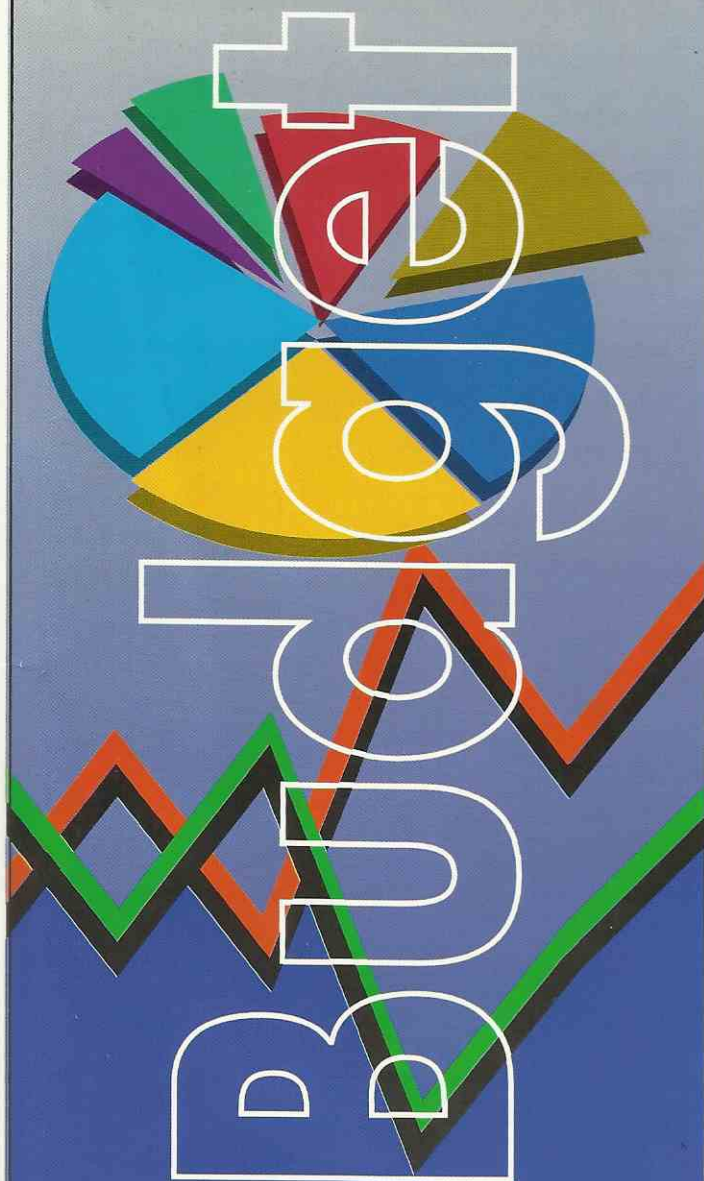


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TAX NASIONAL

OFFICIAL JOURNAL OF THE
MALAYSIAN INSTITUTE OF TAXATION

ISSN 0128-7580 KDN PP 7829/12/99

<http://www.mia.org.my>

QUARTERLY SEPTEMBER 2000

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CASE LAW

MIT EXAMINATIONS



The Malaysian Institute of Taxation (MIT) is a company limited by guarantee incorporated on October 1, 1991 under Section 16(4) of the Companies Act, 1965.

The objective of the Institute are, inter alia:

1. To provide an organisation for persons interested in or concerned with taxation matters in Malaysia.
2. To advance the status and interest of the taxation profession and to work in close co-operation with the Malaysian Institute of Accountants (MIA)
3. To exercise professional supervision over the members of the Institute and frame and establish rules made herein for observance in matters.
4. To provide examination for persons interested in or concerned with the taxation profession.

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The Tax Nasional is the official publication of the Malaysian Institute of Taxation and is distributed free to all members of the Institute. The views expressed in this Journal are not necessarily those of the Institute or its Council. All contributions, inquiries and correspondence should be addressed to the Secretariat.

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MALAYSIAN INSTITUTE OF TAXATION
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EDITORS DESK

We stand at the crossroads of our future.

In this edition of the magazine, we have included a summarised version of our memorandum to the Ministry of Finance on our fiscal proposals for Budget 2000/2001 based on the given theme, of **"Towards accelerating economic growth, enhancing competitiveness and improving the quality of life"**. Our memorandum suggests numerous fiscal and economical changes that are needed to either, maintain the nation's growth, or to prepare ourselves for the future.

Foremost, we emphasised that our future growth will be result of our own commitments to our future and, it must be a "smart" partnership between the public and private sector. In short, we shall not and must not be complacent of our efficient recover, as there are many still expecting us to fail.

We hope that members of the Tax fraternity will review the memorandum for its intention.

At this juncture, we also have instituted certain changes to our magazine as we feel that since we are entering a new era with Self Assessment, it is also a good time for change. Hence, members of the Institute, students, academicians and tax practitioners may now write to the "Editors desk" if you wish to say something, comment about a tax issue, disagree with another ... etc.

All comments may be sent vide our Secretariat at robin@mia.org.my (e-mail) or write to Robin Noronha, at Level 3, Dewan Akauntan, No 2, Jalan Tun Sambathan 3, Brickfields, 50470 Kuala Lumpur.

We hope to hear from you soon.



The Secret Of Winning In Tax Disputes

By Albert Chong

Avoiding payment of taxes to the Government is nothing new. Many believe it is their right to keep their taxes as low as possible so that they can enjoy the fruits of their labour to the maximum. To keep tax payments to a minimum some have engaged advisors to manage their tax affairs, while others have found their own solutions. But what many taxpayers (and advisors) have failed to consider was whether their arrangements are credible enough to stand the fire of tax credibility.

Credibility

Some recent foreign court decisions have raised this question on the credibility of taxpayers, including their advisors, particularly when it comes to issues such as the existence of a legitimate business purpose. This appears to indicate that the issue of credibility will be examined more closely in the future especially with the introduction of self-assessment in Malaysia.

General Test

Normally, if an arrangement passes the "business purpose" test or the "normality" test, it will be acceptable to the DGIR. It is up to the DGIR and the Court to decide whether the arrangements took place in the ordinary course of business and were not designed to avoid tax.

Hence, we review some of the common possible areas where the issue of credibility may be disputed. A taxpayer's credibility is often the pivotal factor that decides whether a case is won, lost or settled on a favourable basis.

Tax Havens

The idea of transferring oneself outside the local taxation provision is not a new one. This involves the transferring a profitable business activity from a high taxation jurisdiction country to a lower tax jurisdiction or tax havens.

In the case of *UPS v Commissioner*, the taxpayer testified that its business purpose for transferring a very profitable insurance services to its Bermuda affiliate was that the U.S. affiliate providing insurance services could potentially violate State insurance regulations. The Court rejected the business purpose alleged by the taxpayer.

The absence of the business purpose resulted in the defeat for the taxpayer. It is important that similar transactions involving tax havens have flesh and not just a skeleton. The "flesh" will ensure that the "bones" will be in a firm position to withstand the test of credibility.

Notwithstanding this, the usage of tax havens may be curtailed in the future.

On 26 June, 2000, OECD published some 82 hit list of tax havens and harmful tax competition. The goal is to ensure that all countries stop losing revenue and share the global tax burden fairly.

Loss Company

It is an accepted doctrine that there is nothing wrong for a taxpayer to organise his affairs in such a way as to minimise tax. However, when it involves a tax loss company, the DGIR tends to cast more doubt as to the credibility of the transaction. The DGIR can disregard a transaction if he has reason to believe that a transaction has the effect of directly or indirectly altering the incidence of tax, reducing the tax or avoiding tax.

In *SBP Sdn Bhd v DGIR*, five credibility issues were raised the Special Commissioner to affirm the DGIR's decision that the company's transaction was not motivated by economic consideration, but by the aim to avoid tax liability. They were:

1. Motive - A pertinent question was raised on the credibility of the transaction: Why was the new shareholder interested in selling his profit-making enterprise to a loss-making company? There was no doubt according to the Commissioner that the new

shareholder had set his sights on the company's tax avoidance assets.

2. **Effective control** - The Commissioner also found that it was strange for the old shareholder and directors of the company to agree tamely to sell their shares en bloc, thereby providing the new shareholder with absolute control over the company's share capital despite the prospect of the company taking over a profitable business.
3. **Irregularity** - Further doubt was raised on the purported approval and signing of the option agreement by the new shareholder's wife for the company when she was not even a director of the company. This irregularity provided strong surrounding circumstances as to a pre-conceived scheme to avoid tax.
4. **Change of name** - The company changed its name after the new shareholders and directors took over. There is nothing wrong for a company to change its name, but taking the other circumstances into consideration, the name change further supported the argument that it was part of a web of tax avoidance.
5. **Witness** - Finally, neither the new shareholder nor any of the former shareholders or directors of the company were called to provide testimony that the transaction was genuine and primary mooted for commercial reason.

Participating in a partnership

As in other forms of business, an investment in a partnership also carries some business risk. Should the partnership suffer a loss, this loss would be shared among the partners according to their profit sharing arrangement.

Generally, there is no problem for the partners to use their share of partnership loss to offset their other business income. However, in the case of *ACM Partnership v Commissioner*, the Court found ample support that the partnership transactions generated only "phantom losses".

Valuation

Valuation is a combination of science and art. This combination has led to many disputes for the court to decide whether the valuation supplied by the DGIR, or the taxpayer is more suitable. A valuation by an independent valuation entity would therefore add credence to the valuation and thereby reduce potential disputes with the DGIR.

Tax strategy

Taxpayers are constantly required to weigh the pros and cons of their actions in order to make the right choice. Broadly, disputes can be resolved at three different stages:

1. **Implementation stage** - This stage is considered the most important stage to ensure that the proposed transaction can be implemented successfully free of tax disputes. Firstly, the taxpayer should ensure that the transaction would clear the business test hurdle. Most cases fail because of their records, so the significance of proper documentation can never be over

emphasised. Also, it is good business and tax practice to conduct a due diligence of the business you are acquiring or amalgamating to examine business risks and profit potential, independent of tax benefits. The opinion of a reputable advisor is also useful.

2. **Tax audit and appeal stage** - At this stage, the taxpayer should be aware of the significant tax planning transactions which are potential for tax audit. This means the taxpayer has to be familiar with the relevant documents involved in the planning. During the audit and appeal process, keep the lined of communication open with the auditors and work towards co-operative solutions. The taxpayer should be in the position to respond to any queries raised in a timely and co-operative fashion. Be realistic and flexible in resolving any disputes. And finally, establish a reputation for honesty and maintain credibility to enhance the prospects of settlement.
3. **Litigation** - On this matter, I choose to remain silent as it is an area I am not trained in.

Conclusion

Credibility is difficult to be quantified and documented. Perhaps, the credibility of humans will always remain a mystery. This imperfection makes life more interesting.

OECD Says U.S. States Should Impose Sales Tax on E-Commerce

The OECD released its 2000 economic survey of the United States the week of 8 May that suggests the U.S. states impose sales taxes on e-commerce and mail-order sales and says the lack of those taxes distorts the proper economic distribution of resources.

Background

The OECD reports that the recent growth in U.S. tax revenues is attributable primarily to changes in the distribution of income. Many individual taxpayers have entered higher tax brackets in recent years, causing 22 percent of the revenue gain. Increases are also attributable to withdrawals from tax-exempt savings accounts, contributions to private pension plans, and low growth in deductions because of a decrease in interest rates.

Debt Paydown

According to the survey, U.S. federal, state, and local tax revenues continue to rise. A revenue surplus of 1.25% of gross domestic product is predicted for the general government sector in 2000, and gross government debt may fall to 61% of GDP, a decline of almost 15% in the last seven years. State and local

governments are also enjoying tax surpluses that they use to lower tax rates.

The report notes that policymakers in the United States are debating whether to lower taxes or raise spending. The OECD recommends that the United States does neither, suggesting instead that it use surplus revenues to pay down the federal debt to prepare for increased spending on social security and Medicare in the future.

Mail-Order and E-Commerce Sales Tax

The OECD recommends the states impose sales tax on both mail-order and e-commerce sales. U.S. mail-order sales in 1999 amounted to US\$55 billion, most of which was free of tax. The survey notes that although e-commerce represented less than 0.6% of private consumption outlays in 1999 (or US\$36 billion), growth in e-commerce could lead to a sizable loss of sales tax revenues for state and local governments.

Imposing a tax on mail-order and e-commerce sales is feasible because new technology has enabled governments to

attribute sales and purchases to dealers and consumers. According to the OECD, the absence of a sales tax on the sales "represents a distortion that could divert greater resources into such activities than would be justified on economic grounds."

Taxes and Environment

Even though the survey found that the "cap and trade" method has been successful in the United States, it warns that the United States needs to take more steps to reduce emissions from vehicles. It can either continue with the cap-and-trade approach, or impose a tax on carbon-based fuels, including gasoline. If the United States opts to increase taxes, that increase would translate to a gas price increase of between 3 and 70 cents per gallon.

The OECD also recommends the United States impose a low-level tax on excess-nutrients, a tax on fertiliser use. It first recommended the tax in 1996, but it was never implemented because of opposition from farm and chemical lobbies. The OECD also said the U.S. decision to impose liability on past owners of superfund sites rather than paying for the cleanup with general tax

revenues has been inefficient, but has provided landowners and purchasers with an incentive not to pollute and to investigate possible past pollution.

EITC and Income Distribution

The OECD studied income distribution in the United States and noted that if the poverty rate is calculated before taxes and transfers are considered, the rate is low. However, if poverty rate calculations take taxes and transfers into account, the rates rise considerably. The report compared the effects of attempts to alleviate poverty by either raising the minimum wage or increasing the EITC and concludes that an EITC increase would be more effective because it would be guaranteed to go to poor families.

Many of the positive effects of minimum wage increases, on the other hand, would go to teenagers or part-time workers and not necessarily to poor families.

Budgets

2000 Federal Budget

The Clinton administration's 2000 budget proposal included increased discretionary spending funded by increases in the federal reserve's contribution to the budget, the excise tax rate imposed on tobacco, and new user fees. The proposal also includes new programs and tax cuts, including an expansion of the earned income tax credit, tax credits for college tuition,

retirement incentives for low- and middle-income families, a reform plan for the alternative minimum tax, and rules limiting the marriage tax penalty. The tax cuts will cost US \$5.9 billion, and the budget proposes to pay for them by closing tax loopholes.

The federal government may collect an extra US \$25 billion to US \$50 billion in tax revenue in 2000. Taxes on individuals (income and social security tax) were expected to rise 5.7 percent above 1999 levels, but during the first three months of the year they had already increased by 7.6 percent. Although the 2000 budget includes higher spending on Medicare and defense, greater tax revenues will create a budget surplus.

List of Relevant Tax websites world wide.

OCED	http://www.oecd.org/
New Zealand	http://ww.ird.gov.nz
Australia	http://assist.ato.gov.au
United States	http://www.irs.gov
Singapore	http://www.iras.gov.sg
Hong Kong	http://www.info.gov.hk/ird
Ireland	http://www.revenue.ie
Canada	http://www.rc.gc.ca/meu/EmenuZZZ.html
South Africa	http://www.sars.gov.za
Philippines	http://www.bir.gov.ph
United Kingdom	http://www.inlandrevenue.gov.uk/sa/
Malaysian Inland Revenue Board	http://www.hasilNet.org.my
Malaysian Royal Customs & Excise Dep.	http://www.customs.gov.my/
Malaysian Institute of Accountants	http://mia.org.my

"The Valuation Regulation"

By Jenny Lim

Custom duty is normally levied on goods imported into Malaysia or exported from Malaysia. In Malaysia, the customs duties is fix by the order of the Minister and may be at a specific rate or at an ad valorem rate i.e. at a rate propionate to the transaction value.

From the 1950's, the Brussels Definition of Value (BDV) was adopted by many nations (including Malaysia) to determine the transaction value and hence the custom duties. Under this method, a normal market price, defined as "the price that a good would fetch in an open market between a buyer and seller independent of each other", was determined for each product, according to which the duty was assessed. However, many traders were not satisfied with this method due to the lengthy time period taken by the customs officers to adjust the notional price of a good and as such, not reflecting price changes and competitive advantages of companies. Furthermore, there were difficulties in the determining the "normal price" of new and rare products.

In 1979, the Tokyo Round Valuation Code or Agreement on the Implementation of Article VII of the General Agreement on Tariffs and Trade (GATT), established a positive system of Customs Valuation based on transaction value to provide a fair, uniform and neutral system for the valuation of goods for customs purposes. This was followed on by the World Trade Organisation Agreement (WTO) on Implementation of Article VII

of the GATT 1994 (commonly called the Agreement on Customs Valuation) with the aim of providing objectivity and uniformity in determining customs duties among members of WTO.

The Customs (Rules of Valuation) Regulation 1999 ("the Valuation Regulations") came into force with effect from 1 January 2000 in Malaysia. The rules, based on the WTO Customs Valuation System, are the result of Malaysia's participation in the WTO Agreement.

The Valuation Regulations in Malaysia mainly provides six alternative methods for determining the customs value of an imported product, the sequence of priority of these methods, the various adjustments required to be made to the basic reported amounts and conditions guiding such adjustments.

Methods of Determination of Customs Value.

There are six methods of determining the customs value provided in the "Valuation Regulations".

The six methods must be applied in strict hierarchical order i.e. the later method can only be adopted of the previous is not possible. A choice however is given to an importer who may, at request, reverse the order of sequence in the case of methods (4) and (5) before commencement of the valuation.

The six method are:-

- 1) The Customs value based on transaction value of the imported goods which is normally the invoiced price. This price however is subject to prescribed adjustments and must not be constrained by *certain conditions or restrictions*;
- 2) The Customs value based on the transaction value of identical goods;
- 3) The Customs value based on the transaction value of similar goods;
- 4) The value deducted from the sale price of the goods in Malaysia
- 5) The value computed from cost of production (i.e. materials and manufacture); profit and general expenses and transport, insurance and handling charges as appropriate; and
- 6) A fall back method that sets out how the Customs value can be determined in cases where the value cannot be determined.

Transaction Value

Transaction Value is the primary basis of valuation under the WTO Customs Valuation System. When this basis cannot be adopted, then only the five other methods are considered in the prescribed sequence. It is the price actually paid or if no actual payment has been made, the price which is payable and it is normally shown in the invoice of the import of the product

Situations in which the transaction value will not be taken to be the customs value

were clarified in the Ministerial Decision of Marrakesh. Such situations are identified by a two-step process, briefly described below:-

- 1) Upon declaration of the transaction value, an examination will be carried out by the customs authorities.
- 2) If the customs authorities doubt the truth or the accuracy of the documents/particulars, they may ask for further explanations, evidence or documents. If, after further examination, there are still doubts, then the customs value cannot be determined on the basis of the transaction value.

Further to the above, the transaction value method will only be adopted if certain conditions (as listed under Regulation 4 (1) of the Valuation Regulations) are satisfied. Also, if the goods are not sold, (i.e. consignment sales, gifts, hire and lease transactions) transaction valuation cannot be adopted as there is no sale price.

Under Regulation 5 of the Valuation Regulation, certain adjustments, for instance; commission and brokerage, packing cost and charges, royalties and licence fees, etc., are added into the calculation of the transaction value. If information relating to these items are insufficient or unclear, then the customs authorities may reject the transaction value, and the next valuation method in the hierarchical order will be considered.

The Transaction Value will also not be accepted if there are doubts that the transaction was at arm's length. The importer would be required to demonstrate/ provide evidence to show otherwise.

Identical goods

Identical goods are defined as imported goods which :-

- (i) are the same in all respects, including physical characteristics, quality and reputation;
- (ii) were produced in the same country
- (iii) were produced by or on behalf of the person who produced the valued goods.

However, the goods incorporate or reflect engineering, development, artwork, design work, plans or sketches undertaken in Malaysia, they will not be considered as identical goods.

Similar goods

Similar goods are defined as imported goods that:-

- (i) closely resembled the valued goods in respect of components and characteristics, perform the same functions and are commercially interchangeable;
- (ii) were produced in the same country;
- (iii) were produced by or on behalf of the person who the goods are being valued.

Similarly, where the goods incorporate or reflect engineering, development, artwork, design work, plans or sketches undertaken in Malaysia, they will not be considered as similar goods.

Deduced Value

The customs value is deduced on the basis of the unit price at which the imported identical or similar goods are sold in the country of importation after the import has taken place. There are however, additional conditions on the timing of the sale in the importing country and the form in which the goods are sold after importation.

Computed Value

The computed value of the goods being valued is the aggregate of amounts equal to:-

- (i) production cost, including costs of materials, fabrication and processing;
- (ii) profit and general expenses usually reflected in sales for goods of the same class or kind produced in the exporting country for export to the importing country.
- (iii) necessary amounts for transport, insurance, loading, unloading and handling, depending on the practices employed in the importing country.

Fall back method

Where the customs value of imported goods cannot be determined under methods (1) to (5), the customs value shall be determined on information available in Malaysia on the basis of a value derived from the methods of valuation set out in methods (1) to (5) interpreted in a flexible manner and reasonably adjusted to the extent necessary to arrive at a custom value of the goods.

Conclusion

The new Customs Valuation System has brought about greater transparency in the Customs valuation practices. Compliance with the WTO Agreement also effected post clearance audit by Customs, which will now play a more prominent role. This will inevitably bring about greater compliance by importers. The WTO Agreement also brought about the mandatory requirement to keep records pertaining to the valuation of goods imported for up to a period of 6 years for postaudit purposes.

The views expressed in the article are the personal views of the writer.

EU Internet Commissioner Supports E-Commerce VAT Proposal

Erkki Liikanen, EU commissioner for enterprise and the information society, emphasized on 1 July the need for changing EU VAT rules on international electronic services to ensure a level playing field for Community businesses. Liikanen spoke at the Key Members' Conference of Europay International in Amsterdam.

Liikanen said the Commission's proposed VAT amendment wasn't designed to discourage the growth of Internet business but to ensure that companies in the European Union weren't trading at a competitive disadvantage in that area. "It means no Internet tax, but neutral tax," he said. In effect, the VAT proposal would allow EU businesses to sell electronic services abroad without taxation.

The following are excerpts from Liikanen's speech in Amsterdam in relation to VAT proposal:

"Two other major directives have been adopted. They will be implemented within 18 months of their adoption:

- * The first is the Directive on electronic signatures. It was adopted in November 1999. This means that a flexible, technology-neutral, EU-wide framework for e-signatures will soon be in place. It

will ensure the legal recognition, mutual recognition and free movement of e-signatures and certificates. It is a crucial building block for the development of e-commerce in Europe.

- * The second is the Directive on certain legal aspects of e-commerce, which was adopted last May. This is a landmark Internal Market directive based on the principles of mutual recognition, free movement of services and freedom of establishment. It addresses key issues such as the establishment of service providers, commercial communications, electronic contracts, and the liability of intermediaries.

This clears the way for the adoption of the remaining legal texts:

- * The third text is the modified Dual-Use Regulation, which was adopted only two weeks ago. The modified regulation will do away with most controls on intra-Community shipments of encryption goods. It will also put in place a general EU licensing scheme valid for exports to our major trading partners. It is worth noticing that there will be no compulsory technical review of strong encryption products.

- * Considerable progress has been made in the area of jurisdiction and applicable law. This particularly concerns the revision of the Brussels Convention. The proposed changes aim, in particular, to take account of the new technological context and apply the new rules, specific to consumer contracts. We have now reached agreement on a balanced solution protecting the interests of both consumers and operators.

- * Another crucial issue is indirect taxation. In certain countries, such as the United States, providers are exempt of sales tax on service exports. In the EU, businesses have to pay VAT on services that are exported outside of the EU. This puts them at a competitive disadvantage. To address this pressing issue, the Commission recently tabled a new Directive which aims to adapt the existing VAT regime - hereby creating a level-playing field in e-commerce taxation. The proposal would ensure that online services supplied for consumption outside the EU are exempt from VAT. It means: no Internet tax but neutral taxation.

- * Also fundamental is the rapid development of Alternative Dispute

Resolutions mechanisms - or ADRs - to address cross-border consumer complaints. A novel concept, ADRs have gathered support from all sides - industry, consumers and Member States.

ADRs are a specific aspect of a wider Commission approach: self-regulation. The Commission backs self-regulation as a flexible, efficient and cost-effective alternative - or complement - to regulation in many areas. It achieves the same results without the delays of a time-consuming lawmaking process. Of course, certain conditions must be met.

Self-regulation must be in conformity with, and backed by law. It must be enforceable and verifiable.

Until recently, regulation and self-regulation were often seen as diametrically opposed. But the Internet economy has changed that. The speed of technological change calls for innovative and flexible regulatory approaches. This has led to a high degree of consensus on this pragmatic approach.

A major development in this respect is the concept of "cooperative approach to

governance" - or "co-regulation". Co-regulation takes self-regulation one step further. Beyond the mere coexistence of regulation and self-regulation, it implies the sharing of responsibilities between public and private partners.

When we launched eEurope, we knew that Europe had great potential and numerous assets. But there was no sense of urgency. And the vision was lacking. This has changed. The Lisbon Summit identified the real issues. And the Feira Summit gave us the means to reach our ambitions. Europe is now on the right track."



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Malaysian Institute of Accountants

(Established under the Accountants Act 1967)

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(Only shortlisted candidates will be notified)

Singapore Offers Tax Incentives

Singapore is offering a wide range of tax incentives and advantages that may attract an expanding multinational seeking a location for its Asian regional headquarters or an Internet start-up establishing a business for the first time.

The Internet has radically altered the rules of geography for the new economy. No longer is it essential for a bookstore or a travel agent to be physically located near its customers. An e-business can choose to locate in a tax-efficient jurisdiction and sell its products or services over the Internet to customers on the other side of the globe.

Tax havens and low-tax jurisdictions such as Samoa, the Cayman Islands, and Hong Kong are tempting locations, but they suffer from some drawbacks. They typically lack tax treaty networks and can't provide important treaty benefits, such as reduced withholding tax rates and competent authority relief. Companies incorporated in those jurisdictions may also be subject to greater scrutiny by tax authorities and be accorded less-favorable tax treatment. For example, under Japan's anti-tax-haven legislation, if a company is regarded as a "designated tax haven subsidiary," its undistributed income must generally be reported currently by some of its Japanese shareholders.

In light of the tougher stance that many governments are adopting against tax havens, an e-business may benefit by locating in a jurisdiction such as

Singapore. Although the 25.5% corporate tax rate in Singapore is higher than that of a tax haven, Singapore offers a wide range of tax incentives and advantages that may be attractive to an expanding multinational seeking a location for its Asian regional headquarters or an Internet start-up establishing a business for the first time.

Tax Incentives

The statutory underpinning for most of Singapore's tax incentives are in the Economic Expansion Incentives (Relief from Income Tax) Act (EEIA) and the Income Tax Act (ITA), but the statutes provide only broad parameters. Government bodies — in particular, the Economic Development Board and the Trade Development Board — have wide discretion to administer tax incentives.

Whether, and what kind of, tax incentives are granted is decided on a case-by-case basis and can vary depending on how much the applicant can bring to the country in terms of business spending, jobs, technology, know-how, and other benefits. /6/ The guidelines are vague, and the government doesn't publish all of them. A business should hold preliminary discussions with the relevant government body before filing a formal application.

Pioneer Status

The most desirable tax incentive is probably pioneer status. A company that receives pioneer status will enjoy a tax

holiday of 5 to 10 years during which it will be exempt from income tax. /7/ Pioneer status is granted to companies that manufacture pioneer products, /8/ as well as companies that engage in qualifying activities. /9/ Under current administrative policies, e-businesses — which are often service companies — may find it difficult to achieve pioneer status.

Development and Expansion Incentive

Under the development and expansion incentive, the government taxes a company at a concessionary rate of not less than 10 percent on "expansion income" derived during its tax relief period from qualifying activities. /10/ The tax relief period, including any extensions, can run up to a maximum of 20 years. /11/ Qualifying activities include engineering or technical services, such as R&D activities, computer-based information services, and other computer-related services. /12/

The incentive is available both to companies that haven't qualified for pioneer status and companies whose pioneer status has expired. For a new company, all income from qualifying activities may constitute "expansion income" that qualifies for the concessionary tax rate. The government calculates "expansion income" for each year by comparing the amount of income from qualifying activities in that year with

the average income from the qualifying activities during the three-year base period immediately preceding the commencement day for the incentive. /13/

Approved Cybertrader Scheme

To promote Singapore as a center for e-commerce, the government announced a new, approved cybertrader scheme in the fiscal 1998 budget. Under the scheme, the government will grant a concessionary tax rate of 10 percent or another rate for offshore trading income that approved companies derive from qualifying transactions over the Internet. /14/ Approved companies can also receive an investment allowance of up to 50 percent of the cost of qualifying new fixed investments, and full or partial exemption from withholding tax on qualifying payments. The government will grant the incentive for a period of five years. To qualify for the incentive, a company must meet the Trade Development Board's criteria for qualifying companies and transactions.

Employee Stock Option Schemes

Employee stock options usually play a key role in compensation packages offered by Internet start-ups, as those companies attract talent by offering employees stock options in lieu of high salaries. Singapore introduced a new entrepreneurial employee stock option scheme, effective June 1. /15/

Singapore generally deems gains realized on the exercise of employee stock options as income that is taxable in the year in which the options are exercised. /16/ Under the scheme, the government will grant a 50 percent income tax exemption for up to SGD 10 million of gains from the exercise of employee stock

options over a 10-year period.

For example, if an employee exercises stock options and realizes gains of SGD 1 million in Year 1, 50 percent, or SGD 500,000 of the gains, will be exempt from tax. Over the next nine years, the employee can receive a 50 percent tax exemption for SGD 9 million of further gains. Based on the top marginal personal income tax rate of 28 percent, an employee can enjoy total tax savings of up to SGD 1.4 million under the scheme.

The scheme is available to both listed and unlisted companies. To qualify, a company must incorporate and conduct business activities in Singapore, and its gross assets can't exceed SGD 100 million. The employee must work at least 30 hours per week for the company. If the employee works less than 30 hours, the employee must spend at least 75 percent of the total working time per week with that company. The employee cannot be a nonexecutive director and cannot control 25 percent or more of the company's voting rights.

Stock options granted by a parent company under a group employee stock option plan may also qualify under the scheme. The parent company must incorporate and carry out business activities in Singapore; the aggregate market value of the gross assets of the parent company on a group basis at the time the options are granted cannot exceed SGD 100 million; the employer company must satisfy the requirements of a qualifying company; and the employer company cannot separately operate its own employee stock option plan. Stock options in a foreign parent company aren't eligible under the scheme.

An employee who receives a 50 percent tax exemption on employee stock option gains under the scheme may — under a different scheme, the qualified employee stock option plan scheme — apply to defer tax payment on the remaining 50 percent of the gains for up to five years, subject to an interest charge at prime rate. /17/ The scheme also provides detailed rules regarding vesting periods, discounted stock options, and other issues. /18/

Singapore also plans to announce in next year's budget an employee stock option scheme for larger and more established companies. /19/

Headquarters Schemes

Singapore is a popular location for Asian regional headquarters. It offers several attractive tax incentive schemes for headquarters, including the operational headquarters (OHQ), business headquarters (BHQ), and global headquarters (GHQ) schemes.

A headquarters company carries on a business in Singapore that provides management, technical, or other supporting services to its offices or associated companies outside Singapore. Cost centers may apply for OHQ status, whereas profit centers may apply for BHQ status, if they meet certain criteria. An OHQ may receive tax benefits, such as a 10 percent or other concessionary tax rate for income from approved services, interest and royalties, and tax exemption for qualifying foreign dividend income received in Singapore. A BHQ may qualify for tax benefits, including one or more of the following: pioneer service status, a concessionary tax rate of not less than 10 percent on expansion income under the development and expansion incentive,

an investment allowance of up to 50 percent of the cost of qualifying new fixed investment, full or partial exemption from withholding tax on approved royalties and interest from approved offshore loans, any other tax incentive under the EEIA, and tax exemption for dividend income received from offshore companies. The government grants the incentive up to 10 years initially and may extend it. /20/

Under the GHQ scheme, the government gives a full tax exemption to an OHQ that performs at least one substantive global function in Singapore regarding its qualifying income. /21/

Other Tax Incentives

Other tax incentives that may be useful to e-businesses include the following:

- o An unlimited carryforward period for qualifying losses. /22/
- o Accelerated depreciation of plant and equipment; for computers and automation equipment, the government gives a 100 percent depreciation allowance in the first year. /23/
- o An investment allowance of up to 100 percent for plant and equipment, and acquisition of know-how or patent rights if an e-business engages in approved activities. /24/
- o Foreign tax credits available under Singapore's extensive system of tax treaties /25/ or under the Commonwealth income tax relief system, /26/ or via unilateral credit for qualifying categories of income in cases where Singapore has no tax treaty with the taxing jurisdiction. /27/
- o A complete tax exemption or reduced tax on approved royalties, technical

assistance fees and R&D cost contributions received by nonresidents from a Singapore company. /28/

- o Various tax incentives for R&D activities, including double deductions for expenditures on R&D activities for qualifying computer software development and other computer-based information services, /29/ and a write-off of R&D expenditure under an approved cost-sharing agreement over five years or a shorter period as may be approved. /30/
- o A 90 percent tax exemption for qualifying export service income. /31/
- o Offset of losses on the sale of shares or the liquidation of venture, technology investment, or overseas investment companies against the investor's other taxable income. /32/
- o Loss deductions and capital allowances on qualifying investments in new technology companies. /33/
- o Double tax deductions for expenses incurred in relocating or recruiting expatriates. /34/

Other Tax Considerations

No Capital Gains Tax

Singapore has no capital gains tax. However, it may be difficult to determine whether an item constitutes a capital gain or ordinary income. /35/

Flow-Through of Dividends From Subsidiaries

A Singapore company may flow through dividends that it receives from its foreign subsidiaries to its foreign parent free of

Singapore income tax /36/ if the distributions are managed properly. Foreign tax credits may be available under income tax treaties /37/ or domestic tax law provisions /38/ for both foreign withholding taxes on the dividends and underlying foreign corporate tax on the profits from which the dividends are paid, if certain conditions are met.

Tax Treaty Network

Singapore has an extensive tax treaty network with 40 countries, including the U.K., France, Germany, the Netherlands, Japan, and many other Asian countries. The network makes Singapore a good base for Asian regional operations. Notably, Singapore has no comprehensive income tax treaty with the United States, /39/ but it was reported that the two countries entered into treaty discussions last year. /40/

Some treaties contain very favorable provisions, such as tax sparing /41/ and full exemption or reduced withholding tax rates on dividends, interest, and royalties. For example, Singapore-source royalties paid to a Dutch resident are generally not subject to Singapore withholding tax under the Singapore-Netherlands treaty, /42/ and dividends paid by a 25 percent-owned Japanese subsidiary to a Singapore-resident parent can receive a 5 percent reduced Japanese withholding tax rate under the Singapore-Japan treaty if certain conditions are met. /43/ A taxpayer may also be able to apply for relief from double taxation under mutual agreement procedures set out in a treaty. /44/

U.S. Check-the-Box Regulations

A Singapore private limited company is eligible to elect noncorporate status for U.S. tax purposes under the U.S. check-the-box regulations — in other words, it

can choose to be classified as a partnership if it has at least two shareholders, or be disregarded as an entity separate from its owner if it has a single owner. /45/ It is possible to have a hybrid structure whereby a private limited company receives corporate treatment for Singapore tax purposes and noncorporate treatment for U.S. tax purposes. /46/

A private limited company must become a public limited company before it can make an initial public offering. A private limited company cannot have more than 50 shareholders. It is also subject to restrictions on the right to transfer shares and can't invite the public to subscribe to its shares. /47/ Public limited companies are treated as per se corporations for U.S. tax purposes. /48/

In certain circumstances, with proper planning and structuring, a company may avoid the limitation even in the context of an initial public offering of a Singapore company.

Nontax Advantages

Nontax advantages that Singapore offers include the following:

- o excellent infrastructure for e-businesses;
- o an attractive location for expatriates and a local pool of skilled workers;
- o possible co-investment by the Singapore government through the US \$1 billion Technopreneurship Investment Fund and other possible funds in the future;

- o listing on the Singapore Exchange's main board or Sesdaq (equivalent of Nasdaq); and
- o pro-e-business government policies, as exemplified by training grants under the initiatives in the new technology scheme /49/ and 50 percent subsidies under the total business planning incentive scheme for costs of engaging e-business consultants. /50/

Conclusion

Singapore can offer several possible advantages over tax havens and low-tax jurisdictions such as Samoa, the Cayman Islands and Hong Kong. An e-business should carefully weigh all the tax and nontax factors that are relevant to it before deciding where to locate.



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MEMORANDUM TO THE MINISTER OF FINANCE ON THE NATIONAL BUDGET FOR THE YEAR 2001

Towards Improving Productivity And Economic Competitiveness And Promoting A Knowledge Based Economy

A Fiscal Perspective

PREAMBLE

In response to the invitation of the Ministry of Finance, the Malaysian Institute of Accountants (MIA) and the Malaysian Institute of Taxation (MIT) as partners in nation-building are pleased to submit this Memorandum which we believe will contribute to achieving this year's threefold theme of **"accelerating economic growth, enhancing competitiveness and improving the quality of life"**.

First of all, we would like to congratulate the Malaysian Government for putting in place effective measures to safeguard the national interests as well as engineering the remarkable economic recovery. The first quarter economic growth of 2000 of 11.7% and improving macroeconomic fundamentals (e.g. strong international reserves, healthy current account surplus of the balance of payments, low and stable inflation, etc) are testimonies of the success that the Government, together with the

co-operation of the private sector, has achieved thus far. The buoyant export sector has also contributed to the economic turnaround.

Notwithstanding the encouraging economic performance, our country should brace itself for the challenging times ahead, even as the nation seeks to transition from a production-based economy to a knowledge-driven one. These challenges include the rapid changes in the ways businesses are being conducted via the Internet. There is also the challenge of liberalisation and globalisation where the developed countries and big foreign multinationals seek to dominate the economies of the smaller and weaker developing countries.

Undoubtedly, the challenges in the 21st Century are imposing, especially with the big advantage that the developed countries enjoy, be it in their financial muscle, sophisticated information and communication technologies (ICT), advanced research

and development (R&D) capabilities, world-class universities, huge reservoir of 'brain power', marketing savvy and ability to exert a significant influence over key international institutions (e.g. International Monetary Fund (IMF) and World Trade Organisation) to their advantage.

In recognition of these challenges, this Memorandum seeks to offer ideas and proposals to face the future with a fight. Indeed, responding strategically is of paramount importance for the socio-economic and political well-being of our country.

Beyond this, however, we should be mindful that there are opportunities that come with challenges. It is here that **we would need to take stock of our situation and fine-tune or implement effective policies that will transform Malaysia into a competitive nation to be reckoned with.**

The MIA/MIT would like to propose the following micro measures :

I ACCELERATING ECONOMIC GROWTH

1. Higher Manufacturing Content

One of the keys to accelerate economic growth will be a broad-based expansion in the manufacturing sector. Fundamental to growth of our manufacturing sector is a move towards higher value-added activities.

To this effect, the we **propose that a "double deduction" be given on the acquisition of patents, designs, models, plans, trade marks or brands and other similar rights by a Malaysian resident.**

We firmly believe that the double deduction will promote domestic industries to acquire "intellectual property" that will be exploited to enhance the value of a manufactured product and indirectly move from an assembly driven-industry to a more "product-development" industry with a higher value-added content.

2. Reduce Tax Rates

A reduction in tax rates is one principal factors to spur economic growth.

a Reduce Corporate Tax Rates

Our current tax regime is one of the most harmonious tax systems in the region, with competitive tax rates and a wide range of incentives and promotions for tax residents. This is due largely to our

Government's policy on an open market economy and proactive fiscal incentives.

Nevertheless, we cannot and must not be complacent of our position.

To this effect, we propose that our corporate tax rate be reduced from 28% to 26%, so as to sustain or improve Malaysia's global and domestic edge as well as spur our corporations to new and greater commercial heights.

We acknowledge that the Government is concerned about the impact of revenue collection if there is a reduction of tax rates. However, in the pre-recession economic period of the mid-1990s, there was a significant reduction of the corporate tax rate by 4% within a time-frame of two years. Yet, statistics have shown that there was an improvement of the total Federal Government revenue received from corporations and an increase in Gross Domestic Product (GDP).

Thus, a reduction of the corporate tax rates will directly or indirectly:

- i Spur new investment expenditure as the rate of return on investment increases, and importantly, it will improve the competitiveness of Malaysian businesses in the world markets.
- ii Attract new investments and significantly improve

price competitiveness, which has risen due to factors such as increased labour costs, etc.

- iii Leave more money in the hands of corporations and individuals.

Further, whilst a reduction in corporate tax rates will translate with less direct taxes due, but it will eventually increase the overall tax base.

b Variation of Chargeable Income Bands for Individuals

Apart from a reduction of corporate tax rates, a review should be carried out on the personal income tax brackets, which have not changed since 1995. Hence, a high tax on employment income will significantly contribute to a 'brain drain' of our skilled workers to other countries.

In view of the above, we propose that, to promote retention of skilled workers, either:

- i **Reduce the maximum individual tax rate to 28%; or**
- ii **Amend the individual tax brackets so as to reflect current social and economic fundamentals as follows:**

%	Chargeable Income				Tax Payable (cumulative)		Average Salary per Month	
	Current		Proposed					
	Band	Total	Band	Total	Current	Proposed	Current	Proposed
0	2,500	2,500						
1	2,500	5,000						
3	5,000	10,000						
5	10,000	20,000						
9	15,000	35,000	15,000	35,000				
15	15,000	50,000	45,000	80,000	4,275	6,750	4,833	7,333
20	20,000	70,000	70,000	150,000	8,275	20,750	6,500	13,167
25	30,000	100,000	50,000	200,000	15,775	33,250	9,000	17,333
28	50,000	150,000	150,000	350,000	29,775	75,250	13,167	29,833
29			>100,000	>350,001				

The lowering of tax rates and widening of tax brackets will not necessarily reduce the total revenue from direct taxation. Such measures will ensure a stable workforce and provide incentives for people to produce more and to work harder. Consequently, our Government will collect more tax than before. Thus, a lowering of tax rates is a significant vehicle to accelerate economic growth of the country.

3. New Areas of Business

The theme for the Budget for 2001 is accelerating economic growth, after undergoing a remarkable economic revival. However, a nation's fiscal policy is a fluid agenda; new sources of growth must be adopted to diversify the economy.

We propose that, as part of its proposal for accelerating economic growth, the *fiscal policy in 2001 takes into consideration, the ebbing effect of electronic commerce (e-commerce) on future domestic businesses.* However, e-commerce in Malaysia is still much in its infancy. There is much to be done, especially in terms of the regulatory framework, Government incentives, consumer education and public awareness such as :

i Need for a Domestic and International Framework

Governments can have a profound effect on the growth of commerce on the Internet. Their actions can facilitate or inhibit it.

We propose that a working group or task force be instituted to deal with the issues of e-commerce in Malaysia, and to prepare an initial paper or framework on tax and e-commerce. MIT/MIA are willing to contribute our experience and knowledge to such a working group.

ii Private Sector Needs to Lead

E-commerce should be driven by the private sector.

As an immediate measure, propose that a "double deduction" be allowed for corporations creating and maintaining a website.

Under current tax legislation, companies incurring expenditure in creating their own "websites" on the Internet would be eligible to claim an accelerated capital allowance on the software purchases and services. Nevertheless, a company's website is a fluid matter, a website must be consistently maintained and updated as to maintain with the company's current policy, as well as with the IT updates of the period. A double deduction on the total cost to maintain or create a website will promote Malaysian companies to venture into e-trade by launching individual websites and directly increase the level of participation of Malaysian companies on the Internet.

iii More Funding to Promote Awareness Among Lower-income Families

Public funding is much needed to encourage the local States and constituency to organise and provide the lower income families with access to computers and the Internet and training in its usage.

- *Deduction for Computers*
We propose that a RM4,000 deduction be allowed by an individual acquiring, upgrading or replacing either

computer hardware or software for personal use. This RM4,000 deduction may only be claimed once in every two years.

A single RM400 rebate is an insufficient incentive to promote the acquisition and use of computers among the people, as computer software and hardware must be upgraded periodically and maintain, so as to ensure compatibility and performance.

● *Amendment to Section 44(6)*

We propose that the deduction under Section 44(6) be extended to include gifts of computer equipment, software and computer peripherals to a "school or an education institution" approved by the Ministry of Education or any other relevant authority.

A change of Section 44(6) to include donations of equipment or software would be an inducement for entities to donate their redundant computers systems to rural schools, and increase the level of IT exposure among the lower income families. This will also be in line with the Government's drive towards a "Knowledge economy" as well as encourage the private sector to be more

involved in Government policies.

4 Build up Infrastructure

An acceleration in Malaysia's economic growth should be matched with a simultaneous development of the basic economic needs such as :

- a A skilled labour force.
- b Sustainable infrastructure (electricity, water, food, etc).
- c Sufficient workers for industries.

In this aspect, we propose the following:

a **Individual Deduction for Child-care Facilities and Kindergarten to Reduce Labour Shortage**

There was an increase in the number of job vacancies of 45.2% in 1999. The manufacturing sector accounted for 61.1% of the total number of vacancies reported in 1999.

As an immediate measure to alleviate the shortage of labour, we propose a total deduction of up to RM2,000 be allowed by individuals engaging an approved kindergarten and child-care facilities for their children.

The above deduction will induce qualified or skilled individuals to engage professional people to attend to their children, and this will release the "home parent" to return to the workforce and consequently increase the per capita income of the family.

This will also reduce the number of job vacancies available, and hence reduce Malaysia's reliance on foreign labour.

This incentive will also indirectly promote a K-economy, as these educational facilities will be entrusted to teach the "child" the 3R's (Reading, Writing and Arithmetic) at an early age.

b **K-economy**

Apart from a consistent workforce, Malaysia's future also lies with a skilled labour force. Our economy must now be steered towards a new phase of development, with strong emphasis on knowledge skills, innovation and R&D, i.e. with the growth strategy shifting first from investment-driven to productivity-driven growth, and then from a production-based economy towards knowledge-driven one.

In this regard, we propose the following:

i **Course Relief for Individuals**

Currently, under Section 46 of the Income Tax Act, 1967 (ITA), an individual is allowed a tax deduction of RM2,000 on fees expended for any course of study for the purpose of acquiring technical, vocational or institutional skills.

We propose that a relief of RM2,000 per annum be allowed for a resident

individual undertaking any course from a school or institution approved by the Ministry of Education.

In light of the policy shift towards K-economy, the Government should not limit the areas of "learning" to technical, vocational or institutional subjects, but could do more to promote the "lifelong learning" concept in our society.

- ii *Amendment of Guidelines on Applications for Double Deduction for Research and Development Expenditure*
- Additionally, in light of the liberalisation of services under the General Agreement on Trade and Services (GATS) accord, there is an urgent need to make our services sector more dynamic, so as to face the challenges of liberalisation. **Therefore, we further propose that the Guidelines on Applications for Double Deduction for Research and Development Expenditure be amended to remove point 3.3.1 (ii) "research in the social sciences or the humanities" as this will restrict creative ventures in these areas of learning.**

We need to induce creative thought of our social

sciences and humanities (accountancy, auditing, taxation, law, etc), as these areas form an integral backbone of the services industry.

5. Strengthen Domestic Infrastructure

The Malaysian economy is expanding, with numerous projects being undertaken by the Government in anticipation of the demands of the new millennium, for example, Light Rail Transport, Kuala Lumpur International Airport and many more.

Nevertheless, Malaysia should also give adequate attention to the agriculture sector, lest our country become more dependent on imported agro-based products, with implications for the balance of payments, food security, etc.

Therefore, we would like to propose the following :

a **Improve Local Agricultural Output**

There is a serious deficiency in Malaysia's total food production, reflected in the value of imported food products rising by 1.7% to RM4.8 billion in 1999.

Although, the agricultural sector enjoys a wide range of incentives under Malaysian legislation such as Pioneer/ Investment Tax Allowance, Re-investment Allowance and even "Group Relief", Malaysia is still unable to cultivate enough produce to meet the domestic demand.

We, therefore, propose that Schedule 4A be amended to include the following projects as an approved agricultural project.

	TIME-FRAME (NUMBER OF YEARS)	HECTARAGE
Cultivation of vegetables, tubers & roots	3	40
Cultivation of herbs & spices	3	40
Cultivation of crops for animal feed	3	40
Cultivation of hydroponics-based projects	3	40

The above incentive will benefit companies undertaking large-scale commercial agricultural projects with a short-term investment and revenue-gestation period.

b **Streamline Capital Allowances**

As mentioned above, under most agricultural projects, there must be crop rotation, so as to maintain soil integrity. Furthermore, under common agricultural management, **alternative** crops may be **cultivated** in between seedlings, which will help to control erosion and supplement revenue.

Consequently, we further propose that capital allowances under Schedule 3 of the Act arising from agricultural projects be deemed to be of "one source" and deductible against any profits arising from any

other agricultural project.

To illustrate, the allowances arising from the cultivation of "vegetables" shall be eligible for deduction against an income arising from the cultivation of "banana" project.

This proposal will streamline claiming the allowances for agricultural projects and indirectly introduce companies to venture into alternative agricultural projects, as capital allowances from one agricultural project can also be deducted against the profits of any other agricultural project.

c Deduction for Agricultural Expenditure

In last year's budget, it was proposed that all operating expenditure, including payments to consultants related to the usage of Intellectual Property in improving management and production processes be allowed as a deduction in the computation of income tax.

We propose that the deduction include "management, production and agricultural processes be allowed as a deduction"

The introduction of automation in our agricultural processes will reduce the amount of labour required per farm, as well as improve crop yield per hectare.

II ENHANCING COMPETITIVENESS

To improve Malaysia's international competitiveness, there is a need to improve efficiency in every aspect. To this purpose, we propose the following :

1. Deduction on Consultancy Services Rendered to Increase Overall Productivity

To enhance the productivity process, we propose a **"double deduction" on expenditure incurred by a company engaging a "resident consultant" to review and improve the company's management and operational efficiency. The improvement must result in an overall increase of the company's output in either the year the double deduction is claimed, or in the subsequent year the double deduction is claimed in the tax computation.**

The double deduction incentive will induce companies to engage independent consultants to evaluate and improve the entities output processes and this will directly increase productivity.

Further on this point, we propose that companies undertaking the above business activity of "systems analysis" should be included as a promoted activity under the Promotions of Investment Act (PIA). This will induce the domestic services industry to venture into the business activity of system analysis and productivity consultancy, and will encourage the industry to move into another area of consultancy.

2. Remove Bonus Restriction

Bonus restriction was re-implemented in 1998.

We propose that the two-month bonus restriction be removed to improve efficiency, as well as retain or attract qualified workers.

We firmly believe that the time is opportune to remove the above bonus restriction, which will indirectly drive our human capital to new heights of productivity, as payments will commensurate with the degree of work.

3. Group Relief

The Second Industrial Master Plan (1995-2005) sets out a more integrated approach to industrial development in the use of the cluster-based paradigm. The cluster-based approach focuses on supplies of raw material, distribution, packaging and marketing to move industries from original equipment manufacturing to higher value-added activities that include indigenous design and branding. Fundamental to this approach is the recognition of a "group of companies" as a single interacting-cohesive entity, so as to enhance the competitiveness of the above selected clusters.

To effect the above cluster concept, we propose that Schedule 4C be extended to include companies undertaking the following business activities:

- a Manufacturing industry
- b Finance industry
- c Trading industry
- d Property industry

We further propose that the restriction on group relief be removed in 2005 to improve efficiency of our industries.

4. Streamline Services Industry

a Sales and Service Taxes on Bad Debts

Presently, vendors of taxable goods and services are required by legislation to shoulder the burden of sales and service taxes in respect of sale of goods or services, irrespective of whether the payments have been collected. This has caused undue burden to taxpayers as in a time of credit squeeze, payments are slow if not actually bad.

We propose that the relevant Acts be amended to allow taxable person to claim bad debts in computing sales tax payable, i.e. net-off sales and service taxes which have been paid on bad debts against those collected and due to remit within the taxable period.

b Service Tax on Management Services

It is the Government's policy to enhance efficiency and competitiveness of Malaysia's exports in the global economy.

Therefore, we propose the following:

- i To improve the competitiveness of Malaysian industries and reduce their costs of operations, we propose that the turnover

threshold for management services be increased to RM500,000.

- ii Alternatively, we propose that the service tax levied on "intra-group" management services rendered be removed to enhance group efficiency.
- iii Further, as another means to promote the Malaysian Multimedia Super Corridor (MSC) project, we propose that the service tax levied on management services rendered between companies under the MSC be removed.

The removal of service tax will improve inter-group efficiency and promote competitiveness.

III IMPROVING QUALITY OF LIFE

In relation to improving the quality of life, we propose the following:

1. Environmental Protection

We must learn to utilise our natural resources in the most efficient way, so as to benefit the greatest number of people for the longest period of time.

As such, we propose that a "double deduction" be given on expenditure incurred by a company for the sole or dominant purpose of:

- a Preventing, combating or rectifying pollution of the environment by the taxpayer's business or on the site of that

business; or

- b Treating, cleaning up, removing or storing waste produced by the Company's business or on the site of that business.

and the double deduction shall not apply to expenditure on buildings, structures or capital expenditure.

The above double deduction would induce companies to initiate corrective measures to prevent, combat or rectify pollution in the area of the business activity.

2. Deduction of Interest Payments for Individuals

We should strengthen efforts to reinvigorate the construction industry and encourage banking institutions to give more loans to individuals, thereby strengthening the financial industry.

We propose that the mortgage interest paid on a loan to purchase the main residence or "home loan" will be eligible for income tax relief of RM10,000 per annum.

This is further restricted to the loan taken for the purchase of the property used as the only or main residence at the time the interest payments are made.

This proposal will relieve the burden of a taxpayer acquiring landed property for the purposes of residence, as well as an added stimulation to our housing industry. The limit of RM10,000 will also ensure that the relief will be mainly enjoyed by the lower income bracket

of taxpayers, which is in line of the Government's policy of helping the lower income bracket to acquire homes.

3. Safety and Health Awareness

Based on the 1997 Profit & Loss report, approximately 31.2% of the total contributions received by the Social Security Organisation (SOCSO) was distributed as benefits to members, 24.4% was used in investments and administrative expenditure, with a surplus of RM558,828,748 (or 45.4%) carried forward for future utilisation.

We propose that in light of the high surplus carried forward and the rise in the cost of living, SOSCO should undertake to either:

- a Increase the level of benefits, and/or
- b Reduce the amount of subscriptions.

We further propose that the expenditure for Promoting Occupational Safety and Health be increased to effect a greater awareness of safety and health.

We believe that SOCSO should invest a greater sum in promoting occupational safety and health, so as to be more proactive in promoting the prevention of accidents rather than being reactive, i.e. focusing on cure. The proactive approach will reduce the number of accidents in future and indirectly reduce the amount of benefits to be paid to injured members.

IV OTHER PROPOSALS

We wish to highlight the following :

1. Liberalisation of Services

One of the terms contained in the General Agreement on Trade and Services (GATS) is the reciprocal recognition of professionals and cross-border practices. Currently, Malaysia does not have any single body that is able to represent the tax profession.

We believe that it is essential that the Malaysian Institute of Taxation be acknowledged and recognised by the Government, as the main organisation representing and safeguarding the interest of the domestic tax practitioners who may have their livelihood affected by the terms of GATS.

As the year 2002 draws closer, there is an urgent need to identify an organisation which would be able to negotiate on behalf of all tax agents or we shall be silently set aside by foreign elements.

2. Administrative Proposals under "Sistem Taksiran Sendiri" (STS)

a Certainty in Operations

The fundamental principle of the new self assessment tax regime is trust between taxpayers and authorities.

We believe that there should be greater certainty of the policies maintained by Lembaga Hasil Dalam Negeri (LHDN), so as to enhance greater goodwill and co-

operation among the authority, tax agent and taxpayer.

b Concessions under STS

In light of the difficulties of STS and STTS, there have been a number of concessions given to assist the taxpayer/taxpreparer in the transitional period. For example, the additional two-month extension to file one's return for 2001 and the filing dates of May, July and August for YA2000, etc.

Firstly, we wish to propound that these concessions and any future concessions instituted be codified under a legally binding order or ruling, so as to give these concessions legal credence. We hope that this proposal will mitigate the possibilities of unwarranted litigation in the event of a dispute on a concession given.

Secondly, we propose that the concession on the three times revision (6th month and the 2nd, 9th or 12th month) of the annual installment scheme be extended indefinitely as follows:

- i A company cannot simply estimate with any degree of certainty its chargeable income for the next six months as market forces are generally unpredictable.
- ii There is no provision for refund of overpayment of tax immediately before filing of a tax return.
- iii The effort and cost

involved in forecasting profits/losses for six months.

c Rebate on Overpayment

Further on the point of tax payments.

Under the new tax regime of "Self Assessment and Current Basis of Assessment System", a company shall furnish an estimation of tax payable to the Director-General not later than 30 days before the beginning of its financial year and may only vary the estimation in the sixth month. In the event the instalments paid on the estimation (revised or otherwise) is lower, then the company shall be liable to a penalty.

We are concerned that, with the introduction of the above procedural requirements on tax payments, the system is now favoring taxpayers to maintain some form of tax credit surplus with the LHDN.

To this effect, we propose that a "rebate" be given on the overpayment of taxes as:

- i incentive to encourage a taxpayer to pay his liabilities within the stipulated time; and**
- ii to compensate a taxpayer for the loss of use of funds.**

The rate of the "rebate" may be fixed by the authorities on an annual basis (i.e. 10% per annum), and will be computed

on a daily basis until such time the tax credit is refunded or utilised against any other forms of tax liability.

On the argument that such a rebate will interfere with the Government's cashflow, we further propose that the "rebate" is structured in such a way that it can only be used to set off or reduce other forms of tax liability.

We wish to express our concern that with the implementation of the new tax requirements under "Self Assessment and Current Basis of Assessment System" (i.e. pay first, offset later), commercial and economic vitality may be inhibited by the locking-down of funds due to administrative procedures on repayments.

In short, the taxpayer should be compensated for the loss of use of his funds by way of a rebate.

d Staggered Working Hours

Currently, certain government departments/agencies have adopted the policy of staggered working hours, i.e. starting from 7.30 am and ending at 4.45 pm, and working during lunch.

In light of the Government's concession that the first and third Saturdays be non-working days, the move towards staggered hours by these agencies has ensured that the common citizen has greater opportunities to

discharge Governmental responsibilities.

Therefore, we propose that the policy of staggered hours be adopted by all Government departments/agencies having direct dealings with the public, so as to ensure an uninterrupted flow of Government operations and improve administrative productivity as there will be a consistent flow of work.

3. Exemption for Compensation of Loss of Employment

During the recent financial crisis, many companies have downsized their operations. As a result, unemployment rate has increased due to retrenchment of staff. Paragraph 15(1) (b) of Schedule 6 of the Income Tax Act 1967 provides that payment by employer in respect of compensation for loss of employment shall be exempted in the hands of the employee up to an amount as ascertained by multiplying the sum RM4,000 by the number of completed years of service with that employer. We believe that it is time to review the exemption limit.

In line with the Government's policy of continuing with the equity and socio-economic agenda in helping the poor, we propose that the exemption under paragraph 15(1) (b) of Schedule 6 of the Income Tax Act 1967 be increased from RM4,000 to RM12,000.

Guidelines For Application To Be Registered As An Approved "Malaysian International Trading Company" (MITC) And Certification for Tax Incentive

OBJECTIVE

The objective of developing Malaysian International Trading Companies (MITCs) is to encourage local companies to be more active in international trade as well as to enhance Malaysia's exports. Approved MITCs will be eligible to apply for tax exemption amounting to 70% of the statutory income arising from increased export sales.

QUALIFYING CRITERIA FOR MITC

2 To qualify as an approved MITC the company must apply to the Malaysia External Trade Development Corporation (MATRADE) and satisfy the following conditions:-

- ◆ must be locally incorporated;
- ◆ equity holding of at least 70% Malaysian;
- ◆ achieve an annual sales turnover of more than RM25 million;
- ◆ export manufactured goods, especially those from Malaysian small and medium scale companies (This refers to companies with annual sale of < RM25 million and < 150 employees);

3 Application to be registered as an MITC can be made using the form (MITC: 1/99) which is available free of charge at MATRADE. Two (2) copies of duly completed form must be submitted to MATRADE at the address below.

Trade Advisory and Training Bureau
MATRADE
Ground Floor, Wisma PKNS
Jalan Raja Laut
50350 Kuala Lumpur
Tel: 03-2928122
Fax: 03-2984812

MATRADE will inform applicant of the status within seven (7) working days after receiving the completed forms and supporting documents.

ELIGIBILITY AND CERTIFICATION FOR TAX INCENTIVE

4 An approved MITC can apply for the tax exemption to the Inland Revenue Board amounting to 70% of the statutory income arising from increased export sales upon fulfilling the following conditions :-

- ◆ Not more than 20% of the company's annual sales is derived from trading in commodities. Commodities refer to the items listed in Annex 1;

◆ Not more than 20% of the company's annual sales is derived from the sales of goods of related company. A company shall be deemed to be a related company of another company if :-

- a) At least 20% of its issued share capital is beneficially owned, either directly or indirectly, by that other company; or
- b) At least 20% of the issued share capital of that other company is beneficially owned, either directly or indirectly, by the first-mentioned company;

◆ Company uses local services for export such as banking, finance, insurance, local ports and airports.

5 For purpose of claiming the tax incentive :-

- ◆ Export sales refer to the FOB value of goods sold.
- ◆ Goods (locally produced or manufactured or imported for subsequent re-exports) are regarded as exports when they are taken out of the country.
- ◆ Sales to LMW and FTZ are not deemed to be considered

export for the purpose of this incentive

- ◆ Export sales do not include trading commissions and profits derived from trading at the Commodity Exchange.

6 The tax incentive will be effective from the year of assessment 1999. Companies with no export sales in the preceding year cannot apply for the tax exemption. Tax exemption will be granted for 5 consecutive years of assessment to each company provided all conditions are fulfilled commencing from the year of assessment the company is first given the incentive.

7 A claim for the incentive must be made in the annual tax return to the Inland Revenue Board and attached together a letter from MATRADE certifying that the company has complied with the conditions of the incentive. Application for certification can be made using the application form (MITC: 2/99) which is available free of charge at MATRADE. Two (2) copies of duly completed forms must be submitted to MATRADE as per address shown in para 3.

ILLUSTRATION TO CALCULATE TAX EXEMPTION

8 An illustration to calculate the exemption:-

Preceding year export sales
- RM40 million

Current year export sales
- RM50 million

Increase in export sales
- RM10 million

Increase export sales over current year export sales
- 20% (10/50)

Current year statutory income in relation to export sales
- RM8 million

Statutory income for increased export Sales - (RM8m x 20%)
- RM1.6 million

Eligible exemption - (70% x RM1.6m)
- RM1.12 million

Statutory income/chargeable income (RM8m - RM1.12m)
- RM6.88 million

9 For further clarifications please contact MATRADE at:-

Trade Advisory and Training Bureau
MATRADE
Ground Floor, Wisma PKNS
Jalan Raja Laut
50350 Kuala Lumpur
Tel: 03-2928122
Fax: 032984812
Toll Free: 1-800-88-4705
E-mail: info@hq.matrade.gov.my

Garis Panduan Permohonan Untuk Mendaftar Sebagai Syarikat Perdagangan Antarabangsa Malaysia (MITC) Yang Diluluskan Dan Pengesahan Bagi Insentif Cukai

OBJEKTIF

Syarikat-syarikat Perdagangan Antarabangsa Malaysia (MITCs) dimajukan bertujuan untuk menggalakkan syarikat-syarikat tempatan terlibat secara aktif dalam perdagangan antarabangsa disamping mengukuhkan lagi perdagangan eksport Malaysia. Syarikat-syarikat yang berdaftar dengan Perbadanan Pembangunan Perdagangan Luar Malaysia (MATRADE) sebagai Syarikat-syarikat Perdagangan Antarabangsa Malaysia (MITCs) yang diluluskan, layak memohon pengecualian cukai sebanyak 70% daripada pendapatan berkanun yang berkaitan dengan peningkatan jualan eksport.

KRITERIA KELAYAKAN BAGI SYARIKAT PERDAGANGAN ANTARABANGSA MALAYSIA (MITC)

2 Bagi melayakkan sesebuah syarikat menjadi Syarikat Perdagangan Antarabangsa Malaysia yang diluluskan, syarikat tersebut mestilah memenuhi syarat-syarat yang berikut:-

- ◆ Ditubuhkan di Malaysia;
- ◆ Sekurang-kurangnya 70% pegangan ekuiti syarikat dimiliki oleh rakyat Malaysia;
- ◆ Mempunyai jualan tahunan melebihi RM25 juta;

- ◆ Mengeksport keluaran perkilangan terutamanya barangan syarikat kecil dan sedrhana (IKS) Malaysia. (IKS bermaksud syarikat-syarikat yang mempunyai jualan tahunan < RM25 juta dan < 150 orang pekerja.

Permohonan untuk mendaftar sebagai MITC boleh dibuat dengan menggunakan borang (MITC: 1/99) yang boleh diperolehi seara percuma daripada MATRADE. Dua (2) salinan borang yang diisi lengkap mestilah dihantar kepada MATRADE dengan menggunakan alamat dibawah.

Biro Khidmat Nasihat dan Latihan Perdagangan
MATRADE
Tingkat Bawah, Wisma PKNS
Jalan Raja Laut
50350 Kuala Lumpur
Tel: 03-2928122
Fax: 03-2984812

MATRADE akan memaklumkan pemohon keputusan permohonan dalam masa tujuh (7) hari bekerja dari tarikh penerimaan borang yang lengkap berserta dokumen sokongan.

KELAYAKANDAN PENGESAHAN BAGI INSENTIF CUKAI

- ◆ Syarikat yang didaftarkan sebagai Syarikat Perdagangan Antarabangsa Malaysia, layak memohon pengecualian cukai sebanyak 70% daripada pendapatan berkanun yang berkaitan dengan peningkatan jualan eksport dengan memenuhi syarat-syarat yang berikut:-

- ◆ Tidak lebih daripada 20% dari jualan tahunan diperolehi daripada perniagaan barangan komoditi. Komoditi yang dimaksudkan adalah seperti senarai barangan di lampiran 1;

- ◆ Tidak lebih daripada 20% dari jualan tahunan diperolehi daripada jualan barangan anak syarikat. Sesebuah syarikat diambilkira sebagai syarikat yang berkaitan dengan syarikat lain sekiranya:-

- a) Sekurang-kurangnya 20% daripada modal syer diterbitkan dimiliki secara langsung ataupun tidak langsung oleh syarikat lain yang terlibat; atau
- b) Sekurang-kurangnya 20% daripada modal syer diterbitkan oleh syarikat-syarikat yang lain dimiliki secara langsung ataupun tidak langsung oleh syarikat pemohon;

Syarikat pemohon menggunakan perkhidmatan tempatan seperti perbankan, kewangan, insurans, pelabuhan dan lapangan terang tempatan.

barangan eksport apabila ia dibawa keluar dar negara.

- ◆ Jualan ke LMW dan FTZ tidak diambikira sebagai eksport di bawah penyediaan insentif ini.

- ◆ Jualan eksport tidak termasuk hasil komisen dan keuntungan yang diperolehi daripada perdagangan di Pertukaran Komoditi (Commodity Exchange).

- 6 Insentif cukai ini berkuatkuasa daripada tahun taksiran 1999. Syarikat-syarikat yang tidak mempunyai jualan eksport bagi tahun sebelumnya tidak layak memohon pengecualian cukai ini. Pengecualian cukai diberikan selama 5 tahun taksiran berturut-turut kepada setiap syarikat yang memenuhi syarat-syarat yang telah ditetapkan

- 5 Bagi tujuan tuntutan insentif cukai ini :-

- ◆ Jualan eksport bermaksud nilai FOB barangan yang dijual.
- ◆ Barangan (perkilangan atau buatan tempatan atau diimport bagi tujuan eksport semula) adalah dianggap sebagai

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BORANG PERMOHONAN
APPLICATION FORM
SYARIKAT PERDAGANGAN ANTARABANGSA MALAYSIA
MALYSIAN INTERNATIONAL COMPANY (MITC)

BHG 1: BUTIR-BUTIR SYARIKAT

PART 1: PARTICULARS OF COMPANY

1. Nama Syarikat:.....
Name of Company
2. i) Nombor Pendaftaran Syarikat:.....
Company Registration No.
- ii) Nombor Cukai Pendapatan Syarikat:.....
Company Income Tax No.
- iii) Tarikh Di Perbadankan:.....
Date of Incorporation
3. i) Alamat Surat Menyurat:.....
Business Address
-
-
- ii) Nama Pegawai Yang Boleh Dihubungi:.....
Name of Contact Executive
- iii) Telefon:.....
Telephone
- iv) Telefaks:.....
Telefax
- v) E-mail:.....
- vi) Homepage:.....
4. Modal
Capital
Dibenarkan: RM.....
Authorised
- Berbayar: RM.....
Paid-Up

UNTUK KEGUNAAN RASMI MATRADE
For Official Use of MATRADE

Tarikh Terima	Rujukan
Date Received	Reference
Tarikh Diluluskan	T/Tangan
Date Approved	Signature
Catatan	
Note	

5. Ekuiti*Equity*

i) Bumiputera:.....% Bukan Bumiputera:.....% Asing:.....%
Bumiputra Non-Bumiputra Foreign

ii) Jika ada ekuiti asing, sila nyatakan negara berkenaan:.....
If any foreign equity, please specify country of origin

6. Jumlah Pekerja*No. Of Employees*

i) Pejabat:..... ii) Kilang:..... iii) Jumlah:.....
Office Factory Total

7. Jualan Untuk Tiga (3) Tahun Terakhir*Sales For The Last Three (3) Year*

Tahun <i>Year</i>	Jualan Dalam Negeri <i>Domestic Sales</i> (RM)	Jualan Eksport <i>Export Sales</i> (RM)	Jumlah Jualan <i>Total Sales</i> (RM)

(Sila guna lampiran jika perlu)
(Please use annex if necessary)

8. Produk Yang Dibeli Dari Syarikat Kecil Dan Sederhana*Products Sourced From Small and Medium Scale Companies*

Nama Syarikat <i>Name of Company</i>	Produk Yang Dibeli <i>Products Procured</i>	Nilai (RM) <i>Value (RM)</i>

(Sila guna lampiran jika perlu)
(Please use annex if necessary)

iii) Telefon:..... iv) Telefaks:.....
Telephone Telefax

ii) Nama Dan Alamat Syarikat/Cawangan Di Luar Negara:.....
Name and Address of Company/Branches Overseas

iii) Telefon:..... iv) Telefaks:..... v) E-mail:.....
Telephone Telefax

Deskripsi Produk <i>Product Description</i>	Pasaran Eksport Sediaada <i>Existing Export Markets</i>	Pasaran Baru Dirancang <i>New Markets Planned</i>

12. Pangakuan*Declaration*

Saya dengan ini mengesahkan dan mengaku bahawa semua butir-butir yang diberi dalam borang ini adalah benar dan betul.

I hereby certify and declare that all the particulars furnished in this form are true and correct.

Tandatangan:

Signature

Nama:

Name

Jawatan:

Designation

Cop Syarikat:

Company Seal

Tarikh:

Date

Dokumen Sokongan*Supporting Documents*

Permohonan mesti disertakan dengan dokumen-dokumen berikut:

Application must be accompanied by the following documents

- Salinan Sijil Pendaftaran Syarikat dan Memorandum dan Artikel Persatuan
Copy of Certificate of Incorporation and Memorandum and Articles of Association
- Profil Syarikat dan Brosiur Produk
Company Profile and Product Brochure
- Salinan Borang 24 & 49
Copy of Form 24 & 49
- Penyata Kewangan Syarikat Yang Terkini dan diaudit
Statement of Company's Latest Audited Account

BORANG MITC: 1/99
SENARAI SEMAKAN
CHECK LIST

PERMOHONAN SEBAGAI SYARIKAT PERDAGANGAN
ANTARABANGSA MALAYSIA
APPLICATION AS AN APPROVED
MALAYSIA INTERNATIONAL TRADING COMPANY



Salinan Sijil Pendaftaran Syarikat dan Memorandum dan Artikel Persatuan
Copy of Certificate of Incorporation and Memorandum and Articles of Association



Profail Syarikat dan Brosiur Produk
Company Profile and Product Brochure



Salinan Borang 24 dan 49
Copy of Form 24 & 49



Penyata Kewangan Syarikat Yang Terkini dan Diaudit
Statement of Company's Latest Audited Account



Penyata Jualan Syarikat bagi 3 tahun Terakhir
Statement of Company's Sales for the Last Three Years



Penyata Syarikat Yang Produk Dibeli Bari Syarikat Kecil Dan Sederhana
Statement of Company's Sourcing From Small and Medium Scale Company

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Tahun Taksiran <i>Year Of Assessment</i>	
Nombor Cukai Pendapatan Syarikat <i>Company's Income Tax Number</i>	
Nombor Kelulusan MITC <i>MITC Approval Number</i>	

BORANG PERMOHONAN PENGESAHAN INSENTIVE CUKAI
APPLICATION FORM FOR CERTIFICATION OF TAX INCENTIVE
SYARIKAT PERDAGANGAN ANTARABANGSA MALAYSIA (MITC)
MALAYSIAN INTERNATIONAL TRADING COMPANY (MITC)

1. Nama Syarikat:.....
Name of Company
2. Jualan Untuk Tahun Asas
Sales For Basis Year

Pecahan Jualan <i>Breakdown of Sales</i>	Nilai Jualan <i>Sales Value</i> (RM)	Peratus Daripada Jualan <i>Keseluruhan</i> <i>Percentage of Total Sales</i>
Jualan Komoditi <i>Sales of Commodities</i>		
Jualan Barang Pembuatan <i>Sales of Manufactured Goods</i>		
Lain-lain <i>Others</i>		
Jumlah <i>Total</i>		

(Sila guna lampiran jika perlu)
(Please use annex if necessary)

UNTUK KEGUNAAN RASMI MATRADE
For Official Use of MATRADE

Tarikh Terima <i>Date Received</i>	Rujukan <i>Reference</i>
Tarikh Diluluskan <i>Date Approved</i>	T/Tangan <i>Signature</i>
Catatan <i>Note</i>		

(Sila guna lampiran jika perlu)
(Please use annex if necessary)

4. **Jualan Exsport** *Export Sales*

(Sila guna lampiran jika perlu)
(Please use annex if necessary)

5. **Perbelanjaan Untuk Perkhidmatan Eksport Bagi Tahun Asas**
Cost Incurred On Export Services For Basis Year

Perkhidmatan Services	Perbelanjaan Bagi Tahun Asas Expenditure for Basis Year (RM)
<i>Pembayaran Pelabuhan Port Charges</i> <ul style="list-style-type: none"> ● Pembayaran kepada Pihak Berkuasa Pelabuhan Tempatan <i>Payment to Domestic Port Authority</i> ● Pembayaran kepada Pihak Berkuasa Pelabuhan Asing <i>Payment to Foreign Port Authority</i> 	
<i>Pembayaran Lapangan Terbang Airport Charges</i> <ul style="list-style-type: none"> ● Pembayaran kepada Pihak Berkuasa Lapangan Terbang Tempatan <i>Payment to Domestic Airport Authority</i> ● Pembayaran kepada Pihak Berkuasa Lapangan Terbang Asing <i>Payment to Foreign Airport Authority</i> 	
<i>Insuran Insurance</i> <ul style="list-style-type: none"> ● Pembayaran kepada Syarikat Insuran Tempatan <i>Payment to Domestic Insurance Companies</i> ● Pembayaran kepada Syarikat Insuran Asing <i>Payment to Foreign Insurance Companies</i> 	
<i>Bank/Kewangan Banking/Financial Services</i> <ul style="list-style-type: none"> ● Pembayaran kepada Bank/Syarikat Kewangan Tempatan <i>Payment to Domestic Banks/Finance Companies</i> ● Pembayaran kepada Bank/Syarikat Kewangan Asing <i>Payment to Foreign Banks/Finance Companies</i> 	

6. Pangakuan
Declaration

Saya dengan ini mengesahkan dan mengaku bahawa semua butir-butir yang diberi dalam borang ini adalah benar dan betul.

I hereby certify and declare that all the particulars furnished in this form are true and correct.

Tandatangan:
Signature

Nama:
Name

Jawatan:
Designation

Cop Syarikat:
Company Seal

Tarikh:
Date

Dokumen Sokongan
Supporting Documents

Permohonan mesti disertakan dengan dokumen-dokumen berikut:
Application must be accompanied by the following documents

- Penyata Kewangan Syarikat Yang Terkini dan diaudit
Statement of Company's Latest Audited Account
- Senarai Jadual Eksport (rujuk **LAMPIRAN A**)
Condensed Schedule of Customs Declaration Forms (refer ANNEX A)

BORANG MITC: 2/99
SENARAI SEMAKAN
CHECK LIST

PERMOHONAN PENGESAHAN INSENTIF CUKAI BAGI SYARIKAT
PERDAGANGAN ANTARABANGSA MALAYSIA
APPLICATION FOR CERTIFICATION OF TAX INCENTIVE FOR MALAYSIAN
INTERNATIONAL TRADING COMPANY (MITC)

☐

No. Kelulusan MITC
KITC Approval Number

☐

Penyata Kewangan Syarikat Yang Terkini dan Diaudit
Statement of Company's Latest Audited Account

☐

Penyata Syarikat Yang Produk Dibeli Dari Syarikat Kecil Dan Sederhana
Statement of Company's Sourcing From Small and Medium Scale Company

☐

Senarai Jadual Eksport (Rujuk Lampiran A)
Condensed Schedule of Customs Declaration Forms
(Refer Annex A)

☐

Ringkasan Eksport (Rujuk Lampiran B)
Summary of Export (Refer Annex B)

LAMPIRAN A / ANNEX A

A. SENARAI JADUAL EKSPORT / EXPORT SCHEDULE

Tarikh Eksport <i>Date of Export</i>	No. Pendaftaran Borang Kastam No. 2/No. 8 <i>Customs Form Registration No. 2/No. 8</i>	Keluaran Yang Dieksport <i>Products Exported</i>	No. Kod BTN HS <i>Code BTN</i>	Kuantiti (unit mengikut Borang Kastam No. 2/No. 8) <i>Quantity (unit per CDF No. 2/No. 8)</i>	Nilai FOB bagi tiap-tiap Borang Ikrar Kastam <i>FOB Value for each CDF (RM)</i>	Negara keluaran dieksport/ <i>Country to which products are exported</i>

B. RINGKASAN EKSPORT / SUMMARY OF EXPORT

Bulan/Month	Kuantiti/Quantity	Nilai FOB/FOB Value (RM)

Nota/Notes:

- Berikan jumlah kecil nilai eksport di atas bagi tiap-tiap bulan dan jumlah besar bagi keseluruhan tempoh asas tahun taksiran yang dituntut dan tahun taksiran sebelumnya.
Please provide sub-amount for value exported for each month and total amount for the period of assessment year claimed and the preceeding year of assessment.
- Borang-borang Ikrar Kastam dan dokumen-dokumen lain yang berkaitan eksport tidak perlu dikemukakan bersama borang permohonan, sebaliknya hendaklah disimpan dengan taratur bagi tujuan pemeriksaan.
Customs Declaration Forms and other documents in relation to exports need not be submitted together with the application form, but must be properly kept for examination.

Office Productivity and You

David Brown

A better understanding of what productivity is, why it matters, how it can be increased and what happens in an office when an organisation decides to start a productivity programme.

Intro

At coffee break one morning, a division secretary hears a rumour that an outside consultant has been hired to set up a productivity programme for her company. A few days later she and all her co-workers receive a memo from the executive vice-president that states: "It is in the best interest of our whole company that we increase our productivity. The consulting firm of Jones&Associates has been trained to help us accomplish this goal. Your cooperation with the Jones' representative assigned to your division will be appreciated."

The secretary is not sure what 'cooperation' will involve, but she suspects it will mean a heavier work load in the long run, or perhaps even a reduction in force.

Does this sound familiar? It very well may, for this situation is being repeated in more and more companies all the time. Of course, conscientious people have little to be concerned about. Productivity programmes do not automatically mean more work or that some jobs will be eliminated. Still, we all tend to worry about the unknown, and that applies to productivity as well as anything else.

What is productivity

Productivity is often defined as a process of getting more out of what you put in. It is doing better with what you have. Increasing your productivity can and often does mean increasing your output per hour. But productivity encompasses not only how efficiently you operate, but what actually gets done. In other words, effectiveness is as important as efficiency. The ultimate key to increasing productivity is not to work harder, but to work smarter.

Why is productivity important

Productivity is vital to companies because it can make the difference between failure and success or between barely surviving and really thriving.

Management experts often point out that one indication of how well an organisation is functioning can be found in the results it achieves through the use of its resources. If the ratio of output to resources is large, we say that the results are good and the organisation is functioning effectively. It is being productive because the value of its output exceeds its investment in the resources used to achieve that output.

It is doing better with what it has. On the other hand, if the organisation is not functioning very well and it wastes or

under utilises its resources, it may spend more in producing its results than those results themselves are worth. In that case the ratio of output to resources is small, and the organisation is being unproductive.

This matters to you for the simple reason that productive organisations offer you more of the good things than unproductive ones can. Things like better wages and benefits, more job security, stronger morale, greater advancement opportunities and so on.

Increasing productivity benefits the individual employee in other ways, too. One of the most significant is the strong 'psychic wage' that each of us begins to draw when we get involved in a formal productivity programme. These programmes help us realise how our jobs fit in the structure of the organisation. We get a better sense of how the various divisions and units of the organisation operate, and the importance of our own work.

We begin to understand the part that our positions play in the life of the organisation, and that what we, do really matters. We belong. We make a difference.

In addition, as productivity programmes get established, many people find themselves being challenged for the first time in years. Long neglected skills are brought to light as people joint task tams and address some of the recurring problems that all organisations seem to have. After months or even years of feeling under-utilised people experience the satisfaction of taking on a new responsibility and finding within themselves the resources to meet it.

For these reasons, among others,

increasing productivity improves an organisation's 'climate' enormously. The emotional atmosphere of the office becomes much more positive and supportive and supportive. Morale is high and most people actually look forward to coming to work. They have a contribution to make-they know it is worth making-and what they do is recognised and rewarded. The organisation is growing and succeeding, and so are they, Everybody wins.

In recent times, most of the major increases in productivity have been associated with the 'utilisation of materials'— particularly through advances in technology. And it seems likely that technology still has much to offer. In the office, automation has already accomplished a great deal, there is still the promise of fully integrated systems, voice-activated terminals and smaller, less expensive and easier-to-use versions of everything we already have.

Nevertheless, 'a materials' it is generally agreed that we should not expect technology and the better use of to contribute as much to productivity gains in the years ahead as they have in the past. For real growth in the future, we need to look to our other resources and see how they can be used more productively.

This is especially true of people and time. These resources have great productivity potential, and it can be tapped in many different ways, as most organisations have begun to discover. For more effective use of 'people' and 'time', many organisations have found it helpful to convert their personnel departments into departments of human resources. The idea is to shift the emphasis from record keeping and policy administration to actively managing the people'

resource within the organisation.

Human resource management includes taking inventory of the skills, knowledge and abilities of the people who make up the organisation - and matching them to the organisation's needs. With this approach, the individual receives career counselling and planning, as well as ongoing training, and the organisation obtains a virtually inexhaustible supply of the talent and experience it needs to meet the current goals and support future growth

Managed in this way, the people' resource becomes more productive because individuals are given assignments and responsibilities that interest them more and make fuller use of their abilities. Each tends to feel better motivated because they see the connection between succeeding in their jobs and attaining their personal career goals and they generally make better use of time' for the same reason.

Human resource management also has a means of improving the efficient use of people' and time'. This is based on the process of job analysis and evaluation

In this process, the responsibilities in each job are identified and the work load is measured. The quantity, quality and importance of the work are examined. Typically, some tasks are either reassigned to some other positions or eliminated outright. Others are simplified or found to require more time and effort. Ultimately, standards of performance are established, and the work actually accomplished in each position is evaluated. When the results are all compiled, there is a reliable indication of the organisation's current level of efficiency (as well as a basis for setting its next group of performance goals).

Taken together, all these methods and processes—human resource accounting, career planning, performance planning and training, job analysis, redesign and evaluation—offer a reasonably complete system for improving human resource productivity. However, most productivity enhancement efforts start much more modestly. A typical programme might include a job analysis and evaluation component combined with a task-force approach to recurring productivity problems.

This sort of programme is well suited to challenge of increasing productivity in office positions, where more and more organisations are concentrating their efforts. In a number of large corporations and agencies, of course, office productivity programmes are already well advanced - and the same is true in some smaller organisations in which human resource management is well developed. But statistics show that most employed people work in offices, and there are many of us in that category who are just becoming aware of the new emphasis on white-collar productivity. We may have heard that a new programme is coming, but we are still not entirely sure about what to expect.

It is difficult to generalise accurately on this point because what actually happens depends on the conditions and circumstances in individual offices, and these are always different.

All the same, it is easy to list some of the things that frequently happen when office productivity programmes are established.

Things That Happen First

- ◆ Introduction of the programme, its purpose and phases
- ◆ Study of each person's job, with identification of responsibilities and measurement of daily work.
 - Formation of task teams or involvement groups to assess problems and suggest solutions.

Things That Happen Soon

- ◆ Development of performance standards for each position.
- ◆ Simplification of some tasks, elimination of others, redesign of some jobs
- ◆ Identification of outdated or unnecessary office procedures.
- ◆ Task team recommendations of changes to solve or lessen immediate problems.

Things That Happen Later

- ◆ Introduction of new equipment and technical resources.
- ◆ Restructuring of work flow in office

- ◆ Integration of work measurement programme and employee performance review system
- ◆ Changes in personnel - transfers, upgrading, promotions - based on changes in jobs and work flow.
- ◆ Additional training to help people handle new responsibilities.
- ◆ Selective adoption of constructive suggestions generated by employee task teams.

Things That Finally Happen

- ◆ Promotions and pay increases are based on performance rather than seniority.
- ◆ Managers and supervisors change their management styles
- ◆ Communication becomes open, honest and productive.
- ◆ Human resource accounting and development programmes match right people to right jobs.
- ◆ Employees are recognised as a continuous source of new ideas for solving problems and improving organisation effectiveness

Does all this seem too good to believe? It shouldn't. It is happening in many modern companies. However, the process requires time, determination and a clear idea of how to proceed.

Profitable E-commerce

Needs Dependable Backoffice

Everyone knows the darling of the e-commerce world: Amazon.com

There probably isn't a business person alive that doesn't envy something about Amazon.com. The site has been able to maintain its pioneer status in the electronic medium, where an idea one day is often a product offering the next. After a few short years, it is one of the world's most recognised brand names rivaling mainstream mainstays Coke, Ford and Motorola. Its revenues have been growing exponentially since the first day it was launched. Despite these desirable traits, Amazon.com to this day remains unprofitable!

"Insert triangle diagram from the headline article here"

Why? Because achieving profitability means finding a positive balance between revenues and costs during a particular period of time. Something that needs a lot of re-thinking when considering e-commerce.

Every financial or business journal will likely devote some space to the vast potential for e-commerce revenues. The argument for revenues is certainly not unfamiliar to the 'bricks and mortar' businesses: take a market segment, add a product offering, provide access and methods for payment and the result is

revenue.

In the world of the Internet, the argument goes something like this: more people are jumping on the Internet band wagon everyday. The medium's speed and flash intoxicate these Web-sophisticates. They have access to an assortment of payment methods with which they do what consumers do best - consume!

In the world of the Internet, the argument goes something like this: more people are jumping on the Internet band wagon everyday. The medium's speed and flash intoxicate these Web-sophisticates. They have access to an assortment of payment methods with which they do what consumers do best - consume!

Generating revenues alone, however, does not guarantee profitability. If it did, businesses like Amazon.com would be erroneously profitable and will be threatening to topple the likes of IBM and General Motors.

Current views are myopic

The problem with e-commerce is that it is traditionally seen only as a new sales channel. This view is myopic as it overlooks the benefits that Internet

technologies such as browsers and e-mail can bring to the entire business operation, especially when combined with workflow automation.

Browsers are a powerful technology with many intrinsic benefits, making them an appropriate user interface for many tasks. They are suitable for data entry and retrieval of all aspects of a software solution. While they were designed for use with the Internet, they may be used with corporate intranets and extranets or basically any networked approach to data.

Low-cost browsers can, in fact, replace the client portion of many client-server applications resulting in lower capital and operating costs for these systems and broader access to company data especially for multi-site organisations and those with a mobile work force.

Opening your business information systems directly to your customers via the Internet transforms the customer service model to one of self-service thus reducing your costs while making access more convenient. Allowing customers or suppliers to input data, eliminates re-keying and reconciliation and updates your core financial systems immediately, thus streamlining your business operation.

Allowing customers or suppliers to input data, eliminates re-keying and reconciliation and updates your core financial systems immediately.....

This will help reduce costly errors. Everyone knows that every manual process can introduce error which can only be detected and corrected through additional time-consuming and costly reconciliation and correction procedures. Since these procedures frequently delay the production of valuable management reports, eliminating them improves your operational efficiency.

A shorter sales order cycle also improves your productivity and allows senior management to be better informed about the changing needs of the marketplace, leading to better decision-making. That allows you to maintain lower inventories thus reducing your risk to changing customer sentiments which can impact your bottom line.

E-commerce is not limited to just businesses but is a valuable tool for orthodox financial and banking institutions. They can quickly realise profitability because the Internet offers rapid and immediate access to information that can shape investment decisions. Further service fees are often discounted for online transactions.

There is another reason why banks, especially need to e-commerce otherwise known as e-banking. As the customers they serve put their trust in the Internet technologies and e-commerce, banks need to adopt e-commerce to differentiate and woo the tech-savvy crowd. Although banks are built on trust, increasingly, convenience is becoming a very telling factor with new customers.

Where to start?

In order to put together the building blocks of e-commerce, let's consider the way businesses have been done traditionally. The batch concept of processing a number of transactions together is historical; transactions such as orders arrived by post perhaps only once or twice a day. If order entry is Internet-enabled, customers can enter directly whenever they wish and businesses can adopt more efficient transaction-oriented work patterns.

This, in turn, transforms the specialist roles required in a batch organisation e.g. the order entry clerk, letting employees play more effective roles across the entire business process. Browser technology supports this by giving a common interface to a number of systems.

E-mail has tended to be the most popular for basic messaging, replacing inter-office phone calls and memos yet when paired with workflow tools, e-mail can drive events. While staff must know when to run reports, when to inquire about transaction status or when to update files, e-mail offers an ideal alert system. E-mail alerts can provide faster processing and more effective working practices resulting in enhanced customer service.

Workflow is the linking of business functions into a logical sequence or grouping to perform a business process. Workflow automation tool operates according to business rules allowing quality measures to be part of the process rather than an external measurement. In the case of purchase orders, the rules could include authorisation levels based on purchase cost or purchase type. Once

implemented, workflow automation can let you react quickly to budgetary changes by revising the rules.

Budget cuts could be implemented across the board by freezing the requisition of certain types of purchases or lowering the value of purchases requiring high levels of authorisation. Integrating e-mail with underlying workflow controls cuts out paperwork and lets electronic purchase requisitions be passed to the authoriser the instant they are raised. Greater control in the purchasing cycle reduces error and delay, gives tighter budgetary control and may allow you to negotiate more favourable supplier terms. Proactive budgetary control is possible since purchase requisitions can be evaluated against live available budget figures prior to the raising of the purchase order.

By harnessing the power of workflow automation, e-mail alerts and browsers, you can take advantage of new customer service opportunities and internal efficiencies to boost productivity without adding new costs. Businesses that are adopting an Internet sales channel can profit even further if the entire business system is enabled for these technologies.

For example, if we look at the sales order process, all major data entry and inquiry transactions can be implemented using browsers so that you can rapidly develop a full order handling and customer service solution. A product catalog would display product photos and descriptions together with live data such as prices from a purchasing module. Customers could then enter sales orders, pay by credit card, and then enquire about the status of their orders through links to the financial systems.

In-house processing would include order fulfillment and perhaps an e-mail alert to a manager in the case of delay to a promised delivery date or a credit limit that has almost been reached. Reports on individual customers or other standard sales reports could be e-mailed on request or according to a schedule. In all these steps, the financial systems have been updated immediately, offering senior management a truly current picture of the business, leading to better and more timely decision-making.

The Total Solution

"SunSystems Overview V4.2 page7 - Windows screen here"

Rapid access to reliable data is made possible through a single source of financial data in one integrated ledger. The attributes and functionality of nominal, sales and purchases ledgers are

held within a single environment, avoiding duplication and error while offering improved accessibility for larger installations.

The use of one application worldwide can lower training costs and provide a quicker return on investment. Software functionality is only one element of a successful solution needed to support an organisation. Implementation services, technical support and tailored training are integral parts of the overall solution and can make the difference between success and failure.

Inventory Control is one example of a business module which monitors optimum supply levels, enabling warehouses to gain high levels of productivity. The stock control system supports assembly structures consisting of up to 800 constituents parts broken down into as many as ten levels, enabling

full tracking and improving efficiency in order processing. The stocktaking function allocates individual items with different cycles for random stocktakes, whilst perpetual stocktaking function allocates individual items minimises operational disruption. Comprehensive and flexible analysis, coupled with a negative stock option, serial number tracking and the full array of costing techniques, ensures the Inventory module keeps you in complete control.

*Bruno Lee is the General Manager for Systems Union in the ASEAN region. Systems Union is a leading international solution offering powerful financial and business management software. He was among the pioneer team involved in building up the infrastructure of the regional office - sales and business partner recruitment, setting up the administration and operations, developing training and marketing.

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**The Malaysian Institute of Taxation (MIT)
Public Budget Hotline at
telephone Number 03-2274 5055
will operate from 9.00 a.m. to 12.45 p.m.
on Saturday, 28 October 2000.**

**MIT commentaries on the Budget
would be aired on TV in collaboration with
NTV7 and quest7.com**

Report on

Proceedings of Dialogue with Technical Division of IRB

On 25 August 2000 at 3.00 pm

At Bilik Mesyuarat, LHDN,

Tingkat 16, Blok 11, Jalan Duta, Kuala Lumpur

PRESENT:

En. Nujumudin bin Mydin (Pegerusi):
Timbalan Ketua Pengarah Teknikal & Perundangan

En. Lim Heng How:
Timbalan Ketua Pengarah Pencegahan & Pematuhan

Pn. Hasmah bt Abdullah:
PKP, Bhg. Teknikal

Encik Mohd Saian b. Hj. Ridzuan:
PKP, Bhg. Operasi

Pn. Ng Oi Leng:
PKP, Unit Sistem Taksiran Sendiri

Pn. Mazidah binti Ismail:
PPK, Cwg. Pungutan

Pn. Nik Esah binti Nik Mahmood:
PPK, Cwg. Syarikat

Pn. Selverinne:
Bhg. Teknikal

En. Quah Poh Keat : MIT/MIA

Dr. Veerinderjeet Singh : MIT/MIA

En. Lee Lee Kim : MIT/MIA

En. Harpal Singh Dhillon : MIT/MIA

Pn. Phoon Sow Cheng : MIT/MIA

En. Ong Lay Seong : MIT/MIA

En. Robin Noronha : MIT/MIA

Cik. Jenny Lim : MIT/MIA

En. Beh Tok Kuay : MACPA

Puan Tong Seuk Ying : MACPA

En. Sam Soh : MACPA

Encik Nujumudin welcomed the representatives from the Malaysian Institute of Accountants, the Malaysian Association of Certified Public Accountants and the Malaysian Institute of Taxation and officially commence the dialogue by inviting the members of the professional bodies to raise the technical issues, as follows:-

1 Revision of Estimate of Tax Payable under Section 107C of Income Tax Act

Section 107C of the Income Tax Act 1967 requires a company, for each year of assessment, to furnish to the Director General of Inland Revenue (DGIR) an estimate of its tax payable. The section also provides that a company may revise the estimate of its tax payable in the 6th month of the basis period for a year of assessment.

In recognition that companies may encounter difficulties in making a realistic estimate during the initial stage of implementation of the self assessment system, the IRB has granted a concession allowing companies to make

three revisions to the estimate of tax payable. In addition to the revision which may be made in the 6th month of the basis period, two other revisions may be made in the 3rd, 9th or 12th month of the basis period.

However, for companies which have a basis period of more than 12 months, say 21 months, as a result of a change in the accounting year end, the timing of the revisions, i.e. in the 3rd, 9th or 12th month is inappropriate as the company still has 7 months more to the end of the accounting year end. We would like to suggest that the number of quarterly revision be increased in proportion to the length of the basis period so that the company could revise the estimate of its tax payable reasonably.

The Chairman reiterated that the concession was granted by the Ministry of Finance, instead of the LHDN.

Nonetheless, the Chairman is of the opinion that the LHDN is reluctant to automatically extend this concession to companies changing its financial year. However, these companies may still approach the relevant officers of the Board for an extension of the payment schemes, as it would fall within the ambit of "asas yang jelas..".

Therefore, any extension of the concession, will be decided/granted on a case to case basis, depending on its merits.

2 Storage of Documents

The Association has sought the IRB's clarification at a dialogue in 1998 whether documents stored in electronic media are acceptable by the IRB.

The IRB has indicated that companies

are not prevented from keeping companies' records/documents in electronic form. However, companies are still required to keep/submit companies' records in hard copy for the purposes of the IRB.

As Malaysia is moving into the electronic era, the storage of documents in electronic media will become an accepted and common practice in many organisations. The Association would like to suggest that the IRB re-consider allowing documents to be stored in electronic media for purposes of the IRB.

If a company originally maintains its records or documents, in a digital format, the LHDN does not require the company to simultaneously maintain documents or records in a non-digital format or "on paper". Nonetheless, the documents or records, of the company should be readily available if, for instance, a field audit is undertaken by the LHDN. i.e. to print out the records for verification.

However, if the company is instead transferring or converting its present records or documents, into a digital format, the LHDN then will require the company to maintain a set of the records in its present form.

3 Deemed Notice of Assessment

Under the self-assessment system, when a company submits its tax return, the return is deemed to be a notice of assessment and is also deemed to have been served on the company on the day the return is submitted to the DGIR.

At an earlier discussion with the IRB, it was indicated that the tax payable as shown in the return should be computed in line with the public rulings of the IRB.

If, in any event, a company disagrees or objects to any such ruling, the company has to submit its tax return based on the ruling and then appeal against its own tax computation within 30 days of the submission of the tax return via a Form Q.

It was also indicated that if the company subsequently wishes to seek a reduction of its tax payable, the company has to appeal against its earlier tax computation under Section 131 of the Income Tax Act 1967 for relief in respect of error or mistake.

Since Section 131 relates specifically to relief in respect of error or mistake, it is inadequate to cover all situations involving reduction of an earlier tax computation. E.g, a request for tax reduction may arise as a result of a recent court decision or change of IRB practice rather than "error or mistake". Hence new appeal provisions under the self assessment system would be necessary. On the other hand, there should also be provisions allowing voluntary subsequent filing of revised tax returns giving rise to additional assessments in light of new information/facts obtained. A taxpayer should not be penalised for revising an assessment upward so long as there is no intent to defraud or evade tax in the first instance.

The LHDN will review the matter and come to a decision.

4 Real Property Gains Tax

4.1 RPGT Returns

Section 13(1) of the RPGT Act 1976 requires every chargeable person who disposes of a real property to submit a return to the IRB within one month from the date of disposal of

the property. The return must be accompanied by relevant supporting documents for determining the cost of acquisition or construction of the property disposed of.

This requirement has posed practical problems in situations where a company disposes of a real property which it has held for a long period of time, say 30 years. Some of the supporting documents for determining the cost of the property could have been lost or destroyed through the passage of time.

The Association would like to suggest that a time limit of 7 years be set for retaining the relevant documents for the purposes of section 13(1) of the RPGT Act. This suggested provision is in line with the requirement of the Companies Act 1965 [section 167(2)] that a company must retain its accounting and other records for 7 years after the completion of the transactions or operations to which they relate. In this regard, the Association would also like to suggest that after the statutory time limit, the cost of a real property as stated in the company's audited accounts should be used as the basis for determining the RPGT.

The Chairman clarified that the LHDN has difficulty in the verification of the "expenses" incurred on the real property.

Nevertheless, on the issue of a 7 years time frame, the LHDN instead counter propose that MIA/MIT & MACPA appeal to the Ministry to amend the RPGT Act, 1976, to allow the provision of a "revolving 7

year's - base year" to compute the RPGT due. Under which, the valuation of the real property will be computed on a 7 year revolving basis.

The LHDN will support the Associations for such a proposal but for the moment, the LHDN must apply existing law.

4.2 Disposal/Acquisition Price of Real Property

It is noted that the IRB normally uses the valuation by Government valuers as the basis for determining the disposal/acquisition price of real property for RPGT purposes. In many instances, the valuation by Government valuers is significantly higher than the price stated in the sale and purchase agreement as well as the valuation by independent professional valuers. This has resulted in the vendors having to pay RPGT on gains which they never receive.

The Association would like to submit the following suggestions for the IRB's consideration:

- (a) In the case of arm's length transactions, RPGT should be based on the disposal price stated in the sale and purchase agreement.

Foremost, under an arm's length transaction, the LHDN will normally accept the stipulated valuation unless the difference between the values are so significant, that the LHDN suspects whether the transaction was genuinely conducted at arm's length.

In respect of a dispute in the valuation, if the transaction is deemed to be not at arm's length, the LHDN will then accept the government's valuation

- (b) In non arm's length cases, if agreed by both the IRB and the taxpayer, an average of the value determined by the Government valuers and independent professional valuers could be used as the disposal value of the real property for RPGT purposes.

On the issue of a non arms length transaction, the LHDN will :-

- i. **initially raise the notice of assessment on the government's valuation; but**
- ii. **will accept an application for a "stand-over" of taxes, not on the total difference between the disposal price and government valuation, but more a "stand-over" from the middle figure or sum.**

i.e. The "middle sum" between the disposal price and the government's valuation is to be paid. And the balance (between the "middle sum" and the government's valuation), will be allowed for a stand over, until the dispute is resolved.

But, again, LHDN will only approve the above application

on a case to case basis.

- (c) Where there is a dispute over the disposal value determined by the IRB and an appeal is submitted to the Special Commissioner/Court, the vendor be allowed to pay the RPGT based on the disposal price stated in the sale and purchase agreement or the valuation by professional valuers, whichever is the higher, pending appeal proceedings. The vendor should not be subject to any late payment penalty if a higher RPGT is charged when the appeal is determined by the Special Commissioner/Court.

This is a non-issue, by virtue of the possibility of stand-off of taxes, per issue 4.2 (b) above.

4.3 *Transfer of RPGT Credit to Income Tax Account*

Members of the Association have encountered instances where request for the transfer of a company's RPGT credit to its income tax account as partial settlement of the company's tax instalment payments for YA 2000 (as per CP200) is rejected on the grounds that the RPGT unit does not have any funds and thus, is unable to transfer any RPGT credit.

The Association feels that it is unfair to require the taxpayer to use additional funds for the payment of income tax when a credit is due to the taxpayer.

The Association would like to seek clarification on the above matter.

The LHDN is aware of past instances where there was a difficulty in transferring tax credits between departments, but the LHDN reassure the taxpayers that the problems will be resolved soon, as LHDN is in the midst of implementing a centralised "payment network" system.

Nonetheless, the LHDN will consider an application to defer any tax payments due that are to be reduced, by existing tax credits from other payment schemes.

For instance, a stand-over on the tax instalments, pending an offset from a RPGT tax credit.

4.4 *Extension of Time for Filing RPGT Return*

Section 13(1) of the RPGT Act requires the disposer and acquirer of a chargeable asset to file a return with the DGIR giving particulars of the asset concerned within one month of the date of disposal of that asset and RPGT is payable thereon by the disposer upon the issue of assessment.

Under paragraph 15(1) of Schedule 2 to the RPGT Act, the date of the sale and purchase agreement for the asset is taken to be the date of the disposal. However, in many instances the sale and purchase agreement is subject to approval by the regulatory authorities of the transaction. The authorities may also vary the disposal price as they deem fit. It is thus impractical for file the RPGT returns before the transaction is approved by the authorities, such as the CIC and FIC.

Financial hardship will also be experienced by the disposer where he is required to pay the RPGT before the authorities' approval for the transaction are obtained.

At the dialogue with the LHDN in 1992, the LHDN has advised that as provided under the RPGT Act, request for extension of time for making a return may be allowed on a case-by-case basis.

The LHDN has also clarified that in the case of "conditional contracts" which are subject to the approval of the regulatory authorities, the LHDN will only raise the relevant assessment only after the last of the approvals of the regulatory authorities for the conditional contract has been granted.

The return is to be made within 1 month from the date of the agreement unless an extension of time is granted by the LHDN.

It was, however, noted that some LHDN Branches do not seem to be aware of this decision and have issued the notice of assessment where taxpayers are required to pay the RPGT first.

To avoid the practical problems stated above, we would like to propose that a time frame of 2 weeks from the date of obtaining the relevant approvals be granted to the taxpayer to inform the LHDN to raise the notice of assessment.

The LHDN agree to stipulate in the extension of time (EOT) approval letter, that one the conditions of the approval (for EOT) is "the taxpayer is now under a duty to inform the

LHDN of the completion of the contract within two weeks of obtaining all/last pending approvals under conditional contracts”.

Until such “pending approvals” are obtained, the LHDN will not raise the relevant assessments on the disposal. Nevertheless, failure to inform the LHDN of the completion of the contract within 2 weeks of the last approval will subject the taxpayer to late filing penalties.

The LHDN will review this on a case to case basis.

5 Basis Period for Investment Holding companies (Section 60F) and Close-end Fund Companies (60H)

The basis period for an investment holding company or closed-end fund company is the basis year (calendar year). Where such a company has a non December 31 accounting year-end, the company would only be able to declare part of its income when submitting its return for a year of assessment (under current year bases/self assessment system).

E.g. A Company with accounting year ending June 30, 2000 will have to submit its tax return for YA 2000 (current year) within 6 months from June 30, 2000 (i.e. by December 31, 2000). The company would only be able to ascertain its income for the first six months of the calendar year and income for the period July 1, 2000 - December 31, 2000 cannot be determined (as the accounts for

the year ending June 30, 2001 will only be finalised after June 30, 2001).

We would like to suggest that to overcome this problems, the IRB should allow such companies to adopt its financial year as the basis period for a year of assessment. (E.g. Accounting year ending June 30, 2000 is taken as the basis period for YA 2000.)

The LHDN have issued a letter to allow certain Investment Holding Companies to file their tax returns by 31st May 2001 for Year of Assessment 2000 (current year basis), per attached Appendix A.

6 Companies Under Liquidation

For a company which is under liquidation, only Form 75 (liquidator's account of receipts and payments and statement of the position in the winding-up as required under the Companies Regulations 1996) is available every 6 months. There are no audited accounts for such companies.

The Association has previously sought clarification with regard to the filing deadline for companies under liquidation.

Please confirm our understanding that such companies will be allowed to submit the tax returns based on Form 75 for the 2 six-monthly periods constituting a year of assessment.

LHDN confirms the statement is accurate.

7 Proposed Amendment to Paragraph 13(2)(B) of Schedule 6 to The

Income Tax Act, 1967

Paragraph 13(2)(b) of Schedule 6 to the Income Tax Act 1967 (ITA) states that a charitable institution, a trust body or body of persons referred to in subparagraph (1)(a) shall apply its income, whether exempt or otherwise, solely for its charitable purposes or charitable objects within Malaysia and the amount so applied in a year of assessment shall not be less than seventy per cent (or such percentage as may be permitted by the Director General) for such income for the basis period for that year of assessment.

Previously, section 21 of the ITA provided that the basis period for a particular year of assessment would be the calendar year or financial year immediately preceding the year of assessment. Thus, a charitable institution or trust body was able to determine and apply at least 70% of its income arising in a basis period (previous calendar financial year) for charitable purposes in the relevant year of assessment so as to comply with the condition stipulated by the DGIR.

However, the Income Tax (Amendment) Act 1999 has provided that the basis period for a year of assessment shall be the calendar coinciding with the year of assessment or the financial year ending in the year of assessment. This means income derived in a particular year will be assessed and liable to tax in the same year.

Following from this new provision on basis period, it would be difficult for a charitable institution or trust

body to comply with the 70% requirement stipulated by the DGIR as the total income for the basis year (current year) can only be ascertained at end of the year

The LHDN have noted the issue.

8. Regular Dialogues

Currently, dialogues between the Malaysian Institute of Taxation (MIT) and the Technical Division of the Lembaga Hasil Dalam Negeri (LHDN) are held on an adhoc basis.

MIT proposes that these technical dialogues between MIT and the Technical Division of the Inland Revenue be held a minimum of 3 times a year. For instance,

Meeting	Suggested dates
1st	1st quarter of the year - 15 Jan
2nd	Mid year - 15 June
3rd	After the Budget announcement - 15 Nov.

This will foster greater co-operation between the IRB and the Institute especially in the context of the self assessment system to be introduced in 2001.

The LHDN have agree to hold technical dialogues for the 1st quarter of the year (i.e. March or April) and immediately after the Budget announcement, but will only convene other technical dialogues on a need to need, basis.

9. Draft Guidelines/Rulings and Forms

MIT wishes to reiterate its willingness to contribute in the

preparation of all guidelines, forms and rulings to be released by the Board. The professional bodies hopes that in future, all draft guidelines, forms and rulings (issued by the Board) will be extended for review and comments by the professional bodies before being finalised.

Under self assessment, there should be a shift towards greater transparency and co-operation between the authority and the taxpayer.

The professional bodies would like to volunteer its assistance in creating a more fluid and balanced tax regime.

The LHDN will take note of the proposal and consent to co-operate with the bodies on all future LHDN publications, where possible. On the issue of "advance rulings", the LHDN reiterate their current policy of not issuing any "advance rulings" for the moment.

10 Objections against Rulings

10.1 Deemed Notice of Assessment

In prior discussions, the IRB had stated that under the deemed assessment rules for self assessment, the taxpayer is required to adhere to a "ruling" issued and submit a Form Q indicating his objection within 30 days of the submission of the tax return. Failure to do so appears to be tantamount to non-compliance of an existing regulation.

In short, the taxpayer is appealing against his own tax computation.

MIT suggests that instead of the above, the taxpayer should be allowed to proceed with the tax computation (which is not in compliance with the ruling) and submit his rationale for not adhering to the "ruling". In the event that a field audit/investigation is carried out, the IRB may raise a revised assessment on the matter but should not impose penalties for under estimation of income. The justification for non-adherence to an existing ruling must be reasonable, depending on the facts of the case. i.e. the matter in dispute is currently being pursued in the courts, etc.

By virtue of the deemed assessment provisions, it appears unreasonable to have a taxpayer submit an appeal (Form Q) against his own tax computation. The fundamental definition of tax is "...the process of raising money by a public authority for public purposes, enforceable by law". Therefore tax compliance/enforcement should not be draconian, whereby taxpayers are forced to adhere and pay, even in disagreement.

In addition, MIT is not proposing that taxpayers disregard all rulings issued by the Board, but more, to have the option to submit their tax computations based on their legal interpretation of tax rulings, if justified.

The LHDN is in the midst of drafting a Ruling on the "appeals procedure" and will defer this issue until the draft Ruling has been released to the professional bodies for comments.

10.2 General appeal

Moreover, MIT proposes that there should be some mechanism whereby a taxpayer or an interested party (such as a professional body) may appeal against or seek clarification, on the ambit of a "ruling" prior to the actual submission of a tax return.

This will reduce the number of Form Q's submitted.

The LHDN is in the midst of drafting a Ruling on the "appeals procedure" and will defer this issue until the draft Ruling is released to the professional bodies for comments

10.3 Legal status of Rulings

The IRB has in recent dialogues confirmed that rulings are only binding on the Director General and are not binding on taxpayers. There is some confusion on the legal standing of rulings issued by the Board as, the IRB has not issued any clarification/practice note on the legal position of Private and Public rulings.

MIT proposes that some form of practice note/position paper be issued of the legal standing of Private Rulings and Public Rulings.

The LHDN have noted the issue.

11. Stand-Over of Taxes

There are a number of tax cases under appeal that may have a major impact on current tax compliance.

Firstly, MIT would like to clarify that it is the position of the IRB that a taxpayer is required to submit his tax computation based on the position of law at that point in time, irrespective of whether an appeal has been put forward by either parties.

The taxpayer can indicate that the basis adopted in the tax computation is done without prejudice to its case so that if a court case is resolved in favour of a taxpayer, the IRB will review the assessments for the relevant years of assessment.

If the above is the position of the Board, MIT proposes that in the event, a tax computation submitted is based on a "technical issue" currently being deliberated in the courts, then the IRB should be willing to allow a "stand over" of taxes due (in relation to the contentious issues) on grounds of equity, as the "issue in dispute" is pending clarification by the courts.

It would seem unfair, that a taxpayer is required to pay taxes if a case has been decided in favour of the IRB but would not be entitled to a "stand over", if instead the decision was made in favour of the taxpayer.

The LHDN will grant a stand over of the taxes due, on a case to case basis

12. Investment Holding Companies

Pursuant to Section 60(F) of the Income Tax Act, 1967 (the Act), a company whose activities consist wholly in the making & deriving income from investments, is an

investment holding company (IHC).

Nonetheless, recently there have been situations whereby the LHDN have treated a company having both management services and investment holding activities as an IHC, under Section 60(F). The IRB have instead allowed a deduction of expenses up to the amount of management fee income earned.

MIT wishes to clarify with the IRB, that in the event a company is having both management activities and investment holding activities, (i.e. the company is not one whose activities consist wholly in the making of investments) the company is not an IHC under Section 60F and is carrying on a business activity, per Section 4(a) of the Act.

The LHDN will draft a guideline or ruling on this multiple-income issue.

Moreover, if the IRB or an assessment branch of the IRB takes a specific position on a technical matter, this position must be made public together with the rationale for the position taken. This assists transparency and avoids a 'cloak and dagger' approach that are sometimes adopted by government agencies.

The LHDN have noted the proposal and affirm that any future technical positions taken by the Board, will be duly notified to the relevant parties concerned.

13. Section 114(1A)

Malaysian tax practitioners and

corporate taxpayers are very concerned with the wide ambit of the new Section 114(1A). The mere wording of Section 114(1A) may encompass situations not envisaged by the legislative body.

MIT proposes that some form of guidelines/practice notes be released by the Board on the ambit and scope of the application of Section 114(1A). These guidelines/practice notes, would establish the broad parameters within which Section 114(1A) would be applied.

MIT does acknowledge that the ethos behind the new Section 114(1A) is good. Nevertheless tax preparer's and taxpayers are concerned that, if no proper framework is instituted on its ambit, there may arise future abuses in its implementation.

The LHDN have release a draft Ruling (8/2000) on Section 114(1A) for comments by the respective professional bodies.

14. Tax Agents fees

With regard to tax agent's fees, there has always been a concession granted by the IRB that a tax deduction is allowed for such expenses.

Yet, recently, certain IRB officers have refused to consider the said concession granted and have strictly enforced Section 33(1) by disallowing the tax deduction for tax agent's fees.

MIA/MIT wish to seek confirmation that the tax agent's fees are

generally tax deductible.

The concession on tax agents "compliance" fees remains. Nevertheless, LHDN reiterate that the concession is limited to tax compliance fees and does not cover tax advisory fees.

15. Inconsistency under Section 44(6) vs Para. 13 of Schedule 6

A charitable organisation will generally apply for the following:-

- i. Paragraph 13 of Schedule 6 exemption and;
- ii. Approval under Section 44(6)

However, the requirements (as stipulated in the conditions of approval, etc) for Section 44(6) are significantly different from the requirements found under Paragraph 13 of Schedule 6. The significant differences are as follows:-

	PARA 13, SCHEDULE 6	SECTION 44(6)
(i). income	Excludes donations	Includes donations
(ii). expenditure/ spending	Includes operating cost, scholarships, etc.	Excludes operating cost but includes scholarships, etc.

MIT is of the opinion that there is a need to synchronise the conditions of approval in respect of both applications, as they are generally inter-linked with each other.

The LHDN have noted the issue and will review the matter.

16 Maintaining Records

The LHDN have requested that members of the professional bodies remind their clients that under STS, taxpayers are under an obligation or legal duty, to maintain proper records of their transactions.

The LHDN will take into account certain mitigation factors (i.e. change in tax regime, new rules, etc.) for one or two years, but reiterate that LHDN will not accept incomplete or insufficient records in future.

The issue was duly noted by all parties of the dialogue.

17 Administrative

i. Extension of Time (EOT)

The LHDN wish to remind tax practitioners and tax payers that under internal standing orders, any application for further EOT must be submitted two weeks before the actual deadline.

Nevertheless, LHDN have in the past conceded to receive applications for further EOT after the two week deadline had pass.

Taxpayers are therefore reminded not to abuse this privilege by submitting last minute applications for further EOT and disturbing certain officers of the Board.

The Professional bodies express their gratitude for LHDN's due consideration on the above matter and will duly remind their members of their responsibilities.

ii. *Borang R "Dividend Statement"*

Generally, the LHDN officers will rely on the "Borang R" to compute the Section 108 Account and Tax Exempt Account balances, and the LHDN wish to highlight that there have been instances where, the tax payer or tax preparer had overlook or failed to complete the "Borang R".

In light of STS, the LHDN are in the midst of finalising the Section 108 Account and Tax Exempt Account balances and are in the process, of issuing taxpayers with a statement indicating/confirming the said balances, as at a particular date.

The LHDN are now requesting that if there are any discrepancies in the balances stated, the taxpayer or tax agent should reply to the statement and simultaneously include, the actual computation of the Section 108 Account and Tax Exempt Account balances, for comparison.

This will facilitate the speed of the confirmations.

In practice, certain tax agents would have already indicated the Section 108 Account and Tax Exempt Account balances in their tax computations submitted.

Nonetheless, the professional bodies acknowledge the enormous task before the authorities to confirm the relevant balances and will advise their members to assist the Board wherever necessary.

iii. *Section 33(2) Interest Restriction*

The LHDN request that taxpayers or tax agents indicate in their tax computation submitted, if

- i. Interest Restriction under Section 33(2) is applicable or not; and if not,
- ii. kindly state the justifications for it being non-applicable.

More often than not, based on existing information (i.e. Balance Sheets, interest expenses, etc.) the LHDN will impose a Section 33(2) position and will begin a long

process of appeal and re-appeal by either parties. Thus, as to enhance overall efficiency, the LHDN is requesting that taxpayers and tax agents, indicate (in the computation submitted) whether Section 33(2) interest restriction is applicable for the year.

The issue was duly noted by all parties of the dialogue.

iv. *Double Deduction*

Furthermore, the LHDN have encountered instances where the double deduction claimed did not correspond with the confirmation "Form's" submitted, and caused much confusion and delay for the LHDN.

The LHDN request that all confirmations and computations should correspond with other related documents required.

The issue was duly noted by all parties of the dialogue.

Q U O T E

Find out what you like doing best and get someone to pay you for doing it.

Katherine Whitehorn

S.G.S. Singapore (Pte) Ltd VS Ketua Pengarah Hasil Dalam Negeri

S.G.S. Singapore (Pte) Ltd filed an appeal with the Special Commissioners of Income Tax Kuala Lumpur against tax imposed by the Director General of Inland Revenue under the Income Tax Act 1967 in the sums of RM94,477.95 for Year of Assessment 1984 and RM439,836.45 for Year of Assessment 1985.

The issue was whether, having regard to the Agreement set out in the Schedule to the Double Taxation Relief (Singapore) Order 1968, the relevant payments to S.G.S. were chargeable to tax under section 4A of the Act.

S.G.S. was awarded a contract with Petronas Carigali Sdn. Bhd. for inspection of materials and equipment procured by PCSB for a project, liaison and co-ordinating activities pertaining to the inspection services at the vendors' premises, monitoring the vendors' production schedules and recommending remedial action on production delays and problems, preparing and submitting daily inspection reports, expediting services to ensure timely delivery of materials and equipment, and provision of qualified personnel on a full-time basis when required.

In making payments under the contract, PCSB deducted from each payment an amount in respect of withholding tax

which was equal to 15% of such payment which was then paid over to Inland Revenue. S.G.S., through their tax agent claimed *inter alia* that the contract payments did not fall within the definition of "royalties" under Article Viii of the Agreement and therefore should not be subject to the withholding tax provisions of section 109 of the Act. The DG of Inland Revenue replied that "it is the present view that if the payment falls under the definition of 'royalty' in section 2 of the [Act], then the provisions of section 109 would automatically apply."

The Special Commissioners after reviewing the case, found that the relevant payments constituted income of a category excluded from the definition of income which is not taxable in Malaysia under article IV of the Agreement. Thus, the Special Commissioners was that the relevant payments had been properly subjected to tax under section 4A of the Act and rejected the appeal and confirmed the tax for Years of Assessment 1984 and 1985.

However, the High Court of Malaya allowed the appeal and ordered the tax withheld to be repaid to S.G.S.

In allowing the appeal, the High Court held that relief from income tax is available under Article IV of the DTA if

the following three conditions are met:

- (a) That the Appellant is a "Singapore enterprise";
- (b) That the Appellant does not "carry on business" thorough a "permanent establishment in Malaysia"; and
- (c) The appellant derives "income or profits from Malaysia."

The high Court found that there as no attempt on the part of the Special Commissioners to examine the contract between PCSB and the Appellant to determine the nature of the relationship between the parties. A reading of the contract indicated that the Appellant was not a project management contractor exercising "management, control or supervision" of PSB's trade or business within the exclusionary meaning of "income or profits" under Article II(1)(I) of the DTA. The contract showed that the Appellant as merely an independent contractor providing "inspection and expediting services" to PCSB. Consequently, the Appellant derived income from Malaysia

In short, the High Court decided in favor of the taxpayer and held that domestic law may not override a treaty provision.

Ketua Pengarah Hasil Dalam Negeri VS International Foods Sdn Bhd

The Ketua Pengarah Hasil Dalam Negeri made an appeal with the High Court on the following two issues:

1. Whether the sum of RM590,825.00 incurred and paid in 1985 to Alexander Proudfoot (M) Sdn Bhd by International Foods to conduct an efficiency study to increase productivity and reduce costs in International Food's business was an expense wholly and exclusively incurred in the production of gross income and deductible under section 33(1) of the Income Tax 1967 Act; and
2. Whether the sum of RM393,369.00 incurred and paid in 1985 by International Foods to certain redundant employees of International Foods as gratuity/retrenchment benefits was an expense wholly and exclusively

incurred in the production of gross income under section 33(1) of the Act.

The Special Commissioners had in their Deciding Order ruled that both the sums as mentioned were expenditure which were deductible under section 33(1) of the Act. It was against that ruling that the appeal was filed by the Ketua Pengarah Hasil Dalam Negeri.

After reviewing the appeal, the High Court ruled as follows on the two issues:

On the first issue, the High Court concluded that the efficiency study was meant mainly for the benefit of International Foods' successor, Food Specialities (M) Sdn Bhd. In addition, the High Court was also unable to agree with the Special Commissioners that as a result of the study there was an increase in the speed time of production. As such,

the High Court concluded that the efficiency study could not be said to be wholly and exclusively for the purpose of increasing productivity and reduction of business costs of International Foods as the evidence appeared to show that it was done more for the benefit of Food Specialities. The High Court ruled that the sum of RM590,825.00 could not come within the meaning of an expense allowable to be deducted under Section 33(1) of the Act.

On the second issue, the High Court also arrived at the same conclusion as the first. The High Court ruled that the expense incurred by International Foods amounting to RM393,369.00 towards payment of gratuity/retrenchment of redundant employees was not an allowable deduction under Section 33(1) of the Act.

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A Happy Deepavali!

Tax in a global village

Globalisation is not new, but the pace of integration of national economies has quickened. The development of regional trading blocs, the removal of restrictions on investment flows and improved communications technology have accentuated this trend.

The integration of national economies and the liberalisation of financial markets has improved the well-being of citizens around the globe. Capital has been able to flow to where it can be most effectively used. Enterprises have been given access to worldwide capital markets, thereby reducing the cost of capital. Cross-border trade has widened the range of goods and services available to citizens.

Tax systems, and particularly international taxation arrangements, have not always kept pace with these developments. Most of today's tax arrangements were developed in an era when tax authorities could rely upon exchange controls and regulated capital markets for information on cross-border transactions and where technological constraints limited the development of truly global activities. These barriers to cross-border activities isolated tax authorities from the full implications of the interaction between national tax systems. The elimination of these barriers allowed corporations to globalise, but tax authorities remained constrained by national frontiers.

Governments need to demonstrate that national tax systems can continue to operate in this new environment. Will governments be able to tax capital in a world characterised by liberalised financial markets? Will tax

competition lead to a "race to the bottom" with each country seeking to outbid its neighbours in providing tax niches to attract highly mobile activities? Will cross-border savings continue to go largely untaxed? Does financial innovation threaten some of the basic premises (e.g., debt versus equity) upon which tax systems are built? How will governments adapt traditional tax systems to the wired-world?

More generally, policymakers are increasingly looking to tax systems to help resolve some of the social and economic problems that are likely to dominate the next millennium. Can tax systems, for example, be restructured to improve the functioning of labour markets? Can part of the tax burden be shifted from labour onto consumption or onto polluting activities? What scope is there to use taxes to help produce a cleaner environment and encourage sustainable economic development? More generally, governments are grappling with how tax/benefit systems should be adapted to an ageing society.

The tax systems of the 21st century will have to respond to these challenges. Tax policymakers will have to accept the constraints imposed on domestic policy formulations that flow from globalisation. The international dimension of tax policy will gain in importance for both small and large countries. It is recognised that 29 countries are no longer a large enough geographical grouping to set the global tax rules. Countries outside of the OECD must be brought into this process. The world beyond OECD can only gain in importance in the new millennium and the

concerns of these countries must feed into the discussions at the OECD. The CFA has accepted these challenges and its partnership program now extends to more than 60 countries beyond the OECD area.

Tax administrators will also need to enter the new millennium with a modernising agenda. New communication technologies open up new possibilities to improve the service provided to taxpayers. Electronic assessment and collection of tax are all now feasible options. Better service is the key to better voluntary compliance, although there will remain the need for an effective strategy to identify and deal with those who engage in unacceptable tax minimisation practices. But the broader challenge facing tax administrations is how to maintain community confidence. Tax systems not only need to be administered in a fair and effective manner, but also need to be perceived as being fair and effective. In some countries, this may require reviewing the somewhat artificial barriers that have historically existed between the administration of different taxes and moving towards a single point tax administration. In this new environment, tax administrations will need better access to information and will need to intensify their co-operation. Just as multinational enterprises have global strategies, so tax administrations will need to develop global approaches to the assessment and collection of tax.

(An extract from OECD Tax and Globalisation; updated on 12 December 1999)

2001 Budget Booklet

It is the dawn of the new millennium and the "Y2K-buf" was declared to be the first extinct species of the new millennium. The first quarter economic growth of 2000 of 11.7 per cent and improving macroeconomic fundamentals (e.g. strong international reserves, healthy current account surplus of the balance of payments, low and stable inflation, etc.) are testimonies of the success that the Government, together with the cooperation of the private sector, has achieved. But, we must not be complacent of our success, the road to recover is long and dangerous.

Thus the 2001 Budget is a task for our executive, as it must balance between the needs of the people against the needs of the nation, as a whole. Our country needs to brace itself for the transition from a production-based economy to a knowledge-driven one, as well as the rapid changes in the ways businesses are being conducted via the Internet. There is also the challenge of liberalisation and globalisation where the developed countries and big foreign multinationals seek to dominate the economies of the smaller and weaker developing countries.

In the end, this year's Budget 2001 is merely one step to Vision 2020. The question is more, in which direction ...

The Institute will be publishing a booklet on the 2001 Budget proposals. The booklet will highlight, in particular, the proposed amendments to the taxation legislation and provide a commentary on these amendments.

As in previous years, a copy of the booklet will be sent to each member free of charge. Members who require additional copies for their clients or business associates can purchase the booklet at RM5.00 per copy. A space will be reserved in the inside cover of the booklet for the name of the member audit firm to be inserted. This give-away is an excellent promotional item for practitioners.

Members who wish to purchase additional copies of the 2001 Budget booklet are kindly requested to complete the Order Form below and return it with the appropriate remittance to the Institute.

	PRICE PER COPY	NO. OF COPIES	COST (RM)
Budget 2001 Booklet	RM5.00		
Budget 2001 Booklet for 100 copies & above	RM4.50		
Subtotal			
Postage/Packing (By normal post - RM2.00 for every copy for Peninsular Malaysia only)			
<input type="checkbox"/> For courier service - different rates applicable			
<input type="checkbox"/> To be collected at MIA office - KL			
TOTAL			

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Designation: _____

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Commercial Division
Level 5, Dewan Akauntan
No. 2 Jalan Tun Sambanthan 3
Brickfields,
50470 Kuala Lumpur
Malaysia
Telephone : 03-2274 5055
Facsimile : 03-2274 1783
e-mail : commercial@mia.org.my
Homepage : www.mia.org.my

For enquiries, please contact: Ms. Chin Sun Sun at Commercial Division, Malaysian Institute of Accountant

The following persons have been admitted as associate members of the Institute as at 21 September 2000.

Name	Membership No.	Name	Membership No.	Name	Membership No.
Julian Martin Wong	1708	Loh Kah Woon	1726	Heng Fi Nian	1745
Jap Kouk Ping	1709	Ng Shiuh Tsyr	1727	Koh Yat Wai	1746
Ng Kim Tuck	1710	Choo Veh Ken	1728	Yew Nyuk Soong	1747
Paul Chiam Tau Keen	1711	Lau Ngan Hong	1729	Ong Beng Keong	1748
Mok Yueh Yong	1712	Nakha Ratnam a/l Somasundaram	1730	Loh Hooi Hong	1749
Kan Chee Meng	1713	Mohamad Isa Bin Yeop	1731	Lam Sook Mee	1750
Rajahram a/l R. Padmanabhan	1714	Zainal Abidin Bin Hamdan	1732	Norlizah Bt Paharudin	1751
Sak Swee Sang	1715	Kong Ming Enn	1733	Khoo Jenn Sun	1752
Ong Yong Hai	1716	Gan Hui Leng	1734	Valsala Krishnan a/l K. Chandrasegaran	1753
Zaharah Binti Mustapa	1717	Liew Onn Nee	1735	Abd Aziz Bin Attan	1754
Mohd Yamin Bin Abd Manap @ Yusop	1718	Phua Kia Pau	1736	Koh Chin Koon	1755
Tang Boon Hiap	1719	Ng Jin Pian	1737	Lim Teck King	1756
Annabelle Wong Su-Ching	1720	Linda Patricia Lim Sooi Hong	1738	Chong Nget Fong	1757
Tan Kong Hun	1721	Ting Sing Harn	1739	Ch'ng Hean Lay	1758
Lee Swee Yong	1722	Lim Kim Hai	1740	Ng Lee Teng	1759
Ariff Bin Apani	1723	Wong Kooi Vee	1742	Chin Shoon Chong	1760
Lee Kok Hoong	1724	Yong Chee Leong	1743	Ooi Seng Teong	1761
Suma Ann Verghese	1725	Chin Wei Teck	1744		

The following persons have been admitted as fellow members of the Institute as at 21 September 2000.

Name	Membership No.	Name	Membership No.	Name	Membership No.
Ng Meng Kwai	36	Pang Ah Kow	719	Au-Yong Swee Yin	816
Mak Kum Choon	37	Tan Peng Sam @ Cheng Peng Sam	722	Teh Siew Lin	819
Lee Nyi Min @ Lee Gee Beng	70	Tan Kok Liang	726	Lim Seong On	821
Yuen King Mun	80	Tan Seng Jin	731	Lim Ping Way	835
Khoo Pek Ling	111	Choong Shiau Yoon	736	Peter Loh Chee Khen	845
Tan Chiew Hee	117	Liew Tip Chan @ Liew Choong Chau	737	Gan Chong Shyan	848
Ooi Chee Kun	120	Leong Wing Seng	738	Choong Kam Choy	852
Chuah Seong Phaik	199	Hussain Ahmad Bin Abdul Kader	749	Pan Tet Kong	853
Ng Hian Tion	671	Wong Chi Tieng	761	Yip Wah Pung	855
Lee Boon Keng	672	Sim Sie Lee	768	Lim Chee Zee	856
Loo Chor Sin	675	Thong Mun Ling	771	Tan Ping Hut	859
Chan Sin Yik	683	Chong Ching Lai	788	Neoh Lean Teik	871
Aw Kong Ngek	685	Koay Chniah Chniah	796	Wong Simon Koh Ing	880
Chia Soo Hien	687	Toh Chun Wah	799	Chee Yun Ming	884
Sing Chui Boon	692	Tan Chu Wah	800	Teh Ah Hock	1002
Suna Teo	708	Peter Lau King Ching	801		
Tung Kai Shek	709	Chuah Chong Gee	804		

MEMBERSHIP STATUS OF MIT AS AT 21 SEPTEMBER 2000

Honorary Fellows	7
Fellows Members*	486
Associate Members*	1239

1725

* Fellow and Associate Members

Public Accountants of MIA	1038
Registered Accountants of MIA	225
Licensed Accountants of MIA	10
Advanced Course Exam of IRD	130
Advocates & Solicitors	8
Approved Tax Agents	130
MIT Graduates	7
Others	177

1725

MIT Professional Examination

CALENDAR FOR YEAR 2000

January 1	Annual Subscription for 2000 payable.
February 18	Release of the 1999 Examination results. Students will be notified by post. No telephone enquiries will be entertained.
March 31	Last date for payment of annual subscription fee for Year 2000 <i>without penalty</i> (RM50).
April 30	Last date for payment of annual subscription for Year 2000 <i>with penalty</i> (RM100).
April 30	Question & Answer Booklets available for Sale.
September 1	Closing date of registration of new students who wish to sit for the December 2000 examination sitting.
September 15	Examination Entry Forms will be posted to all registered students.
October 15	Closing date for submission of Examination Entry Forms. Students have to return the Examination Entry Form together with the relevant payments to the Examination Department.
November 30	Despatch of Examination Notification Letter.
3rd Week of December	MIT Examination.

N O T I C E

TO ALL REGISTERED STUDENTS OF THE INSTITUTE

December 2000 Professional Examination - Taxation I to Taxation V papers

We wish to remind candidates sitting in any of the above Taxation papers that they are expected to have knowledge of any changes to the relevant legislation. No questions on new legislation will be set until at least six months have lapsed since the last day of the month in which the Royal Assent was given to the new legislation. In this respect, the 2000 Budget changes proposed in the Budget Speech presented on 25 February

2000 via the Finance Bill 2000 will not be examined as the relevant Act had been gazetted on or before June 2000.

In the December 2000 examination session, computational questions will be set for the year of assessment 2000 (current year basis). However, a number of orders were gazetted in February and March 2000 and these would be examinable. A summary of these

orders appear in page 32 of this journal.

Candidates are also required to be familiar with the provisions relating to the 1999 tax waiver as well as the provisions relating to self-assessment as outlined in the Income Tax Act (Amendment) (No.2) Act, 1999.

Guidance Notes for each paper will be given to candidates in the later part of the year.

PROFESSIONAL EXAMINATIONS

Of the Malaysian Institute of Taxation

One of the main objectives of the Malaysian Institute of Taxation (MIT) is to train and build up a pool of qualified tax personnel as well as to foster and maintain the highest standard of professional ethics and competency among its members.

One avenue of producing qualified tax personnel is through professional examinations. As such, MIT conducted its first professional examination in December 1995. To-date, the MIT has successfully conducted five examinations. The professional examinations also seek to overcome the present shortage of qualified tax practitioners in the country.

Examination Structure

The professional examination is currently held annually and is comprised of three levels.

Foundation Level

- Taxation I
- Economics & Business Statistics
- Financial Accounting I

Intermediate Level

- Taxation II
- Taxation III
- Company & Business law

Final Level

- Taxation IV
- Taxation V
- Business & Financial Management
- Financial Accounting II

How to Register

You can contact the Institute's Secretariat for a copy of the Students' Guide. The Guide contains general information on the examinations and a set of registration forms, which must be submitted with the necessary documents to the Secretariat.

Entrance Requirements

- (a) Minimum 17 years old.
 - At least 17 years old
 - At least two principal level passes of the HSC/STPM examination (excluding Kertas Am/Pengajian Am) or equivalent.
 - Credits in English Language and Mathematics and an ordinary pass in Bahasa Malaysia at MCE/SPM.
- (b) Degrees, diplomas and professional qualifications (local/overseas) recognised by the MIT to supersede minimum requirements in (a)
- (c) Full Members of local and overseas accounting bodies.

Exemption

Exemption from specific papers in the professional examinations is available, and the extent of exemption granted will depend on qualifications attained and course contents as determined by the MIT Council.

Exemption Fees

Foundation	RM50.00	per subject
Intermediate	RM60.00	per subject
Final	RM70.00	per subject

Examination Fees

Foundation	RM50.00	per subject
Intermediate	RM60.00	per subject
Final	RM70.00	per subject

Dates to Remember for 2000 Examination

1 September

Closing date for registration as a student to sit for the examination of that year.

15 October

Closing date for submission of examination entry for the examination of that year.

December Examination.

PILOT PAPERS , DECEMBER 1995, 1996 , 1997, 1998 & 1999 EXAMINATIONS

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The Principal benefits to be derived from membership are:

1. Members enjoy full membership status and may elect representatives to the Council of the Institute.
2. The status attaching to membership of a professional body dealing solely with the subject of taxation.
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1. Any person who has passed the Advanced Course examination conducted by the Department of Inland Revenue and who has not less than five (5) years practical experience in practice or employment relating to taxation matters approved by the Council.
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3. Any Registered Student who has passed the

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