77(1)</a> or <a href="#">S.77A(1)</a> is 3 times the tax chargeable for that YA.</p> <p>The rates of penalty set by LHDNM are as follows:</p> <table><tr><th>Period for which Return was submitted late</th><th>Rate of penalty (% of tax chargeable)</th></tr><tr><td>Up to 12 months</td><td>20</td></tr><tr><td>&gt; 12 months – 24 months</td><td>25</td></tr><tr><td>&gt; 24 months – 36 months</td><td>30</td></tr><tr><td>&gt; 36 months</td><td>35</td></tr></table>	Period for which Return was submitted late	Rate of penalty (% of tax chargeable)	Up to 12 months	20	> 12 months – 24 months	25	> 24 months – 36 months	30	> 36 months	35
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	Any extension of time granted will not be taken into account if the ITRF was submitted late or not submitted within the extended time allowed for submission.
5	<i>Additional Penalty</i> <a href="#">S.112(4)</a> gives the Director General the power to impose additional penalty in accordance with <a href="#">S.112(3)</a> in respect of any additional tax which is payable for a YA in the case where the ITRF is not furnished by the taxpayer.

Members may read the Guidelines in full at the websites of the [Institute](#) and [LHDNM](#).

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