



MINIT DIALOG OPERASI BIL. 1/2008
ANTARA
LEMBAGA HASIL DALAM NEGERI MALAYSIA
DENGAN
PERSATUAN AKAUNTAN

JABATAN PENGURUSAN HASIL
LEMBAGA HASIL DALAM NEGERI MALAYSIA
25 FEBRUARI 2008

**MINIT DIALOG OPERASI BIL. 1/2008
ANTARA LHDNM DENGAN PERSATUAN AKAUNTAN**

Tarikh : 25 Februari 2008 (Isnin)
Masa : 9.00 pagi
Tempat : Bilik Gerakan
Blok 9, Tingkat 16
Wisma Hasil
Jalan Duta, Kuala Lumpur

Kehadiran:

1.	Y. Bhg. Dato' Dr. Mohd. Shukor Bin Hj. Mahfar	Timbalan Ketua Pengarah (Operasi) (Pengerusi)
2.	Encik Sabin @ Sapilin Bin Samitah	Pengarah Negeri Wilayah Persekutuan Kuala Lumpur
3.	Encik Mahmood Bin Daud	Pengarah Cawangan Cukai Korporat
4.	Encik Mohd. Idris Bin Mamat	Pengarah Jabatan Pematuhan
5.	Encik Sait @ Mohammad Sait Bin Ahmad	Pengarah Jabatan Pengurusan Hasil
6.	Puan Asriah Bt. Shaari	Pengarah Negeri Selangor
7.	Puan Salmah Bt. Kassim	Pengarah Jabatan Undang-Undang
8.	Encik Kamaruzzaman Bin HJ. Ab. Salleh	Pengarah Cawangan Jalan Duta, Kuala Lumpur
9.	Encik Abdul Rahaman Bin Kamaruzaman	Pengarah Bahagian Siasatan Sivil / Timbalan Pengarah Jabatan Siasatan
10.	Cik Puteh Mariah Bt. Harun	Pengarah Bahagian Operasi, Jabatan Pengurusan Hasil
11.	Encik Azhar Bin Husin	Pengarah Bahagian Pungutan, Jabatan Pengurusan Hasil
12.	Cik Ramlot Bt. Keli	Pengarah Cawangan Pungutan
13.	Cik Marina Bt. A. Aziz	Pengarah Jabatan Keutuhan dan Integriti
14.	Encik Mohammed Noor Bin Ahmad	Pengarah Jabatan Pemprosesan
15.	Cik Halijah Bt. Bulat	Pengarah Jabatan Teknikal
16.	Puan Teoh Ai Suan.	Pengarah Bahagian Duti Setem, Jabatan Pengurusan Hasil

17.	Puan Fezeeh Bt. Mamat @ Ahmad	Pengarah Bahagian Pengoperasian Teknikal & Rangkaian, Jabatan Teknologi Maklumat
18.	Puan Zuraida Bt. Abd. Razak	Pengarah Bahagian Aplikasi Mainframe, Jabatan Teknologi Maklumat
19.	Encik Zulkiflee Bin Md. Tahir	Pengarah Cawangan Tidak Bermastautin
20.	Encik Lim Kien Thai	Timbalan Pengarah Jabatan Penyelidikan dan Pembangunan
21.	Cik Norhayati Bt. Mat Kassim	Timbalan Pengarah Bhg. Operasi, Jabatan Pengurusan Hasil
22.	Puan Umi Kalsom Bt. Harun	Ketua Penolong Pengarah Bahagian Pungutan, Jabatan Pengurusan Hasil
23.	Puan Lim Fang Lan	Ketua Penolong Pengarah Bahagian Pungutan, Jabatan Pengurusan Hasil
24.	Encik Aruljothi A/L Kanagaretnam	Ketua Penolong Pengarah Jabatan Pemprosesan Pandan Indah
25.	Encik Azizan Bin Saari	Penolong Pengarah Pusat Khidmat Pelanggan
26.	Dr. Veerinderjeet Singh	Malaysian Institute of Taxation (MIT)
27.	Encik Lim Kah Fan	MIT
28.	Encik Lim Kok Seng	MIT
29.	Y. B. Dato' Raymond Liew Lee Leong	Malaysian Institute of Accountants (MIA) / MIT
30.	Encik Sam Soh Siong Hoon	MIA
31.	Cik Frances Po	MIA
32.	Puan Noor Azlina Bt. Abu Bakar	MIA
33.	Encik Beh Tok Koay	Malaysian Institute of Certified Public Accountants (MICPA) / MIA
34.	Cik Theresa Goh Lee Hwa	MICPA

35.	Puan Melissa Yeoh	MICPA
36.	Encik Danial Badderan	Malaysian Association of Tax Accountants (MATA)
37.	Puan Salmizah Bt. Mokhtar	MATA
38.	Encik Rosalie Md. Usop	MATA
39.	Encik Muhammad Zulkhibri Abdul Rashid	MATA
40.	Encik Peter Lim Thiam Kee	Malaysian Institute of Chartered Secretaries and Administrators (MAICSA)
41.	Cik Devi Krishna	MAICSA
42.	Encik Lau Haw Chong	Malaysian Association of Company Secretaries (MACS)
43.	Encik Mohd Salimi Ahamad	MACS
44.	Encik Md. Seniman Bin Selamat	Ketua Penolong Pengarah Bhg. Operasi, Jabatan Pengurusan Hasil (Urusetia)
45.	Cik Saw Guat Eim	Penolong Pengarah Bhg. Operasi, Jabatan Pengurusan Hasil (Urusetia)

1. Pendahuluan

Y Bhg Dato' Pengerusi mengalukan kedatangan ahli-ahli mesyuarat. Mesyuarat ini diadakan untuk membincangkan isu-isu yang dikemukakan oleh MIT, MIA, MICPA, MATA, MAICSA dan MACS.

2. Isu-isu daripada MIT, MIA dan MICPA

2.1 Transitional Provisions for Dividend Payment under the Single Tier System

Under Section 49 of the Finance Act 2007, a penalty will be imposed on payment of dividends in excess of the Section 108 balance. Most companies have a dividend policy whereby they declare a specific percentage each year. The issues raised below relate to a company where the Section 108 balance of the company has been fully utilised and the company would need to pay the balance of its dividends under the single tier system. For example, a company declares a net dividend of RM20million. It has sufficient Section 108 balance to pay a net

dividend of RM12million and plans to pay the balance under the single tier system. The LHDNM has recently issued a sample of a dividend voucher which combines dividends issued by utilising the Section 108 account, dividends from exempt account and dividends under the single tier system. A copy of the prescribed Form Borang R50 (Declaration on election to forego utilisation of Section 108 Balance) has also been released.

- 2.1.1** In view of the above, would the company be required to inform LHDNM that it is issuing a combined dividend due to insufficient Section 108 credit being available? The Institutes are of the view that as we are in a self-assessment system, the company should take the necessary steps to ensure that all the Section 108 credit is fully utilised. The Company would thus be free to issue single tier dividends accordingly in the same dividend voucher without a need to inform the LHDNM. The Institutes would like to confirm that this approach is acceptable to the LHDNM.

Isu berkaitan daripada MACS:

Dividend franked from Section 108 account and Single – Tier exempt dividend

To clarify whether a company can declare "Single - Tier" exempt dividend before depleting all Section 108 credit balance or before surrendering the said credit ?

We raise this issue because at the Budget Seminar 2008 last year, it was mentioned that “Franked from 108 account before declaring Single - Tier exempt dividend”.

Conversely, the sample of the dividend warrant obtained from the LHDN's web - site shows otherwise.

JAWAPAN:

Jawapan kepada isu teknikal no. 15(x) dalam Catatan Dialog Bajet 2008 Bil. 1/2007 pada 14 Disember 2008 dirujuk.

Bagi pemegangan syer biasa, syarikat dibenarkan membayar dividen ‘single tier’ tanpa memberitahu LHDNM dengan syarat baki 108 digunakan sepenuhnya atau syarikat telah membuat pilihan untuk mengabaikan baki 108. Baucar dividen yang sama boleh digunakan sekiranya tarikh bayaran pelbagai kategori dividen tersebut adalah sama.

Sekiranya dividen yang dibayar adalah berkenaan dengan pemegangan syer selain daripada syer biasa misalnya syer keutamaan (‘preference shareholding’), ia dianggap sebagai dividen ‘single tier’ dan boleh dibayar walaupun syarikat masih mempunyai baki 108 yang belum digunakan sepenuhnya atau belum diabaikan.

- 2.1.2** Pursuant to Section 45 of the Finance Act 2007, a statement in a prescribed form is to be submitted to the DGIR notifying the DGIR of any dividends paid from YA 2008 onwards. In view of the LHDNM letter dated 18 January 2008, this requirement is no longer required (by way of a concession) for dividends paid on or after 1 January 2008. For dividends paid from the first day of the basis period for YA 2008 till 31 December 2007, an extension of time to file the statement has been given till 29 February 2008. The Institutes would like to enquire when the prescribed form would be made available?

Isu Tambahan daripada MIT:

2.1.3 Prescribed Form for Dividends paid during year of assessment 2008

Pursuant to Section 45 of the Finance Act 2007, a statement in a prescribed form is to be submitted to the DGIR notifying the DGIR of any dividends paid from YA 2008 onwards. In view of the IRB letter dated 18 January 2008, this requirement is no longer required (by way of a concession) for dividends paid on or after 1 January 2008. For dividends paid from the first day of the basis period for YA 2008 till 31 December 2007, an extension of time to file the statement has been given till 29 February 2008.

The Institutes would like to enquire

- (i) When will the prescribed Form R31 be issued as it is already late February. In view of the delay, a further extension of time is needed.
- (ii) Will there be a PDF-format which will allows software providers to incorporate the necessary details into tax software?

The Institutes hope that the IRB will post any new changes on the website and issue copies to professional bodies well ahead of launching forms,etc so as to provide advance notice and enhance implementation.

Isu berkaitan daripada MAICSA:

2.1.4 Prescribed Form for Section 108 Balances

The 2008 Budget proposed that a prescribed form needs to be submitted to the Director General Inland Revenue (DGIR) for the following purposes :-

- a) Where Sec. 41 of Finance Act 2007 applies, within 30 days from 31 December 2007 for the purpose of ascertaining the 108 balances or any excess due to over payment of dividend; and

- b) Where Sec. 40 of Finance Act 2007 applies, within 30 days from date of dividend is paid or credited to its shareholders for the purpose of ascertaining the Section 108 balance or revised 108 balance

When will the prescribed forms be issued out by LHDNM and is there any extension of time for the submission of the prescribed forms. Can the requirement for item (b) above be dispensed with since the Section 108 balance computation is submitted together with the Form C annually.

JAWAPAN:

Syarikat tidak perlu mengemukakan penyata di bawah subperenggan 45(1)(a)(i) Bahagian II Akta Kewangan 2007 dalam tempoh 30 hari dari tarikh bayaran dividen. Pengecualian ini diberikan secara konsesi ('administrative concession') dan telah diumumkan di laman web LHDNM. Jawapan kepada isu teknikal no. 15(vi) dalam Catatan Dialog Bajet 2008 Bil. 1/2007 pada 14 Disember 2007 adalah berkaitan.

Penyata untuk melaporkan kedudukan baki 108 pada 31 Disember 2007 (perenggan 45(1)(b) Bahagian II Akta Kewangan 2007) akan dikeluarkan tidak lama lagi dan diumumkan kelak. Pihak persatuan juga akan dimaklumkan. Sehubungan dengan itu, tarikh pengemukakan penyata tersebut telah dilanjutkan ke 30 April 2008.

- 2.1.5** In the Post Budget Dialogue held on 14 December 2007, it was indicated that the Section 110 credit in respect of dividends received up to Budget Day (i.e. 7 September, 2007) would be creditable to the Section 108 account. The Institutes would like to seek clarification as to how this would be implemented administratively and what procedures / processes would a taxpayer need to adhere to.

JAWAPAN:

Kredit cukai seksyen 110 bagi dividen yang diterima pada atau sebelum 7 September 2007 boleh diambil kira dalam penyata baki 108 bagi 31 Disember 2007 (perenggan 45(1)(b) Bahagian II Akta Kewangan 2007).

Bagaimanapun amaun kredit tersebut adalah terhad kepada sebahagian daripada amaun cukai dikenakan. Pelarasan perlu dibuat semasa menyediakan penyata baki 108 tersemak bagi tahun taksiran 2008.

- 2.1.6** The Institutes note that the Single Tier Dividend is stated as an exempt dividend in the sample dividend voucher and under the “Income Tax (deemed deducted) Column”, it is indicated as exempt. Technically, it is suggested that this is not consistent with the law. It is suggested that for a Single Tier Dividend, there is no entitlement to deduct tax and perhaps the wordings in the voucher could be modified accordingly.

JAWAPAN:

Contoh format baucar dividen di laman web telah dipinda dengan menggugurkan perkataan ‘tax exempt’ dari ‘single tier dividend’.

2.2 Change of Officers

In some long outstanding appeal / refund cases, the officer handling the case would have changed several times due to transfers/promotions, etc. This may cause a further delay in the appeal / refund matter, as the new officer would need time to review the case, etc. The following are examples of actual cases:

- 2.2.1** In a specific case of a “leaver”, the last return was filed with the Assessment Branch at Jalan Duta, as advised by the LHDNM via its letter dated 28 March 2007. All relevant documents (i.e. CP 21, passport, etc.) and prior years’ tax computations and returns were also submitted to the said branch to facilitate the issuance of a tax clearance letter. Subsequent to the submission, the tax agent had spoken to at least four different officers in less than two weeks and each time, they were given names of different officer-in-charge.

- 2.2.2** A corporate taxpayer was issued with Form J under Section 90. Forms C & R, audited financial statements together with the income tax computations were subsequently submitted. The tax agent was informed by the officer-in-charge that a reduced assessment had already been prepared, pending approval from his superior. Unfortunately, the officer was transferred out before the reduced assessment was approved. His successor was also transferred out and there had been no further action from the LHDNM since then. The tax agent was requested to call back in two weeks time to follow-up on the status during the last call made to the LHDNM on 31 December 2007.

The Institutes understand that staff movement is unavoidable. However to alleviate the situation, it is proposed that LHDNM expedites its cases based on a chronological order, i.e. on a first in first out basis so that taxpayers are not inconvenienced and burdened with further delays.

JAWAPAN:

Mengikut peraturan dan amalan kerja, perkara tersebut tidak sepatutnya berlaku. Walau bagaimanapun, perkara ini diambil perhatian dalam penambahbaikan sistem penyampaian LHDNM.

Sekiranya kes sedemikian masih berlaku, ia boleh dirujuk kepada Timbalan Ketua Pengarah (Operasi) dengan memberikan nama cawangan, nombor rujukan cukai kes dan nama pegawai berkenaan. Bagi isu teknikal, pihak persatuan boleh menghantar surat melalui faks kepada Pengarah Negeri untuk tindakan selanjutnya.

2.3 Tax Credit Set-off

As raised during the previous Dialogue with the Operations Division (held on 4 April, 2007, refer item 2.7.3 of the Minutes), there are still occasions where LHDNM issued approval letters (standard letters from Kaunter Setempat) to set off tax credits against future installments. However, subsequently a full refund is given without taking into account the set-off. This causes anxiety to taxpayers as the unpaid installments (which are subsequently paid) would be subject to late payment penalties. This is primarily a timing issue due to human oversight or system error and as such taxpayers should not be penalised.

The Institutes would like to seek clarification as to the process that would need to be followed in such an instance. Further, we would like to seek confirmation from LHDNM that penalties would not be imposed in such situations.

JAWAPAN:

Perkara tersebut berlaku disebabkan 'timing difference'.

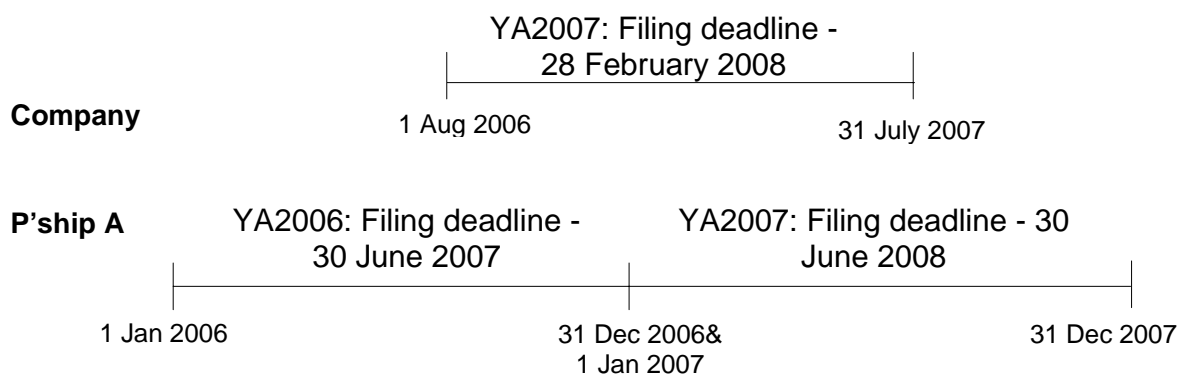
Mengikut prosedur, semakan akan dibuat dengan surat permohonan pembayar cukai dan surat kelulusan yang telah dikeluarkan oleh LHDNM. Sekiranya didapati bayaran balik telah dibuat setelah kelulusan diberikan, ansuran yang sepatutnya dianggap telah dibayar tidak akan dikenakan kenaikan cukai. Pembayar cukai dikehendaki membayar balik amaun tersebut dalam tempoh yang ditetapkan. Sekiranya tidak, tindakan untuk remit kenaikan cukai tidak akan dipertimbangkan.

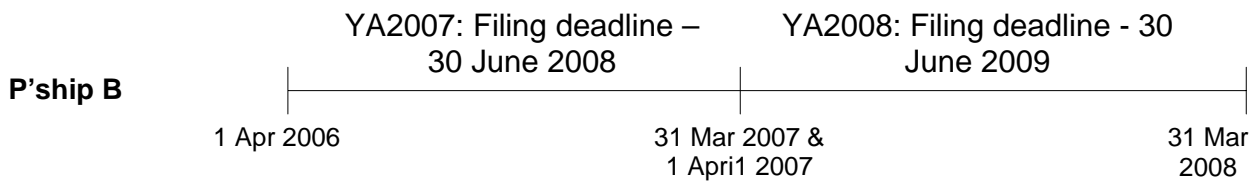
Pembayar cukai/ejen cukai boleh merujuk kepada Pengarah Cawangan sekiranya berlaku masalah tersebut.

2.4 Partnerships: Share of Profits

Where a Company enters into a partnership that has a financial year-end (say 31 December) different from its own financial year-end (say 30 June), the Company is required to file its tax return by the end of January in the following year. However, the actual share of profits from the partnership may be only available by end-June (which is when the partnership return is due for submission). In previous dialogues, LHDNM had informed that the Company was to include an estimate of its share of profits from the partnership when it submits its tax return. Thereafter, when the actual share of profits is known, the Company was required to inform LHDNM of the actual share of profits via a letter. The Institutes seek confirmation of the following issues as a result of this:

- 2.4.1** Due to the fact that the Company may only become aware of its actual share of profits at or after a specific period of time, the Institutes would like to seek a concessionary timeframe for the Company to inform LHDNM of its actual share of profits such as 30 days after the date the relevant partnership tax return has been submitted to LHDNM.
- 2.4.2** Where there is a variance (i.e. actual share of profits differs from the estimated share of profits), the Company shall inform LHDNM via a letter and then wait for LHDNM to issue the relevant Form JA/JR as the case may be. Thereafter the Company must settle the additional tax within 30 days from the date of issue of the Form JA or initiate a refund in the case of a Form JR. No penalty will be imposed on the additional tax raised unless the Company does not settle the additional tax within 30 days from the date of the Form JA.
- 2.4.3** Where a Company enters into several partnerships having different year-ends, say Company X has a July year-end whilst Partnership A has a December year-end and Partnership B has a March year-end, the Company is required to submit 2 revisions to its original tax return, i.e., the first revision in June 2008 (i.e., Partnership A's filing deadline) and the second revision in June 2009 (i.e., Partnership B's filing deadline)? Please refer to the table below for an illustration.





The Institutes propose that LHDNM consider allowing the Company to submit the revision to its original tax return only after all the relevant partnerships had submitted their tax returns. This is to reduce the administrative burden to all parties.

JAWAPAN:

Isu yang sama pernah dibangkitkan dalam Dialog Operasi Bil. 2/2001 bertarikh 21 November 2001 (Perkara 2.10 dalam Catatan Dialog tersebut dirujuk).

Atas permintaan Y Bhg Dato' Pengerusi, pihak persatuan bersetuju memberikan lebih senario kes untuk perbincangan bersama.

2.5 E-Filing

The Institutes understand that LHDNM is working towards introducing an e-filing facility for all types of tax returns as well as on the package to allow tax agents to file tax returns for their clients by using a special PIN. The Institutes welcome the introduction of a PIN for tax agents to file their clients' Income Tax Returns electronically.

The Institutes would like to enquire on the following:

- 2.5.1** What is the current status of the e-filing system for all tax returns other than Form BE as well as the system to be used by tax agents? The Institutes would like to request that these be expedited so that returns can be filed as soon as possible.
- 2.5.2** When is the tax agent PIN expected to be issued? What is the procedure for a PIN application? Is there a specific format in which a PIN should be applied for? How long would it take to issue a PIN? Would the PIN applications be accepted at all LHDNM branches?
- 2.5.3** When will a sample authorisation letter from a taxpayer to the tax agent authorising him to file the tax return on the taxpayer's behalf be available?
- 2.5.4** Is the facility for online revision of tax return forms submitted available? What if the revision is done by way of a hardcopy form?

The Institutes would also like to seek confirmation that all tax return forms can also be downloaded from the website of the LHDNM throughout the year. The existence of this facility will be useful especially if there are difficulties faced in e-filing due to a heavy traffic of transactions.

In addition, what is the status of the PDF format of the tax return forms? The Institutes would suggest that all modes of obtaining tax return forms should be maintained.

JAWAPAN:

2.5.1 *Sistem e-Filing bagi Borang BE Tahun Taksiran 2007 dan modul e-Filing bagi ejen cukai dijangka boleh diguna mulai 1 Mac 2008.*

2.5.2 *Ejen cukai boleh mendapatkan nombor PIN ejen cukai dengan mengisi borang CP55A atau menulis surat dengan menyatakan maklumat seperti di dalam borang tersebut. Borang hendaklah dikemukakan kepada cawangan-cawangan LHDNM yang berhampiran. Nombor PIN akan dikeluarkan oleh cawangan berkenaan.*

2.5.3 *Borang CP55 (Kuasa Pemfailan Penyata Secara Elektronik iaitu akuan oleh pembayar cukai) telah dikeluarkan di bawah peruntukan seksyen 152A Akta Cukai Pendapatan 1967 dan boleh dimuat turun dari laman web LHDNM. Borang ini tidak perlu dikemukakan kepada LHDNM.*

2.5.4 *Pindaan hendaklah dibuat secara manual.*

Semua borang nyata Tahun Taksiran 2007 dalam format PDF boleh dimuat turun dari laman web LHDNM. Format PDF borang nyata tidak akan disediakan lagi mulai Tahun Taksiran 2008. Borang nyata dalam perisian Excel tidak disediakan bagi Tahun Taksiran 2007.

2.6 Form E

2.6.1 Please confirm whether there will be an extension of time for the submission of Form E beyond 31 March 2008.

2.6.2 It appears that all companies are deemed to be employers by the LHDNM automatically even though the companies have no employees and / or are dormant. Since the company has an E file number, it is expected to file a Form E. Compound notices for failure to file Form E are sent. For example, a LHDNM Branch (in Johore) has refused to cancel the compound notices for a particular company even where the facts

show that there are no employees in the company. In this regard, the company was deemed to have committed an offence.

The Institutes would suggest that a more reasonable approach be adopted in handling such cases and situations.

Isu Tambahan Daripada MIT:

2.6.3 Electronic Format of Form E

When will the electronic format for Form E be released? Will there be a static PDF format? An electronic format would facilitate compliance as software providers can also incorporate the requirements into their systems. This will also maximise the use of IT and reduce costs of compliance.

JAWAPAN:

2.6.1 *Lanjutan masa untuk memfailkan borang E Tahun Saraan 2007 selepas 31 Mac 2008 tidak dibenarkan.*

2.6.2 *Semua majikan dikehendaki mengemukakan Borang E dalam tempoh yang ditetapkan.*

2.6.3 *Format PDF Borang E boleh dimuat turun dari laman web LHDNM.*

2.7 Tax Clearance for Leaver Cases – submission of documents for clearance

As clarified in the previous Dialogue (held on 4 April, 2007, refer minute 2.14.1 / 2.14.3), the original signed Return Form must be submitted to the Branch where the relevant tax file is kept together with supporting documents.

The Institutes wish to seek confirmation that there is no change to this process as some of the Institutes' members still encounter problems from time to time and some are informed that the tax return form needs to be submitted to Pusat Pemprosesan, Pandan Indah.

JAWAPAN:

Prosedur yang sama seperti Perkara 2.14.1 dan 2.14.3 dalam Minit Mesyuarat Majlis Dialog Operasi Bil 1/2007 pada 4 April 2007 masih berkuatkuasa. Peringatan akan dihantar kepada cawangan-cawangan LHDNM tentang prosedur tersebut.

Ejen cukai diminta memberikan nama cawangan, nombor rujukan cukai kes dan nama pegawai berkenaan jika perkara tersebut berlaku.

2.8 Tax Residence Status

The Institutes wish to seek confirmation that a certified true copy of the passport certified by the Commissioner for Oaths is sufficient for purposes of verification of tax residence status. The Institutes understand that this was the position that was clarified at previous dialogues. However, some members have reported that the original passport is requested by some LHDNM officers. The Institutes are therefore seeking confirmation that the original passport need not be provided if a certified true copy is duly presented.

JAWAPAN:

Kes yang berlaku mungkin kes terpencil dan ejen cukai diminta memberikan nama cawangan, nombor rujukan cukai kes dan nama pegawai berkenaan.

2.9 STD payments for expatriates working at an OHQ /RO /RDC /IPC

With regard to taxpayers who work at an OHQ /RO /RDC /IPC and qualify for the income tax exemption, where there is a specific basis for ascertaining the length of stay in Malaysia fairly accurately, the Institutes suggest that a concession be allowed to lower the STD payment accordingly. This is to reduce the administrative burden for both parties.

JAWAPAN:

- (a) Jika cukai pendapatan pekerja ditanggung/dibayar oleh majikan seperti dinyatakan dalam perjanjian penggajian ('employment agreement'), kontrak perkhidmatan ('contract of service') atau perjanjian yang seumpamanya, pengecualian PCB untuk kes tersebut boleh diberikan.***
- (b) Di mana cukai pendapatan pekerja bukan ditanggung/dibayar oleh majikan, PCB hendaklah dibuat oleh majikan ke atas pekerjaanya. Walau bagaimanapun LHDNM boleh memberikan kelonggaran kepada majikan untuk memotong dan meremitkan bayaran PCB lewat daripada tarikh yang ditetapkan. Kelonggaran ini diberikan jika majikan tidak mengetahui jumlah hari pekerjaanya berada di Malaysia atau setengah majikan ('deemed employer' atau cawangan syarikat di Malaysia) tidak mengetahui jumlah gaji pegawai dagangnya kerana dibayar oleh syarikat asal di luar negara terus ke akaun pekerja. Kebanyakan kes hanya diketahui selepas tarikh akhir bayaran PCB.***

Pindaan/pengurangan amaun PCB adalah tertakluk kepada kelulusan pihak pengurusan LHDNM berdasarkan merit kes.

2.10 Section 107B - Penalty Imposition for Lapsed Installments

In non-Company cases, there are situations where the taxpayer makes a request for the Form CP500 sometime during the year as the taxpayer did not previously receive any such form. However, when LHDNM issues the Form, the issuance date is indicated as February. Upon receipt of this Form CP500, the taxpayer subsequently settles the installments (including the installments that have lapsed). However, there would be late payment penalties on the lapsed installments as a result of the installment payment being due from February. In such cases, taxpayers have been told to wait for the late payment penalty notice to be issued before an appeal for a waiver of penalty can be made.

The Institutes are of the view that no penalties should be imposed for such lapsed installments in the above situation since the taxpayer has taken the necessary steps to comply. It is hoped that the Collections Branch could attend to the appeals to waive the imposition of any penalties immediately. This would certainly reduce the administrative burden on all parties.

JAWAPAN:

Bagi kes di mana pembayar cukai memberi alasan yang kukuh seperti alamat pada CP500 yang dikeluarkan tidak sama dengan alamat sekarang, CP500 boleh dikeluarkan. Tarikh bayaran pertama adalah berdasarkan tarikh permohonan. Sekiranya permohonan dibuat selepas sesuatu ansuran itu bermula, ansuran pertama hendaklah bermula pada ansuran berikutnya dan amaun ansuran dikira dengan membahagikan amaun anggaran cukai dengan bilangan ansuran yang tinggal.

Pertimbangan untuk tidak mengenakan kenaikan cukai bergantung kepada merit kes.

2.11 Changes to Return Forms and Explanatory Notes

The Institutes noted that there are changes made to the format and content of tax return forms as well as to the Explanatory Notes occasionally due to various circumstances, etc.

The Institutes would like to request the LHDNM to highlight these changes to the professional bodies as well as via the website so that everyone is made aware of the changes immediately. This could also be done by listing latest updates, specific changes, etc. on the website as mentioned below (See Item 13).

JAWAPAN:

Perkara tersebut diambil perhatian oleh LHDNM.

2.12 Waiver of penalty under Section 107C(11) (refer to Minutes of Operations Dialogue held on 16 February 2005)

Pursuant to Section 107C(11) of the Income Tax Act, 1967 (ITA), the Director General (DG) is given discretionary power to waive penalties for under-estimation of tax on the grounds of "good cause". According to Item 2.17 of the Minutes of the Operations Dialogue held on 16 February 2005, the LHDNM has stated that no guidelines will be issued by the DG on instances which the DG would consider as being a "good cause". However, due consideration will be given based on the merit of each case.

Recently, we have been informed that the LHDNM Penang Branch has been rejecting appeals for waiver of penalties imposed on the under-estimation of tax liability on the ground that the taxpayer did not show a 'good intention' after the ninth-month revision i.e. no additional payments were made on top of the revised amounts or a revised CP204A after the ninth month.

In view of the above, the Institutes would like to enquire as to whether due consideration is still being given to the merit and substance of each case. The Institutes are of the view that consideration of the appeal relating to under-estimation of tax liability should be based on the merit and substance of each case rather than the so-called "good intention" shown by taxpayers as there are instances where profits increase beyond the taxpayers' control, for example the company may only secure a large contract during the last month of its basis period. There is also a need to outline the circumstances that the LHDNM would consider as constituting a 'good cause'.

Isu berkaitan daripada MAICSA:

Proposal To Vary The Estimates of Tax Payable for A Particular Year of Assessment

Currently, taxpayers are allowed to vary their estimates of tax payable for a particular year of assessment by submitting a revision in the 6th month and the 9th month from the beginning of the basis period. If the original or revised estimate of the tax payable exceeds 30% margin as compared to the final tax payable for a particular year of assessment, that particular tax payer will have to pay an additional 10% penalty for the amount of tax under estimated which exceeded the 30% margin permissible by the tax authority. This is not satisfactory as very often, it is difficult for taxpayers particularly, the small business enterprises to make accurate forecast of their tax payable. Furthermore, for performing well which usually ended in them, not only paying a higher amount of tax, they are also in a way being penalized by having to pay a further 10% penalty on the amount which exceeded the 30% margin of their final tax payable under the current system.

The tax authority should consider the following options so as not to penalise tax payers unfairly.

- 1) To waive the 10% penalty imposed on amount exceeding the 30% margin of their final tax payable so long as the balance of their tax liabilities for a particular year of assessment is settled within the 7 months timeframe from the end of their basis period or any permissible extension of time by the tax authority.
- 2) To amend the Act by providing tax payers another opportunity (3rd option) to furnish a revised estimate of their tax payable in the 12th month of their basis period.

JAWAPAN:

Pindaan kenaikan cukai akan dipertimbangkan atas dasar 'good cause' sesuatu kes. Dalam kes di mana terbukti bahawa pembayar cukai mendapat kontrak yang besar, bayaran ansuran untuk anggaran cukai yang dipinda harus diteruskan kerana ia merupakan salah satu sebab pindaan kenaikan cukai boleh dipertimbangkan.

Dari segi perundangan, anggaran cukai hanya boleh dipinda dalam bulan keenam atau kesembilan atau kedua-duanya.

Bagi kes di mana penalti dikenakan, ejen cukai boleh merujuk kepada Timbalan Ketua Pengarah (Operasi) secara bertulis.

2.13 Enhancement of the LHDNM's website

The LHDNM's website is at times not updated on a timely basis. Examples of sections which are not updated on time are 'Income Tax Act, 1967' and the relevant legislations, 'Rulings' and 'Technical Guidelines' which are under the heading of 'Law & Regulations'. Besides this the LHDNM's website is also not very user friendly. Users of the website are not aware of which sections of the website had been updated without going through the relevant section and reviewing the content.

In view of the above, the Institutes propose that a new section called "Latest Updates", which consists of the title and date of every change /update, be made available on the LHDNM's homepage. This is to enable taxpayers to find out the latest changes/updates easily without having to browse through the whole website. In addition, the Institutes also propose that the date of the latest update be made available in each section of the website to reduce the time for searching the latest tax information from a particular section of the website. To further enhance tax compliance, the Institutes hope that the LHDNM's website could be updated on a timely basis to convey the latest changes/information instantly to all users. All updates/latest news should be included in both the Bahasa Malaysia and English versions of the website.

JAWAPAN:

Penambahbaikan sentiasa dibuat ke atas laman web LHDNM dan orang awam digalakkan memberikan pandangan dan input yang membina ('constructive') ke arah itu dengan menggunakan ruangan aduan/cadangan/pertanyaan yang boleh diakses melalui www.hasil.org.

2.14 Estimate of Tax Liability

There are occasions where due to various reasons, tax agents have signed off the CP 204 forms (with the consent of the taxpayer) but these forms are then rejected by Pusat Pemprosesan as it does not bear the signature of the Company officer.

The Institutes would like to suggest that where tax agents have been appointed by taxpayers to handle their tax affairs, the CP 204 forms signed by tax agents on behalf of taxpayers, be accepted by the LHDNM so that the administrative system can function more effectively.

JAWAPAN:

Ejen cukai tidak boleh menandatangani Borang CP 204 bagi pihak pembayar cukai walaupun dengan persetujuan pembayar cukai. Ini adalah kerana tiada peruntukan di bawah Akta Cukai Pendapatan (ACP) 1967 yang membenarkan ejen cukai berbuat demikian.

Seksyen 88 ACP 1967 adalah terpakai bagi keadaan orang yang dibenarkan di bawah ACP 1967 untuk membuat penyata bagi pihak orang lain seperti seksyen 68, 69 dan 73 ACP 1967. Subseksyen 67(4) ACP 1967 memperuntukkan tentang tanggungjawab wakil atau orang yang dikenakan cukai bagi pihak orang lain untuk membuat perkara yang diperuntukkan di bawah ACP 1967 (termasuk membuat penyata bagi pihak orang lain).

Walau bagaimanapun konsesi diberikan oleh Y Bhg Dato' Pengerusi di mana dengan persetujuan pembayar cukai, ejen cukai dibenarkan menandatangani Borang CP 204 bagi pihak pembayar cukai dengan syarat nama dan nombor kad pengenalan ejen cukai berkenaan ditulis dalam borang tersebut.

2.15 Request for Information

The LHDNM has various powers to request for information under Sections 78, 79, 80, etc. of the ITA 1967. However, the time frame given to respond is usually 14 days and this is made worse when the actual letter from the LHDNM is received quite a few days late (and sometimes a week later), thus giving a very short time

period to respond to the LHDNM. This then creates more administrative burden on tax agents as well as the LHDNM as there will be a need to request for extension of time to respond, etc.

The Institutes suggest that a 30 day time frame be used in such cases and this would assist all parties in avoiding requests for more time. Of course, there may be specific cases where due to the amount of information involved, an extension of time could be granted by the LHDNM upon request.

JAWAPAN:

Tempoh 14 hari yang diberikan adalah wajar dan dikekalkan tetapi permohonan untuk lanjutan tempoh boleh dipertimbangkan berdasarkan kes.

2.16 Expanded Power of Access to Buildings, Documents, Objects, etc.

The Finance Act 2007 states that the Director General's access is expanded to all books, documents, objects, articles, materials and things.

The Institutes wish to seek clarification on the following issues:

- (i) The rationale for widening the scope of this section.
- (ii) The definition of "objects" and "things" as stated above and to provide examples as guidance for taxpayers and tax agents.

The Institutes understand that the intention of this change is to cover electronic documentation. However, there may be items that are sensitive to the business such as secret formula or documents that would not be relevant in determining the taxpayer's tax liabilities and thus, these should not be accessed or taken by the authorities.

JAWAPAN:

Definisi 'objects' dan 'things' akan dihantar lebih kurang satu minggu dari hari ini kepada pihak persatuan untuk maklum balas.

2.17 Early Revision of Estimated Tax Liability

There are situations where taxpayers discover that their profits were underestimated substantially and immediately submit CP204A to LHDNM to revise their tax estimates accordingly, i.e. before the 6th or 9th month of the basis period. However, the submissions are not processed (as these have been submitted too early) and as such a Section 107C(10) penalty is imposed after the tax return was filed.

The Institutes would suggest that the LHDNM consider waiving penalty on under-estimation of chargeable income under such circumstances and even if a revision is submitted early, it should be duly processed at the appropriate time.

JAWAPAN:

Dalam keadaan ini, pegawai pungutan LHDNM akan membuat semakan dengan pegawai di Jabatan Pemprosesan Pandan Indah (JPPI). Sekiranya CP 204A telah diterima, semakan semula perlu dibuat oleh JPPI untuk mempertimbangkan sama ada kenaikan cukai tersebut boleh diremitkan.

2.18 Guidelines on Submission of Tax Returns for Companies under Liquidation

Based on item 4 of the LHDNM letter dated 28 March 2007, tax returns for companies under liquidation are to be submitted to the Assessment Branch concerned for their immediate action. The Assessment Branch concerned will raise the assessment and issue tax clearance letter to the tax agents / taxpayer. However, we were informed by certain LHDNM officers that they are not in the position to raise any assessment until and after the assessment has been recorded in the LHDNM's system by the Processing Centre. Thereafter, a tax clearance letter will be issued by the respective Assessment Branch. The officers claimed that they were not aware of any instruction as has been stated in the LHDNM letter dated 28 March 2007.

The Institutes would like to seek confirmation from the LHDNM that the procedures for filing of tax returns of companies under liquidation as advised in the letter dated 28 March 2007 are still valid and that all Assessment Branches are informed of such procedures.

JAWAPAN:

Prosedur memfailkan borang nyata bagi kes pembubaran syarikat sebagaimana surat LHDNM bertarikh 28 Mac 2007 kepada pihak persatuan masih berkuatkuasa. Cawangan-cawangan LHDNM telah dimaklumkan mengenai prosedur tersebut.

2.19 Late Delivery of Letters

There have been cases where the LHDNM's letters reached the tax agents / taxpayers late and these have caused unnecessary stress and time in applying for an extension of time to respond, e.g. In a leaver case, Form J dated 9 November 2007 issued by the Jalan Duta Branch was only delivered to the tax agent on 19 December 2007.

In the past, LHDNM used to date its letters/Notices a week in advance. The Institutes propose that the old practice be followed so as to enhance smooth operations and reduce administrative burden for both parties.

JAWAPAN:

LHDNM akan mengambil kira tempoh masa bagi penghantaran surat / notis kepada pembayar cukai.

2.20 Telephone Communication

It was brought to the Institutes' attention that some phone calls made to the LHDNM were either not attended to, or attended to only after a long wait, especially calls made to Kuala Lumpur Assessment Branch and Pusat Pemprosesan at Pandan Indah. It is, at times, very difficult to get through to the officers.

Some officers attending to calls refuse to disclose their names as they were merely providing assistance in the absence of the officer-in-charge. However, it will be more efficient to have their name for future reference and follow-up.

The Institutes urge LHDNM to improve its channels of communication as this can greatly enhance the success of self-assessment and reduce the administrative burdens of both the LHDNM and the taxpayers. Tax agents and taxpayers rely heavily on telephone calls to obtain quick clarifications on issues and problems faced by them.

JAWAPAN:

Pegawai-pegawai LHDNM sentiasa diingatkan supaya melayan setiap pertanyaan pembayar cukai dengan baik.

2.21 Taxpayers' Particulars Not Updated by LHDNM

Although this had been brought to the attention of LHDNM on several occasions, our members still continue to receive Forms CP 38 for individuals who are not employees of their clients, correspondence letters, receipts for installment payments and bounced cheques in respect of past clients, even though the LHDNM had already been duly notified of the fact that a tax agent was no longer handling the tax affairs of a taxpayer.

The Institutes hope that LHDNM can update its records accordingly and on a timely basis to avoid any miscommunication of non-receipt or late receipt of correspondence, notices or receipts and also to avoid extra administrative burden on all parties.

JAWAPAN:

Perkara ini diambil perhatian oleh LHDNM.

2.22 Extension of Time for Filing Form C & R

In view of the huge volume of tax returns involved, the LHDNM had in the past allowed companies with March and December year-ends to submit their tax returns on or before 14 days after the stipulated deadline without imposing late filing penalty. The Institutes welcome the flexible approach adopted by LHDNM.

The Institutes would like to request that the above administrative concession for both March and December year end companies should continue to apply in 2008 on an automatic basis without the need for the Institutes to apply for specific extensions i.e no penalty will be imposed on taxpayers if the Forms C and R of the March and December year- end companies are received by the LHDNM on or before 14 November or 14 August respectively. This concession will also apply to payments of tax under section 103(1) of the Income Tax Act 1967.

Instead of applying for the concession annually, we would also like to propose that the concession be granted for an indefinite period. Advance notice should be given to taxpayers if the concession is to be withdrawn.

JAWAPAN:

Tempoh konsesi selama 14 hari dilanjutkan ke Tahun Taksiran 2008 untuk tempoh perakaunan berakhir 31 Mac 2008 dan 31 Disember 2008.

2.23 Advance Rulings in Income Tax Administration

Advance Rulings were announced in the 2007 Budget Speech. However, as at to date, the Rules on Advance Rulings have not been gazetted.

The Institutes would appreciate an update on this matter.

JAWAPAN:

Kaedah-Kaedah Cukai Pendapatan (Ketetapan Awal) 2008 [P.U. (A) 41] telah diwartakan pada 14 Februari 2008.

Isu-Isu Tambahan daripada MIT

2.24 Penalty for late submission of returns published on the IRB website

Currently, the IRB has published on its website the rates of penalty for late submission of Tax Return Forms. However, there are instances where officers impose a higher rate of penalty.

The success of the self-assessment regime hinges on the simplicity, clarity and transparency of the tax system. The Institutes believe that is the reason why the penalty rates are being posted on the website of IRB. The Institutes therefore wish to seek clarification from as to the circumstances under which the IRB will impose a penalty which is higher than those stated on the website.

Where there are late submissions of Return Forms, for example after 2 years, when the taxpayers are being audited or investigated, the IRB has in some cases invoked Section 113(2) as well as impose the relevant penalty. The Institutes are of the view that Section 113(2) is applicable only to incorrect returns while late submission will fall under the ambit of Section 112. As such, the rate of penalty should follow what is indicated on the IRB website.

JAWAPAN:

Perkara ini akan disemak.

2.25 Minutes of Dialogues held between the IRB and the Professional Bodies

There have been instances where the an Assessment Branch officer has refused to accept the decision made at the dialogues even though the tax agent provides a copy of the minutes of the dialogue.

The Institutes would urge IRB to look into the dissemination of information to the branches. This would create uniformity in practice, reduce confusion and administrative problems, which is a key factor in the success of the self assessment system.

JAWAPAN:

Mengikut amalan, minit mesyuarat Majlis Dialog Operasi diedarkan kepada Pengarah-Pengarah Cawangan dan juga dipaparkan dalam e-Office LHDNM yang kini digantikan dengan laman web Knowledge Base LHDNM.

3. Isu-Isu daripada MAICSA

3.1 Different Dates for Submission of Separate Returns for Spouses

Where a taxpayer whose spouse is not having a “business income” source he/she is required to submit his/her separate 2007 return on or before 30 April 2008. This early separate submission of return will definitely deny the taxpayer and /or his/her spouse the best advantage in their claims for “personal reliefs”. When one taxpayer has a “business income” source and submits his/her return at a later date i.e. 30 June 2008, his/her spouse should be allowed to do likewise.

JAWAPAN:

Dari segi perundangan, tarikh pengemukakan borang nyata ('due date') ditentukan oleh jenis pendapatan yang dilaporkan oleh seseorang pembayar cukai dan bukan mengikut tarikh pengemukakan borang nyata pasangannya.

LHDNM berpendapat bahawa tempoh masa 4 bulan adalah mencukupi bagi pembayar cukai membuat perancangan cukai yang terbaik.

Walau bagaimanapun, surat rayuan boleh dihantar kepada Timbalan Ketua Pengarah (Operasi) untuk pertimbangan berdasarkan kes.

3.2 Revising Section 108 balance as at 31.12.2007

It is proposed that a prescribed form needs to be submitted to the Director General Inland Revenue (DGIR) within 30 days from 31 December 2007 for the purpose of ascertaining the 108 balance.

The Institute wish to know how will the balance of YA 2008 taxes paid in 2007 be adjusted in the following situation.

Example

	Section 108 balance	
Year end 30.6.2007 (including July instalment)		100,000
YA 2008 - Instalments		
Aug - Dec 2007 (5)	5,000	5,000
Jan - Jul 2008 (7)	7,000	
	<u>12,000</u>	
Balance as at 31.12.2007		<u><u>105,000</u></u>
Actual tax for YA 2008	<u><u>4,000</u></u>	

JAWAPAN:

Amaun ansuran yang telah dibayar berhubung dengan anggaran cukai tahun taksiran 2008 dan telah dikreditkan dalam akaun seksyen 108 (RM5,000) dibandingkan dengan amaun sebenar cukai bagi tahun taksiran 2008 (RM4,000).

Dalam contoh ini, baki 108 akan dikurangkan dengan amaun RM1,000 (RM5,000 – RM4,000).

3.3 Review of Stamping Procedure

The new guideline of stamping office requires 7 working days for the assessment before stamping can be done even for 1 share or newly incorporated company. After assessment and stamping on the Form 32A, the said form need to be left at the stamping office for another 7 working days for endorsement (recently we been informed by officer in Jalan Duta that they need 10 working days for endorsement).

Issue 1 :

Why need 7 working days to assess a newly incorporated company which has not commence business at all.

Issue 2 :

Why and what need to be endorsed after we had paid the stamping duty and the transfer form had been stamped.

Issue 3 :

There is inadequate LHDNM staffs handling the assessment and stamping process. There is only 1 officer in charge of the assessment at Jalan Duta Branch, and if the officer on leave or attending seminar, then it will affect the work flow and more time is needed in order for the whole process to be completed.

Issue 4 :

LHDNM staffs are not well trained on the new stamping procedure.

Issue 5 :

The 12 months management account requirement is not practical (Kuching Branch) and too many documents are required under the new system which will slow down the whole stamping process.

Issue 6 :

LHDNM should provide adequate notice and reasonable time to the public in implementing new procedure and the public views should also be consulted.

JAWAPAN:

Isu 1 hingga 4

Prosedur baru telah dilaksanakan seperti berikut:

1. Taksiran Tidak Rasmi

(a) Bagi syarikat yang baru didaftarkan

- **Didefinisikan sebagai syarikat:**
 - **yang belum mula beroperasi; atau**
 - **di mana tarikh pindah milik saham kurang daripada 18 bulan dari tarikh syarikat ditubuhkan bagi syarikat yang mula beroperasi**
- **Pengesahan tarikh penubuhan syarikat daripada Suruhanjaya Syarikat Malaysia perlu dikemukakan; dan**
- **Proses penyeteman dan pengendorsan dilakukan pada hari yang sama.**

(b) Bagi syarikat yang tidak aktif atau dorman ('dormant')

- **Proses penyeteman dan pengendorsan dilakukan pada hari yang sama**
- **Pengesahan status syarikat daripada Suruhanjaya Syarikat Malaysia perlu dikemukakan.**

2. Taksiran Rasmi

Bagi kes selain tersebut di atas

- **Proses penyeteman diselesaikan dalam tempoh 5 hari bekerja.**

Isu 5

Penyata Akaun Pengurusan tidak perlu dikemukakan tetapi penyata akaun beraudit digunakan seperti berikut:

(a) Penyata akaun beraudit digunakan sekiranya tarikh penyata akaun dengan tarikh pindah milik tidak melebihi 18 bulan.

Contoh:

Penyata akaun beraudit adalah untuk tempoh berakhir 31.12.2005 dan tarikh surat cara pindah milik ialah 30.3.2007.

(b) Jika tarikh penyata akaun beraudit dan tarikh pindah milik melebihi 18 bulan, penyata akaun beraudit yang terkini wajib dikemukakan.

Contoh:

Penyata akaun beraudit adalah untuk tempoh berakhir 31.12.2005 dan tarikh surat cara pindah milik ialah 15.12.2007. Penyata akaun beraudit untuk tempoh 31.12.2006 perlu dikemukakan.

4. Isu-Isu daripada MACS

- 4.1** On submission of the tax return to Pusat Pemprosesan (for refund case), dividend vouchers were validated and endorsed after which the dividend vouchers were returned to the taxpayer (via post). At the Branch level where the refund process takes place, the officer dealing with the case would normally requested for the dividend vouchers again. The issue here is: what if the dividend vouchers got lost in transit or the taxpayer loses those dividend vouchers?

JAWAPAN:

Pekeliling berhubung prosedur pengendalian bayaran balik telah dikeluarkan kepada cawangan untuk menangani isu ini. Peringatan akan dihantar kepada cawangan-cawangan LHDNM tentang pematuhan prosedur tersebut.

- 4.2** In the case of e-filing, what is the treatment of dividend vouchers (for refund cases)?

JAWAPAN:

Bagi kes di mana pembayar cukai menghantar borang nyata secara e-Filing melalui pejabat LHDNM, pegawai LHDNM akan menyemak terus baucar dividen bersama HK-3 dan mengembalikan baucar asal kepada pembayar cukai.

Bagi kes penghantaran borang nyata secara e-Filing selain daripada pejabat LHDNM, baucar asal dan HK-3 perlu dikemukakan ke Pusat Pemprosesan Pandan Indah untuk semakan.

Prosedur di atas hanya terpakai untuk kes bayaran balik seksyen 110 sahaja. Bagi kes bayaran balik lebihan kredit, baucar dan HK-3 tidak perlu dikemukakan untuk semakan.

Buat masa sekarang, belum ada kemudahan untuk pengemukaan HK-3 secara atas talian ('online').

- 4.3 In the case of payment of dividend in cash. A situation may arise whereby the company has insufficient cash on hand at that time. The dividend was then credited to the shareholders' accounts. Please clarify in the light of Section 26 ITA 1967 and one of the conditions imposed by 2008 Budget on payment of cash dividends only.

JAWAPAN:

Tiada peruntukan undang-undang bagi pengkreditan dividen di bawah Peruntukan Kecualian dan Peralihan dalam Akta Kewangan 2007 (Akta 683). Sehubungan dengan itu, seksyen 26 Akta Cukai Pendapatan 1967 tidak terpakai untuk dividen yang diagihkan sedemikian.

4.4 Tax Audit

Treatment of office expenses at year end --- e.g. water, electricity, telephones and other (small) petty expenses.

The above expenses were incurred in the month of December but were paid in January the following year. In view of the small amount, the company charged these expenses in the accounts for January the following year instead of charging for the month of December the previous year (which was the correct thing to do). During audit, the audit officer reviewed the account for both years and detected the error and made the appropriate adjustment and imposed a penalty for the error (audit penalty).

It is felt that, the imposition of penalty is a bit harsh for the simple error (and for a small sum) because there is no incidence of understatement of tax. It was a question of accounting treatment and not a case of understatement of profit. In fact the company paid the corresponding tax on year earlier.

JAWAPAN:

Penalti yang dikenakan ekoran pelarasan cukai daripada aktiviti audit adalah berdasarkan peruntukan Sek. 113(2), ACP 1967. Secara umumnya ia melibatkan pengelakan cukai pada tahun taksiran berkenaan.

Merujuk kepada kes di atas, jika isu audit yang dibangkitkan tidak melibatkan pengelakan cukai atau penangguhan bayaran cukai, penalti tidak sepatutnya dikenakan dan pembayar cukai dinasihatkan mengemukakan butiran kes audit berkenaan agar tindakan pelarasan sewajarnya dapat dilakukan.

5. Perkara Lain Yang Berbangkit

5.1 Pengesahan Baki Akaun Pengecualian

Mengikut Akta Penggalakan Pelaburan 1976, syarikat dikehendaki mendapatkan pengesahan baki akaun pengecualian daripada LHDNM sebelum membuat bayaran dividen yang dikecualikan daripada cukai.

Pihak persatuan tanyakan sama ada syarikat masih perlu berbuat demikian di bawah Sistem Taksir Sendiri. Isu ini pernah dibangkitkan beberapa kali tetapi belum lagi menerima sebarang jawapan daripada LHDNM.

JAWAPAN:

Kajian akan dibuat ke arah penyelesaian isu ini.

5.2 Helaian Kerja HK-3

Wakil persatuan bertanya sama ada Helaian Kerja HK-3 perlu dikemukakan bersama-sama borang nyata kepada LHDNM.

JAWAPAN:

Secara am, helaian kerja disediakan sebagai panduan dan tidak perlu dikemukakan bersama-sama borang nyata. Helaian Kerja HK-3 hanya perlu dikemukakan dengan baucar asal dividen dan borang nyata bagi kes bayaran balik.

5.3 Borang Q

Kes borang Q sepatutnya dikemukakan oleh LHDNM kepada Pesuruhjaya Khas dalam tempoh 12 bulan ataupun 18 bulan sekiranya lanjutan masa diberikan oleh Menteri Kewangan. Sesuatu kes tidak harus diteruskan sekiranya melepasi tempoh 12 bulan ataupun 18 bulan.

Menurut wakil MIT, Encik Lim Kah Fan, terdapat kes yang masih diteruskan selepas 18 bulan dan tidak memanfaatkan pihak pembayar cukai.

JAWAPAN:

Encik Lim Kah Fan diminta memberikan butiran kes berkenaan

6. Penutup

Y Bhg Dato' Pengerusi mengucapkan terima kasih kepada semua yang hadir dan mesyuarat ditamatkan pada pukul 12.15 tengahari.