

9 April 2014

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Under-Secretary, Tax Analysis Division  
Ministry of Finance  
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62592 Putrajaya

YBhg Dato',

**JOINT MEMORANDUM TO MINISTRY OF FINANCE ON ISSUES ARISING FROM  
2014 BUDGET & FINANCE BILL (NO. 2) 2013**

We refer to the dialogue with the Ministry of Finance and the Inland Revenue Board held on 5 March, 2014 in respect of the above, and wish to thank you for the opportunity to discuss the issues raised.

For clarity purposes, we set out below our understanding of the responses provided by both MOF and IRB.

**1) Subsection 99(4) – Restriction on Appeal Against Deemed Assessment**

The IRB acknowledged CTIM's concerns on the new subsection 99(4) and reassured that the right of appeal against a self-assessment is still available to taxpayers despite the provision of the law. This will be provided in a public ruling on Appeals to be issued by the IRB by September 2014, which will address issues raised.

While CTIM welcomes the positive response from the IRB, we are however concerned whether the Special Commissioners of Income Tax (SCIT) will accept a Form Q filed against a self-assessment where the issue in dispute is not covered in any public rulings as the law clearly prohibits such appeals under Section 99. Therefore we request the public ruling to deal with this matter should be issued within the framework of the Income Tax Act 1967 and be reflective of the application of the law as provided for in Section 138A of the Income Tax Act 1967.

**2) Subsection 39(1A) – Disallowance of Expense Due to Failure to Furnish Information on Time**

It is our understanding from the above meeting that despite subsection 39(1A) disallowing any claims for tax deduction where information requested has not been provided to the IRB within the given time, it was agreed that such disallowance will be restricted to cases where the taxpayer deliberately withholds information. In all other circumstances where the taxpayer can show there are genuine reasons for not meeting the deadline such as records being destroyed by fire, flood or corruption of computer files etc, the IRB will allow the taxpayer to produce the supporting documents at a date beyond the deadline. The IRB confirmed that sufficient extension of time will be given to taxpayers to provide the information.

In this regard, it was agreed that IRB will provide CTIM with a written confirmation on the above understanding.

**3) Section 77A(4) -- Filing of Corporate Tax Returns Based on Audited Accounts**

We would like to thank the authorities for recognizing the situations where taxpayers are not required to prepare audited accounts and therefore would not be able to comply with Section 77A(4).

We note that subsequent to our dialogue, the IRB has on 19 March 2014, issued an announcement which states that *"if there are provisions under the Companies Act 1965 which state that a company need not submit audited accounts to the Companies Commission of Malaysia, then provision of subsection 77A(4) would not apply. However, the company must submit its income tax return form based on information in the final accounts."*

The requirement to have accounts audited is provided in Section 169(4) of the Companies Act 1965 which states: "Pursuant to this section, the profit and loss account and balance sheet of a company shall be duly audited before they are laid before the company at its annual general meeting." In the case of a company which has commenced liquidation, the company will not be holding any annual general meetings and as such, no audited accounts are required to be prepared.

To avoid any uncertainties in the interpretation of IRB's announcement, we would like to seek your confirmation that Section 77A(4) would not apply to companies under liquidation or receivership.

**4) Section 140B - Special provision applicable to loan or advances to director**

We understand from our dialogue that a public ruling will be issued on Section 140B and would request that the public ruling be issued as soon as possible as the law is already in force.

**5) Section 33(4) -- Adjusted Income Generally**

As discussed at the dialogue, the application of Section 33(4) would give rise to the requirement to revise prior year's income tax return which in certain situations, may involve a year of assessment which is time barred.

The IRB acknowledged CTIM's concern and advised that a public ruling will be issued to address the points raised. We would request that the public ruling be issued as soon as possible.

**6) Training Expenses In Line With GST Implementation**

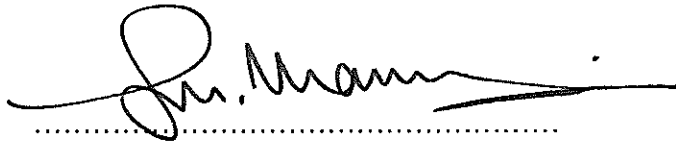
The Prime Minister announced during Budget 2014 that expenses for GST related training of employees incurred by companies on training for accounting and ICT be given a further deduction for the years of assessment 2014 and 2015.

CTIM would like to request that the relevant gazette orders to allow the further deduction for the above expenses be issued as soon as possible, providing details of the expenses and types of training that qualify for the further deduction.

Thank you.

Yours sincerely,

CHARTERED TAX INSTITUTE OF MALAYSIA

A handwritten signature in black ink, appearing to read 'SM Thanneermalai', with a long horizontal flourish extending to the right. Below the signature is a dotted line.

**SM Thanneermalai**  
**President**