

e-CTIM No.6/2010

5 February 2010

TO ALL MEMBERS

TECHNICAL

1. New RPGT forms available for disposal of real properties and shares in a real property company on or after 1 January 2010

With the recent amendments to the Real Property Gains Tax (RPGT) Act, 1976, the Inland Revenue Board (IRB) has introduced a new set of RPGT forms for disposals and acquisitions of chargeable assets on or after 1 January 2010. The set of forms consists of the following:

- i. RPGT 1A Disposal of real properties;
- ii. RPGT 1B Disposal of shares in a real property company;
- iii. RPGT 2A Acquisition of real properties or shares in a real property company;
- iv. RPGT 3 Notice for obtaining information pertaining to a chargeable asset; and;
- v. Declaration Form for election for tax exemption (in respect of private residence) under paragraph 9 Schedule 3 of RPGT Act 1976.

Members may view the forms at the website of the IRB at

<http://www.hasil.gov.my/lhdnv3/index.jsp?process=8000&categoryText=&isDisplayRightSide=false&category=8&tahunTaksiran=->

2. Guidelines on tax exemption of grants and subsidies, and income of statutory bodies.

The IRB has issued the above guidelines on 26 January 2010 to explain the operation of Income Tax (Exemption) (No.4) Order 2003 [P.U.(A) 33/2003] and Income Tax (Exemption) (No.22) Order 2006 [P.U.(A) 207/2006].

Treatment of subsidies and grants

- i. Under Income Tax (Exemption) (No.4) Order 2003 [P.U.(A) 33/2003], effective from years of assessment 2002 to 2005,
 - a. subsidies and grants are exempt from tax at the statutory income level;
 - b. expenditure financed by the subsidies and grants are allowed a deduction under Section 33(1) of the Income Tax Act 1967 (ITA); and
 - c. expenditure, incurred on acquisition of plant and machinery financed by the subsidies and grants, qualify for capital allowances under Schedule 3(1) of ITA.
- ii. Under Income Tax (Exemption) (No.22) Order 2006 [P.U.(A) 207/2006], effective from year of assessment 2006,
 - a. subsidies and grants are exempt from tax at the gross income level;
 - b. expenditure financed by the subsidies and grants are not eligible for a deduction under Section 33(1) of the ITA;

- c. capital expenditure, on plant and machinery financed by the subsidies and grants, do not qualify for capital allowances under Schedule 3(1) of ITA; and
- d. Subsidies and grants are exempt from tax in the basis period in which they are received, or in the basis period in which expenditure financed through the subsidies and grants, is incurred.

It is noted that the IRB did not comment on the impact of the decision in the Court of Appeal case *Ketua Pengarah Hasil Dalam Negeri v Perbadanan Kemajuan Ekonomi Negeri Johor (2009)*.

Tax exemption of income of a statutory authority

The IRB has clarified that

- a. a statutory authority is defined as “any authority or body established by or under a written law (not being an authority or body established by or under the Companies Act 1965 [Act 125],...) to discharge any functions of a public nature, including the provision of public utility and similar services”; and
- b. the tax treatment of the income of a statutory authority is the same as that of subsidies and grants received from a federal or state government.

Members may view the guidelines on the IRB’s website at

http://www.hasil.gov.my/lhdnv3/documents/maklumat_terkini/GARIS%20PANDUAN%20-%20GERAN.pdf or at the Institute’s website at http://www.ctim.org.my/technical_techdev_direct.asp

3. Income Tax (Renovation or Refurbishment Expenditure) Rules 2010 [P.U.(A) 20/2010]

Pursuant to the proposal under the Second Stimulus Package, the Minister has made the above rules, wherein are specified expenditure incurred on renovation and refurbishment which qualify for accelerated capital allowance at the rate of 50%. These rules are effective from years of assessment 2009 to 2011.

The items listed in the Rules are similar to those listed in the Guidelines for Mini Budget 2009, except for expenditure incurred on prayer facilities, and electrical wiring, which have been excluded from the Rules. It is to be noted that designer fees and professional fees do not qualify for the 50% rate.

Members are advised to refer to item 3 of the *Guidelines on 2009 Mini Budget* for a better understanding of the law. The Mini Budget Guidelines are available at the IRB’s website at http://www.hasil.gov.my/lhdnv3/documents/budget/Garis_Panduan_Mini_Bajet_2009.pdf.

CONTINUING PROFESSIONAL DEVELOPMENT

1. Workshop: Submission of Returns 2009

8 CPD Points

Date/Venue : 22 February 2010, Melia Hotel, Kuala Lumpur
 Time : 9.00 am – 5.00 pm
 Speaker : Mr Vincent Josef

COURSE CONTENTS:

- Estimates and Payment of Tax: A Reminder
- Choice of Submission Mode – Hard-copy or E-filing?
- Completion of Return Form BE and B

- i. Personal particulars
 - ii. Income Details
 - iii. Claims and Reliefs
 - iv. Computation of Liability
 - v. Details of Accounts
 - vi. Affirmation of Declaration
 - vii. Deadlines for Submission
 - viii. Payment of Taxes Due/Claim for Excess Taxes Paid
 - ix. Offences and Penalties
- Supporting Documents
 - i. Maintenance of Records
 - ii. Retention of Records
 - Companies:
 - i. Who are responsible?
 - ii. Estimates and Payment of Instalments
 - iii. Impact of Section 75A and Section 104
 - Employers
 - i. Remuneration Categories
 - ii. Exempt Income and Benefits
 - iii. What is the new Schedular Tax Deductions Approach?
 - iv. The new STD Formula
 - v. Completion of Form E and EA
 - vi. Deadlines for Submission and Rendering
 - Highlights of 2010 Budget
 - General: A Quick Look at:
 - i. The Single Tier Tax System
 - ii. Transfer pricing
 - iii. Tax Audits and Investigations

2. **Workshop: Analysis of Recent Tax Cases, Construing Court Decisions & Managing Tax Appeals Efficiently**

8 CPD Points

Date/Venue : 24 February 2010, Equatorial Hotel, Kuala Lumpur
 Time : 9.00 am – 5.00 pm
 Speaker : Mr Saravana Kumar

COURSE CONTENTS:

Part 1: Recent Tax Cases by the Special Commissioners of Income Tax

Part 2: Recent Tax Cases by the High Court & Court of Appeal

Part 3: The Techniques of Construing Court Decisions and Reading Judgments

Part 4: Managing Tax Appeals Efficiently

3. 2010 Budget Seminar (RE-RUN)

10 CPD Points

CTIM is organising a special seminar on the 2010 Budget for members and practitioners who could not attend last year's CTIM Budget Seminar. Those who were unable to attend the Budget seminar last year should grab this opportunity to attend the coming seminar.

Date : 22 March 2010
Time : 9.00 am – 5.00 pm
Venue : Equatorial Hotel, Kuala Lumpur

4. Seminar: Highlights of the Leading Tax Cases in 2009: Discerning the Judicial Mood in Interpreting Tax law

8 CPD Points

Date : 9 March 2010
Time : 9.00 am – 5.00 pm
Venue : Park Royal Hotel, Kuala Lumpur

Topics and Speakers:

▪ ***Kerajaan Malaysia v Neraca Untung Sdn Bhd Rayuan Sivil W-01-1-2005 (Court of Appeal)***

- Analysis of Section 145 of the ITA 1967: The service of a notice of assessment

Speaker:

Mr Andrew Davis
Partner, Issacs & Davis

▪ ***SE&TM Sdn Bhd v Ketua Pengarah Hasil Dalam Negeri (Rayuan No. PKCP(R) 14/2008)***

- Whether the IRB may restrict reinvestment allowance to production area only?

Speaker:

Datuk D.P. Naban
Senior Partner, Lee Hishammuddin Allen & Gledhill

▪ ***RPC Shares / Para 34A of Schedule 2 to the Real Property Gains Tax Act, 1976***

- KPHDN v Binastra Holding Sdn Bhd
- KPHDN v Casio Computer Co. Ltd

▪ ***Sec 91(1) of the Income Tax Act, 1967 - Disallowance of capital allowances brought forward from "time barred periods"***

- PKCP (R) 9/2008

Speaker:

Mr Vijey M Krishnan
Partner, Raja, Darryl & Loh

▪ ***Fairy Tales & Nightmares in Tax Disputes***

Speaker:

Mr Anand Raj
Partner, Shearn Delamore & Co.

▪ ***Judicial Review in the Tax Field***

- Ta Wu Realty Sdn Bhd v Ketua Pengarah Hasil Dalam Negeri & Anor [2009] 1 MLJ 555.

Speaker:

Mr Sudharsanan Thillainathan
Partner, Shook Lin & Bok

5. Seminar: Goods & Services Tax – “The Way Forward”

8 CPD Points

Date : 15 March 2010
Time : 9.00 am – 5.00 pm
Venue : Park Royal Hotel, Kuala Lumpur

Topics and Speakers:

▪ ***The rationale and latest development on the Goods and Services Tax (GST) Bill***

Speaker:

YBhg Dato' Kamariah bt Hussain (*invited*)
Chairman, Tax Review Panel, Ministry of Finance Malaysia

▪ ***Laying the Foundation***

Speaker:

Mr Ronnie Lim
Managing Director, Deloitte KassimChan Tax Services Sdn Bhd

▪ ***Getting ready! – What need to be considered by businesses on GST***

Speaker:

Mr Raja Kumaran
Executive Director, PricewaterhouseCoopers Tax Services Sdn Bhd

▪ ***Comments on GST Bill***

Speaker:

Mr Bhupinder Singh
Executive Director, Ernst & Young Tax Consultants Sdn Bhd

▪ ***Special schemes for GST***

Speaker:

Mr Michael Hendroff
Director, KPMG Tax Services Sdn Bhd

Kindly logon to www.ctim.org.my for the latest update on the CPD events or contact the Secretariat, Ms Latha/Ms Ally/Ms Nur at 03-2162 8989 ext 108/113/106 for further information. Alternatively, you can email your enquiries to cpd@ctim.org.my.

MEMBERSHIP SERVICES – LATEST UPDATE

Please be informed that the amendments to the Institute's Articles of Association that were approved at the last AGM on 13 June 2009, have been approved by the Minister and that starting with **immediate effect**, all members are to use the following designatory letters behind their names, i.e.

- **FCTIM** for a Fellow Member
- **ACTIM** for an Associate Member

The approved amendments to the Institute's Articles of Association are:

Article 20(6)

A Member, who is engaged in public practice service, must hold a valid practising certificate issued by the Institute. The Council shall determine the regulations and requirements relating to practising certificates.

Article 21

Any Member of the Institute so long as he remains a Member may use after his name in the case of a Fellow Member, the designatory letters FCTIM and in the case of an Associate Member, the designatory letters ACTIM or any other designatory letters as the Council and the Institute may determine.

Article 21(A)

The Council may give recognition and grant the right to use certain descriptions to a Member of the Institute who has met the requirements imposed by the Council.

EVENT SUPPORTED BY CTIM

National Conference on GST: Roadmap to Malaysia New Taxation organized by Institute Sultan Iskandar , Universiti Teknologi Malaysia.

Objective: Understanding the Compliance Requirement and Implementation of Goods and Services Tax (GST) in Malaysia.

Date : 11 February 2010

Venue : Best Western Premier Seri Pacific Hotel, Kuala Lumpur

Time : 8.00 am – 4.45 pm

CTIM members who register for the Conference will enjoy a preferential rate of registration fee of RM550 for the conference. For further information on the conference programme and registration details, please click <http://www.ctim.org.my/pdf/GST2010-CTIM.pdf>

For queries or feedback on the CTIM e-circular, please email secretariat@ctim.org.my.

Disclaimer

Although the Chartered Tax Institute of Malaysia (formerly known as Malaysian Institute of Taxation) has taken all reasonable care in the preparation and compilation of the information contained in the CTIM e-circular, the Institute / each party providing the material displayed herein expressly disclaim all and any liability or responsibility to any person(s) for any errors or omissions in the contents of the CTIM e-circular or for anything done or omitted to be done by any such person in reliance whether wholly or partially, upon the whole or any part of the contents of the CTIM e-circular.