

MINIT MESYUARAT

MESYUARAT *WORKING GROUP* LHDNM DENGAN PERSATUAN AKAUNTAN DESIRE – BIL. 3/2011

Tarikh : 30 September 2011 (Jumaat)
Masa : 9.30 pagi
Tempat : Dewan Perdana Tingkat 16, Blok 9

Kehadiran:

1. WAKIL LHNDM		
1.	YBhg. Dato Mohammad Sait Bin Ahmad	Timbalan Ketua Pengarah (Operasi Percukaian) (Pengerusi)
2.	Puan Nor'aini Binti Ja'afar	Pengarah Jabatan Cukai Korporat (JCK)
3.	Puan Asriah Binti Shaari	Pengarah Jabatan Khidmat Korporat (JKK)
4.	YBhg. Datin Josephine John	Pengarah Negeri Wilayah Persekutuan Kuala Lumpur
5.	Cik Puteh Mariah Binti Harun	Pengarah Jabatan Pungutan Hasil
6.	Puan Rozina Binti Shaik Osman Merican	Pengarah Negeri Wilayah Persekutuan Putrajaya
7.	Encik Mohammed Noor Bin Ahmad	Timbalan Pengarah Jabatan Operasi Cukai
8.	Encik Marzelan Bin Kamaruddin	Pengarah Jabatan Pemprosesan Maklumat (JPPM)
9.	Encik Sezali Bin Othman	Pengarah Bahagian Perancangan Korporat, JKK
10.	Puan Jalina Binti Abu Bakar	Pengarah Bahagian Aplikasi e-Services, JTM
11.	Puan Umi Kalsom Binti Harun	Pengarah Bahagian Pembangunan Pungutan, Jabatan Pungutan Hasil (JPH)

12.	Encik Hajam Lajah Alam	Ketua Penolong Pengarah Cawangan Siasatan Petaling Jaya
13.	Cik Norhayati Binti Mat Kassim	Pengarah Bahagian Pembangunan Operasi, JOC
14.	Encik Azmi Bin Mohamed	
15.	Puan Salmah Binti Che Ros	Pengarah Pusat Khidmat Pelanggan, JKK
16.	Puan Wan Saodah Binti Wan Abu Bakar	Pengarah Bahagian Pengurusan Pelanggan, JOC (Urusetia)
17.	Encik Abd Rahman Bin Yusof	Ketua Unit e-Filing , Bahagian Aplikasi e-Services, JTM
18.	Puan Muzlifah Bt.Musa	Pegawai Hasil, Bahagian Aplikasi e-Services, JTM (Urus setia)
19.	Puan Nur Aziyati Binti Mohd Alias	Penolong Pegawai, Bahagian Pengurusan Pelanggan, JOC (Urusetia)
20.	Puan Bavani Joseph	Penolong Pegawai, Bahagian Pengurusan Pelanggan, JOC (Urusetia)
2. WAKIL PERSATUAN		
2.1. PERSATUAN AKAUNTAN		
20	Encik Lim Kah Fan	Chartered Tax Institute of Malaysia (CTIM)
21	Puan Seah Siew Yun	CTIM
22	Encik Lim Kok Seng	CTIM
23	Encik Poon Yew Hoe	CTIM
24	Puan Sim Pei Sheng	CTIM
25	Mrs Yamuna	CTIM
26	Puan Khalijah Bt. Awang	Persatuan Akauntan Percukaian Malaysia (MATA)
27	Puan Haslinda Binti Azman	MATA

28	Puan Fatimah Binti Ariffin	MATA
29	Encik Beh Tok Koay	Malaysian Institute of Accountants (MIA)
30	Puan Phan Wai Kuan	MIA
31	Puan Azlina Binti Zakaria	MIA
32	Puan Yeong Hoon Li	MIA
33	Dr. Veerinderjeet Singh	Malaysian Institute of Certified Public Accountants (MICPA)
34	Puan Theresa Goh;	MICPA
35	Puan Woon Yoke Lee;	MICPA
36	Encik Tang Chin Fook	MICPA
37	Puan Cheong Li Wei	MICPA
38	Encik Ong Whee Tiong	Persatuan Institut Setiausaha dan Pentadbir Berkanun Syarikat (MAICSA)
39	Puan Chong Sui May	MAICSA
40	Dr. Zalina Binti Dato' Haji Mohd Sahir	ICMA
41	Encik Azmi Bin Jaafar	ICMA
42	Encik Md. Nadzri Bin Yusoff	MACS
43	Encik Teo Say Guan	MACS
44	Dr. Azmi Hanim	MACS
45	Encik Zailan Bin Mohamed	MACS
46	YBhg. Dato' Shahmin Ta Bin Abdullah	Bekas Pegawai Hasil
47	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. Beliau seterusnya memaklumkan mengenai perkara-perkara berikut

1.1 PENGUMUMAN

- **Inisiatif MoF dan agensi di bawahnya dalam pelaksanaan penambahbaikan lesen perniagaan**
 - a) disyorkan, lesen diganti dengan pendaftaran;
 - b) mempertimbangkan pendaftaran dibuat seumur hidup dan tiada lagi proses pembaharuan;
 - c) mengkaji kemungkinan pendaftaran ejen cukai ini di *outsource* kepada badan profesional seperti Institut Akauntan Malaysia (MIA);
 - d) memudahkan pendaftaran ejen cukai dengan menggugurkan syarat menghadiri kursus; dan
 - e) mengkaji kajian perbandingan dengan negara-negara lain (e.g Australia).
- **Mengatur mesyuarat bersama badan profesional bagi membincangkan syor dan saranan Jawatankuasa semakan Semula Lesen Perniagaan Di Bawah Kementerian Kewangan**

2. LAPORAN/ISU BERBANGKIT

ISSUES FOR DESIRE MEETING 3/2011 (30 SEPTEMBER 2011)

I General Filing Issues

1. Enquiry on the proposed implementation of XBRL

We understand that the Government is adopting **an emerging technology standard, eXtensible Business Reporting Language (XBRL)**, which is a digital 'language' that was developed to provide a common, electronic format for business and financial reporting. It is a freely available, market-driven, open, and global standard for exchanging business information and **promises to web-enable the financial reporting process for both preparers and consumers.**

The Institutes would like to know the scope of the IRB operations that will be affected, in particularly the e-filing. Will it be applicable to every taxpayer or to certain taxpayers only? The taxpayers and tax agents will need to be informed clearly of the changes so that they can address the issues arising. There will be a considerable amount of effort required in re-education and mapping of current financial classification with the XBRL taxonomies.

XBRL relies on predefined taxonomies and requires everyone follows predefined rules to create the filing data. Development of taxonomies is a large scale exercise that requires input from many groups such accountants, tax agents, software vendors, etc. The Institutes would like to know how such taxonomies are going to be compiled and who are involved in the adoption process and compiling the taxonomies?

Further, what is the proposed timeframe for the implementation of the XBRL? It must be noted that a lot of re-education and training are required for the financial personnel.

Jawapan:

LHDNM tidak menerima sebarang arahan atau pekeliling berkenaan dengan penggunaan teknologi XBRL daripada MAMPU.

LHDNM mengambil maklum tentang perkara ini dan akan memaklumkan sebarang perkembangan.

2. Shifting of IRB Headquarters

The Institutes understand the IRB Headquarters at Komplek Bangunan Kerajaan, Jalan Duta will be shifting to Cyberjaya soon and would like to enquire which departments will be shifted to the new premises.

Currently, certain transactions, such as submission of incentive forms, have to be made to the IRB Headquarters. With the shifting of the IRB Headquarters to Cyberjaya, the Institutes suggest that administrative arrangement be made to allow such transactions to be transacted at branches and the branches shall forward the necessary information to the IRB Headquarters. This will ease the administration work and reduce costs of doing business.

Jawapan:

LHDNM memberitahu dalam mesyuarat, Ibu Pejabat akan mula berpindah mulai Disember 2011. Kemungkinan akan mengambil masa 3 minggu untuk membuat persiapan perpindahan.

Pengerusi juga memaklumkan bahawa Cawangan Jalan Duta, Cawangan Pungutan Kuala Lumpur, Cawangan Cukai Korporat dan Cawangan Tidak Bermastautin akan berada di Kompleks Bangunan Jalan Duta. Agen cukai boleh berhubung dengan cawangan berkenaan jika ada urusan tentang pembayaran, penaksiran dan apa-apa maklumat.

3. Tax payment by newly registered taxpayers

A new taxpayer registered his tax file at the Inland Revenue Board (IRB) Kuala Lumpur on 27 April 2011 and was informed that he would be able to pay tax at any CIMB branch or IRB branch immediately. However, he was unable to settle the balance of tax payable the next day in CIMB Kuantan Branch and IRB Kuantan

Branch. He was told by the IRB Kuantan officer that it will take 2-3 months to upload the new income tax reference numbers into the IRB's system.

The Institutes are of the view that taking 2-3 months to upload a new taxpayer is too long. This also affects e-filing as new taxpayers have to call the IRB individually to update the system.

To improve efficiency and in line with the "no wrong door" policy, the Institutes suggest that the IRB branches accept the payment made, issue receipt and record the necessary details of the transaction for future tracking.

Jawapan:

Untuk makluman, data pembayar cukai baru akan diberikan kepada pihak bank setiap minggu iaitu pada hari Ahad. Walaubagaimanapun, bayaran boleh dibuat serta-merta di tiga (3) kaunter bayaran iaitu di Cawangan Jalan Duta, Cawangan Kuching dan Cawangan Kota Kinabalu

Pihak bank tidak dapat menerima data terlalu banyak dari LHDNM setiap hari akibat kekangan masa dan tenaga kerja. Oleh itu, pihak LHDNM hanya dapat bekalkan maklumat seminggu sekali.

4. Collection of outstanding tax

This issue was raised in DESIRE No.1-2011, issue 3.3.0. However, members continue to receive request for payment of tax outstanding from taxpayers for year of assessment 2010 whereas the assessment branch confirmed that there are no outstanding tax liability and some even have tax overpaid due for refund from IRB.

The Institutes are of the view that there is a need to improve the information sharing process as such incident would not only increase the costs of doing business but also increase the IRB's administrative burden. It is also suggested that a letter be issued by IRB once the error has been confirmed and rectified. This is to restore taxpayer's confidence.

Jawapan:

Pengerusi meminta Pengarah Jabatan Pungutan Hasil (JPH) memperbaharui sistem LHDNM dengan menunjukkan sesuatu bayaran itu adalah untuk Taksiran Semasa atau Taksiran Kebelakangan.

Cawangan LHDNM akan mengeluarkan surat pindaan sekiranya terdapat perbezaan amaun baki cukai kepada pembayar cukai. Perbezaan boleh berlaku sekiranya bayaran dibukukan ke tahun taksiran yang berlainan di mana bayaran tersebut dianggap sebagai bayaran tahun taksiran berikutnya. Pembayar cukai individu adalah dinasihatkan untuk menyemak e-lejar. Bagi kes syarikat pula, LHDNM sedang menyiapkan pembangunan e-lejar berkenaan.

5. Tax return form returned as incomplete

There has been a case where the Pusat Pemprosesan attached 2010 Form C (first page only) and indicated in the cover letter that return submitted was incomplete. The records of tax agent show the Form C was duly completed. The acknowledgement chop on the Form attached by the Pusat Pemprosesan is different from the acknowledgement chop on tax agent's copy of the Form submitted. On checking with the IRB officer, the tax agent was told to resubmit the tax return.

We have requested the member to clarify the matter with the IRB directly. The Institutes would like to know how this happened as it has serious implications on the tax agents and taxpayers. A better understanding on the IRB process may help to reduce such instances.

Meanwhile, the Institutes would also like to request the IRB to waive any consequential penalty if there is ambiguity whether the fault lies in the taxpayer/tax agent.

Jawapan:

Masalah Borang C yang tidak lengkap ini memerlukan penjelasan dari pihak JPPM. Kelewatan pembayar cukai menghantar borang dan tidak dapat mencetak borang yang lengkap. Kesilapan Borang C yang tidak lengkap akan ditangani dengan segera oleh pihak JPPM.

II Filing Issues

6. Support for taxpayers/tax agents during filing periods

The feedback from members is that the IRB hotline /helpline was constantly engaged or not answered during the last two weeks of April 2011.

The Institutes are of the view that IRB hotline /helpline is an important channel of communication between IRB and the public, more so during the final week of filing period, where taxpayers may want to clear with the IRB on some urgent issues /IT problem arising from filing.

Members using e-filing also pointed out that e-filing after 5.00 pm receive no IT support from the IRB. To facilitate the efficient use of e-filing, it was suggested that the IT helpdesk may extend its service to 10.00 pm during the last two weeks of January, March, April, June and July.

Jawapan:

Sepanjang BPPC, hotline bermula jam 7.30 pagi – 8 malam pada setiap hari bekerja. Pada hujung bulan seperti 28, 29 dan 30 haribulan, hotline akan beroperasi sehingga jam 6 petang. Masalah tersebut timbul kerana agen lewat kemukakan borang dan kurang pengetahuan tentang borang serta Akta Percukaian. Jika pengetahuan yang menyeluruh, masalah tidak akan timbul kerana ia akan diselesaikan oleh agen sahaja.

Pengarah Jabatan Komunikasi Korporat menjelaskan purata panggilan di saat akhir penghantaran borang pada 28, 29 dan 30 ialah diantara 40 – 150/200 panggilan diantara jam 5-6 petang.

Ini akan meningkatkan kos dalaman LHDNM sendiri. LHDNM tidak akan melanjutkan masa kerana biasanya pertanyaan yang sama diajukan kepada pegawai yang bertugas.

Semua agen diminta untuk memaklumkan kepada pembayar cukai tentang maklumat berkenaan penalti diatas kelewatan penghantaran borang, penalti ke atas baki cukai yang belum dibayar, tarikh

pembayaran yang tepat jika tidak mahu dikenakan penalti dan lain-lain maklumat am lagi.

7. No acknowledgement page for e-filing

We were informed that there were some system glitches on the final week of filing in the month of April and July 2011. In quite a number of cases affected, the acknowledgement page was not shown after the signing of e-form, resulting that the users had to perform extra steps through "Semakan Pengesahan" function in order to check and retrieve the acknowledgement page. The same issue was raised in DESIRE No.2-2010, item 2.2.

The Institutes hope that the IRB could look into this and avoid such incidents from happening.

Jawapan:

LHDNM telah mengambil maklum perkara ini dan tindakan telah diambil. Makluman di laman sesawang utama(www.hasil.gov.my) akan dikeluarkan sekiranya terdapat gangguan pada sistem.

8. Filing of CP204 by Small and Medium-sized Enterprises (SME)

The IRB has by its email dated 14 June 2011 informed the professional bodies that there is a change in Form CP204 and SMEs are required to file the Form CP204 effective from 3 March 2011. SME which has not submitted Form CP204 on its first year of commencement of operations is required to submit in second year if it still hold SME status.

As the Institutes were informed on 14 June 2011 via e-mail, a lot of members are not aware of the change and could not comply with the change. The Institutes therefore suggest that the request be effected from 1 July 2011.

For simplicity and clarity, the Institutes suggest that the filing of Form CP204 by SME be applicable to SME the basis period of which begins on or after 1 August 2011.

We were also informed by members that e-filing for CP204 is not available as taxpayer cannot select the SME status because the system has locked the cell for the second year of assessment. Tax

agents were advised to use manual filing or submit without SME status first and appeal later if penalized by IRB. Some even advise not to file as not required by law.

As this submission is not required by law, the Institutes suggest that the IRB do not penalised for non-filing of CP204.

Jawapan:

Mulai 3 Mac 2011, syarikat kecil dan sederhana (SME) dikehendaki mengisi Borang CP204. Ini bagi mengelakkan syarikat dikenakan kenaikan cukai subseksyen 107C(10) ACP1967 atau menerima notis tindakan pendakwaan kerana tidak mengemukakan CP204.

LHDNM tidak dapat mengenalpasti pembayar cukai ini jika tiada maklumat tersebut daripada pembayar cukai.

Pembayar cukai boleh merayu sekiranya kenaikan atau pendakwaan tidak sepatutnya telah dikenakan bagi kes sebelum Ogos 2011.

III Operations Issues

9. Penalty/Notice of Assessment raised after more than 7 years

The IRB has recently raised penalties on late payment for instalments made way back in the Year 2001. Section 82 and 82A, ITA stipulates that taxpayers to keep records for a period of seven years. The taxpayers therefore have difficulties to trace the payment records in these cases.

The Institutes are of the view that the IRB should raise the penalty within reasonable time. Since the IRB has already computerised its accounting and collection process the accounting records of individual taxpayers would be updated instantly. Raising the penalty of late payment after 10 years is surely too long and unfair to the taxpayers as the relevant records are most likely not available.

Jawapan:

Pembayar cukai semestinya dikehendaki menyimpan semua dokumen yang berkaitan dengan cukai selama 7 tahun. Pegawai LHDNM juga telah memaklumkan hal ini kepada pembayar cukai yang datang ke kaunter setempat atau kaunter bergerak BPPC.

10. Grace period for settlement of tax due to IRB via Notice of Assessment.

Section 103(5) stipulates that “where any tax due and payable.....has not been paid within thirty days **after the service of the notice**, so much of the tax as is unpaid upon the expiration of that period shall without any further notice being served be increased by a sum equal to ten per cent of the tax so unpaid....”

In the past, the IRB has granted a grace period of 14 days to the taxpayer after 30 days from the date of notice of assessment, taking into consideration the postal delay. This was reconfirmed by the IRB in item 2.2 of the minutes of operational dialogue held on 16th February 2005.

This is in line with the spirit of Section 66 of the Interpretation Acts 1948 and 1967 (IA), where an Act of Parliament or Ordinance authorizes or requires any document to be served by post, whether the expression “serve” or the expression “give” or “send” or any other expression is used, then, unless the contrary intention appears, the word “**service**” **shall be deemed to be effected by properly addressing, prepaying and posting a letter containing the document, and, unless the contrary is proved, to have been effected at the time at which the letter would be delivered in the ordinary course of post.**

The Institutes would like to reconfirm that the grace period of 14 days to settle tax due under a Form J / Form JA issued for reasons is still available to taxpayers. Should there be a change in the concession, the Institutes would like to request for prior notice so that members can be alerted.

Jawapan:

Pembayar cukai mempunyai tempoh 30 hari membayar baki cukai. Tempoh ini mencukupi untuk membuat bayaran dan juga dengan adanya kemudahan bayaran melalui internet banking. Penyampaian notis taksiran juga telah disegerakan. LHDNM boleh dari semasa ke

semasa mengubah tarikh tambahan masa berkenaan. Pada masa ini tambahan masa telah dikurangkan daripada 14 hari kepada 7 hari.

3. HAL-HAL LAIN

Utilization of Withholding Tax (“WHT”) Deducted under Section 107A(1)(a)

It is noted that in item 3(i)(f) of the minutes of Operations Dialogue held on 23 February 2000, the Inland Revenue Board (“IRB”) confirmed that 10% WHT paid under Section 107A will be allowed to offset the tax liability arising from Notice of Instalment Payments.

The IRB further confirmed in item 2.9 of the minutes of Operational Dialogue No. 1/2009 held on 25 February 2009 that a non-resident company is allowed to submit a Nil estimate for the Form CP204 if the source of the company is fully subjected to withholding tax.

Recently, there has been a case where the WHT Section rejected a non-resident company’s application to transfer the balance of the tax credit available arising from the 10% WHT deducted under Section 107A for the years of assessment (“YA”) 2008 to 2010 for settlement of its final tax liability for YA 2010.

In this case, the non-resident company received only contract income which has been subjected to WHT under Section 107A and the tax credit available for YAs 2008 and 2009 is after the settlement of the company’s tax liability for the respective year.

The WHT Section of the IRB said that the utilization of the WHT credit can only be allowed to be transferred for set off against the non-resident contractor’s final tax liability for YA 2010 after the finalisation of the assessments for YAs 2008 to 2009.

The Institutes appreciate that the IRB’s decision to allow non-resident contractors to provide a Nil submission of estimate for the Form CP 204 is to lighten the cash-flow and financial burden of non-resident contractors by not collecting again the tax via instalment payment since the tax has already been withheld (and hence, paid in advance) by way of WHT. As such, it is difficult for non-resident contractors to understand why the balance of the WHT for an earlier year cannot be used to set off against the final tax liability of a later year if the tax withheld can be used to set off against the monthly tax instalment payment which was estimated.

The Institutes would like to propose to the IRB to allow the balance of the WHT tax credit available to a company for an earlier year (i.e. after deduction of the tax liability of the company for that year) to be allowed automatically to be used for set off against the company's final tax liability for a later year. The Institutes are of the view that the requirement for a company's assessment to be finalised should only be applicable to tax refund cases.

Jawapan:

Amalan WHT sejak 2007 ialah jika pembayar cukai telah laporkan pendapatan semua kontrak yang dijalankan bagi tahun tahun lepas dan tiada sebarang pendapatan yang ditinggalkan seperti dividen dan sebagainya, maka LHDNM akan benarkan apa-apa kredit jika ada untuk digunakan untuk tahun-tahun hadapan selepas semua baki bagi tahun sebelumnya diselesaikan tanpa sebarang masalah.

4. PENUTUP