

4 November 2013

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YBhg Dato' ,

2014 Budget – Finance Bill (No. 2) 2013

We refer to the Finance Bill (No. 2) 2013 and would like to provide the Chartered Tax Institute of Malaysia's (CTIM's) feedback on two important proposed amendments to the Income Tax Act 1967 (the Act) which in our view, **affect the fundamental rights of taxpayers** i.e. the right to appeal and the right to claim tax deduction. These proposals can have a **wider implication to foreign direct investments and the local business community**.

Section 99 – Right of appeal

Proposal	The proposed new subsection 99(4) provides that an appeal to the Special Commissioners of Income Tax under section 99 of the Act is not applicable to the deemed assessment made under subsection 90(1) or section 91A of the Act. The only exception is where taxpayers adopt a position as stated in the public ruling which they do not agree with.
CTIM's comments	<p>The above proposal denies taxpayers the right to appeal under section 99 against a deemed assessment in the self-assessment system which is applicable to all taxpayers in Malaysia. The only exception is where the taxpayer adopts a position in the public ruling which he does not agree with due to difference in the interpretation of the law.</p> <p>The right of appeal is a fundamental right of taxpayers in any tax system. Liability to tax should not be imposed upon taxpayers without giving taxpayers an avenue to appeal against the tax assessment. The above proposal effectively denies taxpayers of any avenue of appeal in the self-assessment system.</p> <p>This amendment will also have a wider implication to the Malaysian economy. The right to appeal is a very important pillar that provides credibility to any tax system. Denial of this right will also be seen as a serious impediment by foreign direct investors when they consider investing in Malaysia.</p> <p>We kindly request that the proposal be withdrawn.</p>

39 – Deductions not allowed

Proposal	The proposed new subsection 39(1A) provides that if a taxpayer fails to furnish information on any item of deduction claimed by the taxpayer as requested by the Director General of Inland Revenue (DG) under section 81 of the Act within the time specified, the item involved will not be allowed a tax deduction.
CTIM's comments	<p>Failure of the taxpayer in furnishing information within the time specified by the DG could be due to various reasons, e.g. difficulty in retrieving information, lost information due to unforeseen circumstances such as fire etc. The proposed new subsection 39(1A) would deny the taxpayer the right to claim a tax deduction for the expenditure upon failure to comply with the requirements of section 81.</p> <p>Section 81 and its related penalty provision under section 120 already provides for penalties to be imposed on taxpayers for failure to furnish information to the IRB within the specified time frame under section 81. There is no necessity for a separate provision in the law to completely deny the tax deduction. The proposal is effectively tantamount to barring the taxpayer from exercising his right to appeal on this matter in view that the proposed subsection 39(1A) summarily disallows the tax deduction.</p> <p>We kindly request that the proposed section 39(1A) be withdrawn.</p>

We thank you for your attention and look forward to the opportunity to present our views and discuss the above in greater detail.

Yours sincerely,
CHARTERED TAX INSTITUTE OF MALAYSIA



SM Thanneermalai
President

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