FEEDBACK ON IRB'S RESPONSE TO REVIEW OF THE MALAYSIAN STAMP ACT 1949 (MSA)

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CTIM and MICPA

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1.0 PREAMBLE:

Following the Dialogue on Review of Stamp Act 1949, held on 5 July 2013, the Stamp Duty Task Force (SDTF), which represents the Chartered Tax Institute of Malaysia (CTIM) and The Malaysian Institute of Certified Public Accountants (MICPA), is pleased to provide its feedback on the proposals made by the Inland Revenue Board (IRB) - in Part A, and on the IRB's response towards proposals suggested by the SDTF - in Part B.

2.0 EXECUTIVE SUMMARY

The SDTF has chosen to take a holistic approach when reviewing the matter at hand and is of the view that any proposal adopted has to take into consideration the potential effects on economic activities.

The following are some comments of SDTF:-

2.1 Self-assessment for stamp duty

Self-assessment is in line with the spirit of voluntary compliance. Currently, there are often uncertainties around the classification and the valuation of the instruments. For self-assessment to work,

(i) the value of a transaction between independent parties should be accepted by the Stamp Office;

(ii) where the transacting parties have taken reasonable steps to obtain independent valuation for the transaction, the value should similarly be accepted by Stamp Office;

(iii) in either case, should a dispute arise, there should be no penalty imposed.

In addition, the SDTF would request that the parties be given a choice of either self-assessment or official assessment to ensure certainty.

2.2 Imposition of ad valorem stamp duty on the first instrument which is executed related to the sale of real property

During the Dialogue held on 5 July 2013, we were informed some of the proposals by the IRB are adopted from the Hong Kong and Singapore stamp duty legislation. For example the proposal to introduce ad valorem stamp duty to be payable within 30 days from date of execution of agreements for purchase of properties (instead of execution of instruments of transfer).

We would like to appeal to the MOF and IRB to consider the wide repercussion such proposal would have on the Rakyat if it is implemented as this will cause financial hardship to the Rakyat. As it is, the stamp duty coverage in Malaysia is more extensive compared to Hong Kong and Singapore. For example service agreements are currently subject to stamp duty in Malaysia but not in Hong Kong and Singapore.

The SDTF proposes that for sale agreements which include "conditions precedent", the time of stamping should be 30 days from the date of satisfaction of all conditions precedent as provided in the agreement for purchase of real properties.

In relation to sale agreements for purchase of real properties from property developers which do not have conditions precedent, we propose that the time of stamping should be 6 months from the date of execution of agreements.

2.3 Introduction of electronic media into the definition of "instruments"

There is currently no guidance on the definition of "electronic media", apparently because it is difficult to define; hence difficult for taxpayers to comply. Moreover, electronic media documents are not subject to stamp duty in Hong Kong and Singapore. Such a proposal, if implemented, will negate the Government's efforts in encouraging e-commerce activities. In addition there will be challenges to enforce such provisions. The SDTF is of the view that the current definition of instrument be retained as status quo as it would not be meaningful to extend the scope of instruments to cover electronic media.

2.4 Mandatory stamping for all instruments and power to raise assessments based on best judgement

The SDTF is of the view that Section 36 as it stands has already made it mandatory for all instruments, save for instruments expressly excluded, to be brought before the Collector. There is, therefore, no need to specify the type of instruments that need to be mandatorily stamped.

With regard to "best judgement", its use must be limited to cases where it appears to the Collector that a person has, without lawful excuse, intentionally failed to deliver such available documents required for adjudication under a specific provision of the MSA and after lawful demand has been so made by the Collector for the same.

It shall be raised on the basis of the assessment had that document been submitted and a written statement must be provided by the Collector clearly specifying the grounds for invoking the power as well as the details of the best judgement exercised.

Section 39 should apply provided that the non-payment of the duty should not be a statutory bar to the appeal since this would be an exceptional case where an assessment have been raised based on the judgement of the Collector.

2.5 Feedback on the IRB's response to SDTF's proposals (Part B)

The SDTF would like to understand the concerns and rationale of the IRB in respect of the proposals which are found to be “not agreeable”, and the status of proposals in respect of those where IRB has indicated are “pending decision”. The SDTF also seeks clarification in respect of proposals where the IRB has indicated “Noted”.

3.0 CONCLUSION

The Institutes wish to thank the IRB for giving the Institutes an opportunity to provide the feedback in the formulation of the Government policy. The Institutes hope that the above feedback will be beneficial to the IRB in its move to revamp the Stamp Act 1949 and look forward to working together for the benefit of the country.

Part A : Response to IRB's Proposals to Amend the Provisions of the Malaysian Stamp Act 1949 (MSA)

No	Topic of LHDNN's proposal	Issue	Provisions in MSA	Our proposal	Rationale
1.	Self-assessment for stamp duty	The IRB has suggested that stamp duty be assessed on a self-assessment basis for the following: a) Transfers of land (except for transfers of land by an estate, grants or non-arm's length transactions) b) Share transfers c) Rental of real property d) Financial transactions e) Fixed duty instruments	Currently there are no provisions for self-assessment.	We agree that in certain instances in the interest of expediency, self-assessment for stamp duty is helpful. <u>However</u>, we would request that in implementing self-assessment, the following should be provided for: 1) The self-assessment of stamp duty should be <u>optional</u> and not compulsory. This is due to the fact that there is often uncertainty as to which item of Schedule 1 a transfer should fall within and in the case of land and share transfers where valuation may be an issue. 2) In cases of third party willing buyer and willing seller situations the valuation should be accepted by the Stamp Office, or in the event that it is not, penalties should not be imposed. 3) Where reasonable steps have been taken to obtain an independent valuation from professional valuers, the valuation should be accepted by the Stamp Office, or in the event that it is not, penalties should not be imposed.	There are some benefits to self-assessment to allow the quick assessment and payment of stamp duty in order to proceed with business. However, given the uncertainties that often underlie the imposition of stamp duty, self-assessment should be introduced on an optional basis which would provide an opportunity to evaluate its effectiveness.

No	Topic of LHDNN's proposal	Issue	Provisions in MSA	Our proposal	Rationale
2.	Imposition of ad valorem stamp duty on sale agreement or instrument – To impose ad-valorem duty on the first instrument which is executed related to the sale of real property	Based on current legislation, documents for sale of real property are submitted to the Stamp Office for stamping within 30 days from date of execution of instrument (for example, Borang 14A Pindahmilik Tanah Bahagian atau Pajakan), Deed of Assignment). The instruments are executed **after all conditions precedent in the agreement are satisfied**.	Proposed new section	For sale agreements which include "conditions precedent", the time of stamping should be 30 days from date of satisfaction of all conditions precedent as provided in the agreement for acquisition of real properties. For sale agreements for purchases of real properties from property developers which do not have conditions precedent, we propose the time of stamping should be 6 months from the date of execution of such agreements.	Even if the proposed new legislation provides for stamp duty paid to be refunded with relative ease, purchasers will still have to pay the stamp duty first. Our proposal to defer the stamping deadline will seek to alleviate financial hardship and cashflow concerns since stamp duty will not be payable if the conditions precedent are not fulfilled and/or purchasers of properties sold by property developers are given additional time (6 months) to obtain loan financing.

No	Topic of LHDNN's proposal	Issue	Provisions in MSA	Our proposal	Rationale
		If agreements for sale of real property are required to be submitted to the Stamp Office for stamping, then it will result in financial hardship as the stamp duty is payable immediately after execution of agreements even though the completion of sale agreements are subject to a number of "conditions precedent" to be satisfied. This will create financial burden to property purchasers as some purchasers will have to obtain financing to purchase properties and sale agreements will be rescinded if their loan applications are not approved.			

No	Topic of LHDNN's proposal	Issue	Provisions in MSA	Our proposal	Rationale
3.	Introduction of electronic media into the definition of "instruments"	(a) No definition of "electronic media" provided in the proposals. Difficulty in defining the same too. (b) Challenges on ensuring effective enforcement with regards to electronic commerce ("**e-commerce**") transactions (c) Negates the Malaysian Government's efforts in encouraging E-commerce transactions	Definition of "instruments" under section 2 of the MSA	The term "electronic media" is unclear and if this term refers to the buying and selling of goods and services of any kind over the internet i.e. e-commerce, issues with enforcement on stamp duty payable arises. For instance, stamp duty is currently payable on contracts for the supply of services at an ad valorem rate of 0.1% of the contract value pursuant to item 22 of Schedule 1 of the Act. In the event services are ordered over the internet where both the buyer and the supplier execute the commercial arrangement electronically, the question of the manner in which stamp duty is to be paid arises. One obvious method of stamping is by requiring the taxpayer to print such electronic document for submission for stamping. However if the such person fails to print the electronic document and therefore neglects paying stamp duty on the same, such failure to print the electronic document and pay stamp duty may never be discovered by the IRB. Whilst such person is encouraged to voluntarily comply, the IRB must have the ability to detect those who do not.	Strongly suggest that it be removed. Definition of instruments to remain as status quo. There is no equivalent provision including electronic media into the definition of instruments in Hong Kong and Singapore.

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		(d) Stamp duty payable on scripless shares			The term "electronic media" may also encompass the transfer of securities via an electronic (paperless) system. Reference is made to the UK's electronic settlement system allowing for the transfer of ownership in shares known as, CREST. To take account of CREST, new legislation was enacted declaring such electronic transfer of ownership to be a stampable document. The off-market transfer/movement of listed securities in Malaysia is conducted via the central depository system ("**CDS**") administered by the Bursa Malaysia Depository ("**Bursa**"). If transfer of scripless shares is subjected to stamp duty, the transferee would be required to pay duty at an ad valorem rate of 0.3% of the value of the shares. Such increase in transaction cost will mostly likely cause a detrimental effect on the local capital markets. In the interest of safeguarding the competitiveness of the local capital markets, Bursa may not be amenable to subjecting electronic transfer of securities to stamp duty.

No	Topic of LHDNN's proposal	Issue	Provisions in MSA	Our proposal	Rationale
					The Malaysian Government ("Government") has played a vital and catalyst role in the development of E-commerce infrastructure and has encouraged the private sector to be a part of developing E-commerce. The Government has carried on and promoted internet and other ICT to build knowledge based economy. The proposal to introduce stamp duty on electronic media documents will negate the Government's efforts in encouraging E-commerce transactions.

No	Topic of LHDNN's proposal	Issue	Provisions in MSA	Our proposal	Rationale
4.	Mode of Adjudication -Improve Section 36	To specify the type of instruments that mandatorily need to be brought to the Collector Amend Section 36 to make it clear that instruments in connection with Sections 7(4), (8) and (9) to do not to be brought for adjudication	Section 36	Only amend Section 36 to specifically exclude instruments that can be stamped without adjudication. This should include instruments where there has been an election for voluntary self-assessment. In addition to there being no need for a specific list of instruments that need to be mandatorily stamped, there should also not be any separate penalty for failure to bring an instrument before the Collector. There is already an extensive offences and penalties regime in the MSA. In particular, there are hefty penalties for late stamping. Any additional penalty for essentially the same subject matter would tantamount to a double penalty. This would be counter productive in encouraging those who have stamped late to regularise the position.	The provisions of Section 36 as they stand make it mandatory for all instruments (save for instruments under Section 47 that cannot be stamped after execution) to be brought before the Collector. The need to exclude instruments in connection with Sections 7(4), (8) and (9) are appropriate given the mandatory effect of Section 36. There is no need to specify the type of instruments that mandatorily need to be brought to the Collector.

No	Topic of LHDNN's proposal	Issue	Provisions in MSA	Our proposal	Rationale
5.	Mode of Adjudication -Improve Section 36	To insert provisions to enable the Collector to raise assessments on a best judgement basis	Section 36	The power to raise best judgement assessments should only exist where it appears to the Collector that a person has without lawful excuse intentionally failed to deliver such available documents required for adjudication under a specific provision of the MSA and after lawful demand has been so made by the Collector for the same. Best judgement must be limited to cases of default in providing available documents and shall be on the basis of the assessment had that document been submitted. It must not be used to circumvent/ignore established stamp duty principles such as the contingency principle. Together with any assessment, a written statement must be provided by the Collector clearly specifying the grounds for invoking the power as well as the details of the best judgement exercised.	The power to raise best judgments assessments should only be exercisable in special circumstances. In all other cases, there is no justification for such powers in a stamp duty regime. Adequate safeguards must also be imposed. This would be in line with the norms in other jurisdictions. Please refer to the next column on our proposals on this.

No	Topic of LHDNN's proposal	Issue	Provisions in MSA	Our proposal	Rationale
				Without prejudice to the right to judicial review, the appeal procedure under Section 39 should apply provided that that non-payment of the duty should not be a statutory bar to the appeal since this would be an exceptional case where an assessment have been raised based on the judgement of the Collector.	

Part B : Feedback on IRB's Response to Proposals by SDTF
Proposals to Amend the Provisions of the Malaysian Stamp Act 1949 (MSA) Appendix 1A

No	Topic of proposal	Issue	Provisions in MSA	Proposal	STATUS OF PROPOSAL (BY IRB)	COMMENTS BY CTIM/MICPA
1.	Section 4A(1) of the Stamp Act, 1949	The transfer under an instrument executed outside Malaysia effecting a transfer of movables or immovables situated in any part of Malaysia will not take place unless the instrument is brought into Malaysia and stamped. i) There is ambiguity under Section 4A(1) For example, if a debtor is incorporated in Malaysia but is managed and conducts its business solely outside Malaysia, where the debt is transferred under an instrument, where is that debt located for the purposes of Section 4A? Where there is a chose in action as a result of a breach of contract in a	Section 4A (1)	To delete Section 4A(1). If the Stamp Office has specific concerns, then this should be addressed via specific provisions.	NOT ABLE TO AGREE	The Institutes would like to seek IRB's rationale for disagreement.

No	Topic of proposal	Issue	Provisions in MSA	Proposal	STATUS OF PROPOSAL (BY IRB)	COMMENTS BY CTIM/MICPA
		cross border transaction, where is the property located for the purposes of Section 4A? ii) There is difficulty in compliance (particularly in the situation where all the parties to the instrument are foreign) as well. Section 4A appears to cover genuine situations where all parties to an instrument are not in Malaysia and there should therefore be no need to bring the instrument into Malaysia. Furthermore, foreign stamp duty may also be applicable.				
2.	Relief from Stamp Duty (Sections 15 and 15A)	The "90% relationship" rules stipulated in Sections 15(1)(b) and (c); and 15A(2) appear high.	Sections 15(1)(b) and (c); and 15A(2)	To reduce these thresholds from 90% to 75%.	PENDING DECISION	The Institutes would like to have an update on the current status of this.
3.	Relief from Stamp Duty	Whether to expand section 15(4) to allow other	Section 15(4)	To expand to include directors and company secretary of the	PENDING DECISION	The Institutes would like to have

No	Topic of proposal	Issue	Provisions in MSA	Proposal	STATUS OF PROPOSAL (BY IRB)	COMMENTS BY CTIM/MICPA
	(Section 15)	categories of persons who may sign a statutory declaration (apart from lawyers).		applicant.		an update on the current status of this.
4.	Relief from Stamp Duty (Section 15)	The phrase "S*hares in another company"* in Section 15(5)(c).	Section 15(5)(c)	To amend "*shares in another company" to "shares in the existing company*".	PENDING DECISION	The Institutes would like to have an update on the current status of this.
5.	Relief from Stamp Duty (Section 15)	Conflict between Section 15(5)(b) and Section 15(5)(c)	Section 15(5)(c)	To insert the words "*or in compliance with Government policy on capital participation in industry*" in Section 15(5)(c) after "liquidation" (with the appropriate consequential amendments)	PENDING DECISION	The Institutes would like to have an update on the current status of this.
6.	Relief from Stamp Duty (Section 15)	The phrase "*to the holders of shares in the existing company*" in section 15(1)(c)(ii)	Section 15(1)(c)(ii)	To expand to include trustee or nominees of the holders of shares in the existing company or beneficial owners of the shares in the existing company for which the holders are nominees	PENDING DECISION	The Institutes would like to have an update on the current status of this.
7.	Relief from Stamp Duty	Section 15A stamp duty relief is restrictive. Even	Section 15A(2) and	To expand the applicability of section 15A relief to the following	PENDING DECISION.	The Institutes would like to have an update on the

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	(Section 15A)	though transfers of beneficial interest in properties are between companies which are beneficially owned by the parent company, they are precluded from claiming stamp duty relief.	Schedule 6 only allow transfers of beneficial interest in properties between transferor and transferee companies (and where they are not directly held - all the companies in the chain) to be companies with issued share capital	situations:- (a) where the entity ("Said Entity") is the ultimate parent in the chain of entities, the Said Entity need not necessarily be a company with issued share capital but may take other forms (e.g. society, co-operative, company limited by guarantee, company with unlimited liability, company with limited liability with no issued share capital etc.) provided that it is capable of owning shares/interests in another entity; (b) where the Said Entity is an intermediate (but not ultimate parent) entity in a chain of entities, the Said Entity need not necessarily be a company with issued share capital but may take other forms (e.g. limited liability partnerships, bodies created by statute, company with unlimited liability, company with limited liability with no issued share		current status of this.

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				capital etc.) <u>provided that</u> it is capable of owning shares/interests in another entity and it has shares/interests which are capable of being owned by another entity.		
8.	Relief from Stamp Duty (Section 15A) – *format of statutory declaration*	Requirement to obtain regulatory approval	There is no requirement in section 15A for regulatory approval to be obtained. However, paragraph 9 of the statutory declaration (which forms part of the application for section 15A stamp duty relief) requires such approval to	To remove the requirement to obtain regulatory approval in the statutory declaration	PENDING DECISION	The Institutes would like to have an update on the current status of this.

No	Topic of proposal	Issue	Provisions in MSA	Proposal	STATUS OF PROPOSAL (BY IRB)	COMMENTS BY CTIM/MICPA
			be obtained.			
9.	Relief from Stamp Duty (Section 15A) – *format of statutory declaration*	Requirement for transfer to be undertaken for organizational reasons only and that it is intended that the beneficial interest in the property which will be so transferred will be retained by the transferee company and that there will be no change in the relationship between the companies.	There is no such requirement in section 15A. However, paragraph 10 of the statutory declaration (which forms part of the application for section 15A stamp duty relief) contains such requirement.	To remove such requirement in the statutory declaration	PENDING DECISION	The Institutes would like to have an update on the current status of this.
10.	Section 21(1)	It is not clear where the exception falls	Any contract or agreement made in Malaysia under seal or under hand only, for the	"Every contract or agreement made in Malaysia under seal or under hand only, for the sale of – (a) Any equitable estate or interest in any property; or (b) Any estate or interest in any	AGREE	

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			sale of any equitable or interest in any property whatsoever, except lands, tenements, hereditaments, or heritages, or property locally situate out of Malaysia, or goods, wares or merchandise, or stock, or marketable securities, or any ship or vessel, or part interest, share or property of or in any ship or vessel, shall	property except :- (i) lands,tenements, hereditaments, or heritages, or (ii) property locally situate out of Malaysia, or (iii) goods, wares or merchandise, or (iv) stock, or marketable securities, or (v) any ship or vessel, or part interest, share or property of or in any ship or vessel shall be charged with the same ad valorem duty, to be paid by the purchaser, as if it were an actual conveyance on sale of the estate, interest or property contracted or agreed to be sold.		

No	Topic of proposal	Issue	Provisions in MSA	Proposal	STATUS OF PROPOSAL (BY IRB)	COMMENTS BY CTIM/MICPA
			be charged with the same ad valorem duty, to be paid by the purchaser, as if it were an actual conveyance on sale of the estate, interest or property contracted or agreed to be sold			
11.	**Item 22** Bond, Covenant, Loan, Services, Equipment Lease Agreement or Instrument of any kind	Item 22 has a wide coverage – "covenant", and "instruments of any kind whatsoever" <u>Instruments of any kind whatsoever</u> i) Based on the current practice of the Stamp Office, agreements for example royalty	First Schedule, Item 22, was amended and was effective from 1 January 2009	For the purpose of clarity, the scope of item 22 should be reviewed – suggest to remove "covenant" and "instruments of any kind whatsoever" as this gives rise to ambiguity and uncertainty in respect of the instruments subject to stamp duty. One must specify expressly only	NOT ABLE TO AGREE	For the purpose of clarity, the Institutes suggest that IRB issues clear guidelines to clarify the scope of the phrase "instruments of any kind whatsoever.

No	Topic of proposal	Issue	Provisions in MSA	Proposal	STATUS OF PROPOSAL (BY IRB)	COMMENTS BY CTIM/MICPA
	whatsoever	agreements, property licence agreements, attract stamp duty of 0.5 percent under item 22(1)(b). ii) If the sale agreement which involves an extended payment arrangement for the purchase of equipment, there is ambiguity whether the duty is chargeable under item 4 (fixed duty of RM10) or item 22(1)(b) which provides for ad valorem stamp duty at the rate of 0.5 percent This gives rise to punitive stamp duty costs. Covenant Means an agreement which creates an obligation		the type of instruments to which item 22 applies		The Institutes are of the opinion that "Instruments of any kind whatsoever" should not be used as a "catch-all provision" and should only be adopted where the instruments are in the same category as "Bond, Covenant, Loan, Services and Equipment Lease Agreement".

No	Topic of proposal	Issue	Provisions in MSA	Proposal	STATUS OF PROPOSAL (BY IRB)	COMMENTS BY CTIM/MICPA
		contained in a deed Item 22 previously could be widely worded (i.e. "bond covenant or instrument of any kind whatsoever") because *ad valorem* duty applied to all instruments with the characteristics or nature expressly specified in 1(a) and (b) Para 1(a) and (b) have been fundamentally altered and the addition of the words "Loan, Services, Equipment Lease" is confusing and causes ambiguity and uncertainty given particularly how widely para (1) (b) is now worded. Furthermore, with the amendment of para (1) (a), the duty under that heading should only apply to		To delete the words "or sum periodically payable"		The Institutes have yet to receive IRB's response with regard to our proposal to delete the words "or sum periodically payable". We would like to have an update on the status of this proposal.

No	Topic of proposal	Issue	Provisions in MSA	Proposal	STATUS OF PROPOSAL (BY IRB)	COMMENTS BY CTIM/MICPA
		annuities (instruments with yearly/annual payments) and the duty should therefore not be calculated by reference to "sum periodically payable". Item 22 (1) previously contained the words "at stated periods".		The words "at stated periods" should be inserted under the current item 22 (1) (b)		
12.	**Item 22** Bond, Covenant, Loan, <u>Services</u>, Equipment Lease Agreement or <u>Instrument of any kind whatsoever</u>	Service Agreements – even though stamp duty in excess of 0.1 percent is remitted pursuant to Stamp Duty (Remission) (No. 4) Order 2010, it is still very prohibitive from a cost perspective for companies to procure services. The words "services" and "instruments of any kind whatsoever" have been given the widest application resulting in "excessive" imposition of stamp duty.	First Schedule, Item 22(1)(b)	To remove ad valorem stamp duty and re introduce fixed duty (RM10) for service agreements. The duty for service agreements should be specified under a separate item	NOT ABLE TO AGREE	IRB has responded that it is not agreeable to CTIM/MICPA's proposal to reinstate fixed duty (RM10) for service agreements. IRB's current practice is the 0.1% ad-valorem stamp duty is

No	Topic of proposal	Issue	Provisions in MSA	Proposal	STATUS OF PROPOSAL (BY IRB)	COMMENTS BY CTIM/MICPA
		For example - **Agreement to purchase equipment /turnkey contracts** Stamp duty has been determined under Item 4, First Schedule and is exempted for agreement to purchase equipment. However, if the purchase of equipment includes installation of equipment, stamp duty is determined under Item 22(1)(b) with ad valorem stamp duty at 0.1 percent on the entire contract value even though the payments for equipment and for installation are segregated in the agreement.				imposed on the entire contract which constitutes both service and non-service values in the contract. For example, the entire contract value of the Engineering, Procurement, Construction and Commissioning ("EPCC") contracts are subject to the 0.1% ad valorem stamp duty even though the contract values are separately provided in the agreements. This is not supported by the provision of item 22(1)(b),

No	Topic of proposal	Issue	Provisions in MSA	Proposal	STATUS OF PROPOSAL (BY IRB)	COMMENTS BY CTIM/MICPA
						First Schedule of the Stamp Act 1949 where only service portion (and not the equipment supply portion) is subject to stamp duty. With the imposition of the 0.1 percent stamp duty on both service and non-service portion, this has resulted in provision of services more costly.

Proposals to Regularise the Wordings and Provisions of the Malaysian Stamp Act 1949 (MSA). Appendix 1B

No	Topic of proposal	Issue	Provisions in MSA	Proposal	STATUS OF PROPOSAL (BY IRB)	COMMENTS BY CTIM/ MICPA
1.	Interpretation	Definition of "instrument"	Section 2	Define the word "instrument" to differentiate it from the word "document" used in the Act.	NOT ABLE TO AGREE	The Institutes would like to seek IRB's rationale for the disagreement.
2.	Interpretation	Definition of "cheque"	Section 2	"cheque" means a bill of exchange drawn on a specified banker and not expressed to be payable otherwise than on demand <u>and includes a cashier's order and demand draft issued by a banker</u>	NOT ABLE TO AGREE	The Institutes would like to seek IRB's rationale for the disagreement.
3.	Interpretation	Definition of "policy of insurance"	Section 2	"policy of insurance" includes every writing whereby any contract of insurance <u>or contract of takaful</u> is made or agreed to be made or is evidenced, and the expression "insurance" includes assurance <u>and takaful</u>	AGREE	
4.	Interpretation	Definition of "policy of sea insurance"	Section 2	"policy of sea insurance" – (a) means any insurance, including re-insurance, made upon any ship or vessel, …. (b) includes any insurance of goods, merchandise or property for any	PENDING DECISION	The Institutes would like to have an update on the current status of this.

No	Topic of proposal	Issue	Provisions in MSA	Proposal	STATUS OF PROPOSAL (BY IRB)	COMMENTS BY CTIM/ MICPA
				transit which includes, ….and (c) includes any takaful certificate in respect of the subject matter described in paragraph (a) and/or (b) above.		
5.	Interpretation	The word "financing" is undefined		To add a definition of "financing" in Section 2 of the Act. "financing" means the lending of money or any scheme of financing which is in accordance with the principles of Syariah.	NOT ABLE TO AGREE	The Institutes would like to seek IRB's rationale for the disagreement.
6.	Section 12		Section 12	The counterpart of instrument of lease should be deleted as all instruments are to be adjudicated according to Section 36.	PENDING DECISION	The Institutes would like to have an update on the current status of this.
7.	Instruments Chargeable with Stamp Duty	Explanatory note under Item 4 First Schedule		*Note* – An agreement for or relating to the supply of goods on hire, whether by way of hire-purchase or leasing, ~~whereby the goods in consideration of periodical payments will or may become the property of the person to whom they are supplied,~~ shall be charged with stamp duty as an agreement~~, or, if under seal, as a deed~~.	NOT ABLE TO AGREE	The Institutes would like to seek IRB's rationale for the disagreement.

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8.	Section 28(2)	Conflict between Section 28(2) and Section 36	Section 28(2)	To review Section 28(2) as it is not consistent with Section 36.	NOTED	The Institutes would like to seek IRB's clarification on how the conflict between Section 28(2) and Section 36 will be resolved.
9.	Section 40		Section 40	To review Section 40 to synchronize it with Section 47.	NOTED	The Institutes would like to seek further clarification whether Section 40 will be amended in order to synchronize it with Section 47.
10.	Section 41		Section 41 allows an instrument to be stamped before or at the time of execution.	To review Section 41 as it has been made redundant with the amendment to Section 36.	NOT ABLE TO AGREE	The Institutes would like to seek IRB's rationale for the disagreement.
11.	Section 43		Section 43	To simplify Section 43	NOTED	The Institute would like to seek clarification on how Section 43 will be

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						simplified?
12.	Section 57		Section 57	To define the words "any party", "some necessary party" and "any person".	"any party" WOULD BE DEFINED	
13.	Instruments Chargeable with Stamp Duty		Item 22 First Schedule	Bond, Covenant, ~~Loan~~ Financing, Services~~, Equipment Lease~~ Agreement or Instrument of any kind whatsoever	NOT ABLE TO AGREE	The Institutes would like to seek IRB's rationale for the disagreement.
14.	Item 27(a)(ii) of the 1st Schedule	Definition of "foreign currency loan" and reference to "loans" are too limiting. Does "loan" include exposure in a derivatives contract?	Charge or mortgage, agreement for a charge or agreement, bond, covenant, debenture (not being a marketable security), bill of sale by way of security and warrant of attorney to confess and	Item 27(a)(ii) be changed to :- "where the financing is a foreign currency financing or any scheme of financing which is in accordance with the principles of Syariah"; "financing" should be defined in the Stamp Act to mean "loans or lending of money".	NOT ABLE TO AGREE	The Institutes would like to seek IRB's rationale for the disagreement.

No	Topic of proposal	Issue	Provisions in MSA	Proposal	STATUS OF PROPOSAL (BY IRB)	COMMENTS BY CTIM/ MICPA
			enter up judgment : being the only or principal or primary security (other than equitable mortgage or an assignment of receivables or the kind mentioned in paragraph (d)) for the payment or repayment of where the loans is a foreign currency loan or financing was made			

No	Topic of proposal	Issue	Provisions in MSA	Proposal	STATUS OF PROPOSAL (BY IRB)	COMMENTS BY CTIM/ MICPA
			according to syariah in currencies other than in Ringgit. "Foreign currency loan" is defined as "any loan denominated wholly in currencies other than the Ringgit"			
15.	Instruments Chargeable with Stamp Duty	Para (b)(i) of Exemptions under Item 32 First Schedule		(b)(i) of a bill of exchange, cheque, ~~or~~ promissory note or negotiable instrument	NOT ABLE TO AGREE	The Institutes would like to seek IRB's rationale for the disagreement.
16.	Instruments Chargeable with Stamp Duty	Para (b)(iii) of Exemptions under Item 32 First Schedule		b)(iii) of a policy of insurance ~~other than a policy of life insurance~~;	AGREE	

No	Topic of proposal	Issue	Provisions in MSA	Proposal	STATUS OF PROPOSAL (BY IRB)	COMMENTS BY CTIM/ MICPA
17.	Instruments Chargeable with Stamp Duty	To add a new paragraph of Exemptions under Item 32		(e) Transfers of debentures or Islamic securities approved by the Securities Commission.	NOT ABLE TO AGREE	The Institutes would like to seek IRB's rationale for the disagreement.
18.	Instruments Chargeable with Stamp Duty	Item 50 First Schedule		~~Letter~~ Contract of guarantee (as defined in Contracts Act 1950) given by a person, a body corporate or a banker, irrespective of manner of execution.	NOT ABLE TO AGREE	The Institutes would like to seek IRB's rationale for the disagreement.
20.	Instruments Chargeable with Stamp Duty	Item 78 First Schedule		~~Trust Receipt granted on the occasion of a loan or overdraft on goods, if unattested~~	AGREE	
21.	Schedule 3		Schedule 3.	Let the parties to the agreement decide who ought to pay duty chargeable.	NOT ABLE TO AGREE	The Institutes would like to seek IRB's rationale for the disagreement.
22.	Complete the exemption for transfer between family members to mirror the exemptions	Currently, stamp duty exemption is only available for transfer of immovable property operating as a voluntary		Proposal is to also allow stamp duty exemption for transfers by way of gift between parent and child; grandparent and grandchild.	PENDING DECISION	The Institutes would like to have an update on the current status of this.

No	Topic of proposal	Issue	Provisions in MSA	Proposal	STATUS OF PROPOSAL (BY IRB)	COMMENTS BY CTIM/ MICPA
	available under paragraph 12, Schedule 2 of the RPGT Act.	disposition/ gift from husband to wife or wife to husband.				