MALAYSIAN INSTITUTE OF TAXATION (MIT)
MALAYSIAN INSTITUTE OF ACCOUNTANTS (MIA)
THE MALAYSIAN INSTITUTE OF CERTIFIED PUBLIC ACCOUNTANTS (MICPA)

2008 Post Budget Technical Issues To Be Raised With The Inland Revenue Board (IRB)

A. GENERAL

We note that the effective date for certain provisions under the Finance Bill 2007 were not specifically provided for in the respective clauses of the Bill but were stated in the explanatory statement. For example, clause 4 of the bill refers to the option for an offshore company to make an election to be taxed under the Income Tax Act, 1967 but the effective date of the provision was not stated in clause 4 itself, but in the explanatory statement.

Answer:

The LHDNM clarified that the effective date would normally be stated in the Finance Bill. However, there are times when there are different styles in drafting the Finance Bill. In this regard, the LHDNM confirmed that the effective date would be the date of the Act coming into force mentioned in the Finance Bill, even though it may not be mentioned in the clause itself.

B. INCOME TAXATION

1. Reduction of Corporate Tax Rate

The Institutes welcome the proposal for the reduction of the corporate tax rate for a company, trust body, executor, receiver appointed by the court, and withholding tax of a non-resident company which is a unit holder of a Real Estate Investment Trust (REIT) and/or Property Trust Fund (PTF) to 26% and 25% for Y/A 2008 and 2009 respectively. This proposal will further enhance the competitiveness of the private sector.

Pending the gazetting of the Finance Bill 2007, the Institutes wish to confirm whether taxpayers are allowed to apply the new tax rates i.e. 26% for year of assessment 2008 and 25% for year of assessment 2009 in the following situations:-

(i) the preparation of the initial and revised tax estimates.

(ii) in declaring dividends prior to 31 December 2007 for year of assessment 2008 (to avoid the complication of regrossing dividends by shareholders who have different basis periods).

Answer:

The LHDNM confirmed that pending the gazetting of the Finance Bill 2007 (Note: The Finance Act 2007 was gazetted on December 28, 2007), taxpayers are allowed to apply the new tax rates i.e. 26% for year of assessment 2008 and 25% for year of assessment 2009.

2. Tax Deduction for Cost of Renovation at Workplace for Disabled Workers

With effect from year of assessment 2008, the cost of renovation incurred by the employer at the work place for disabled workers is tax deductible.

The Institutes wish to clarify if the disabled workers mentioned should be registered with the relevant authorities i.e. the Social Welfare Department, in order for the employer to be eligible for the tax deduction.

Answer:

The LHDNM responded that the definition of "disabled person" in Section 18 of the Income Tax Act 1967 will apply. Under subparagraph 34(6)*(e)* Income Tax Act 1967 (ITA), the disabled workers must be registered with the Social Welfare Department in order for the employer to be eligible for tax deduction.

3. Tax Deduction for Community Projects

Appendix 30 of the Budget Speech provides that with effect from year of assessment 2008, expenses incurred in the provision of infrastructure that significantly benefits the public be allowed as deduction for income tax purposes. The facilities provided must be free of charge and must be approved by the Minister of Finance.

Clause 8 of the Finance Bill 2007 provides that a company is entitled to deduct from its gross income an amount equal to the expenditure incurred by the company on the provision of infrastructure in relation to its business which is available for public use, subject to the prior approval of Minister.

The Institutes note that the provision in clause 8 of the Bill is slightly different from the Speech whereby the Bill does not state that the provision of infrastructure should significantly benefit the public while the Speech does. Kindly confirm the position that will be taken by the LHDNM in such cases.

Notwithstanding the above, the Institutes wish to clarify the following pertaining to the tax deduction:

Would there be some guidelines issued to clarify the following:

(i) (a) Type of community projects that qualify for the tax deduction

(b) The term "Provision of infrastructure". It is suggested that examples be given for ease of understanding (For e.g., bus stop, pedestrian overhead bridge, road etc)

(ii) If the provision of infrastructure is incidental to the business but it is still available for public use and for the use of its workers, is the tax deduction still allowed? How will such applications be processed as there is a great deal of subjectivity involved?

Answer:

The LHDNM responded that there were guidelines and an application form issued by the Ministry of Finance (MOF) recently in relation to the provision of infrastructure that would qualify deduction for income tax purposes. The application form and guidelines are available on the MOF website.

The LHDNM also confirmed that:

(i) (a) The type of community projects would need to be approved by the MOF before it could qualify for tax deduction.

(b) Some examples to illustrate the term "provision for infrastructure" were provided in the guidelines issued by the MOF.

(ii) A tax deduction would be allowed if the provision of infrastructure fulfills the following criteria:

- **It is provided voluntarily**
- **It is not within the business premises**
- **It is made available for public use (regardless of whether the public use it or not)**

4. Special Provision Applicable to Adjusted Income from Discounts or Premiums

It is proposed that in ascertaining the adjusted income of a company from a source consisting of discounts or premiums, any expenses in respect of the discount or premium incurred on bonds issued or subscribed be given a tax deduction on an accrual basis over the period of the bond.

The proposed new Section 34C of the Income Tax Act, 1967 provides that:-

"Notwithstanding section 33 but subject to this section, in ascertaining the adjusted income of a <u>company</u> from <u>a source consisting of discount or premium</u>, any expenses in respect of the discount or premium incurred on bond issued or subscribed, as the case may be, by that <u>company</u> is deemed to accrue to the <u>company</u> over the whole period of the bond and the amount to be deducted from the gross income from that source for the basis period

for a year of assessment that relates to the period of the bond shall be a sum to be determined in accordance with the following formula..."

The Institutes wish to propose that the wording *"a source consisting of discount or premium"* above be deleted as most of the companies (other than financial institutions) which incur expenses in respect of discount or premium on bonds issued do not have any source of income consisting of discount or premium.

The Institutes would also like to enquire as to why the provision is applicable only to a company.

In addition, it is noted that the new section is effective from year of assessment 2006. For tax returns which have been filed and thus were certainly not in accordance with the above provision, please clarify how could one go about amending or revising the tax return that has been submitted.

Answer:

The proposed sec. 34C is only applicable to companies (non-financial institutions (NFIs)) where income from subscription or issuance of bonds is assessed under sec. 4*(c)* of ITA 1967. Expenses related to subscription and issuance of bonds can only be deducted against the sec. 4 *(c)* source.

The Institute's proposal to delete the wording *"a source consisting of discount or premium"* will be further discussed with the MOF.

As the new Section is effective from year of assessment 2006, taxpayers are advised to revise the assessment if the tax returns have already been filed earlier. The revised computation needs to be sent to the relevant branch where the tax file is maintained. Where there is additional tax applicable due to the change in the law, penalties will not be imposed.

5. Tax Relief on Approved Donations

It is proposed that the restriction on the deduction of approved donations to 7% of the aggregate income of a company now be extended to bodies of persons, individuals, etc.

The Institutes view this extension as being contradictory to the Government's objective of promoting a caring society. The Institutes wish tc seek clarification on the rationale for the proposed amendment.

Answer:

The rationale for the proposed amendment is to give similar treatment between company and other catagories of tax payers.

Individual tax payer with the intention to contribute more than 7% of his aggregate income to approved institutions is advised to get prior approval from the MOF.

6. Approved Institution under Section 44(6) of the Income Tax Act, 1967

With effect from the year of assessment 2008, an institution aggrieved by the decision of the Director General in respect of an application for "approved institution" status under Section 44(6) of the Income Tax Act, 1967 may appeal to the Minister of Finance within 30 days.

The Institutes welcome the avenue of appeal to the MOF. The Institutes trust that the appeal process will be expedited in a speedy manner. The Institutes would also like to enquire as to whether there would be any guidelines on the appeal process.

Answer:

The LHDNM responded that there are no guidelines on the appeal process. However, taxpayers who are aggrieved by the decision of the Director General may appeal to the MOF.

7. Tax Relief on Deposits in the Skim Simpanan Pendidikan Nasional (SSPN) Account

It is proposed that individual income tax relief be granted (limited to a maximum of RM3,000 per basis year) for an amount deposited by an individual for his children into the Skim Simpanan Pendidikan Nasional account established under the Perbadanan Tabung Pendidikan Tinggi Nasional (PTPTN) Act 1997.

The Institutes understand that the depositor must have a minimum of RM20 in the SSPN account at all times. Withdrawal of savings from the account is allowed and the statement of account would be issued to depositors every 6 months by PTPTN.

The Institutes wish to clarify about the mechanism for an individual to claim the tax relief if there are multiple withdrawals and deposits within a year. For example, a depositor deposits RM3,000 on 1 January 2008. On 1 February 2008, he withdraws RM2,980 from the account and the balance account remains at RM20 until 31 December 2008 when he deposits an additional RM2,980 into the account resulting in the balance being increased to RM3,000 as at 31 December 2008. Kindly clarify whether the depositor is entitled to the maximum tax relief of RM3,000 for the year of assessment 2008.

Answer:

In the example given by MIT, the depositor is entitled to a maximum relief of RM3,000 for YA 2008 as the net contribution for the year 2008 is RM3,000. It is noted that SSPN will only allow withdrawal of 10% of the account's balance or RM500 (whichever is the lower) in a year unless the withdrawal is made under specific situation.

The following example will further illustrate the calculation of deductible relief.

Example:

Ahmad and his wife Zaleha, opened a SSPN account for their 14 year old child, Amir. In the year 2008, Ahmad deposits a total sum of RM2,500 into

the account and withdraws RM200 from the account in November 2008. In year 2009, Ahmad makes a deposit of RM1,000 and withdraws RM 1200. On the other hand, Zaleha deposits RM4,500 in year 2008. In year 2009, she deposits RM2,000 and withdraws RM500. Both Ahmad and Zaleha elect for a separate assessment.

Statement of Accounts

		Year 2008	Year 2009
Ahmad -	Opening balance	Nil	2300
	Deposit	2500	1000
	Withdrawal	200	1200
	Ending balance	2300	2100
Zaleha -	Opening balance	Nil	4500
	Deposit	4500	2000
	Withdrawal	Nil	500
	Ending balance	4500	6000

Amount of relief entitled to be claimed by Ahmad and Zaleha are :

	Ahmad	Zaleha
T/T2008	2300 (2500 - 200)	3000 (max)
T/T2009	NIL (withdrawal exceeds deposit)	1500 (2000 - 500)

Note: Withdrawal of RM1200 by Ahmad in year 2009 has been approved by SSPN.

8. Tax Relief on Purchase of Sports Equipment

With effect from year of assessment 2008, an individual tax relief of RM300 a year is allowed on the purchase of sports and exercise equipment such as all types of racquets and balls, treadmill, exercise bikes and airwalkers.

The Institutes wish to seek clarification whether there will be guidelines issued for the purpose of the claim of tax relief for any of the 39 sports listed in the Sports Development Act. These guidelines could specify the type of equipment which will qualify for the relief. Is the relief applicable to special attire required for certain sport activities such as swimsuit or swimming trunks, cap and goggles for swimming, sport shoes for athletics, clothes for Karate Do and gymnastics, etc.?

Answer:

The LHDNM responded that all purchase of sports equipment for the 51 types of sports listed in the Sports Development Act 1997 would qualify for the tax relief. However, sports equipment does not include attire and shoes.

9. Tax Treatment on Special Purpose Vehicle (SPV) for Islamic Financing

With effect from year of assessment 2007, income of the SPV (other than those SPVs established to issue asset-backed securities) established solely by a company for the purpose of issuing Islamic securities are treated as income of the Company that establishes the SPV. The SPV is also exempted from complying with all the provisions of the Income Tax Act, 1967.

The Institute understand that the intention of this proposal is to exempt the SPV from the requirement of the law. However, Section 60I does not clearly specify the treatment of the expenses incurred by the SPV. Please confirm that expenses will also be fully deductible by the company.

The Institute also understand that with the introduction of the Section 60I, the Income Tax (Exemption) (No. 14) Order 2007 will be repealed. Please confirm this.

Answer:

The LHDNM confirmed that all expenses incurred by the SPV would be fully deductible by the company.

The LHDNM also confirmed that the Income Tax (Exemption)(No. 14) Order 2007 will be revoked with effect from year of assessment 2007.

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

It was proposed that the Director General's access is expanded to all books, documents, objects, articles, materials and things.

The Institutes wish to seek clarification for the following issues:

(i) The rationale for widening the scope of this section.

(ii) Clarify the definition of "objects" and "things" as stated above and provide examples as guidance for taxpayers and tax agents.

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

Answer:

i. **The rationale for widening the scope of this section is to extend the effective power of the Director General under Section 80 of the ITA. The intention is to have access to objects, articles, materials and things that are relevant for the purpose of the ITA.**

ii. **The definition and examples of "objects" and things" in the proposed amendment of Section 80, ITA 1967 will be given in the Tax Audit Framework and Tax Investigation Framework.**

11. Exemption from Submitting the Estimated Tax Payable for new Small and Medium Enterprises (SMEs)

With effect from year of assessment 2008, a new SME is exempted from submitting Form CP 204 (Estimated tax payable) and paying tax under an instalment scheme for 2 years of assessment starting from the date of commencement of operations. The income tax payment of the new SME is only due when the income tax return is submitted, i.e. by the 7th month after the financial year end.

Pending the gazetting of the Finance Bill 2007, the Institutes wish to confirm that SMEs which commence their operations during the basis period for the year of assessment 2008, especially the SMEs with the an early financial year-end, are now exempted from submitting their tax estimates and paying the tax instalments for 2 years of assessment. This could be illustrated in the following example:

Example:

Assumption: Company A is a subsidiary of a group of companies which closes its books following the group's financial year end of 31 January.

Commencement of business for Company A: 1 February 2007
Company A's basis period for YA2008: 1 February 2007 to 31 January 2008

Company A would have submitted its Form CP 204 before 1 May 2007 and have commenced its first instalment payment on 10 August 2007, i.e. before the announcement of the above exemption.

The Institutes wish to clarify if Company A is allowed to enjoy the above mentioned waiver? If so, is it allowed to stop paying the tax instalments automatically without any prior written approval from the IRB. Kindly clarify the requirements for such companies to enjoy the waiver.

Answer:

Company A is eligible for the above-mentioned waiver.
The company may stop paying instalments automatically.
However, the company has to inform LHDNM that subsection 107C(4A) is applicable.

If Company A commences its business on 1 Jan 2007 and is closing its books on 31 January 2008 i.e. having a basis period of more than 12 months and a financial year ending in 2008, Company A should be eligible for the above-mentioned waiver as a concession given to taxpayers. Kindly confirm the above treatment.

Answer:

Company A is not eligible for the above-mentioned waiver because its first financial year ends on 31 January 2007 to follow the group's financial year. Therefore, it commences its operation in year of assessment 2007 (basis period 1 January 2007 to 31 January 2007).

In order to be able to plan and manage the cash flow position of an entity, there may be companies which may actually prefer to pay tax by instalments so that they will not face a cash flow issue when having to pay the whole year's tax liability upon filing the tax return. Would such companies be given any flexibility, i.e. must such companies comply strictly with the existing provisions on the submission of estimates and paying tax by monthly instalments? Alternatively, such companies may voluntarily pay tax in certain months as they wish so that they will not be burdened with paying the full tax liability when filing the tax return.

Answer:

If the taxpayers choose to voluntarily pay tax instalments, this is the choice of the taxpayer but they must inform the LHDNM accordingly in writing of the amounts being paid.

12. Allowing Tax Agents to File Income Tax Returns through e-Filing

With effect from year of assessment 2008, tax agents are allowed to file the income tax returns through e-filing for their clients using a specific Personal Identification Number (PIN).

The Institutes welcome the introduction of a PIN for tax agents to file their clients' Income Tax Returns electronically. The Institutes wish to clarify the following issues relevant to the PINs:

(i) When would LHDNM start accepting an application for a PIN?
(ii) What is the procedure for the PIN application? Is there a specific format in which a PIN should be applied?
(iii) How long will it take to issue a PIN?
(iv) Would the applications be accepted at all LHDNM branches?

Answer:

The above mentioned matters would be discussed at the Operations Dialogue with the Revenue Management Department of LHDNM.

13. Review of Tax Treatment on Transfer of Buildings to Real Estate Investment Trusts (REITs)

It is proposed that the disposal of buildings from companies to REITs are not subject to a balancing charge. As such, REITs are eligible to claim the balance of unclaimed Industrial Building Allowance (IBA) of the disposer.

The Institutes wish to highlight that the proposal only benefits the disposer but not the REIT as it is now only entitled to the balance of the IBA of the disposer rather than claiming IBA on the purchase price of the building.

Answer:

The LHDNM responded that the above matter is a policy decision and noted the comment.

14. Exemption of Interest Income Received By Non-Resident Individuals (Amendment to Schedule 6, Paragraph 33B)

Schedule 6, paragraph 33B provides that interest paid or credited to a non resident individual, (other than such interest accruing to a place of business in Malaysia of such individual) in respect of Islamic securities, other than convertible loan stock, be exempted from tax provided the following are complied with -

a) issued in any currency other than Ringgit Malaysia
b) approved by the Security Commission.

Schedule 6, paragraph 33A provides that interest paid or credited to any company not resident in Malaysia, in respect of securities issued by the Government or Islamic securities or debenture issued in Ringgit Malaysia other than convertible loan stock, approved by the Securities Commission, is exempted from tax.

The Institutes wish to seek the rationale for the difference in treatment in respect of a security issued in any currency other than Ringgit Malaysia (paragraph 33B) and in Ringgit Malaysia (paragraph 33A).

Answer:

The LHDNM informed that the provisions in paragraph 33A would be maintained as that before the 2008 Budget and subparagraph 33(A)*(b)* will be deleted. The LHDNM informed that some amendments were made to the Bill at the Committee stage in respect of paragraph 33B. Under the proposed amendments, exemption is given to any person in respect of Islamic securities (other than convertible loan stock) originating from Malaysia and be in any currency other than Ringgit Malaysia.

15. Single Tier System

Although the Single Tier System is simple and efficient, various issues and ambiguities arise in respect of the transitional provisions illustrated below. The

Institutes are hoping that the IRB could issue some guidelines so that there is clarity and no confusion as to how the system will apply.

(i) Tax Exemption for Dividend Income

Paragraph 12B is inserted in Schedule 6 of the Income Tax Act as follows:

"Any dividend paid, credited or distributed to any person where the company paying such dividend is not entitled to deduct tax under this Act and any expenses incurred in relation to such dividend shall be disregarded for the purpose of this Act"

As Schedule 6 of the Act covers only exemption of income, the Institutes are of the view that deductibility of expenses as underlined above should not be covered under this Schedule.

In addition, the paragraph appears to apply to all dividends whether these are a business source or an investment source. This will have an impact on financial institutions.

Answer:

Paragraph 12B applies to income under section 4*(a)* and 4*(c)* of the ITA. Such dividend income refers to single tier dividends. It is confirmed that the paragraph concerned will not be reviewed.

(ii) Utilising the Tax Credit to Set-Off Any Tax Liabilities that are Due After 31 December 2007

The Institutes note that tax payments made by companies after 31 December 2007 are not allowed to be credited into the Section 108 balance. As a concession, for companies with a 31 December year end, the last instalment payment for YA 2007 is allowed to be credited into the Section 108 balance even though the payment is due and made by 10 January 2008.

If a company has overpaid its taxes and has credit balance arising from year of assessment 2006 and it has received approval by the LHDNM before 31 December 2007, to utilise the tax credit against the tax instalment for the year of assessment 2008, the company has effectively paid its year of assessment 2008 tax instalment before 31 December 2007.

Based on the above scenario, kindly confirm if the tax payment or "deemed" payment (due to the set-off against excess payments) for any year of assessment that is paid before 31 December 2007 would be credited into the Section 108 account.

Answer:

The LHDNM confirmed that the tax payment or "deemed" payment (due to the set-off against excess payments) for any year of assessment that is paid before 31 December 2007 would be credited into section 108 account. The amount to be taken into consideration would be based on the instalment amount due under Section 107C of the ITA.

(iii) Cut Off Date for Accumulation of Section 108 Balance

Generally, using 31 December 2007 as a "cut off" date for the Section 108 balance is not equitable to all companies.

To be fair to all companies, the Institutes wish to propose that instead of tax payments up to 31 December 2007, the actual tax liability based on the deemed assessed tax returns form for the year of assessment 2007 should be credited into the Section 108 balance. All tax liabilities from the year of assessment 2008 and onward should not be allowed to be credited into the Section 108 balance. However, since for some companies, the year of assessment 2008 has already commenced, it would be more equitable to use year of assessment 2008 as the effective year rather than 31 December 2007.

Please note that the above proposal will also address the issue in item (II) above i.e. utilising the tax credit to set-off any tax liabilities that are due after 31 December 2007.

Answer:

The LHDNM responded that the above matter is a policy decision.

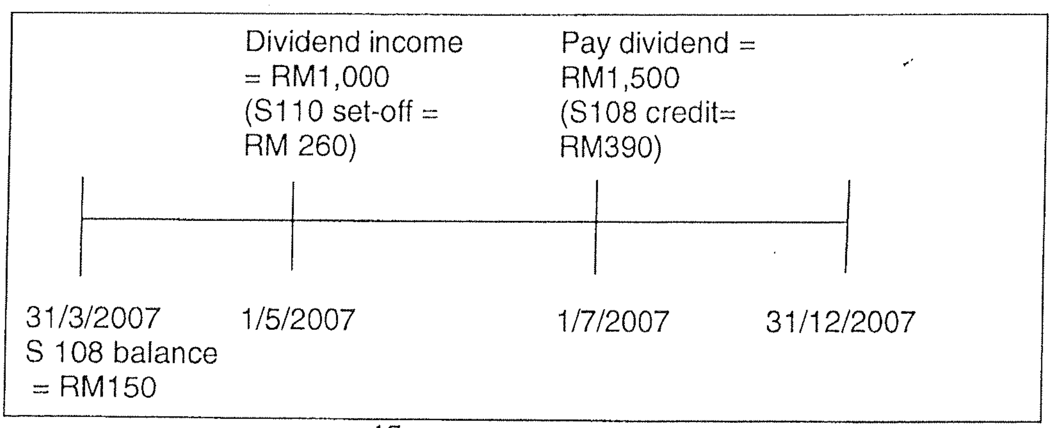
(iv) Section 110 Set-Off for Dividends Received up to 31 December 2007

Based on Clause 39 of the Finance Bill 2007, the Section 110 set-off in respect of dividends received by a non-December year end company during the basis period for year of assessment 2008 would be excluded from the computation of the company's Section 108 balance as at 31 December 2007.

A non-December year end company which receives franked dividends between the first day of its basis period for YA 2008 to 31 December 2007 and thereafter utilises the credits attached to the dividends received to on-distribute dividends to its shareholders could potentially face a shortfall in its Section 108 account. This is illustrated in the following example.

<u>Example</u>

An investment holding company with a March year end receives dividends from its subsidiaries amounting to RM1,000 on 1 May 2007 and pays gross dividends amounting to RM1,500 to its shareholders on 1 July 2007. The company has no other sources of income.



The implication on the company's Section 108 position under the imputation and single-tier system would be as follows:-

Imputation system		Single-tier system	
	RM		RM
S108 balance @ 31/3/07	150	S108 balance @ 31/3/07	150
Tax paid	Nil	Tax paid	Nil
S110 set-off	260	S110 set-off	Not allowed
Subtotal	410	Subtotal	150
Tax on dividend paid	(390)	Tax on dividend paid	(390)
S108 balance @ 31/12/07	20	S108 shortfall	(240)

The company will be in a Section 108 shortfall position under the single-tier system as Clause 39 of the Finance Bill does not allow Section 110 set-off arising from dividends received by the company after 31 March 2007 to be credited to its Section 108 account. Companies with non-December year end which have already paid dividends prior to the 2008 Budget announcement as in the example above, would be unfairly penalised by the provisions of Clause 39 above.

In view of the above, it is proposed that Section 110 set-off, to the extent it relates to dividends received up to 31 December 2007 should be allowed to be credited to the company's Section 108 balance as at 31 December 2007, restricted to the tax chargeable on the company for the year.

Answer:

The LHDNM reiterated that an administrative directive is being issued, to allow only dividends received up to Budget Day (i.e. 7 September 2007) to be credited to the company's Section 108 balance.

In the example illustrated by MIT, the dividend received will be credited for the purpose of Section 108 balance as at 31 December 2007.

(v) Dividend Imputation System for Dividend Paid in Cash in Respect of Ordinary Shareholding

Based on Clause 40 (2) and (3) of the Finance Bill 2007, the dividend imputation system will continue to apply to a Company during the transition period from 1 January 2008 to 31 December 2013 if it still has Section 108 credit and provided that the dividend is paid in cash in respect of ordinary shareholding. It thus follows that the imputation system would not apply to dividends paid in cash in respect of non-ordinary shares such as preference shares, redeemable preference shares (RPS), etc during the transitional period. Instead, such dividends will be governed under the single-tier system.

The Institutes wish to understand the rationale of the above selective treatment for various types of share as these would result in increased financial burden to companies which have issued preference shares, RPS or other similar types of shares before the Budget announcement. This is because the rate of dividend for such shares is usually fixed in advance at the date of issue and the rate is calculated by reference to the amount of gross dividend payable. Under the imputation system, the issuers will deduct tax from the dividends paid at the prevailing corporate tax rate and pay the net amount of dividends to the shareholders. Under the single tier system, however, the issuers of preference shares and RPS will have to pay an additional amount of cash (equivalent to the corporate tax to be deducted on the dividend under the imputation system) to their shareholders so as to fulfill their obligations to pay the same dividend rate for the shares. The following are two examples illustrating the financial impact of payment of dividends to preference shareholders under the single tier system:

Example 1

Company B has a shareholder, Company A which has subscribed for preference shares of RM100 million consisting of 100 million preference shares of RM1.00 each. Pursuant to the terms of the agreement for the subscription of the preference shares, the rate of dividend per annum payable is such that Company A will receive a fixed annual rate of return of, say, minimum 9% from Company B. The fixed annual rate of return as agreed between Company A and Company B is calculated as follows:-

	RM'000
Gross Preference dividend payable per annum to Company A	10,000
Less: Tax Deducted (Section 108 Credit)	(2,700)
Net dividend payable to Company A	7,300

In the books of Company A

Gross Preference Dividend received	10,000
Less: Interest Expense (say)	(7,000)
Chargeable Income	3,000
Tax Payable @ 27%	810
Less: Section 110 set-off	(2,700)
Tax Refundable by IRB	(1,890)
Total cash received (RM7,300,000 + RM1,890,000)	9,190
Annual Rate of Return on preference shares $\frac{\text{RM9,190,000}}{\text{RM100,000,000}}$	9.19%

Under the proposed Finance Bill 2007, Company B will have to pay a higher preference dividend of RM9,000,000 so that Company A will still receive a minimum annual rate of return of 9% from Company B. The annual cash outflow for Company B will increase by RM1.7 million.

Example 2

Under Clause 40 of the Finance Bill 2007, a company may pay franked dividends during the transitional period from 1 January 2008 to 31 December 2013 if it has a Section 108 balance provided the dividend is in the form of cash and in respect of ordinary shareholdings.

As such, payment of dividends in respect of preference shares can only be made under the single-tier system or out of the company's tax exempt account (if any) and not out of the company's Section 108 credit. This would increase the cost to the company in paying dividends to preference shareholders, as illustrated below.

Company A issued 100,000 preference shares of RM1 each with the following terms:

A fixed cumulative preferential dividend of 2% per annum payable out of the profits of the Company;

- The return of paid-up capital on winding-up in priority to the ordinary shares; and
- The Directors of the company shall be entitled at any time to redeem all or any of the preference shares at par value or at such premium as the Directors shall determine.

	Dividend paid under imputation system RM	Dividend paid under single-tier system RM
Gross dividend of 2%	2,000	2,000
Less: Tax on dividend @26%	(520)	-
Net dividend paid	1,480	2,000

Based on the above scenario, under the single-tier system, the cash outflow of the company on payment of the dividend is now RM2,000 as compared to RM1,480 under the imputation system.

In view of the above two examples, the Institutes would like to propose that the above proposal should only be applied to those companies which issue preference shares after Budget day so that companies which have issued preference shares, RPS and other non-ordinary shares before Budget day will not be burdened with the additional financial costs resulting from the above proposal. This will thus avoid the retrospective impact of the provisions.

In addition, the Institutes also wish to highlight that dividends declared and paid to a company's shareholders by setting off against inter-company accounts should also be regarded as dividends paid in cash.

Answer:

Company may frank dividends only to ordinary shareholders during the transitional period. For preference shareholders, company may distribute single tier exempt dividends.

The LHDNM informed that amendments have been made to the Finance Bill 2007 where the word "credited" has been deleted. In this regard, only dividends paid would be taken into account. No contra entries or set-off would be allowed. Cash means dividends paid in cash or cheque.

(vi) Filing of Form R Within 30 Days From the Date of Dividend Payment

Based on Clause 45(1)(a)(i) of the Finance Bill 2007, the Institutes understand that a company is required to file Form R within 30 days from the date of payment of dividends with effect from 1 January 2008. The Institutes wish to understand the rationale of this requirement as this creates tax compliance and administrative burdens on taxpayers.

In addition, Clause 45(2) of the Finance Bill 2007 states that failure of companies to comply with the requirements to furnish the Statement to the Director General is an offence under Section 120(1) of the Income Tax Act 1967. However, there is no provision to amend Section 120(1) of the Act to include the offence under Clause 45 of the Financial Bill 2007. As such, the Institutes wish to confirm if Section 120(1) of the Act be amended accordingly?

Answer:

The requirement of filing statements to DGIR is for monitoring purpose. The LHDNM confirmed that there is no longer a need to file a statement within 30 days from the date of dividend payment.

Administrative concession will be given where companies are required only to submit statements for credit balance as at 31 December 2007 and annual statements for year of assessment 2008 until year of assessment 2014.

It is confirmed that subsection 120(1) of ITA 1967 will not be amended.

(vii) Addition to Section 108 Balance until 31 December 2013

Based on Clause 46 of the Finance Bill 2007, where the tax paid by a company which has been taken into account for computing its 108 balance is refunded during the period from the first day of the basis period for Year of Assessment 2008 to 31 December 2013, the company's Section 108 balance shall be reduced by the amount refunded.

There is no corresponding increase to the company's Section 108 balance, however, where the tax paid by the company which has been taken into account for computing its Section 108 balance is increased, for e.g. by the issue of an additional assessment during the aforesaid period.

The Institutes are of the view that on the grounds of justice and equity, there ought to be a corresponding increase to a company's Section 108 balance in the circumstances stated in the second paragraph above, i.e. in the event of tax paid due to the issuance of additional assessment during the aforesaid transitional period. The company should then be allowed to utilise its revised Section 108 balance that has been increased which shall be disregarded if not utilised in part or in full as at 31 December 2013.

Answer:

The LHDNM responded that it has discussed the matter with the MOF and there will be no change to its position on this matter.

(viii) Statutory Income Deemed Total Income

Based on Clause 53 of the Finance Bill 2007, where gross income of a company is from a source consisting of dividend paid or credited, the statutory income in respect of that source is deemed to be the total income. This indicates that Clause 53 is only applicable to passive source income and not business source income. Thus, Clause 53 is also not applicable to a company under Section 60FA of the Income Tax Act, 1967. The Institutes would like a confirmation of this.

Answer:

LHDNM confirmed that Clause 53 applies only to Section 4(*c*) income.

In addition, the Institutes would also like to confirm the application of Clause 53 under the following scenario:

Company X, a company which closes its book on 30 June, distributed dividend (1) on 31 March 2007 i.e. prior to the issuance of the proposed Finance Bill 2007 and dividend (2) on 30 September 2007 i.e. after the issuance of the proposed Finance Bill 2007.

If Company A (a shareholder of Company X) closes its accounts on 31 December 2007 and received dividend (1) and (2) as mentioned above, Clause 53 of the Bill would not be applicable to Company A. This is because both of the dividends were received by Company A in the year of assessment 2007 and Clause 53 is only applicable with effect from year of assessment 2008.

Answer:

Agreed.

If Company B (another shareholder of Company X) closes its accounts on 30 June 2007 and received dividend (1) and (2) as mentioned above, Clause 53 of the Bill would only be applicable to dividend (2) as it was received by Company B in the year of assessment 2008 when Clause 53 is effective.

Answer:

Agreed.

If Company C (another shareholder of Company X) closes its accounts on 31 January 2007 and received dividend (1) and (2) as mentioned above, Clause 53 of the Bill would only be applicable to dividend (2) as it was received by Company C in the year of assessment 2008. As for dividend (1), the Institutes wish to confirm that despite it being received in the year of assessment 2008, Clause 53 should not be applicable as the dividend was distributed prior to the issuance of the proposed Bill.

Answer:

For Company C, clause 53 will apply to both dividend (1) and (2) as they are income for YA 2008.

(ix) Maintenance of Normal Exempt Income Account

Clause 57 of the Finance Bill 2007 states that the saving and transitional provisions shall not apply in respect of dividend debited to the exempt account or exempt under subparagraph 5(6) of Schedule 7A of the principal Act. The Institutes wish to confirm that companies are still required to maintain separately the normal exempt income account due to the tax sparing provisions in Double Taxation Agreements.

Answer:

LHDNM confirmed that the account would need to be maintained.

(x) Parallel Existence of Imputation and Single Tier System

Is the parallel existence of the imputation system and the single tier system allowed? This refers to a situation under the transitional period whereby a company declares normal dividends using its existing Section 108 (6) credits account and single tier dividends for non ordinary shares. If so, the Institutes would like to confirm whether the recipients of dividends on non-ordinary shares will be exempt from tax.The Institutes are of the view that the proposed provisions in the Finance Bill do not clearly specify this and if these dividends are intended to be exempt from income tax, then a clear provision must be incorporated.

In a case where a company declares dividends in kind (specie) during the transitional period, the Institutes would like to confirm that such dividends would also be treated in the same manner as dividends for non-ordinary shares i.e. the dividends in kind are single tier dividends that will also be exempt from tax in the hand of the recipients.

Answer:

The LHDNM confirmed that the MOF has given concession that a company may declare dividends in kind (specie) during the transitional period, such dividends would also be treated in the

same manner as dividends for non-ordinary shares i.e. the single tier exempt dividends. The LHDNM thus confirmed that there can be a parallel existence of the imputation (franked dividends to ordinary shareholders) and single-tier systems (exempt dividend to preference shareholders and dividend in kind).

There will not be a parallel existence of the imputation system and the single tier system in respect of ordinary shares.

(xi) Holding of Shares for 90 Days or more by a Shareholder

For shareholders to claim tax credits, the shares must be held by the shareholders for 90 days or more from the date of acquisition. Please clarify how the 90 day holding period will be monitored. Are there any reporting requirements or new forms that may need to be filed?

Answer:

The LHDNM responded that this is an anti-avoidance provision. There are no reporting requirements or forms to be filed with the LHDNM. Any false declaration will result in imposition of penalty.

(xii) Tax Treatment of Expenses Attributable to Dividend Income

For a company which has received mixed dividend income i.e. single tier dividend, tax exempt dividend and franked dividend, we understand that the IRB will apportion the expenses attributable to the dividend income according to the three (3) sources of dividend income stated above. The Institutes wish to highlight that based on the Multi Purpose case, the Court has ruled that dividend income should be assessed as one source and thus the attributed expenses would not need to be apportioned. It is nevertheless noted that the proposed Paragraph 12B in the Finance Bill states that the expenses attributable to a one tier dividend are not deductible. However, other types of dividends should not be subject to this treatment and thus expenses attributed to normal exempt dividends can be set off against franked dividends.

Answer:

LHDNM confirmed that the new paragraph 12B is applicable to single tier exempt dividend only.

Therefore, the treatment of dividend income and the expenses are as illustrated in the following example.

Example:	Gross Income	expense
Franked dividend	6,000	1,000
Single-tier dividend	14,000	6,000
Normal exempt div.	10,000	3,000
	30,000	10,000

Computation:

Dividend income	6,000
Less: expenses	4,000
Statutory income	2,000

(xiii) Amendment to Section 120

Clause 28 of Finance Bill refers to an amendment to Section 120 of the Act whereby there is a deletion of paragraph (g) which relates to failure to render a statement or provide information required in the statement referred to in section 108(5) of the Act. This amendment takes effect from the coming into operation of the Finance Act, which is likely to be enacted in January 2008. However, companies with a financial year ending on 31 December 2007 are only required to furnish the statement by 31 July 2008. Therefore, paragraph (g) should not be deleted with the coming into operation of the Finance Act but after 31 July 2008.

Answer:

The LHDNM informed that there was an amendment to the Finance Bill on this matter. The effective date should be 1 August 2008.

(xiv) Implication on Double Tax Treaties

With the change to the single tier income tax system, the Institutes wish to point out that there would be implications arising with respect to double tax treaties, for example tax sparing relief, double tax credit, etc. The Institutes would like to confirm whether this aspect has been considered by the authorities? If yes, what kind of amendments are expected to the relevant provisions of the treaties?

Answer:

LHDNM is of the view that the change to the single tier system will not require any amendments to the tax sparing provision in the existing Malaysian Double Taxation Agreements (DTAs). Malaysia does not have any withholding tax on dividends before or after the implementation of the single tier system. In addition, the tax imposed on companies remains unchanged. The Article on the Elimination of Double Taxation in the Malaysian Agreement clearly defines the meaning of 'Malaysian tax payable' for tax sparing purposes.

16. Tax Deduction for Professional Indemnity Insurance Premiums

It is proposed that professional indemnity insurance premium be allowed as a tax deduction.

The Institutes are pleased that the authorities have duly taken this decision on the deduction of professional indemnity insurance premium. This is the correct position under the law. In view of this, the Institutes understand that the Public Ruling No. 5/2006 on Professional Indemnity Insurance will no longer be applicable.

Answer:

Public Ruling No. 5/2006 on Professional Indemnity Insurance will still be applicable to assessments prior to year of assessment 2008.

Addendum to this Ruling will be made and it will be effective from year of assessment 2008.

17. Tax Exemption for Non-Resident Experts in Islamic Finance

It is proposed that income received by non-resident experts in Islamic finance who have been verified by the Malaysian Islamic Financial Centre Secretariat, be exempted from tax

The Institutes wish to confirm that the tax exemption referred to relates only to exemption on withholding tax under Section 109B of the Income Tax Act, 1967.

Answer:

The LHDNM responded that this exemption only applies to special classes of income under section 4A(ii). It only applies to consultancy services provided by a non-resident expert in Islamic finance. The exemption does not apply to those who are exercising their employment either with a local or a foreign company.

18. Extending the incentive to recipients of Export Excellence Award (Services) and Brand Excellence Awards

It is proposed that the 100% tax exemption on the value of increased exports given to recipients of the Export Excellence Award (Merchandise) be extended to recipients of the Export Excellence Award (Services) and the Brand Excellence Award.

The Institutes understand that the award is given after the year is over. As such, the winner would be eligible for a tax exemption which means that the previous year's tax return may need to be amended. Theoretically, there are no specific provisions allowing a self-assessed tax return to be revised/amended. Please confirm the position with regard to claiming the incentive.

Answer:

The LHDNM responded that the taxpayers would need to revise the tax computation and submit it to the respective LHDNM branch.

19. Tax Exemption for Non-Profit Oriented Schools

It is proposed that income received by non-profit oriented Government assisted and private schools including schools formed by a body of persons, a trust body or a company limited by guarantee, be given a tax exemption.

The Institutes welcome the above proposal. It is believed that an exemption order will be issued. For greater clarity, the Institutes suggest that the criteria or conditions in determining the "non-profit oriented" status of a Government assisted or private school should be clearly spelled out.

Answer:

LHDNM reiterated that the exemption order has been drafted and the criteria for 'non-profit oriented' will be provided in the order.

20. Tax Incentives for Last Mile Network Facilities Provider for Broadband

It is proposed that investments on last mile network infrastructure be given:

(i) income tax exemption equivalent to 100% of the QE incurred for the broad band infrastructure with the allowance to be set off against 70% of statutory income for each year of assessment. The applications are to be submitted to the Ministry of Finance.

(ii) Import duty and sales tax exemption on broadband equipment and consumer access devices which are basic to providing the broadband services and not produced locally. The applications are to be submitted to the Malaysia Industrial Development Authority (MIDA).

The incentive is effective for investments made and equipment purchased until 31 December 2010.

In the Budget Speech, it was announced that the last mile network facilities provider is entitled to the above incentive. However, in Appendix 22 of the Budget Speech, it is stated that the incentives are for the last mile network facilities provider to <u>invest in last mile infrastructure for broad band</u>.

The Institutes believe a guideline or clarification should be issued so that the matter is clearly explained.

Answer:

LHDNM confirmed that the exemption will be given under subsection 127(3A) by the Minister of Finance.

21. Gift of New Computer and Broadband Subscription Fee from Employers to Employees.

With effect from year of assessment 2008 until 2010, it is proposed that a Benefit-In-Kind (BIK) in the form of new computer or payment of broadband subscription fee is not subject to income tax in the hands of the employees and the expenditure incurred by the employers on such computers and broadband subscription fees be allowed as deductions.

The Institutes would like to seek confirmation that the payment of broadband subscription fees would include the expenses related to initial set up cost such as registration fee, installation cost, etc. Further, the benefit of a computer need not mean that broadband subscription fees must also be borne by the employer.

Answer:

The LHDNM confirmed that only the payment for broadband subscription fee (registered in the name of the employer) is exempted from tax and this does not include the initial set up cost etc. It was also confirmed that a new computer could be given to an employee without the subscription fees.

The Institutes would also like to enquire about the treatment in a case where a used computer is given as a gift to an employee i.e. would this also be treated in the same manner as a new computer?

Answer:

The LHDNM reiterated that only a new computer qualifies for this exemption.

The definition of computers would normally include laptops and desktops. However, with the rapid development of information technology, there have been tremendous improvements made to communication devices. The Institutes would therefore like to confirm if the definition of computers would also include PDA's, i-pods, communicators,etc as well as whether computer peripherals such as computer screens, speakers, etc would also be included.

Answer:

The LHDNM informed that the definition of "computers" will be provided in the relevant exemption order and income tax rules. Computer peripherals such as printers and speakers are not to be included as being part of a computer.

The Institutes understand that the proposal shall cover both benefits-in-kind and perquisites. As such, would any amendments be made to the existing Public Ruling No. 2/2004 on Benefit-in-kind and Public Ruling No. 1/2006 on Perquisite from employment?

Answer:

LHDNM responded that an addendum to the Public Ruling No. 1/2006 will be issued.

Notwithstanding the above, the Institutes wish to highlight that the expenditures on providing a new computer or broadband subscription fees for employees that are incurred by the employers are staff expenses and have always been tax deductible to employers.

22. Incentive for Enhancing Security Control of Goods.

To encourage companies to install security and surveillance equipment, it is proposed that Accelerated Capital Allowance (ACA) be given on the expenses incurred for:

i. security control equipment installed in the factory premises of companies approved under the Industrial Coordination Act 1975; and

ii. vehicle surveillance equipment installed in the container lorries bearing Carrier License A and general cargo lorries bearing Carrier License A and C.

The ACA is to be fully written off within a period of 1 year with initial allowance of 20% and annual allowance of 80%. The eligible security and surveillance equipment to be approved by the Minister of Finance.

The Institutes would like to point out that, it is not only factory premises that would require the security control and surveillance equipment to enhance the security control of goods but all other premises that are used for storage of goods. As such, the Institutes would like to confirm that the incentive is also applicable to all other premises so long as the equipment acquired are used for the enhancement of the security control of goods. Please confirm the process as to how the Minister of Finance would grant approval for the eligible equipment.

In this relation, the Institutes also wish to propose that the above incentive should be applied to all equipment which is installed for security and surveillance purposes, whether in a factory environment or an office environment.

Answer:

LHDNM will issue income tax rules pertaining to the above insentive and the types of eligible equipments will be listed in the rules.

LHDNM responded that this incentive will not be extended to office buildings.

23. Tax Incentives for Energy Conservation

It is proposed that companies providing energy conservation services be given either one of the following incentives:

i. pioneer status with 100% income tax exemption on statutory income for 10 years; or

ii. investment tax allowance of 100% on the qualifying capital expenditure incurred within period of 5 years with the allowance to be set-off against 100% of statutory income for each year of assessment.

For companies that have incurred capital expenditure for energy conservation for own consumption, the same incentive as stated in item 22 (i) above will be given.

The Institutes understand that the above incentives are given to a company that is carrying on a business of energy conservation for its own consumption. However, if a separate entity within a group of companies is established for the purpose of providing energy conservation services to other companies within the group, is the entity eligible for the incentives?

Answer:

The LHDNM confirmed that the incentives would also be available for a separate entity within a group of companies which is established for the purpose of providing energy conservation services to other companies within the group. However, the company would need to segregate the two different activities, i.e for own consumption as well as for providing services to other companies within the group.

The confirmation should be obtained from Malaysian Industrial Development Authority (MIDA).

24. Tax Incentives for Reduction of Greenhouse Gas Emission

It is proposed that income derived from the trading of Certified Emission Reduction (CERs) certificates be given tax exemption. This is applicable to companies that have been successful in reducing emission of greenhouse gases (GHG) and granted CERs certificates which are tradable.

The Institutes wish to clarify on the monitoring mechanism on CERs by the Ministry of Natural Resources.

Answer:

LHDNM confirmed that the monitoring mechanism on CERs would be dealt with by the Environment Conservation Division, Ministry of Natural Resources and Environment.

25. Tax Deduction for Compliance Related Fees

The Institutes wish to enquire on the status of the appeal to grant a deduction for the tax filing/ compliance fees, company secretarial fees and other compliance related fees. In the absence of a specific amendment or a gazette order, the Institutes would suggest to MOF/IRB to exercise their discretion to allow a concessional tax deduction on the above-stated expenses on the basis that those expenses are required to be incurred by companies due to the statutory and corporate governance requirements that are considered very important by the Government.

Answer:

The suggestions are noted.

26. Gazette Orders

The Institutes would like to request the authorities to stipulate the time frame for the issuance of the relevant gazette orders for the following 2008 budget proposals:

Answer:

Item	Status
• Tax exemption on gifts of new computers and broadband subscription fees from employers to employees	In progress
• Review of income tax treatment for expatriates in a RDC/ IPC	In progress
• Tax exemption on income received by non-resident experts in Islamic Finance	In progress
• Enhancing tax incentives for energy conservation	Will be gazetted under PIA 1986
• Income tax exemption for non-profit oriented schools	In progress
• Accelerated Capital Allowance for security and surveillance equipment	In progress
• Rationalisation of incentive for Information and Communication Technology	Income Tax Exemption Order or Income Tax Rules will not be issued. The PIA 1986 will be amended.

• Tax incentives for medical devices testing laboratories	Will be gazetted under PIA 1986
• Review of incentives for last mile network facilities provider for broadband	MOF decided to exempt income under Section 127(3A) of the ITA 1967 upon application.
• Tax incentive for reduction of greenhouse gas emission	In progress
• Expediting investment for chicken and duck rearers who reinvest for the purpose of shifting from opened house system to closed house system	Amendment has been made to Schedule 7A, ITA 1967.
• Expediting investment for non-rubber plantation company that plants at least 10% of the plantation with rubber wood trees	Income Tax Rules will be issued to be effective from year of assessment 2003.
• Expediting investment for Industrial Linkage Programme (ILP) for SMEs that supply components, technology or R&D and SMEs capable of achieving world class standard in terms of pricing, quality and capacity.	Will be gazetted under PIA 1986
• Enhancing tax incentives for the generation of renewable energy	Will be gazetted under PIA 1986. The Income Tax Rules (P.U.(A) 88/2005) will be revoked.
• Tax exemption for companies managing Islamic funds	The Income Tax (Exemption) (No. 15) Order 2007 will be amended.
• Exemption of stamp duty for mergers and acquisitions of listed companies	Stamp Duty (Exemption) (No. 8) Order 2007 has been gazetted on 29 November 2007

• Exemption of stamp duty for mergers of Petronas vendors	Stamp Duty (Exemption) (No. 9) Order 2007 has been gazetted on 12 December 2007
• Exemption of stamp duty on purchase of residential property	Stamp Duty (Remission) (No. 3) Order 2007 has been gazetted on 6 December 2007
• Exemption of stamp duty on the transfer of real property between husband and wife	Stamp Duty (Exemption) (No. 10) Order 2007 has been gazetted on 17 December 2007

27. Updating Public Rulings

In view of a number of proposals and changes introduced in previous Budgets as well as the 2008 Budget, there is a need to amend/ update some of the Public Rulings, i.e.:-

(i) Public Ruling No. 2/2001 on Computation of Initial and Annual Allowances In Respect Of Plant and Machinery

- 100% CA for small value assets

Answer:

The IRBM responded that draft of a new public ruling will be forwarded to MIT for comments.

(ii) Public Ruling No. 4/2004 on Employee Share Option Scheme Benefit

- Change in the basis of computing taxable benefit and the timing of taxability

Answer:

The IRBM responded that the IRBM is in the midst of preparing a new public ruling.

(iii) Public Ruling No. 4/2005 on Withholding Tax on Special Classes of Income
- Computation of late payment penalty for withholding tax not paid
- Withholding tax exemption for rental of ships by Malaysian shipping company

Answer:

The IRBM responded that the addendum to the public ruling has been issued on 30 November 2007.

B. STAMP DUTY

1. Payment of Stamp Duty Using Private Valuation

With effect from 1 January 2008, it is proposed that the value per a private valuation report be accepted as an alternative for the purpose of stamp duty payment in order to expedite urgent transfer of real property prior to the official valuation from JPPH. The stamp duty payment must be made together with a bank guarantee that has a validity period of not less than 6 months. The amount of bank guarantee is computed based on the difference in stamp duties between JPPH valuation (which is deemed to be 35% higher than the private valuation) and the private valuation

The Institutes wish to highlight that obtaining a private valuation report would result in higher compliance costs for the taxpayer in the transfer of real property. Thus, it is suggested that to determine the sum for payment of stamp duty, the selling price of the real property as stated in the sales & purchase agreement be used. The Institute are surprised that the willing buyer willing seller pricing is ignored. Of course, later if there are grounds to challenge the selling price, the authorities can take the necessary course of action.

Answer:

The use of private valuation report is just an alternative available to the purchaser who may want to expedite the transfer of the property concerned.

In most cases, the discrepancy between the sale and purchase price and the market value determined by JPPH is very significant. Therefore, LHDNM will accept the market value determined by JPPH.

2. Exemption of Stamp Duty on Purchase of Residential Property

It is proposed that an instrument of transfer for purchase of a house not exceeding RM 250,000 be given a 50% stamp duty exemption. This exemption is granted to only one house per individual.

The Institutes wish to confirm that in the case of a joint purchase, such as a husband and wife who have jointly purchased a residential property, will each of them be considered to have utilised their once in a life time exemption?

Answer:

The LHDNM confirmed that each individual in the example above would be entitled to their once in a life time exemption. Of course, either the husband or wife can elect to utilise the 50% exemption on their share of the property.