
TECHNICAL

Direct Tax

TAX FILE FOR FOUNDATIONS

The Inland Revenue Board of Malaysia's (IRBM) has written a [letter](#) dated 27 May 2016 to the Malaysian Institute of Chartered Secretaries and Administrators (MAICSA) in response to the queries with regard to the tax file for foundations. The salient points of the [letter](#) are listed below.

1. An organization / institution / body of persons using any name and incorporated as a company limited by guarantee such as a foundation and having specific objectives should be registered with a "C" tax file and taxed at the corporate tax rate. However, in the [Operational Dialogue No. 1/2009](#) (*) on 25 February 2009 between IRBM and the Professional Bodies, it was stated that an organization / institution / body of persons incorporated as a company limited by guarantee is allowed to register a "TF" tax file. This relaxation is a concession granted to foundations so that they can be taxed at scaled tax rates instead of the corporate tax rate.

(*) *CTIM Note:- According to IRBM's response in item 3.1 on page 17 of the [Operational Dialogue No. 1/2009](#) on 25 February 2009, an organization / institution / body of persons using any name and incorporated as a company limited by guarantee such as a foundation and having the objectives of non-profit motive, exclusively providing benefits to members, or safeguarding and promoting the interests of members will be registered under a "TF" tax file. However, an organization / institution / body of persons using any name and incorporated as a company limited by guarantee which does not have such objectives is categorised under a "C" tax file. Notwithstanding this, IRBM's response in its [letter](#) dated 27 May 2016 sets out its current position on the matter.*

2. In view that the relaxation given is a concession, foundations have two (2) options as follows:-

- 2.1 The "TF" tax file is maintained

If a foundation wants to maintain its "TF" tax file, it must comply with the provisions under S.53(1)(a) of the Income Tax Act 1967 (ITA) whereby it is required to change its accounting year end (if it is other than 31 December) to 31 December. Compliance with this provision is in line with the submission deadline of the Income Tax Return Form (ITRF) for the "TF" tax file as prescribed (i.e. 30 April if not carrying on a business or 30 June if carrying on a business).

- 2.2 Changing from the "TF" tax file to "C" tax file

If a foundation wants to maintain its accounting year end (which is other than 31 December) and does not want to change it to a 31 December accounting year end, then its tax file needs to be changed from "TF" to "C". With this change, the foundation will be taxed at the corporate tax rate instead of scaled tax rates and is required to submit the ITRF within seven (7) months from the date following the close of the accounting period which constitutes the basis period for the year of assessment.

Members may view IRBM's [letter](#) at the website of the Institute.

Members may also write to the Institute at technical@ctim.org.my or secretariat@ctim.org.my in respect of any concern or comments you may have on the [letter](#).

Acknowledgement:

The Institute would like to thank MAICSA for the permission to circulate IRBM's letter for the benefit of our members.

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