

**MINIT DIALOG ISU-ISU OPERASI & TEKNIKAL
DI ANTARA LHDNM DENGAN PERSATUAN AKAUNTAN DAN PENGAMAL
PERCUKAIAN – BIL. 1/2014**

Tarikh : 17 Februari 2014 (Isnin)
Masa : 9.30 pagi
Tempat : Bilik Mesyuarat Bendahara, Aras 1, Menara Hasil, Cyberjaya.

Kehadiran:

A. WAKIL LHDNM		
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13.	En. Mohd Yusof Bin Hassan	Pengarah Cawangan Petaling Jaya
14.	En. Mohd Salleh Bin Bakar	Pengarah Bhgn. Perakaunan Hasil (JPH)

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40.	En. Raja Roslan Effendy Bin Raja Abdillah	Pengarah Bahagian Pusat Pengeluaran (JOC)
41.	Pn. Wan Saodah Binti Wan Abu Bakar	Pengarah Bahagian Pengurusan Pelanggan (JOC)
42.	En. Mohamad Nizar Mokhtar	Pen. Pengarah Bhgn. Pengurusan Pelanggan, JOC (Urus setia)
43.	Pn. Norlina Naem	Pen Pengarah, JDP.
44.	Pn. Piramanayaki Arunachalam	Penolong Pegawai BPP (JOC)
45.	En. Noor Mohamad Zakariah	Penolong Pegawai BPP (JOC)

B. WAKIL PERSATUAN AKAUNTAN & PENGAMAL PERCUKAIAN		
1.	Pn. Phan Wai Kuan	Chartered Tax Institute of Malaysia (CTIM)
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5.	Pn. Yeo Eng Ping	CTIM
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23.	En. Mohd Salimi Ahamad	MACS
24.	Pn. Khalijah Bt. Awang	MATA
24.	YBhg. Dato' Shahmin Ta Bin Abdullah	Bekas Pegawai Hasil
25.	YBhg. Datuk Harpal S Dhillon	Bekas Pegawai Hasil

1. **UCAPAN PENDAHULUAN Pengerusi**

Pengerusi memulakan mesyuarat dengan mengucapkan salam sejahtera, salam 1Malaysia serta mengalu-alukan kehadiran semua ahli mesyuarat yang dapat menghadiri mesyuarat yang diadakan pada pagi ini.

2. **PERBINCANGAN ISU-ISU BERBANGKIT**

(Sila rujuk Lampiran-Lampiran)

- 2.1. CTIM Memorandum on Operational Issues – **16 issues (Lampiran 1)**
- 2.2. CTIM Joint Memorandum to IRBM on Issues Arising From 2014 Budget and Finance Bill (No.2) 2013. – **5 issues (Lampiran 2)**
- 2.3. MICPA Operational Issues for Dialogue. – **2 issues (Lampiran 3)**
- 2.4. MICSA Issues Raise for Tax Dialogue. – **1 issues (Lampiran 4)**
- 2.5. CTIM Supplementary Issues for Operations Dialogue – **2 issues (Lampiran 5)**

3. **HAL-HAL LAIN**

3.1 **Isu pengemukaan Borang Q yang ditolak oleh cawangan**

Pihak CTIM dan MICPA membangkitkan isu tersebut berdasarkan pengalaman, di mana ada pegawai kaunter di cawangan yang segera dengan tegas enggan menerima Borang Q dan rayuan setelah semakan dibuat. Ini berlaku semasa penghantaran dibuat pada hari terakhir tempoh pengemukaan. Pihak CTIM tidak bersetuju tindakan sedemikian dilakukan oleh LHDNM.

Pengerusi memaklumkan bahawa amalan biasa di LHDNM ialah semakan terlebih dahulu akan dilakukan oleh pegawai bertanggungjawab ke atas Borang Q di setiap cawangan sebelum penerimaan untuk diproses. Sekiranya berlaku penolakan ia akan dimaklumkan kepada ejen cukai dengan sebab-sebab yang kebiasaannya tidak memenuhi syarat yang ditetapkan. Makluman penolakan dibuat pada waktu yang sama (*there and then*) untuk mengelakkan kes ditangguhkan terlalu lama.

Adalah diingatkan kepada ahli-ahli persatuan untuk mematuhi pengemukakan Borang Q dalam tempoh 30 hari dari tarikh taksiran, bukan pada hari dan waktu terakhir tempoh tersebut. Sekiranya telah melebihi dari tempoh itu, Borang N boleh digunakan.

Walau bagaimanapun, diterima cadangan CTIM kepada LHDNM untuk menyediakan satu senarai semak (*checklist*) syarat-syarat yang jelas dan telus untuk dikongsi dengan pihak luar sebagai rujukan sebelum mengemukakan Borang Q dan rayuan.

- *Tindakan JRP*

3.2 Ketetapan Umum untuk Perkongsian Liabiliti Terhad (LLP)

Pihak CTIM memohon agar Ketetapan Umum Perkongsian Liabiliti Terhad (LLP) dikeluarkan untuk rujukan kepada ahli-ahli persatuan sebagai penyediaan layanan cukai.

LHDNM mengambil maklum perkara ini dan akan menyediakan Ketetapan Umum tersebut.

- *Tindakan JDP*

4. PENUTUP

Pengerusi mengucapkan ribuan terima kasih kepada semua yang menghadiri dialog buat kali ini. Mesyuarat ditamatkan pada jam 12.20 tengah hari

20 Februari 2014

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CTIM Memorandum on Operational Issues

OPERATIONAL ISSUES

1. Feedback from Filing of Income Tax Return Form (ITRF)

With regard to the Income Tax Return Form (ITRF) BE, we would like to highlight the following issue for consideration:-

Form BE -- Chargeable Income Exempted From Tax

There is no column for deduction of chargeable income exempted from tax, such as exemption of chargeable income for employment with company granted the status of OHQ. In the absence of the column, the said exemption is set-off against the statutory employment income for the purpose of disclosure in the tax returns. Although the net effect is the same, it does not reflect the accuracy of the statutory employment income as the mechanism of computing the income exempted is after the claim of reliefs.

CTIM would like to suggest that a column be provided for declaration of non-taxable income / exempted income in Part B, after row B10.

- *Tindakan BDO JOC*

Jawapan LHDNM:

Perkara tersebut diambil maklum dan LHDNM akan mengkaji dan mempertimbangkan cadangan pihak persatuan untuk tindakan dari segi undang-undang.

2. Filing of ITRF

a) Backlog Cases

In 2013, after e-filing was closed for Forms BE (YA 2011), the taxpayers have to obtain manual Income Tax Return Form (ITRF) from the IRB Jalan Duta Branch. The IRB cancelled off YA 2012 in the Form BE [Please refer to Appendix 1] and wrote down YA 2011 with a "IRB chop".

b) Advance Filing

In a leaver's case, the expatriate was required to submit the ITRF for YA 2013 before leaving the country. However the ITRF was still not available at that time and the tax agent has to obtain the ITRF from the IRB officer. The officer cancelled off the YA in the ITRF and indicated YA 2013.

In both cases after the taxpayers have submitted the ITRF, the IRB subsequently return the ITRF on the ground that manual Forms with YA cancelled in that manner are not acceptable. Similar practice also happened in Pusat Pemprosesan in respect of Form R [Please refer to Appendix 2].

We would like to clarify the acceptable manner to submit the return Form in the above scenarios.

- *Tindakan BDO JOC & JPPM*

Jawapan LHDNM:

Amalan meminda tahun taksiran pada Borang Nyata Tahun Kebelakangan untuk tahun taksiran semasa adalah dibenarkan bagi kes pemberhentian kerja di mana Borang Nyata tahun semasa masih belum disediakan.

Contoh: Meminda Borang Nyata Tahun Taksiran 2013 untuk kes pemberhentian kerja pada tahun 2014 sekiranya Borang Tahun Taksiran 2014 belum disediakan.

Walau bagaimanapun, kedua-dua contoh yang dikemukakan adalah tidak diterima kerana menggunakan Borang Nyata tahun semasa untuk tahun kebelakangan iaitu Borang BE Tahun Taksiran 2012 untuk 2011; Borang R Tahun Taksiran 2004 untuk 2002.

LHDNM akan menyediakan BNCP bagi tahun-tahun kebelakangan di Laman Sesawang Rasmi LHDNM untuk dimuat turun dan dicetak.

3. Refund of Penalty Payment made under S107C(10)

Under S.107C(10) it is provided that where the tax payable under an assessment for a YA exceeds the revised estimate or deemed revised estimate, without any notice being served, the difference between that amount and 30% of the tax payable shall be payable as a tax due.

Taxpayers would normally make the penalty payment upon the submission of ITRF. Currently, IRB has been refunding [Please refer to Appendix 3] such penalty payments because the IRB's system has not picked up the amount as tax due. Taxpayers would be asked to make the payment subsequently.

We would like to bring the above issue to the attention of the IRB as this has added operational burdens to the taxpayers.

- Tindakan JPH

Jawapan LHDNM:

Pembayar cukai dinasihatkan menggunakan kod bayaran dan tahun taksiran yang betul semasa membuat bayaran cukai. Bayaran balik akan diproses sekiranya penalti dibayar tidak menggunakan kod bayaran yang betul iaitu 155 (kod bayaran penalti).

Contoh : Bayaran penalti menggunakan kod bayaran 086, sepatutnya kod yang betul adalah 155, maka sistem akan membaca bayaran tersebut sebagai lebihan kredit dan akan dibayar balik.

Bagi kes syarikat seperti di Appendix 3, semakan pihak LHDNM mendapati syarikat tidak layak dikenakan S107C(10). Oleh yang demikian, bayaran balik dibuat.

4. Public Ruling (PR) - Copyright clause

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The restriction place a burden on the tax practitioners in carrying out the compliance work as it is difficult for them to explain, illustrate the tax treatment and practice to their clients, potential investors and train their staff. The restriction does not seem to match the objective of issuing public rulings (i.e. providing guidance for the public) as it hampers circulation. It complicates the access of public rulings by the taxpayers from the Inland Revenue Board official website each time a reference is to be made. It also makes the public rulings to be of limited use for academic purposes, such as for discussion or circulation in educational events such as Continuing Professional Development (CPD) workshops.

We hope that IRB could remove this copyright clause from the Public Rulings or revise the wording of the restriction.

- Tindakan JDP

Jawapan LHDNM:

We appreciate the institution uses our public rulings for educational and compliance purposes. However public rulings are intellectual property of IRBM and acknowledgment and written permission must be obtained for any purposes.

IRBM will revisit/rephrase the above said clause. The intention of the restriction is not to allow profit making purpose of the Professional Bodies from the Public Ruling.

5. Amendments, New uploads of IRB Website without Notification

Currently, taxpayers/tax practitioners/users of IRB website are not notified of some of the amendments and new upload. For example, change in Form CP37D and amendments to PR No.6-2012 (page 25 of 51) [Please refer to Appendix 4] PR No.9/2013 (Para 5.4) [Please refer to Appendix 5] were not notified or alerted to the taxpayers/tax practitioners/users.

If the taxpayers/tax practitioners/users are not duly and timely informed of the changes in the IRB position practice, they may base their tax treatment and advice on the old rules and hence may not comply with the new requirements of the IRB. As a result, penalty may be imposed and incurred costs on appeal. The Institute would like to request the IRB to adopt the best practice on change management, i.e. immediately notify taxpayers/tax practitioners/users of the IRB website on any changes/amendments, irrespective of how small the changes would be. Changes made without the knowledge of the taxpayers/tax practitioners/users may lead to

unnecessary complications in the tax compliance and this could also end up with increasing appeal cases.

We hope that the IRB would look into the above request.

- Tindakan JDP & JKK

Jawapan LHDNM:

LHDNM ambil maklum cadangan pihak badan profesional dan akan mengambil langkah-langkah untuk mengelakkan perkara sedemikian dari berlaku.

Segala kesulitan yang dialami oleh pembayar cukai adalah amat dikesali.

6. Income Tax Return Forms C and R for back log cases

We noted that the Return Form on the IRB's website, the wording "muat turun borang tidak terpakai kepada ejen cukai" has been removed.

We seek the IRB's confirmation that all of the ITRF can now be downloaded by the tax agents from the IRB's website for tax filing purposes including back log cases.

- Tindakan BDO JOC

Jawapan LHDNM:

Mulai 19 Julai 2013, ejen cukai dibenarkan untuk memuat turun dan mencetak Borang Nyata Cukai Pendapatan mulai Tahun Taksiran 2010.

BNCP untuk tahun-tahun kebelakangan juga akan disediakan di Laman Sesawang Rasmi LHDNM.

7. Guidelines for Dividend declared after 31.12.2013

With the full implementation of single tier dividend, will the taxpayer still be required to

- (i) file Form R?
- (ii) file Form R50?
- (iii) maintain Exempt Account as required by the various incentives?

- Tindakan JDP & BDO JOC

Jawapan LHDNM:

(i) & (ii) Mengikut peruntukan seksyen 52 di bawah Peruntukan Kecualian dan Peralihan Akta Kewangan 2007 (Akta 683), apa-apa baki 108 atau baki 108 tersemak yang belum digunakan sebahagian atau sepenuhnya setakat 31 Disember 2013, tidak boleh diambil kira lagi selepas 31 Disember 2013.

Oleh itu, baki 108 atau baki 108 tersemak tidak perlu dilaporkan selepas 31 Disember 2013.

Walau bagaimana pun, Borang R dan Borang R50 masih perlu dikemukakan bagi melaporkan baki 108 atau baki 108 tersemak setakat 31 Disember 2013.

- (iii) *Tidak perlu. Dengan pelaksanaan penuh sistem 'Single Tier', tiada keperluan untuk memfailkan borang tersebut atau menyimpan 'Exempt Accounts'.*

8. Non-resident branch / permanent establishment providing services

Item 2.9 of the Operations Dialogue held on 25 February 2009 clarified on matters pertaining to Form CP204 submission by a non-resident branch or permanent establishment providing services.

Question posed....

Item 3(i)(f) of the minutes of Operations Dialogue held on 23 February 2000, stated that withholding tax paid under Section 107A will be allowed to offset tax liability arising from Notice of Installment Payments. The IRB further confirmed (item 5 of the minutes of Operations Dialogue held on 15 April 2002) that where the source of income of a non-resident company is fully subjected to withholding tax, the company is not required to file Form CP204. However, the company shall attach the following documents when submitting Form C:

- (i) Form CP204 previously submitted
- (ii) Letter from the payer that withholding tax has been deducted from the contract payments; and
- (iii) Confirmation from the taxpayer that it has no other source of income.

Item 9.3 of the minutes of Operations Dialogue held on 2 April 2001 confirmed that for non-resident recipients subjected to withholding tax under Sections 109 and 109B, tax return forms would not be issued. This implies that if the non resident recipients received only income subjected to Sections 109 and 109B, then CP204 is not applicable too.

The IRB earlier replies to the 2 questions raised by the Institute are as follows –

Question 1

Where the source of income of a non-resident branch/permanent establishment is fully subjected to withholding tax, the non-resident is not required to file Form CP204, irrespective of whether the withholding tax is imposed under Section 107A, 109 or 109B.

Answer Q1

Syarikat bukan pemastautin dengan pendapatan yang **tertakluk sepenuhnya kepada cukai pegangan** di bawah seksyen 107A, dikehendaki:-

- (i) mengemukakan CP204 dengan nilai '0' sebagai amaun ansuran;serta
- (ii) surat untuk memaklumkan bahawa ansuran CP204 tidak dibayar kerana cukai pegangan telah dibuat daripada bayaran kontrak.

Question 2

Where the source of income of a non-resident branch / permanent establishment is partially subjected to withholding tax, the non-resident is required to file Form CP204. However, the withholding tax paid is allowed to be set-off against the tax installments payable.

Answer Q2

Syarikat bukan pemastautin dengan pendapatan yang **tidak tertakluk sepenuhnya kepada cukai pegangan** di bawah seksyen 107A, dikehendaki:-

(i) mengemukakan CP204 dengan amaun anggaran cukai bagi bahagian pendapatan yang tidak tertakluk kepada cukai pegangan;serta

(ii) surat untuk memaklumkan bahawa ansuran CP204 tidak dibayar bagi bahagian pendapatan yang tertakluk kepada cukai pegangan kerana cukai pegangan telah dibuat daripada bayaran kontrak.

In respect of the above, **the Institute would like to confirm** that the amount to be completed under Part C2 [Less: Instalment payments made] of the Income Tax Return for a company (Form C) under the above situations would be the total of the amount paid under Form CP204 as well as the amount of tax withheld under section 107A. The inclusion of the amount of tax withheld under section 107A will avoid the automatic computation by the system of penalty for under-estimation of tax payable under section 107C (10).

- Tindakan JPH & JPPM

Jawapan LHDNM:

Pihak LHDNM akan meneliti isu yang dinyatakan. Penambahbaikan sistem dan Borang CP204 akan dibuat bagi mengatasi isu tersebut. Dicaadangkan pembayar cukai memaklumkan dalam borang CP204 bagi kes yang tertakluk di bawah seksyen 107A. sama ada sebahagian atau sepenuhnya. Borang CP204 akan ditambah baik.

9. The appeal process

Under the self-assessment system, income tax return forms are deemed assessments upon submission to the Inland Revenue Board. Revisions of the income tax return are effected through section 77B [Amendment of return] where there is additional tax to pay and section 131 [Relief in respect of error or mistake] where the taxpayer is appealing for a reduction in tax payable due to error and mistake.

There are situations where revision of income tax returns resulting in lower tax payable do are not arising from an error or mistake made.

An example would be where the taxpayer has applied for a tax incentive (example, pioneer status or investment tax allowance) and the approval for the tax incentive is granted after the due date of submission of the income tax return. As the income tax return was submitted without a claim for the tax incentive, there is now a need to revise the income tax return to take into account the tax incentive claim. The revision to claim the tax incentive is not one of error or mistake.

The Institute would like to request that the Inland Revenue Board clarify the steps the taxpayer is required to take to submit the revised income tax return in such situation.

- Tindakan BDO JOC & JRP

Jawapan LHDNM:

In the light of the situation, the application for refund would be applied under section 131, ITA 1967. All procedure under section 131 is applicable in this respect.

10. Grace period for filing of Form C for YA 2013 due in the 2014 calendar year

The Institute would like to thank the IRB for extending the grace period for the filing of tax returns (Form C) for YA 2014 from 15 days to 1 month after the statutory deadline for submission of the tax returns, as stated in the 2014 Filing Programme.

The above grace period takes into account the practical difficulties faced by the corporate taxpayers in finalising the tax computations within the stipulated time. In view of this, we would like to request the IRB to consider extending the grace period of 1 month to tax returns for YA 2013 which are due in 2014.

- Tindakan BDO JOC

Jawapan LHDNM:

Seperti Program Memfailkan Borang Nyata Cukai Pendapatan Bagi Tahun 2013, tambahan masa 15 hari dikekalkan bagi pengemukaan Borang C dan R Tahun Taksiran 2013 secara e-Filing yang mana tarikh akhir pengemukaan borang jatuh dalam tahun kalendar 2014.

*Bagi pengemukaan **Borang C dan R Tahun Taksiran 2014** yang mana tarikh akhir pengemukaan borang jatuh dalam tahun kalendar 2014, tambahan masa dilanjutkan kepada 1 bulan kerana tahun 2014 adalah tahun pertama pelaksanaan subseksyen 77A(1A) Akta Cukai Pendapatan 1967 yang mewajibkan pengemukaan Borang C dan R secara e-Filing.*

11. Tax Clearance Letter

Some tax clearance letters were send to taxpayers without tax position/tax computation attached. Hence, taxpayers have to make the request from the IRB and this involves additional time to settle a case.

We suggest that as a standard practice or tax clearance letters issued should be accompanied by a tax position calculation.

- Tindakan JPH

Jawapan LHDNM:

Pihak LHDNM ambil maklum cadangan pihak CTIM dan tindakan sewajarnya akan diambil bagi penambahbaikan sistem penyampaian di LHDNM.

12. Return of tax credit which has been utilised for income tax set-off

Taxpayers have been receiving cheque refunds from the IRB for the amount of tax credit which has been utilised to set-off against tax payable.

We wish to highlight this matter to the IRB and seek clarification.

- Tindakan JPH & JOC

Jawapan LHDNM:

Sekiranya permohonan set-off diterima lewat, bayaran balik akan diproses. Pembayar cukai dinasihatkan untuk menghantar permohonan set-off lebih awal atau bersama Borang Retan.

13. Decentralization of income tax files

Some taxpayers informed that their files from Kuala Lumpur which their office and business are based at, are now being transferred to outstation IRB Branch.

We would like to know if the files can be remained at a IRB Branch that is to the convenience of the taxpayers.

- Tindakan BDO JOC

Jawapan LHDNM:

Mengikut amalan biasa, fail cukai pendapatan dikekalkan di cawangan LHDNM mengikut alamat premis perniagaan atau alamat surat menyurat jika tiada alamat premis perniagaan.

FILING ISSUES

14. Filing of ITRF for Dormant Company

In the past, for dormant companies, in the event of no income the IRB will be issuing a letter by giving exemption that need not to submit the ITRF. The letter came with the condition that tax return would have to be filed should the Company derive any income subsequently. In its latest practice, the IRB will no longer issue such confirmation letter instead of verbally informed by the officer.

As this matter involve issue of non filing penalty, the Institute would like to request for the old practice of issuing confirmation letter to be taken place.

- Tindakan BDO JOC

Jawapan LHDNM:

Di bawah STS, adalah tanggungjawab atas pembayar cukai untuk memaklumkan / melaporkan pendapatan dan mengemukakan BNCP.

Syarikat tidak perlu menghantar BNCP hanya sekiranya ia dibubarkan sepenuhnya dan fail dimatikan oleh LHDNM.

15. E-Filing of Income Tax Return Form (ITRF) [Form e-C] -- YA 2012**15.1 Data Error on Transmission**

We were informed that there are instances where the data keyed in for Form e-C was changed after the submission.

For example:

- An error occurred on page 11 (with regard to the address) where the 2nd line of the address filled was duplicated in the 3rd line. The address in the Form e-C submitted is different from that which was prepared [Please refer to Appendix 6].
- An error also occurred in the RPGT section where the selected answers ("Ya") had gone missing after submission (different from the data of Form e-C keyed in).

We would like to know the cause of such errors as it is affecting the users' confidence. In addition, we seek confirmation from the IRB that under such circumstances the Form e-C filed would not be classified as incomplete ITRF and penalty will not be imposed.

- Tindakan JTM

Jawapan LHDNM:

Data semasa penghantaran adalah betul tetapi terdapat kesalahan semasa paparan cetakan selepas penghantaran. Tindakan pembetulan pada cetakan telah dibuat pada hari yang sama dilaporkan.

15.2 Missing File

We were also informed that there are instances of **missing files** as follows:

- Tax agent prepared draft Form e-C & e-R 2012 and subsequently found that only the Form e-R remained in the system; the Form e-C had gone missing. He filed the Form e-R accordingly and alerted the IRB hotline about the missing Form e-C. The officer re-set the form and asked him to re-do (re-file) it.
- Form e-CP204 was filed and it appeared in the TAeF as sent. However, when the tax agent wished to examine the filed copy and print the acknowledgement, he noted that e-CP 204 had not been filed. Consequently, the tax agent was asked to re-submit Form CP204 manually.

We would like to know what caused these glitches as they affect the users' confidence. We seek confirmation from the IRB that under such circumstances late filing penalty would not be imposed.

- Tindakan JTM

Jawapan LHDNM:

Masalah berlaku kerana kegagalan transaksi semasa proses daftar ataupun penghantaran borang. Ejen Cukai perlu daftar ataupun membuat penghantaran kembali tanpa perlu mengisi semula maklumat yang dimasukkan sebelum ini. Cara kemas kini status daftar dan penghantaran telah ditambah baik bagi mengelakkan kejadian yang sama berlaku lagi di masa hadapan.

16. Request for e-filing facilities

E-filing is currently available for companies (Forms C & R), individuals (Forms BE and B), individuals – knowledge / expert workers (Form BT), non-resident individuals (Forms M and MT) and partnerships (Form P).

E-filing is however not available for deceased person's estate (Form TP), Association (Form TF), Hindu Joint Family (Form TJ), cooperative society (Form C1), limited liability partnership (Form PT), trust body (Form TA), Unit trust / property trust (Form TC), Real Estate Investment Trust / Property Trust Fund (Form TR) and Business trust (Form TN).

To ease administrative procedures, the Institute would request that e-filing facilities also be provided for the abovementioned income tax returns.

- Tindakan BPO JOC & JTM

Jawapan LHDNM:

LHDNM ambil maklum cadangan pihak badan profesional dan akan mengkaji / mempertimbangkan untuk pelaksanaannya dalam tahun 2016.

APPENDIX 1

Ruj kami : [REDACTED]
Ruj tuan : [REDACTED]

23 April 2013

Pengerusi Eksekutif
Lembaga Hasil Dalam Negeri
Pusat Pemprosesan
Aras 10-18, Menara C
Persiaran MPAJ
Jalan Pandan Utama, Pandan Indah
55100 Kuala Lumpur

Serahan tangan

Tuan,

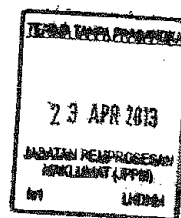
PERMOHONAN BORANG RETAN BE BAGI TAHUN TAKSIRAN (T/T) 2011

Kami adalah merujuk kepada perkara di atas dan ingin memohon agar tuan dapat membenarkan pembawa surat ini untuk mengambil Borang retan BE bagi t/t 2011 bagi badan amanah di atas untuk tindakan kami selanjutnya.

Kerjasama tuan amatlah dihargai.

Terima kasih.

Yang benar,





BORANG NYATA INDIVIDU
(PEMASTAUTIN YANG TIDAK MENJALANKAN PERNIAGAAN)
DI BAWAH SEKSYEN 77 AKTA CUKAI PENDAPATAN 1967
Borang ini diletakkan di bawah seksyen 152 Akta Cukai Pendapatan 1967

Borang
BE

TAHUN TAKSIRAN
2012 2011
CP48 - Pn. 2012

Lembaga Hasil Dalam Negeri Malaysia
Jabatan Pemrosesan Maklumat,
Aras 5-18, Menara C,
Persiaran MPAJ, Jalan Pandan Utama,
Pandan Indah, 55100 Kuala Lumpur.



Tarikh:

Tarikh Terima (1)

Tarikh Terima (2)

MAKLUMAT ASAS

1 Nama (seperti di dokumen pengenalan diri)	X X X	3 No. Pengenalan	
2 No. Cukai Pendapatan		5 No. Pasport Didaftarkan Dengan LHDN	
4 No. Pasport Senjata			

BAHAGIAN A: MAKLUMAT INDIVIDU			
A1 Warganegara	4 b	Guna Kod Negara di "MY" dan warganegara Malaysia	A2 Jantina
A3 Status Pada 31-12-2012	2	1 = Bujang 2 = Kawin 3 = Janda/Duda 4 = Mati	A4 Tarikh Kawin / Cerai / Mati
A5 Jenis Taksiran	4	1 = Bersewa atas nama suami 2 = Bersewa atas nama isteri 3 = Bersewa 4 = Tidak bersewa	5 = Diri sendiri (tidak bersewa)

BAHAGIAN B: PENDAPATAN BERKANTUN, JUMLAH PENDAPATAN, CUKAI KENA DIBAYAR DAN KEDUDUKAN CUKAI		RM	Sen
B1 Pendapatan berkanun pengajian	B1		.00
B2 Pendapatan berkanun di/dua dan sewa	B2	0	.00
B3 Pendapatan berkanun faedah, diskaun, royalti, premium, pencen, anuiti, bayaran berkala lain dan apa-apa perolehan atau keuntungan lain	B3	0	.00
B4 PENDAPATAN AGREGAT (B1 + B2 + B3)	B4		.00
B5 TOLAK: Jumlah Derma Dan Hadiah Yang Diturunkan	B5	0	.00
B6 JUMLAH PENDAPATAN (SENDIRI) (B4 - B5) (isi "0" jika nilai negatif)	B6		.00
B7 JUMLAH PENDAPATAN YANG DIPINDAHKAN DARI SUAMI / ISTERI * BAGI TAKSIRAN BERSAMA	B7	0	.00
* Jenis pendapatan SUAMI / ISTERI yang dipindahkan: 1 = Ada pendapatan perolehan 2 = Tidak ada pendapatan perolehan			
B8 JUMLAH PENDAPATAN YANG DISATUKAN (B6 + B7)	B8		.00
B9 Jumlah Pelepasan (Amalan dari F20)	B9		.00
B10 PENDAPATAN BERCUKAI (B6 - B9) atau (B8 - B9) (isi "0" jika nilai negatif)	B10		.00

B11 PENGIRAAN CUKAI PENDAPATAN (Rujuk Jadual kadar cukai yang disediakan)			
B11a Cukai ke atas yang pertama	.00	B11a	
B11b Cukai ke atas baki	.00	B11b	
B12 JUMLAH CUKAI PENDAPATAN (B11a + B11b)			
B13 TOLAK: Jumlah Rebat Sendiri	.00	B13	0
B14 JUMLAH CUKAI YANG DIKENAKAN (B12 - B13) (isi "0" jika nilai negatif)		B14	
B15 TOLAK: Solayen B11b Atas Kawanan 2007 (Rujuk)		B15	0
B16 CUKAI KENA DIBAYAR (B14 - B15)		B16	
B17 ATAU: CUKAI DIBAYAR BALIK (B15 - B14)		B17	
B18 Ansuran / Potongan Cukai Bulanan yang telah dibayar untuk pendapatan tahun 2012 - SENDIRI dan SUAMI / ISTERI bagi taksiran bersama		B18	
B19 Baki Cukai Kena Dibayar (B16 - B18) / Cukai Tertakrif Bayar (B18 - B16)		B19	

(Tandakan "X" jika Cukai Tertakrif Bayar)

AKUAN	
Saya X X X	No. Pengenalan / Pasport

dengan ini mengakui bahawa maklumat mengenai pendapatan dan jumlah bagi potongan pelepasan yang saya berikan dalam borang nyata ini dan dokumen yang disertakan adalah benar, betul dan lengkap.

1 = Borang nyata ini bagi pihak saya sendiri 2 = Borang nyata ini bagi pihak individu di ruangan 1
3 = Sebagai perolehan harta pusaka (Ruj. A3 = 4)
* Borang ini bukan pemberitahuan di bawah subseksyen 74(3) ACP 1967, Sila Isi Borang CP57 (Pemberitahuan Kemilikan Pembiayaan Cukai) di laman sesawang LHDN, <http://www.lhdn.gov.my>

BAHAGIAN C: MAKLUMAT SUAMI / ISTERI	
C1 Nama Suami / Isteri (seperti di dokumen pengenalan diri)	X X X
C2 No. Pengenalan	
C3 No. Pasport	



980014286870

Appendix 1a



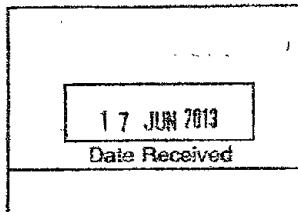
LEMBAGA HASIL DALAM NEGERI MALAYSIA
JABATAN PEMROSESAN MAKLUMAT
ARAS 09-18, MENARA C, PERSIARAN MPAJ
JALAN PANDAN UTAMA, PANDAN INDAH
KARUNG BERKUNCI 11054
50990 KUALA LUMPUR

CP610/

Telefon : 03-42893000
Faks : 03-42970986
Laman Web : <http://www.hasil.gov.my>

No. Rujukan
[No. Kad Pengenalan/
Polis/Tentera/Pasport]
No. Cukai Pendapatan
Tarikh

: 30/05/2013



Tuan,

PEMBERITAHUAN BORANG NYATA CUKAI PENDAPATAN TIDAK LENGKAP
NAMA PEMBAYAR CUKAI :

TAHUN TAKSIRAN : 2011

Saya merujuk kepada perkara di atas.

2. Adalah dimaklumkan bahawa Borang BE yang telah dikemukakan pada 13/05/2013 dikembalikan kerana tidak lengkap. Oleh itu, ia tidak dianggap sebagai notis taksiran yang diserahkan kepada Ketua Pengarah Hasil Dalam Negeri menurut subseksyen 90(2) Akta Cukai Pendapatan 1967.

3. Borang BE dikembalikan semula dengan alasan berikut:

1. Tidak menggunakan Borang Nyata yang ditetapkan oleh LHDNM bagi tahun taksiran berkenaan

Catatan : SILA GUNAKAN E-FILING

4. Borang BE yang telah diisi dengan lengkap atau maklumat berkaitan hendaklah dikemukakan dengan segera ke alamat di bawah :

LEMBAGA HASIL DALAM NEGERI MALAYSIA
JABATAN PEMROSESAN MAKLUMAT
ARAS 09-18, MENARA C, PERSIARAN MPAJ
JALAN PANDAN UTAMA, PANDAN INDAH
KARUNG BERKUNCI 11054
50990 KUALA LUMPUR

Sekian, terima kasih.

" BERKHIDMAT UNTUK NEGARA "
" BERSAMA MEMBANGUN NEGARA "

Ketua Pengarah Hasil Dalam Negeri
Lembaga Hasil Dalam Negeri Malaysia

[Cetakan komputer ini tidak memerlukan tandatangan]

APPENDIX 2

Ruj kami :
Ruj tuan :

12 Januari 2012

Pengerusi Eksekutif
Lembaga Hasil Dalam Negeri
Cawangan Syarikat
Tingkat 3-10, Blok 11
Kompleks Bangunan Kerajaan
Jalan Duta
50600 Kuala Lumpur



*Akuan penerimaan
Serahan tangan*

Tuan,

**PERMOHONAN BORANG RETAN C DAN BORANG R BAGI TAHUN-TAHUN TAKSIRAN
(T/T) 2001 SEHINGGA 2003, 2009 DAN 2010**

Kami adalah merujuk kepada perkara di atas dan ingin memohon agar tuan dapat membenarkan pembawa surat ini untuk mengambil Borang retan C dan Borang R bagi tahun-tahun taksiran (t/t) berkenaan bagi syarikat di atas untuk tindakan kami selanjutnya.

Kerjasama tuan amatlah dihargai.

Terima kasih.

Yang benar,

CP. 94-Pin. 2004


**Borang
R**
LEMBAGA HASIL DALAM NEGERI MALAYSIA

Borang ini ditetapkan di bawah seksyen 152 Akta Cukai Pendapatan 1967

**PENYATA DI BAWAH SEKSYEN 108(5)
AKTA CUKAI PENDAPATAN 1967**

Tahun Taksiran

2004

(a) Nama Syarikat	X X X S D M B H D
(b) Nombor Fail C	
(c) Tempoh Asas	Dari 01/07/2001 Hingga 30/06/2002

(Laporkan dalam matawang Ringgit Malaysia)

**BAHAGIAN I: PENYATAAN BAWAH SEKSYEN 108(5) AKTA CUKAI PENDAPATAN 1967
BAGI TAHUN TAKSIRAN 2001 DAN TAHUN TAKSIRAN BERIKUTNYA**

1	Baki kredit bawa hadapan	
2	Kredit bagi tempoh asas	
	A Cukai dibayar	
	(I) Bayaran ansuran di bawah seksyen 107C	
	(II) Bayaran cukai di bawah seksyen 103(1)	
	(III) Bayaran cukai di bawah seksyen 103(2)	
	B Kredit cukai seksyen 110	
	(I) Jumlah kredit seksyen 110	
	(II) Cukai dikenakan Tolak	
	(a) Rebat seksyen 6B	
	(b) Pelepasan seksyen 132	
	(c) Pelepasan seksyen 133	
	(d) Jumlah [Ruangan B(II) - (Ruangan B(II)(a) hingga B(II)(c))]	
	C Amaun dari Ruangan B(I) atau Ruangan B(II)(d) yang mana lebih rendah	
	D Tambahan kredit cukai seksyen 110	
	E Jumlah [Ruangan 1 + Ruangan 2A(I) hingga 2A(III) + Ruangan 2C + Ruangan 2D]	
	F Tolak: Cukai dibayar balik	
	(I) Cukai dibayar balik untuk tahun taksiran sebelum	
	(II) Cukai terlebih bayar disebabkan taksiran pindaan	
	(III) Kurangan kredit cukai seksyen 110	
	(IV) Cukai yang telah dibayar dan dihapuskan	
	G Agregat Perbandingan [Ruangan E - (Ruangan F(I) hingga F(IV))]	
3	Jumlah Perbandingan [Cukai ditolak daripada dividen dibayar, dikredit atau diagih dalam tempoh asas, pindah daripada Ruangan 13 Bahagian II (jika ada)]	
4	Amaun dipindah dari Ruangan 10 Bahagian II (jika ada) [Terhad kepada amaun Ruangan 2G - Ruangan 3]	
5	Baki kredit hantar hadapan [Ruangan 2G - (Ruangan 3 + Ruangan 4)] Atau	
6	Hutang kepada Kerajaan [(Ruangan 3 + Ruangan 4) - Ruangan 2G]	



LEMBAGA HASIL DALAM NEGERI MALAYSIA
 PUSAT PEMROSESAN
 ARAS 10-18, MENARA C
 PERSIARAN MPAJ, JLN PANDAN UTAMA
 PANDAN INDAH, KARUNG BERKUNCI 11018
 50990 KUALA LUMPUR
 WILAYAH PERSEKUTUAN

APPENDIX 2a

CP341/2

Telefon : 1-800-88-5436

Faks :

Laman Web: <http://www.hasil.gov.my>
 No Rujukan
 Tarikh :

Tuan,

NAMA SYARIKAT :
 BORANG R BAGI TAHUN TAKSIRAN : 2002

Saya merujuk kepada perkara di atas.

2. Bersama-sama ini dikembalikan semula Borang R tersebut:

- ☐ Sila penuh di ruangan yang bertanda X.
- ☐ Borang R asal tersebut tidak diisi dengan lengkap.
- ☒ Borang R tersebut bukan borang asal/borang yang boleh diterima pakai.

3. Borang R yang telah diisi dengan lengkap atau maklumat berkaitan hendaklah dikemukakan dengan segera ke alamat :

Lembaga Hasil Dalam Negeri,
 Pusat Pemprosesan,
 Aras 10-18, Menara C,
 Persiaran MPAJ, Jalan Pandan Utama,
 Pandan Indah,
 Karung Berkunci 11018,
 50990 Kuala Lumpur.

Sekian, terima kasih.

"BERKHIDMAT UNTUK NEGARA"

"BERSAMA MEMBANGUN NEGARA"

Saya yang menurut perintah,

Ketua Pengarah Hasil Dalam Negeri,
 Lembaga Hasil Dalam Negeri Malaysia.

[Cetakan komputer ini tidak memerlukan tandatangan]

- Latest -



INLAND REVENUE BOARD MALAYSIA

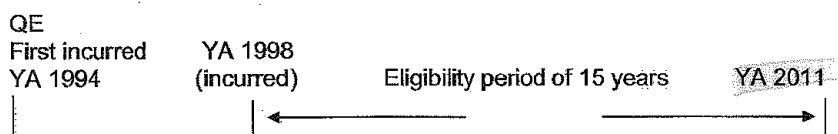
REINVESTMENT ALLOWANCE

Public Ruling No. 6/2012

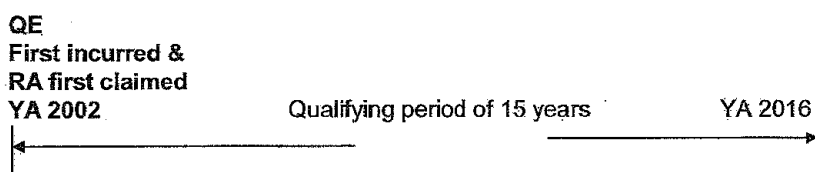
Date of Issue: 12 October 2012

From year of assessment 2002, the qualifying period was extended from 5 years of assessment to 15 years of assessment. A company which had been given RA before the year of assessment 1998 is eligible for RA for a new qualifying period of 15 years of assessment beginning from year of assessment 1998.

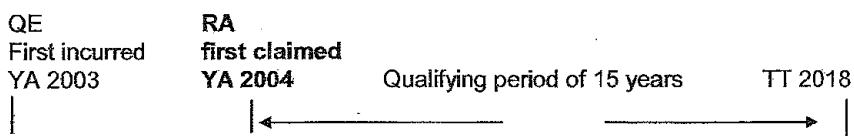
Beginning from year of assessment 2003, it became a requirement to make a claim for RA in the Income Tax Return Form (ITRF). The qualifying period of 15 years of assessment is calculated from the year of assessment in which the qualifying capital expenditure (QE) for the purpose of a qualifying project was first claimed.

Scenario 1 – First QE incurred before YA 1998

If company incurred first QE before YA 1998, the eligibility period is calculated from YA 1998 (changed to qualifying period from YA 2002)

Scenario 2 – First QE incurred in YA 2002

If a company incurred first QE in YA 2002, the qualifying period of 15 years is calculated from YA 2002.

Scenario 3 – first QE incurred in YA 2003 but RA claimed in YA 2004

If a company incurred first QE from YA 2003, but the claim is made only in YA 2004, the qualifying period of 15 years is calculated from YA 2004.



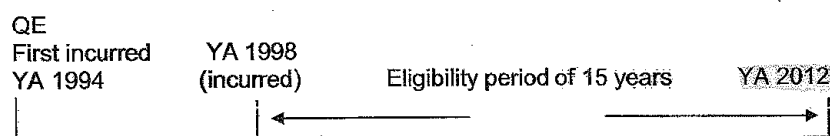
INLAND REVENUE BOARD MALAYSIA

REINVESTMENT ALLOWANCE

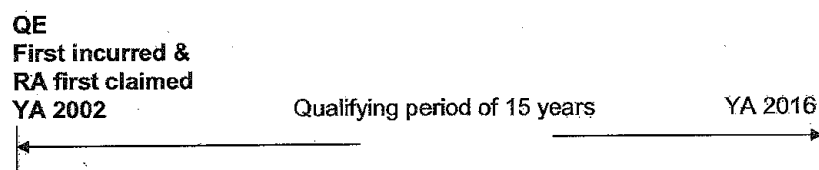
Public Ruling No. 6/2012
Date of Issue: 12 October 2012

From year of assessment 2002, the qualifying period was extended from 5 years of assessment to 15 years of assessment. A company which had been given RA before the year of assessment 1998 is eligible for RA for a new qualifying period of 15 years of assessment beginning from year of assessment 1998.

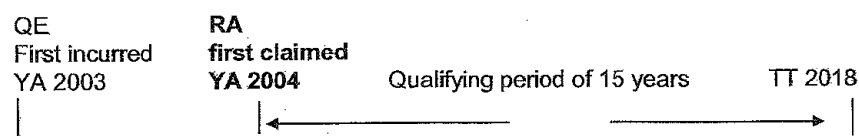
Beginning from year of assessment 2003, it became a requirement to make a claim for RA in the Income Tax Return Form (ITRF). The qualifying period of 15 years of assessment is calculated from the year of assessment in which the qualifying capital expenditure (QE) for the purpose of a qualifying project was first claimed.

Scenario 1 – First QE incurred before YA 1998

If company incurred first QE before YA 1998, the eligibility period is calculated from YA 1998 (changed to qualifying period from YA 2002)

Scenario 2 – First QE incurred in YA 2002

If a company incurred first QE in YA 2002, the qualifying period of 15 years is calculated from YA 2002.

Scenario 3 – first QE incurred in YA 2003 but RA claimed in YA 2004

If a company incurred first QE from YA 2003, but the claim is made only in YA 2004, the qualifying period of 15 years is calculated from YA 2004.

- Latest -

APPENDIX 5



SPECIAL DEDUCTION FOR EXPENDITURE ON TREASURY SHARES

**Public Ruling No. 9/2013
Date of Issue: 27 June 2013**

INLAND REVENUE BOARD OF MALAYSIA

5. Treasury Shares

Treasury shares may be further explained as follows:

5.1 Repurchase or redemption of companies shares which are not cancelled

A public company with a share capital, if so authorised by its Articles of Association, is allowed to purchase its own shares and holds in treasury instead of cancelling them. The purchase must be made through the Stock Exchange on which the shares of the company are quoted and in accordance with the relevant rules of the Stock Exchange.

Treasury shares also include shares that are redeemed by a public listed company from its shareholders.

5.2 Treasury shares of a holding company transferred to employees

A holding company may repurchase or redeem its own shares and transfer these treasury shares to its subsidiary companies to fulfil an obligation under its employee share schemes. In such cases, subsidiary companies could be unlisted companies that have been offered the treasury shares of their public listed holding company.

5.3 Treasury shares that are otherwise acquired by a holding company

Treasury shares may also be otherwise acquired by a holding company when the treasury shares of subsidiary companies are transferred to the employees of the holding company.

5.4 Treasury shares purchased by Special Purpose Vehicle (SPV) or trust

Shares of an issuing company listed on the Stock Exchange, which are purchased by a SPV or a trust for distribution to employees of the issuing company and its subsidiaries, no longer qualifies as treasury shares.

6. Special Deduction For Expenditure On Treasury Shares

6.1 Prior to the year of assessment 2013

The cost of acquiring a company's own shares (treasury shares) through the Stock Exchange for the purpose of fulfilling the company's obligations under employee share schemes was not a deductible expense. It is to be noted that the cost of acquiring treasury shares is not wholly and exclusively incurred in the production of a company's income and therefore it is not allowable as a deductible expense under subsection 33(1) of the ITA 1967.



**SPECIAL DEDUCTION
FOR EXPENDITURE ON
TREASURY SHARES**

**Public Ruling No. 9/2013
Date of Issue: 27 June 2013**

INLAND REVENUE BOARD OF MALAYSIA

5. Treasury Shares

Treasury shares may be further explained as follows:

5.1 Repurchase or redemption of companies shares which are not cancelled

A public company with a share capital, if so authorised by its Articles of Association, is allowed to purchase its own shares and holds in treasury instead of cancelling them. The purchase must be made through the Stock Exchange on which the shares of the company are quoted and in accordance with the relevant rules of the Stock Exchange.

Treasury shares also include shares that are redeemed by a public listed company from its shareholders.

5.2 Treasury shares of a holding company transferred to employees

A holding company may repurchase or redeem its own shares and transfer these treasury shares to its subsidiary companies to fulfil an obligation under its employee share schemes. In such cases, subsidiary companies could be unlisted companies that have been offered the treasury shares of their public listed holding company.

5.3 Treasury shares that are otherwise acquired by a holding company

Treasury shares may also be otherwise acquired by a holding company when the treasury shares of subsidiary companies are transferred to the employees of the holding company.

5.4 Treasury shares purchased by Special Purpose Vehicle (SPV) or trust

Shares of an issuing company listed on the Stock Exchange, which are purchased by a SPV or a trust for distribution to employees of the issuing company's subsidiary, no longer qualifies as treasury shares.

6. Special Deduction For Expenditure On Treasury Shares

6.1 Prior to the year of assessment 2013

The cost of acquiring a company's own shares (treasury shares) through the Stock Exchange for the purpose of fulfilling the company's obligations under employee share schemes was not a deductible expense. It is to be noted that the cost of acquiring treasury shares is not wholly and exclusively incurred in the production of a company's income and therefore it is not allowable as a deductible expense under subsection 33(1) of the ITA 1967.

CTIM Joint Memorandum to IRBM on Issues Arising From 2014 Budget and Finance Bill (No.2) 2013.

1) Section 107C(4A) -- [Exemption from Furnishing Estimate of Tax Payable for Companies.]

Proposal

A new subsection(4A)(c) is inserted and the proviso is amended as follows:

(4A) Subject to subsections (4B) and (4C), where a company first commences operation in a year of assessment, subsections (1), (2) and (3) shall not apply to the company-

.....

(c) where the company has no basis period for that year of assessment and for the immediate following year of assessment, for that year of assessment and the immediate two following years of assessment:

~~Provided that at the beginning of the basis period for the years of assessment referred to in paragraph (a) or for the two following years of assessment referred to in paragraph (b), the paid-up capital of that company in respect of ordinary shares is two million five hundred thousand ringgit and less.~~

Provided that at the commencement of the operation and at the beginning of the immediate two following years of assessment the paid up capital of the company in respect of ordinary shares is two million five hundred thousand ringgit or less.

Comments

It has been proposed that the proviso to this section be replaced. The existing proviso effectively requires the paid up capital at the beginning of the *respective* year of assessment to be not exceeding RM 2.5 million. But, the new proviso appears to be introducing a "all or none" rule, i.e. the paid up capital at the beginning of both years of assessment should be RM 2.5 million or less for the company to be waived from paying the tax instalments. It appears impractical to disqualify the waiver for year 1 in cases where unexpectedly the paid up capital at the beginning of year 2 exceeds the threshold.

Recommendation:

We strongly advocate rewording of the proviso to be more clear and practical

LHDNM Reply

Section 107C(4A) ITA is intended to address cases where a company commenced business and closed its account in the third year of assessment, the effect of which the company would have a basis period of more than 13 months. For the purposes of the section, a company is not required to file an estimate for that basis period if the paid up capital of the company is RM 2.5 million or less at the commencement of the business and at the beginning of the two following years of assessment.

If the company first comply with the requirement but subsequently exceeded the threshold, strictly the tax payer is required to furnish an estimate, one month before the beginning of the basis period.

However, since the time to furnish the estimate has lapsed, the tax payer is required to furnish an estimate of tax payable for that basis period to the DGIR to enable the DGIR to issue a direction under section 107C(8) ITA.

If there is no direction issued by the DGIR, the case will be treated as a case of 'no estimate furnish' and will subject to the penalty of 10% of the tax payable for that basis period under section 107C(10A) ITA. In addition, the failure to furnish an estimate, is an offence under section 120 ITA.

As of today, there is no intention to amend the existing provision. The company is required to maintain its paid up capital of RM 2.5 million or less at the commencement of its business and at the beginning of the two following years of assessment.

2) Monthly Tax Deduction as Final Tax

Proposal

A new Section 77C [**Deduction of tax as final tax**] is introduced as follows:

- (1) *Notwithstanding section 77, where for a year of assessment an individual -*
 - a) *has income only in respect of gains or profits from an employment other than gains or profits in respect of the use or enjoyment of benefits provided by his employer under paragraph 13(1)(b) or (1)(c);*
 - b) *deductions have been made by his employer in accordance with subsection 107(2) in respect of such gains or profits;*
 - c) *the individual is employed by the same employer for a period of twelve months in that year of assessment;*
 - d) *such deductions are not borne by his employer for that year of assessment; and*
 - e) *that individual whose husband or wife has not made an election pursuant to section 45,*

the individual may elect not to furnish a return for a year of assessment to the Director General in accordance with section 77.
- (2) *Where subsection (1) applies and no return for a year of assessment has been furnished by an individual in accordance with section 77 -*
 - a) *an individual is deemed to have made an election under that subsection;*
 - b) *the total amount of tax deducted referred to under paragraph (1)(b) shall be deemed to be the amount of tax payable of that individual for that year of assessment; and*
 - c) *no assessment shall be made by the Director General in respect of that individual for that year of assessment.*

- (3) *Notwithstanding subsections (1) and (2), the Director General shall have the power to make an assessment under subsection 90(3) or section 91 for any year of assessment and where an assessment is made by the Director General, the amount which is deemed to be the tax payable under paragraph (2)(b) shall be disregarded.*

Comments

We welcome the proposal to accept monthly tax deductions as final tax which allows employees to elect for non-submission of their tax returns provided certain criteria are met. Further, it is important that:

- i) employers and employees both understand each other's obligations and responsibilities with regard to the monthly tax deductions, and
- ii) measures are in place to minimize "excessive" deductions.

Section 77C does not define clearly the duties and responsibilities of the employer and employee under the new regime. The duties and responsibilities should be clearly set out in the law before implementation of the new regime.

Some practical challenges may arise, and **clarification is sought on the following:**

- 1) Currently, processing (by employers) of Forms TP1 and TP2 that are submitted by the employees is optional. With the proposed amendment, will it be compulsory for employers to process Forms TP1 and TP2 that are submitted by the employees?

LHDNM Reply

There is no amendment to MTD rules for implementation of Forms TP1 and TP2 for the year 2014. It's still optional. However, the employers are encouraged to process the Forms TP1 and TP2.

- 2) If the employees provide the correct information to the employer, but the employer makes an error when keying in the information, resulting in insufficient MTD being deducted, who will be responsible for the penalties (which may be eventually imposed)?

LHDNM Reply

If an employer fails to comply with MTD - rule 3, compound will be imposed on the employer. Employer still has to deduct the shortfall from the employee's remuneration.

Clarification is also sought on the following procedural matters:

- 1) Can an employee elect not to file a tax return in Year 1, and decide to do so in Year 2, and again elect not to file a tax return in Year 3?

LHDNM Reply

Yes.

- 2) A taxpayer may not file a return form as he/she thinks that the MTDs are equal to his/her final tax. Subsequently, after the filing deadline, he/she discovers that the final tax is higher/lower than the MTDs. Can he submit a tax return to rectify his position? Under such circumstances, will the filing of tax return constitute a late return?

LHDNM Reply

Yes. Submission of tax return after the due date constitute as late return under subsection 112 (3), ITA 1967.

- 3) If a taxpayer files a tax return in good faith after the filing deadline to report the additional income (and therefore, the tax), would due consideration be given such that no penalty is imposed?

LHDNM Reply

The filing of return would render the final tax be disregarded. Original assessment would be issued with penalty imposed under subsection 112 (3), ITA 1967.

3) Section 77A(1A) - Filing of Tax Return in Prescribed Form on an Electronic Medium

Proposals

Section 77A [Return of income by every company, trust body or co-operative society] is amended by inserting after subsection (1) the following subsection:

- "(1A) For the purposes of this section, a company shall furnish to the Director General a return in the prescribed form on an electronic medium or by way of electronic transmission in accordance with section 152A."; and

Comments:

The prevailing practice, as spelt out in the yearly Filing Programme is that a grace period of 15 days is available to taxpayers who file their returns electronically. With the proposed amendment, enforcing compulsory e-filing, will the grace period still be available to taxpayers?

LHDNM Reply

The Filing Programme for Income Tax Return Forms in Year 2014 has been officially released to the professional bodies and published in the IRBM website on 23 December 2013. Having regard to the newly enforced subsection 77A(1A) of the Income Tax Act 1967, a longer grace period i.e. one month from the due date is thereby given to companies for the filing of returns for Year of Assessment 2014 where the due date falls in the calendar year 2014 (paragraph 2.2 of the Filing Programme). Pursuant to subsection 77A (1A), the filing of paper return is no longer deemed received for the purpose of section 77A of the same Act.

4) Section 21A(4) - Basis Period on Commencement of Business for Companies

Proposal

It is proposed that Section 21A [Basis period of a company, limited liability partnership, trust body or co-operative society] be amended as follows:

".....

- (3) Where the company, limited liability partnership, trust body or co-operative society has made up the accounts of its operations for a period of twelve months ending on a day ~~other than 31 December~~ *in a basis year* and there is a failure to make up the accounts of the company, limited liability partnership, trust body or cooperative society ending on the corresponding day in the following basis year, the Director General may direct that the basis period for the year of assessment in which the failure occurs, or the basis periods for that year and the following year of assessment, shall consist of a period or periods (which may be of any length) as specified in the direction.
- (4) ~~Subject to subsections (5) and (6), where a company, limited liability partnership, trust body or co-operative society commences operations on a day in a basis year and makes up its accounts for a period of twelve months ending on a day other than 31 December, there shall be no basis period in relation to any of its sources of income for the first year.~~
- (4) *Subject to subsections (5) and (6), where a company, limited liability partnership, trust body or co-operative society commences operations on a day in a basis year for a year of assessment (hereinafter referred to as the "first year of assessment") and make up its account ---*
 - (a) *for a period of less than twelve months ending on a day in that basis year, that period shall constitute the basis period for the first year of assessment*
 - (b) *for any period of months ending on a day in the immediately following basis year (hereinafter referred to as the "second basis year"), that period shall constitute the basis period for the year of assessment (hereinafter referred to as the "second year of assessment") immediately following the first year of assessment, there shall be no basis period in relation to any of its sources of income for the first year of assessment, or*

- (c) *for a period of more than twelve months ending on a day in the basis year immediately following the second basis year, that period shall constitute the basis period for the year of assessment immediately following the second year of assessment and there shall be no basis period in relation to any of its sources of income for the first year of assessment and second year of assessment.*

Clarification is sought for the case below:

A company's accounting periods are as follows:

Existing accounts	1 January 2013 - 31 December 2013 (12 months)
New accounts	1 January 2014 - 31 January 2015 (13 months)

Would the basis period for YA 2015 be from 1 January 2014 to 31 January 2015 such that there is no basis period for YA 2014, i.e. no tax filing is required for YA 2014?

LHDNM Reply

A company's accounting periods are as follows:

<i>Existing accounts</i>	<i>1 January 2013 - 31 December 2013 (12 months)</i>
<i>New accounts</i>	<i>1 January 2014 - 31 January 2015 (13 months)</i>

Since there is a failure to make up the accounts of the company, ending on the corresponding day in the following basis year, the Director General may direct as follows:

Basis period for the company

<i>YA 2013 –</i>	<i>1 January 2013 - 31 December 2013 (12 months)</i>
<i>YA 2014 –</i>	<i>1 January 2014 – 31 July 2014 (7 months)</i>
<i>YA 2015 –</i>	<i>1 August 2014 – 31 January 2015 (6 months)</i>
<i>YA 2016 –</i>	<i>1 February 2015 – 31 January 2016 (12 months)</i>

There should not be any missing year of assessment.

5) Deduction of Tax Filing Fees

Proposal

Currently, secretarial fees and tax filing fees are not deductible expenses for the purpose of computing income tax since these are considered by the authorities as not having been incurred directly in the production of business income. As part of the GST implementation initiatives, it is proposed that the following be given tax deductions:

Secretarial fee --- up to RM5,000

Tax filing fee --- up to RM10,000

a) Clarification sought:

- i) Is the deduction only for corporate tax filing fees? If not, are fees for the filing of returns for other taxes, e.g. RPGT, included?

LHDNM Reply

Tax filing fees incurred by taxpayers for filing of income tax return and GST form will qualify for tax deduction under Income Tax Rules (to be gazetted). Fees for the filing of returns for other taxes are not included.

Operational Issues raised by MICPA

1. Procedures and Timing Differences of Issuance of Notice of Assessment / Notice of Additional Assessment and Notice of Reduced Assessment

The Institute understand that the following procedures have been practised by the Assessment Branch of the Inland Revenue Board ["IRB"] for issuance of Notice of Assessment ["Form J"] / Notice of Additional Assessment ["Form JA"] and Notice of Reduced Assessment ["Form JR"] for cases where revised income tax computations for prior years are submitted to the IRB:-

i. Form J / Form JA

Upon receipt and review of the revised income tax computation(s) submitted by taxpayers, the officer-in-charge will straight away raise Form(s) J / Form(s) JA. No approval from his/her superior is required to raise these Form(s) J / JA. Taxpayer will need to settle any balance of tax payable / additional tax payable within **thirty (30) days** from the date of issuance of the Form(s) J / JA.

ii. Form JR

The officer in-charge is required to review the revised income tax computation(s) submitted by taxpayers and thereafter, present his/her reports for his/her superior for approval in order to issue the Form(s) JR to discharge any tax over-assessed. The entire duration for the IRB to review the revised income tax computation(s) and issue the Form(s) JR would normally take **more than six (6) months**.

For example, in the case of a taxpayer who has submitted revised income tax computations for prior years of assessment (e.g. YA 2010 to YA 2012) where he is expected to receive Form J / JA for the YA 2010 and YA 2011 and Form JR for the YA 2012. In practice, the taxpayer will need to settle the balance of tax payable / additional tax payable within thirty (30) days from the date of the Form J / JA first as the Form JR for the YA 2012 will normally be issued by the IRB much later. Hence, the taxpayer will not be able to make use of the tax to be discharged via issuance of the Form JR to offset the tax payable / additional tax payable for the other years of assessment. This will no doubt add on financial burden to the taxpayers especially for those who have financial difficulty or cash flow problem and in particularly, it would be quite unfair for the taxpayer where he has a net tax overpaid position the relevant years involved.

In this respect, the Institute would like to suggest that for cases as mentioned above, the IRB should endeavour to issue the Form J/JA/JR for all the relevant years concurrently so that the taxpayer may utilise the tax to be discharged for a particular year of assessment to offset against the tax liability for other year(s) of assessment.

- Tindakan JOC

Jawapan LHDNM:

Notis Taksiran akan dikeluarkan bagi mana-mana tahun taksiran setelah dimuktamadkan oleh pegawai penaksir pada bila-bila masa tertakluk kepada prosedur dan proses kerja yang ditetapkan. Sebagai contoh, pengeluaran Notis Taksiran Kurangan mengambil masa yang lebih lama kerana memerlukan kelulusan pegawai

atasan untuk mengesahkan taksiran kurangan dan amaun yang dibayar balik itu berasas supaya integriti pegawai penaksir berkenaan tidak dipersoalkan.

Pembayar cukai diminta untuk bersabar dengan kesulitan ini sehingga pihak LHDNM dapat mengatasi masalah ini.

2. Rights of the IRB Officer of Not Accepting Documents to be Submitted by Taxpayers / Tax Agents

In practice, there was few incidents that have happened where the IRB officers refused to accept documents (especially Form Q) submitted by taxpayers / tax agents. The Institute wish to bring to your attention an actual case encountered by one of the tax agents:-

Chronology of Events

- i. A taxpayer, Company A did not submit its tax return for the year of assessment ["YA"] 2008.
- ii. The IRB raised a provisional Notice of Assessment ["Form J"] under Section 90(3) of the Income Tax Act 1967 ["the Act"] to the taxpayer.
- iii. The taxpayer prepared and submitted the tax returns (Forms C and R) for the YA 2008 to the Processing Centre of the IRB within thirty (30) days from the date of the issuance of Form J.
- iv. The tax agents of Company A submitted the Form Q, income tax computation and Forms C and R for the YA 2008 to the Assessment Branch of the IRB at the Corporate Tax Department on the same date. The Form Q is required to be submitted to protect our client's right for appeal against the assessment raised by the IRB and it is accordance with the Public Ruling No. 3/2012 – Appeal Against An Assessment issued by the IRB on 4th May 2012.
- v. The IRB officer initially refused to accept the Form Q except for the income tax computation and Forms C and R.
- vi. After a long discussion and explanation on the necessity to submit the Form Q as required under the provision of the Act, the IRB officer then only accepted the Form Q together with the relevant documents submitted.

In this respect, the Institute would like to seek for clarification as to whether the IRB officers can choose not to accept any document(s) submitted by taxpayers, especially in circumstances where there are statutory deadlines to be complied with under the provision of the tax laws.

- Tindakan JRP

Jawapan LHDNM:

IRBM would like to apologise for this unforeseen circumstances as this kind of situation should not happen.

In principle, the IRB officer should have accepted the documents filed by the taxpayer when the same were filed pursuant to the provision of the tax laws. However, there were

certain situations where the IRB officer would have to refuse to accept the documents. It may be due to the following circumstances –

- i. The filing of Form Q (out of time) without the extension of time of appeal (by way of Form N) is granted by the IRB; and***
- ii. The Form Q is incomplete, defective and substantially flawed.***

Anyhow, if MICPA could specifically inform IRBM at which branch this situation happened, it would be very much helpful for IRBM to rectify this problem.

DEDUCTIBILITY OF TECHNICAL FEE CHARGED BY A NON-RESIDENT COMPANY TO A RESIDENT COMPANY IN MALAYSIA.

No.	Summary of Issues	Recommendation/ Suggestion	Remark/ Feedback
1.	<p><u>Facts of case</u></p> <p>i) A company, with a 31 May year end, has not submitted its tax return for YA 2010.</p> <p>ii) Following the finalization of the audit recently, the company intends to submit its tax return for YA 2010 by the end of January 2014.</p> <p>iii) In the accounts for the year ended 31.5.2010, the company was charged technical fees by a non-resident affiliated company, with no withholding tax being withheld since payment has not yet been made.</p> <p>2) <u>Relevant existing legislation</u></p> <p><u>Before YA 2011</u></p> <p>i) Section 39 – <u>Deductions not allowed</u></p> <p>39(1) [Deductions not allowed] Subject to any express provision of this Act, in ascertaining the adjusted income of any person from any source for the basis period for a year of assessment no deduction from the gross income from that source for that period shall be allowed in respect of :-</p>	<p><u>Clarification sought</u></p> <p>i) <u>Can the company make a claim for the technical fees in the tax return for YA 2010 even though the withholding tax has not been paid</u>, since the tax return involves a YA prior to the introduction of the Finance Act 2011, which has effect from YA 2011.</p> <p>ii) <u>If the company does not make a claim for the technical fees in its tax return for 2010, can it do so subsequently upon payment of the withholding tax in the year 2014.</u></p> <p>If so, <u>is the company allowed to make a revision to its YA 2010 tax computation?</u></p>	<p>i) If withholding tax has not been paid, then company cannot make any claim for the technical fees in the tax return For YA 2010. If company does so, the deduction would subject to the additional tax and penalty S.113 (2) may be imposed.</p> <p>ii) Company is allows to make a revision to tax computation for YA 2010 regards to the subsequent payment of withholding tax if the company does not make claim in YA 2010 before.</p> <p>iii) With effect from YA 2011, if company failed to comply with section 39(1) (j) and penalty has been imposed thus penalty is remain even though subsequent payment and revision for the particular YA (YA 2011 onward) is made.</p>

No.	Summary of Issues	Recommendation/ Suggestion	Remark/ Feedback
	<p>(j) any payments from which tax is deductible under section 109B, if tax has not been deducted therefrom and paid to the Director General in accordance with subsection (1) of that section :-</p> <p>Provided that this paragraph shall not apply if the payer has paid the amount referred to in subsection (2) of that section;</p> <p>ii) Section 109B – Deduction of tax from special classes of</p> <p style="text-align: center;"><u>Income in certain cases derived from Malaysia</u></p> <p>109B(1) [Payments to non-resident] Where any person (in this section referred to as “the payer”) is liable to make payments to a non-resident :-</p> <p>(b) for technical advice, assistance or services rendered in connection with technical management or administration of any scientific, industrial or commercial</p>		

No.	Summary of Issues	Recommendation/ Suggestion	Remark/ Feedback
	<p>undertaking, venture, project or scheme; which is deemed to be derived from Malaysia, he shall, upon paying or crediting the payments, deduct therefrom tax at the rate applicable to such payments, and (whether or not that tax is so deducted) shall within one month after paying or crediting such payment, render an account and pay the amount of that tax to the Director General :</p> <p><u>With effect from YA 2011</u></p> <p>The following additional paragraph was inserted to Section 39(1) (j) with effect from YA 2011 :-</p> <p>(ii) where such tax is deducted or such amount is paid after the due date for the furnishing of a return for a year of assessment that relates to such payment, the tax or amount so paid shall not prejudice the imposition of penalty under subsection 113(2) if a deduction on such payment is</p>		

No.	Summary of Issues	Recommendation/ Suggestion	Remark/ Feedback
	made in such return or is claimed in the information given to the Director General in arriving at the adjusted income of the payer;		

CTIM Supplementary Issues for Operations Dialogue

OPERATIONAL ISSUES

1. Tax Audit Practices

The IRB had issued letters to inform taxpayers who had audit findings after tax audits carried out by the IRB that they will be classified under the Non-Complying Taxpayers (NCT) List with effect from 2014. These taxpayers will be monitored in the subsequent years of assessment. [Please refer to Appendix A]

We would like to know whether this is the new practice moving forward. If so, how long will the taxpayers be kept for review under the NCT list? What is the criteria for the IRB to remove a taxpayer from the NCT list?

It must be noted that taxpayers sometime concede to the audit findings based on commercial reasons, such as business disturbance, high costs of justification rather than deliberate non-compliance. It is thus unfair to include them in the list of non-complying taxpayers.

IRBM Reply:

For information, monitoring of noncomplying taxpayers is a program newly implemented with effect from 1.1.2014.

It is a monitoring procedure against group of noncomplying taxpayers to ensure they do not repeat the same offences in the future. The criteria for listing are:

- 1. Cases with audit findings.*
- 2. Cases with no records keeping or incomplete records kept.*
- 3. Cases with both 1. and 2. as above.*

A taxpayer once ascertained to have committed the above offences upon audit will be listed in the noncomplying taxpayers list. These taxpayers will be selected for re-audit for the following year of assessment before they can be dropped from the list.

The criteria for de-listing : If IRB is satisfied that the particular taxpayer have fully complied, that is no more repeating the same offence or commit new offences, he will be removed from the list.

The purpose of this program is more of for education and continued enhancement of the level of compliance.

2. Online Submission of Information

The IRB had issued standard letter to taxpayer announcing the introduction of eSMUP for online transmission of information. [Please refer to Appendix B]

We would like to know what kind of information submission can be performed through the eSMUP and what is the purpose and the scope of submission.

IRBM Reply:

(1) Type of information can be submitted via e-SMUP are as follows :

- (a) Individual/Company who received payment ;*
- (b) Licensing and tenancy ;*
- (c) Petrol Station ;*
- (d) Client of Services Provider ;*
- (e) Member of Association/Organization ;*
- (f) Owner of Real Property ;*
- (g) Purchaser of the New Building (all categories) and*
- (h) Purchaser of Motor Vehicle.*

(2) The purpose for using the e-SMUP :

To obtain information pertaining to the Q Letter sent by LHDNM, through web based application. This is substitute to the previous method via CD or diskette send to LHDNM branches. Through the new system, information can be delivered faster and hassle free.

(3) Scope of submission :

Scope will be restricted to the type of information as stated above (paragraph (1)) and only by registered information provider (company/business owner) that have been identified earlier by LHDNM. For the purpose of inquiring the information through Q Letter, LHDNM will send the letter by manual procedure which has been practiced before.

However, LHDNM may from time to time revise the type of information that will be acquired which may be fall under sub-category of the existing main categories.

APPENDIX A

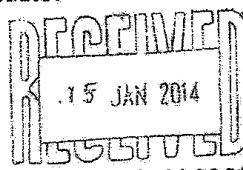
CP706



LEMBAGA HASIL DALAM NEGERI MALAYSIA

(Sila rujuk fail kami apabila menjawab)

No. Cukai Pendapatan :
Tarikh : 06/01/2014



Tuan,

PEMANTAUAN PEMBAYAR CUKAI GAGAL PATUH**NAMA SYARIKAT :****NO. CUKAI PENDAPATAN :**

Dengan hormatnya saya merujuk kepada perkara di atas.

2. Adalah dimaklumkan kerja-kerja pengauditan ke atas syarikat tuan telah diselesaikan bagi Tahun Taksiran 2012 dan didapati ada penemuan audit. Sehubungan itu, syarikat tuan telah dimasukkan dalam Senarai Pembayar Cukai Gagal Patuh (SPGP) mulai tahun 2014.
3. Tuan akan dipantau bagi tahun taksiran selanjutnya dan sekiranya dikenalpasti tiada kekurangan atau ketinggalan pendapatan, syarikat tuan akan digugurkan daripada senarai ini.
4. Tuan adalah digalakkan membuat pengakuan sukarela bagi mana-mana Borang Nyata Cukai Pendapatan (BNCP) yang telah dikemukakan dan penalti yang lebih rendah seperti yang ditetapkan dalam Rangka Kerja Audit Cukai (RKAC) akan dikenakan.
5. Sila beri kerjasama supaya syarikat tuan tidak dimasukkan dalam SPGP setiap tahun dengan melaporkan maklumat yang tepat dalam BNCP bagi setiap tahun.

Sekian, terima kasih.

"BERKHIDMAT UNTUK NEGARA"**"BERSAMA MEMBANGUN NEGARA"**

Pegawai Audit
CAWANGAN
b/p Ketua Pegawai Eksekutif/ Ketua Pengarah Hasil Dalam Negeri
Lembaga Hasil Dalam Negeri Malaysia

APPENDIX B



LEMBAGA HASIL DALAM NEGERI MALAYSIA
CAWANGAN JALAN DUTA
TINGKAT 16 KIRI BLOK 8A KOMPLEKS BANGUNAN
KERAJAAN
JALAN DUTA
50600 KUALA LUMPUR

No Tel : 03-62091000
No Fax : 03-62018061
Homepage : <http://www.hasil.gov.my>

Rujukan Tuan :
Rujukan Kami :
Tarikh: 08/01/2014

Tuan,

PENGHANTARAN MAKLUMAT MELALUI KAEDAH ATAS TALIAN (ONLINE) MULAI TAHUN 2014

Untuk makluman mulai 1 Januari 2014, LHDNM telah memperkenalkan sistem eSMUP iaitu sistem penghantaran maklumat daripada agensi kepada LHDNM secara atas talian (online). Capaian kepada sistem ini ialah melalui alamat URL di bawah :

<https://esmup.hasil.gov.my/>

2. Untuk mengakses kali pertama sistem berkenaan, disertakan Nombor Q dan Kod PIN sementara:

Nombor Q :
No Pin :

3. Sila rujuk Manual Pengguna di <https://esmup.hasil.gov.my/index.php/site/usermanual> untuk pendaftaran kali pertama dan tindakan seterusnya. Bagi tujuan penggunaan sistem ini, tuan / puan adalah diingatkan untuk menyediakan alamat emel yang sah untuk memudahkan tindakan maklumbalas dan komunikasi antara agensi dan LHDNM.

4. Sebarang pertanyaan, tuan / puan boleh berhubung dengan Unit Pengesanan Cawangan LHDNM sepertimana alamat yang tertera di atas.

Sekian, terima kasih.

Ketua Unit Pengesanan Cawangan
b.p Ketua Pegawai Eksekutif/Ketua Pengarah Hasil Dalam Negeri
Lembaga Hasil Dalam Negeri Malaysia

Cetakan komputer ini tidak memerlukan tandatangan.

HASiL
www.hasil.gov.my

BERSAMA MEMBANGUN NEGARA