



e-CIRCULAR TO MEMBERS
CHARTERED TAX INSTITUTE OF MALAYSIA (225750-
(formerly known as Malaysian Institute of Taxation)

e-CTIM No.1/2010
2010

4 January

TO ALL MEMBERS

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TECHNICAL

Gazette Orders on service tax on charge cards and credit cards

Subsequent to the 2010 Budget proposals, the above orders have been gazetted on 28 December 2009. The **Service Tax (Amendment) (No.2) Regulations 2009 [P.U.(A) 469/2009]** amends the Service Tax Regulations 1975 [P.U.(A) 52/1975] (the principal Regulations) by inserting the following definitions:

- “charge card”** means a payment instrument which indicates a line of credit granted by the issuer to the user and for which any amount of the credit utilised by the user must be settled in full on or before a specified date, without any extended credit.
- “credit card”** means a payment instrument which indicates a line of credit or financing granted by the issuer to the user and for which, where any amount of the credit utilised by the user has not been settled in full on or before a specified date, the unsettled amount may be subject to interest, profit or other charges.
- “payment instrument”** means any instrument, whether tangible or intangible, that enables a person to obtain money, goods or services or to otherwise make payment, as defined in the Payment Systems Act 2003 [Act 627]

Further, Subheading I, Group G, Second Schedule of the principal Regulations is amended by inserting the following to the “Taxable Person” and “Taxable Service” respectively:

“Taxable Person”

- “6. Any person who is regulated by Bank Negara Malaysia and provides credit card or charge card services through the issuance of a credit card or a charge card.”**

“Taxable Service”

- “t. Provision of credit card or charge card services through the issuance of a principal credit card, principal charge card, supplementary credit card and supplementary charge card, whether or not annual subscription or fee is imposed excluding —**

- (i) *provision of charge card services where the charge card is issued by any petroleum company to the Government of Malaysia or any person for the procurement of products and services supplied for the use of or in connection with vehicles owned by the Government of Malaysia or such person; or*
- (ii) *provision of charge card services where the charge card is used as a payment instrument only within the premises of a workplace, an education institution or a golf or sports club by its workforce, students or members, as the case may be.*

The **Service Tax (Rate of Tax) Order 2009 [P.U.(A) 468/2009]** stipulates that service tax shall be levied on taxable service relating to credit card or charge card services at RM50.00 for each principal card and RM25.00 for each supplementary card on the date of issuance or renewal and every twelve months thereafter or part thereof after the issuance or renewal of the card.

For queries or feedback on the CTIM e-circular, please email secretariat@ctim.org.my.

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e-CTIM No.2/2010

7 January 2010

TO ALL MEMBERS

TECHNICAL

1. Guidelines for service tax on charge cards and credit cards

The Royal Malaysian Customs (RMC) has recently posted the above Guidelines on its website at <http://www.customs.gov.my/index.php/en/component/content/article/187-berita-terkini/284-cukai-perkhidmatan-bagi-kad-kredit>.

The Guidelines explain that service tax will not be levied on debit cards, petrol cards, closed community charge cards, loyalty cards and virtual money cards.

The Guidelines further provide illustrations on how service tax will be levied. Where the card is issued for more than a year, service tax is levied on the anniversary date in the year 2010 and subsequent years. In the case of upgrading or downgrading of cards or changing from generic card to co-branded card or vice versa, service tax will be levied on the issuance of new card and the anniversary date in subsequent years, if the expiry date of the new card is different from the original card. If the expiry date of the new card is same as the original card, service tax will be levied on the anniversary date based on the original card. Service tax is levied although the annual subscription is waived by the issuer.

Members may also view the guidelines on the website of the Institute at http://www.ctim.org.my/technical_techdev_indirect.asp

2. Service tax on exported taxable services

The RMC has recently announced at its website that with effect from 1 January, 2010, service tax will be levied on all taxable services, subject to specific exclusions as prescribed in Group G, Second Schedule to the Service Tax Regulations 1975.

Service tax will be levied on consultancy and management services rendered in connection with goods or land situated in Malaysia or other matters relating to Malaysia; including services rendered to foreigners outside Malaysia.

The announcement can be viewed at the website of the RMC at <http://www.customs.gov.my/index.php/en/component/content/article/187-berita-terkini/288-qexported-taxable-serviceq-perkhidmatan-yang-kena-dibayar-cukai-yang-dieksportkan>.

CONTINUING PROFESSIONAL DEVELOPMENT

1. Workshop: Investment Incentives

8 CPD Points

Date/Venue : 13 January 2010, Impiana Casuarina Ipoh
27 January 2010, Renaissance Hotel, Malacca
Time : 9.00 am – 5.00 pm
Speaker : Mr Sivaram Nagappan

Course Contents

- Pioneer Status and Investment Allowances
- Infrastructure Allowance
- Reinvestment Allowances
- Incentives for Approved Services Projects
- Double Deductions
- Promotion of Exports
- Pre-package Incentive on Approved Business
- Group Relief for Losses
- Accelerated Capital Allowances
- Research and Development
- Venture Capital Companies (VCC)
- Operational Headquarters (OHQ)
- International Procurement Centre (IPC)
- Regional Distribution Centre (RDC)
- Latest Updates

2. Evening Talk: Real Property Gains Tax (RPGT)

(in collaboration with ACCA Malaysia)

3 CPD Points

Date : 18 January 2010
Time : 4.00 pm – 7.00 pm
Venue : Park Royal Hotel, Jalan Sultan Ismail, Kuala Lumpur

<u>Time</u>	<u>Programme</u>
3.30 pm	Registration & Refreshments
4.15 pm	Chairman's Welcoming Speech Ms Seah Siew Yun Council Member, Chartered Tax Institute of Malaysia
4.30 pm	Latest Updates on Real Property Gains Tax Speaker : Mr Yee Wing Peng Executive Director, Deloitte KassimChan Tax Services Sdn Bhd
5.15 pm	The Impact of 5% RPGT on Property Market in Malaysia Speaker : Y Bhg Datuk Ng Seing Liong PJN, J.P. President, Real Estate and Housing Developers' Association Malaysia (REHDA)

- 6.00 pm **Panel Discussion & Question and Answer Session**
Panelists:
• Mr Yee Wing Peng
• Y Bhg Datuk Ng Seing Liong PJN, J.P.
• Representative from the Inland Revenue Board of Malaysia (to be confirmed)
- 7.00 pm End of the session

3. Evening Talk: Withholding Tax on Section 4(f) Income – Practical and Legal Perspectives 2 CPD Points

Date : 25 January 2010
Time : 4.00 pm – 6.00 pm
Venue : Equatorial Hotel, Jalan Sultan Ismail, Kuala Lumpur

- | <u>Time</u> | <u>Programme</u> |
|-------------|--|
| 4.00 pm | Registration & Refreshments |
| 4.15 pm | Chairman's Welcoming Speech
Dr Veerinderjeet Singh
President, Chartered Tax Institute of Malaysia |
| 4.20 pm | Section 4(f) Income – From the Tax Perspectives <ul style="list-style-type: none"> ▪ Scope of Section 4(f) income with practical examples ▪ Derivation, withholding tax rate and compliance ▪ Practical issues and pitfalls for Malaysian payers ▪ Issues relating to Malaysian branch of a non-resident company receiving Section 4(f) income <u>Speaker:</u>
Mr Tang Chin Fook
Managing Director, Mazars Taxation Services Sdn Bhd (formerly known as Moores Rowland Taxation Services Sdn Bhd) |
| 5.00 pm | Section 4(f) Income – From the Legal Perspectives <ul style="list-style-type: none"> ▪ Case laws dealing with Section 4(f) income ▪ Section 4(f) versus Double Taxation Agreement("DTA") <u>Speaker:</u>
Mr Anand Raj
Advocate & Solicitor, Shearn Delamore & Co |
| 5.30 pm | Panel Discussion & Question and Answer Session
Dr Veerinderjeet Singh
Mr Tang Chin Fook
Mr Anand Raj
Mr SM Thanneermalai |
| 6.00 pm | End of the Session |

4. Half-day Workshop: Entertainment Expenses & Benefits-In-Kind

Date : 26 January 2010
Time : 9.00 am – 1.00 pm
Venue : Equatorial Hotel, Jalan Sultan Ismail, Kuala Lumpur
Speaker : Lim Gim Kim

<u>Time</u>	<u>Programme</u>
8.30 am	Registration
9.00 am	A better understanding of Entertainment Expenses
10.15 am	Question & Answer Session
10.45 am	Refreshments
11.45 am	A better understanding of Benefits-in-Kind
12.30 pm	Question & Answer Session
1.00 pm	End of the Programme

Note: Kindly refer to the attached brochures for details and registration forms.

Please logon to www.ctim.org.my for the latest update on the events or contact CPD Secretariat, Ms Latha/Ms Ally/Ms Nur at 03-2162 8989 ext 108/113/106 for further information. Alternatively, you can email your enquiries to cpd@ctim.org.my.

For queries or feedback on the CTIM e-circular, please email secretariat@ctim.org.my.

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e-CIRCULAR TO MEMBERS
CHARTERED TAX INSTITUTE OF MALAYSIA (225750-T)
(formerly known as Malaysian Institute of Taxation)

e-CTIM No. 3/2010

27 January 2010

TO ALL MEMBERS

TECHNICAL

- 1. Manual filing of return forms C and R for companies with financial year ending 30 June 2009 - Grace period of 14 days.**

CTIM has received a verbal confirmation from the Inland Revenue Board Malaysia (IRBM) that a grace period of fourteen (14) days has been granted for the manual filing of the Forms C and R for companies with financial year ending 30 June 2009.

For queries or feedback on the CTIM e-circular, please email secretariat@ctim.org.my.

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e-CTIM No.4/2010

27 January 2010

TO ALL MEMBERS

TECHNICAL

JOINT TAX WORKING GROUP ON FINANCIAL REPORTING STANDARDS (JTWG-FRS)

Please be informed that following the establishment of the Joint Tax Working Group on Financial Reporting Standards (JTWG-FRS), the JTWG-FRS has reviewed the following Financial Reporting Standards (FRS) and has circulated to members for comments the draft Discussion Papers on tax implications related to the implementation of the FRS:

FRS 2	Share-based Payment
FRS 5	Non-Current Assets Held for Sale and Discontinued Operations
FRS 102	Inventories
FRS 116	Property, Plant and Equipment
FRS 117	Leases
FRS 121	The Effects of Changes in Foreign Exchange Rates
FRS 139	Financial Instruments: Recognition and Measurement
FRS 140	Investment Property

The JTWG-FRS has now finalised the Discussion Papers and is pleased to issue them for members' information which can be downloaded from the Institute's website at http://www.ctim.org.my/technical_pracstatement.asp.

The JTWG-FRS will be having dialogues with Tax Authorities on the tax implications highlighted in the Discussion Papers. Members will be informed of the outcome in due course.

Please be guided accordingly.



ANN VONG
Executive Director

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e-CTIM No.5/2010

29 January 2010

TO ALL MEMBERS

TECHNICAL

**1. Exemption of statutory income from forest plantation project.
Income Tax (Exemption) (No. 10) Order 2009. [P.U. (A) 473/2009]**

With effect from 21 May 2003, the statutory income from an approved forest plantation project of a resident Malaysian company is exempted from income tax for a period of 10 consecutive years. In the case of an expansion of the approved project, the exempt period is 5 years.

Prior year adjusted losses, and adjusted losses incurred during the exempt years of assessment shall be carried forward and deducted against the statutory income of the project in its post-exempt years of assessment until the whole amount of the adjusted loss to which it is so entitled, has been utilised.

Applications for the approved project or the expansion project is to be made to the Minister, through the Minister charged with the responsibility for that project, on or after 21 May 2003 but not later than 31 December 2011.

2. Exemption of statutory income from forest plantation project for a company that has surrendered its adjusted loss to a related company. Income Tax (Exemption) (No. 11) Order 2009 [P.U.(A) 474/2009]

With effect from 21 May 2003, where a resident Malaysian company has surrendered (in full or in part) its adjusted loss in respect of its forest plantation project to one or more of its (Malaysian resident) related companies (referred to as claimant companies), it shall qualify for an exemption under this order. The first mentioned company is eligible for exemption from payment of income tax in relation to the statutory income of the forest plantation project for a period of 10 consecutive years of assessment, commencing from the first year of assessment in which the said company derived statutory income from that project.

The adjusted losses surrendered shall be allowed as a deduction against the aggregate income of the claimant company pursuant to Section 44(1) of the Act. The relevant provisions include the following:

- (i) any adjusted loss not surrendered in any year of assessment shall not be available to any claimant company for any subsequent year of assessment; and
- (ii) any adjusted loss that is not surrendered prior to and during the exempt years of assessment shall be carried forward and deducted against the statutory income of the project in its post-exempt years of assessment until the whole amount of the adjusted loss is utilised.

The application to undertake the forest plantation project is to be made to the Minister, through the Minister charged with the responsibility for that project, on or after 21 May 2003 but not later than 31 December 2011

3. Income Tax (Deduction for Investment in an Approved Forest Plantation Project) Rules 2009 [P.U.(A) 475/2009]

Under these Rules, a related company means a resident company incorporated under the Companies Act 1965 which expended the investment in undertaking a forest plantation project, and is exempted under the Income Tax (Exemption) (No.11) Order 2009; and a qualifying company means a resident company incorporated under the Companies Act 1965 which directly owns 100% of the ordinary paid-up share capital of the related company prior to 11 September 2004, or 70% or more of the ordinary paid-up share capital of the related company on or after 11 September 2004

These rules apply to the first forest plantation project (undertaken by a related company), the application for which has been made to the Minister, through the Minister charged with the responsibility for the project on or after 21 May 2003 but not later than 31 December 2011.

In ascertaining the adjusted income of a qualifying company, a deduction is allowed for the value of investment in a forest plantation project (solely for financing purposes, and in the form of cash or paid-up ordinary shares of the related company) on the date the investment is made. Any investment made prior to the commencement of the project shall be deemed to have been incurred on the date the project commenced. Some conditions have been included with regard to disposal of the investment.

The deduction shall cease to apply to the qualifying company in the basis period for a year of assessment in which the related company has its first statutory income.

4. Second addendum to Public Ruling on withholding tax on special classes of income

The Institute would like to inform that the *Second Addendum to Public Ruling No. 4/2005 on withholding tax on special classes of income* has been issued on 4 January 2010. The addendum gives clarification on the change in the tax treatment of specific matters, including derivation of special classes of income; reimbursements or disbursements on hotel accommodation; and income or fees received by providing technical advice or training in specific fields.

Members may view the addendum on the IRB's website at <http://www.hasil.gov.my/lhdnv3e/documents/KetetapanUmum/2005/Second%20Addendum%20PR4-2005%204.1.2010.pdf> or at the website of the Institute at http://www.ctim.org.my/technical_techdev_direct.asp

5. Real Property Gains Tax Act (Exemption) (No. 2) Order 2009. [P.U. (A) 486/2009]

This order exempts any person from the payment of Real Property Gains Tax on the chargeable gains in respect of any disposal of a chargeable asset on or after 1 January 2010 where the disposal is made after five years from the date of acquisition of such chargeable asset.

Where the disposal of a chargeable asset is made within five years from the date of acquisition of such chargeable asset, the exemption is the same as that provided in the formula found in the Real Property Gains Tax Act (Exemption) Order 2009. [P.U. (A) 376/2009] dated 27 October 2009. Please refer to e-CTIM No.52 of 2009 dated 29 October 2009.

With this exemption order, which became operational on 1 January 2010, the Real Property Gains Tax Act (Exemption) (No. 2) Order 2007. [P.U. (A) 146/2007] and the Real Property Gains Tax Act (Exemption) (No. 2) Order 2009. [P.U. (A) 376/2009] are revoked.

Clarification provided in the Finance Act 2010 (Act 702)

6. Clarification on scope of chargeability, and the rebate in respect of the chargeable income, of a knowledge worker in Iskandar Malaysia

Part XIV (1) and 2(b) of Schedule 1 has been amended to clarify the scope / source pertaining to the chargeable income, while section 6A(2)(c) has been amended to state that the *thirty five thousand ringgit* shall consist of chargeable income from all sources.

7. Amendment of section 60I

- a) The definition of "Islamic securities" has been extended to include securities approved by LOFSA. Previously, it applied only to securities approved by the SC.

The definition of "special purpose vehicle" has been extended to a company incorporated under the Labuan Offshore Companies Act, 1990 which has made an election under section 3A of the Labuan Offshore Business Activity Act 1990; and the exclusion also takes into account asset-backed securities approved by LOFSA.

CONTINUING PROFESSIONAL DEVELOPMENT

1. Workshop: Investment Incentives

8 CPD Points

Date/Venue : 9 February 2010, Mutiara Hotel, Johor Bahru
Time : 9.00 am – 5.00 pm
Speaker : Mr Sivaram Nagappan

Course Contents

- Pioneer Status and Investment Allowances
- Infrastructure Allowance
- Reinvestment Allowances
- Incentives for Approved Services Projects
- Double Deductions
- Promotion of Exports
- Pre-package Incentive on Approved Business
- Group Relief for Losses
- Accelerated Capital Allowances
- Research and Development
- Venture Capital Companies (VCC)
- Operational Headquarters (OHQ)
- International Procurement Centre (IPC)
- Regional Distribution Centre (RDC)
- Latest Updates

MEMBERSHIP SERVICES

KIND REMINDER FOR OUTSTANDING MEMBERSHIP SUBSCRIPTION

We will be most grateful if you could kindly settle your membership subscription fee for 2010 at your earliest convenience .

EVENT SUPPORTED BY CTIM

National Conference on GST: Roadmap to Malaysia New Taxation organized by Institute Sultan Iskandar , Universiti Teknologi Malaysia.

Objective: Understanding the Compliance Requirement and Implementation of Goods and Services Tax (GST) in Malaysia.

Date : 22 February 2010

Venue : Best Western Premier Seri Pacific Hotel, Kuala Lumpur

Time : 8.00 am – 4.45 pm

CTIM members who register for the Conference will enjoy a preferential rate of registration fee of RM550 for the conference. For further information on the conference programme and registration details, please click <http://www.ctim.org.my/pdf/PPTVIEW.pdf>

For queries or feedback on the CTIM e-circular, please email secretariat@ctim.org.my.

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e-CTIM No.6/2010

5 February 2010

TO ALL MEMBERS

TECHNICAL

1. New RPGT forms available for disposal of real properties and shares in a real property company on or after 1 January 2010

With the recent amendments to the Real Property Gains Tax (RPGT) Act, 1976, the Inland Revenue Board (IRB) has introduced a new set of RPGT forms for disposals and acquisitions of chargeable assets on or after 1 January 2010. The set of forms consists of the following:

- i. RPGT 1A Disposal of real properties;
- ii. RPGT 1B Disposal of shares in a real property company;
- iii. RPGT 2A Acquisition of real properties or shares in a real property company;
- iv. RPGT 3 Notice for obtaining information pertaining to a chargeable asset; and;
- v. Declaration Form for election for tax exemption (in respect of private residence) under paragraph 9 Schedule 3 of RPGT Act 1976.

Members may view the forms at the website of the IRB at
<http://www.hasil.gov.my/lhdnv3/index.jsp?process=8000&categoryText=&isDisplayRightSide=false&category=8&tahunTaksiran=->

2. Guidelines on tax exemption of grants and subsidies, and income of statutory bodies.

The IRB has issued the above guidelines on 26 January 2010 to explain the operation of Income Tax (Exemption) (No.4) Order 2003 [P.U.(A) 33/2003] and Income Tax (Exemption) (No.22) Order 2006 [P.U.(A) 207/2006].

Treatment of subsidies and grants

- i. Under Income Tax (Exemption) (No.4) Order 2003 [P.U.(A) 33/2003], effective from years of assessment 2002 to 2005,
 - a. subsidies and grants are exempt from tax at the statutory income level;
 - b. expenditure financed by the subsidies and grants are allowed a deduction under Section 33(1) of the Income Tax Act 1967 (ITA); and
 - c. expenditure, incurred on acquisition of plant and machinery financed by the subsidies and grants, qualify for capital allowances under Schedule 3(1) of ITA.
- ii. Under Income Tax (Exemption) (No.22) Order 2006 [P.U.(A) 207/2006], effective from year of assessment 2006,
 - a. subsidies and grants are exempt from tax at the gross income level;
 - b. expenditure financed by the subsidies and grants are not eligible for a deduction under Section 33(1) of the ITA;

- c. capital expenditure, on plant and machinery financed by the subsidies and grants, do not qualify for capital allowances under Schedule 3(1) of ITA; and
- d. Subsidies and grants are exempt from tax in the basis period in which they are received, or in the basis period in which expenditure financed through the subsidies and grants, is incurred.

It is noted that the IRB did not comment on the impact of the decision in the Court of Appeal case *Ketua Pengarah Hasil Dalam Negeri v Perbadanan Kemajuan Ekonomi Negeri Johor* (2009).

Tax exemption of income of a statutory authority

The IRB has clarified that

- a. a statutory authority is defined as "any authority or body established by or under a written law (not being an authority or body established by or under the Companies Act 1965 [Act 125],...) to discharge any functions of a public nature, including the provision of public utility and similar services"; and
- b. the tax treatment of the income of a statutory authority is the same as that of subsidies and grants received from a federal or state government.

Members may view the guidelines on the IRB's website at http://www.hasil.gov.my/lhdnv3/documents/maklumat_terkini/GARIS%20PANDUAN%20-%20GERAN.pdf or at the Institute's website at http://www.ctim.org.my/technical_techdev_direct.asp

3. Income Tax (Renovation or Refurbishment Expenditure) Rules 2010 [P.U.(A) 20/2010]

Pursuant to the proposal under the Second Stimulus Package, the Minister has made the above rules, wherein are specified expenditure incurred on renovation and refurbishment which qualify for accelerated capital allowance at the rate of 50%. These rules are effective from years of assessment 2009 to 2011.

The items listed in the Rules are similar to those listed in the Guidelines for Mini Budget 2009, except for expenditure incurred on prayer facilities, and electrical wiring, which have been excluded from the Rules. It is to be noted that designer fees and professional fees do not qualify for the 50% rate.

Members are advised to refer to item 3 of the *Guidelines on 2009 Mini Budget* for a better understanding of the law. The Mini Budget Guidelines are available at the IRB's website at http://www.hasil.gov.my/lhdnv3/documents/budget/Garis_Panduan_Mini_Bajet_2009.pdf.

CONTINUING PROFESSIONAL DEVELOPMENT

1. Workshop: Submission of Returns 2009

8 CPD Points

Date/Venue : 22 February 2010, Melia Hotel, Kuala Lumpur
 Time : 9.00 am – 5.00 pm
 Speaker : Mr Vincent Josef

COURSE CONTENTS:

- Estimates and Payment of Tax: A Reminder
- Choice of Submission Mode – Hard-copy or E-filing?
- Completion of Return Form BE and B

- i. Personal particulars
 - ii. Income Details
 - iii. Claims and Reliefs
 - iv. Computation of Liability
 - v. Details of Accounts
 - vi. Affirmation of Declaration
 - vii. Deadlines for Submission
 - viii. Payment of Taxes Due/Claim for Excess Taxes Paid
 - ix. Offences and Penalties
- Supporting Documents
 - i. Maintenance of Records
 - ii. Retention of Records
 - Companies:
 - i. Who are responsible?
 - ii. Estimates and Payment of Instalments
 - iii. Impact of Section 75A and Section 104
 - Employers
 - i. Remuneration Categories
 - ii. Exempt Income and Benefits
 - iii. What is the new Schedular Tax Deductions Approach?
 - iv. The new STD Formula
 - v. Completion of Form E and EA
 - vi. Deadlines for Submission and Rendering
 - Highlights of 2010 Budget
 - General: A Quick Look at:
 - i. The Single Tier Tax System
 - ii. Transfer pricing
 - iii. Tax Audits and Investigations

2. Workshop: Analysis of Recent Tax Cases, Construing Court Decisions & Managing Tax Appeals Efficiently

8 CPD Points

Date/Venue : 24 February 2010, Equatorial Hotel, Kuala Lumpur
 Time : 9.00 am – 5.00 pm
 Speaker : Mr Saravana Kumar

COURSE CONTENTS:

Part 1: Recent Tax Cases by the Special Commissioners of Income Tax

Part 2: Recent Tax Cases by the High Court & Court of Appeal

Part 3: The Techniques of Construing Court Decisions and Reading Judgments

Part 4: Managing Tax Appeals Efficiently

3. **2010 Budget Seminar (RE-RUN)**

10 CPD Points

CTIM is organising a special seminar on the 2010 Budget for members and practitioners who could not attend last year's CTIM Budget Seminar. Those who were unable to attend the Budget seminar last year should grab this opportunity to attend the coming seminar.

Date : 22 March 2010
Time : 9.00 am – 5.00 pm
Venue : Equatorial Hotel, Kuala Lumpur

4. **Seminar: Highlights of the Leading Tax Cases in 2009: Discerning the Judicial Mood in Interpreting Tax law**

8 CPD Points

Date : 9 March 2010
Time : 9.00 am – 5.00 pm
Venue : Park Royal Hotel, Kuala Lumpur

Topics and Speakers:

▪ ***Kerajaan Malaysia v Neraca Untung Sdn Bhd Rayuan Sivil W-01-1-2005 (Court of Appeal)***

- Analysis of Section 145 of the ITA 1967: The service of a notice of assessment

Speaker:

Mr Andrew Davis
Partner, Issacs & Davis

▪ ***SE&TM Sdn Bhd v Ketua Pengarah Hasil Dalam Negeri (Rayuan No. PKCP(R) 14/2008***

- Whether the IRB may restrict reinvestment allowance to production area only?

Speaker:

Datuk D.P. Naban
Senior Partner, Lee Hishammuddin Allen & Gledhill

▪ ***RPC Shares / Para 34A of Schedule 2 to the Real Property Gains Tax Act, 1976***

- KPHDN v Binastra Holding Sdn Bhd
- KPHDN v Casio Computer Co. Ltd

▪ ***Sec 91(1) of the Income Tax Act, 1967 - Disallowance of capital allowances brought forward from "time barred periods"***

- PKCP (R) 9/2008

Speaker:

Mr Vijey M Krishnan
Partner, Raja, Darryl & Loh

▪ ***Fairy Tales & Nightmares in Tax Disputes***

Speaker:

Mr Anand Raj
Partner, Shearn Delamore & Co.

▪ ***Judicial Review in the Tax Field***

- Ta Wu Realty Sdn Bhd v Ketua Pengarah Hasil Dalam Negeri & Anor [2009] 1 MLJ 555.

Speaker:

Mr Sudharsanan Thillainathan
Partner, Shook Lin & Bok

5. **Seminar: Goods & Services Tax – “The Way Forward”**

8 CPD Points

Date : 15 March 2010
Time : 9.00 am – 5.00 pm
Venue : Park Royal Hotel, Kuala Lumpur

Topics and Speakers:

▪ ***The rationale and latest development on the Goods and Services Tax (GST) Bill***

Speaker:

YBhg Dato' Kamariah bt Hussain (*invited*)
Chairman, Tax Review Panel, Ministry of Finance Malaysia

▪ ***Laying the Foundation***

Speaker:

Mr Ronnie Lim
Managing Director, Deloitte KassimChan Tax Services Sdn Bhd

▪ ***Getting ready! – What need to be considered by businesses on GST***

Speaker:

Mr Raja Kumaran
Executive Director, PricewaterhouseCoopers Tax Services Sdn Bhd

▪ ***Comments on GST Bill***

Speaker:

Mr Bhupinder Singh
Executive Director, Ernst & Young Tax Consultants Sdn Bhd

▪ ***Special schemes for GST***

Speaker:

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MEMBERSHIP SERVICES – LATEST UPDATE

Please be informed that the amendments to the Institute's Articles of Association that were approved at the last AGM on 13 June 2009, have been approved by the Minister and that starting with **immediate effect**, all members are to use the following designatory letters behind their names, i.e.

- **FCTIM** for a Fellow Member
- **ACTIM** for an Associate Member

The approved amendments to the Institute's Articles of Association are:

Article 20(6)

A Member, who is engaged in public practice service, must hold a valid practising certificate issued by the Institute. The Council shall determine the regulations and requirements relating to practising certificates.

Article 21

Any Member of the Institute so long as he remains a Member may use after his name in the case of a Fellow Member, the designatory letters FCTIM and in the case of an Associate Member, the designatory letters ACTIM or any other designatory letters as the Council and the Institute may determine.

Article 21(A)

The Council may give recognition and grant the right to use certain descriptions to a Member of the Institute who has met the requirements imposed by the Council.

EVENT SUPPORTED BY CTIM

National Conference on GST: Roadmap to Malaysia New Taxation organized by Institute Sultan Iskandar , Universiti Teknologi Malaysia.

Objective: Understanding the Compliance Requirement and Implementation of Goods and Services Tax (GST) in Malaysia.

Date : 11 February 2010

Venue : Best Western Premier Seri Pacific Hotel, Kuala Lumpur

Time : 8.00 am – 4.45 pm

CTIM members who register for the Conference will enjoy a preferential rate of registration fee of RM550 for the conference. For further information on the conference programme and registration details, please click <http://www.ctim.org.my/pdf/GST2010-CTIM.pdf>

For queries or feedback on the CTIM e-circular, please email secretariat@ctim.org.my.

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e-CTIM No.7/2010

17 February 2010

TO ALL MEMBERS

TECHNICAL

Direct Taxation

1. Guidelines on Real Property Gains Tax (RPGT)

With effect from 1 January 2010, the Real Property Gains Tax (Exemption) (No. 2) Order 2007 has been revoked. To enhance the quality of compliance, the Inland Revenue Board (IRB) has issued guidelines on 2 February 2010 to clarify issues related to the new RPGT requirements in respect of acquisitions or disposals of chargeable assets made on or after 1 January 2010. Members may download the guidelines from the website of the IRB at http://www.hasil.gov.my/lhdnv3/documents/maklumat_terkini/Garis%20Panduan%20CKHT.pdf or view the guidelines on the Institute's website at http://www.ctim.org.my/technical_techdev_direct.asp.

2. Procedures for application of certificate of tax residence status

The IRB has uploaded the above on its website at http://www.hasil.gov.my/lhdnv3e/documents/sorotan/CERTIFICATE_OF_RESIDENCE.pdf. Members may also view the document on the website of the Institute at http://www.ctim.org.my/technical_techdev_direct.asp

3. Minutes of Filing Programme Working Group Meeting (DESIRE) 05-2009

The minutes of the meeting which was held on 16 December 2009 are available on the Institute's website at http://www.ctim.org.my/technical_techdev_direct.asp.

4. Income Tax (Deductions for Contribution to Retirement Fund) Rules 2010 [P.U. (A) No.31/2010]

These rules (effective from the year of assessment 2003) relate to a member of the public service who has been seconded to serve in a company incorporated under the Companies Act 1965. Under these rules, in ascertaining the adjusted income of the business of the company, a deduction is allowed in respect of the contribution made to a retirement fund established under the Retirement Fund Act 2007.

5. Availability of e-filing of tax returns from 1 March 2010

The Inland Revenue Board has informed the Institute that the e-filing facility for non-company income tax returns will be available from 1 March 2010 onwards.

6. **Grace period (for manual/paper filing of return forms) reduced from fourteen days to seven days, with effect from year of assessment 2010 for March and December year-ends.**

In an attempt to get taxpayers to be more disciplined with regard to the filing of income tax returns, the IRB has announced that, with effect from year of assessment 2010, the grace period (of fourteen days) which is currently available to companies with March and December year-ends will be reduced to seven days. With this information, it is hoped that taxpayers will be adequately forewarned.

Indirect Taxation

7. **Customs – Minutes of Customs Private Sector Consultative Panel Meeting (CPSCP) 01-2010**

The minutes of the CPSCP meeting held on 15 January 2010 are available on the Institute's website at http://www.ctim.org.my/technical_techdev_direct.asp

PUBLIC PRACTICE

8. **Mandatory online application and renewal of tax agent licence from 1 July 2010 onwards.**

Currently, electronic application for, and renewal of a tax agent's licence is available on the Ministry of Finance (MOF)'s website. Applicants may check the status of their application online, and while doing so, are advised to update their email addresses. Currently, applications for and renewal of tax agent's licence may be done electronically, or manually.

With effect from 1 July 2010, all applications for, and renewals of a tax agent's licence must be done electronically.

CONTINUING PROFESSIONAL DEVELOPMENT (CPD)

PREMIER TAX EVENT OF THE YEAR

2010 NATIONAL TAX CONFERENCE

"DRIVING TOWARDS A HIGH INCOME ECONOMY"

6 & 7 July 2010

(Tuesday & Wednesday)

Kuala Lumpur Convention Centre

Official Opening by

YAB Dato' Sri Mohd Najib bin Tun Haji Abdul Razak
Prime Minister/Finance Minister of Malaysia (*invited*)

2010 National Tax Conference (NTC)

The 2010 National Tax Conference, jointly organised by the Lembaga Hasil Dalam Negeri Malaysia (LHDNM) and the Chartered Tax Institute of Malaysia (CTIM) for the 10th successive year, is an important event in the calendar of chief executive officers, tax leaders and practitioners, finance professionals, academicians and business leaders. With an extensive team of speakers comprising tax professionals and top leaders in various industries, the 2010 NTC is indeed the pre-eminent tax conference in Malaysia. The conference provides excellent opportunities for participants to network with LHDNM officials, tax professionals and business leaders.

Objectives

- Get updates on the Malaysian economic situation
- Understand the impact of GST
- Get information on the latest tax cases
- Learn from the OECD's experience on thin capitalisation issues

Who Should Attend?

- CEOs/CFOs
- Tax Directors/Professionals/Consultants/Managers/Agents
- Financial Controllers/Finance Directors/Finance Managers
- Academicians
- Business Leaders

25 CPD POINTS

Organised by



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e-CTIM No.08/2010

4 March 2010

TO ALL MEMBERS

TECHNICAL

1. Income Tax - Programme for filing of return forms for 2010

The Inland Revenue Board (IRB) has issued the filing programme for 2010 recently. In connection with this, some related matters, which were discussed at the Operations Dialogue on 8 February 2010 between the Inland Revenue Board (IRB) and the professional taxation/accounting bodies, and deemed appropriate, have been included here.

The last date for filing of return forms is:

- 30 April 2010 for taxpayers with non-business income source(s); and
 - 30 June 2010 for taxpayers with (a) business source(s).
- a) The e-filing system for return forms BE, B, M, E and P for year of assessment 2009 is available from 1 March 2010 onwards.
- b) Grace period for manual submission of return forms by post, in particular:
- Forms C, R, C1, TA, TC and TR for the year of assessment 2010.
 - Forms BE, B, E, M, P, TP, TJ and TF for the year of assessment 2009
- (i) A grace period is given for manually filed return forms C and R received through the post. For companies with financial year-ends 30 Jun 2009, and 31 December 2009, the grace period is fourteen (14) days; whereas for companies with financial year-ends 31 January 2010 and 31 March 2010, the grace period is seven (7) days.
- (ii) These grace periods are also applicable to the payment of outstanding taxes under subsection 103(1), ITA, and any debt owing under the Saving and Transitional Provisions of Finance Acts 2007 and 2009.
- c) Application for extension of time for (manual) filing of (paper) return forms
- (i) The IRB has stated that the above application must be received by the IRB within fifteen (15) days before the *due date for filing*, and must be accompanied by strong reasons.
- (ii) The application will be considered based on the merits of each case.
- (iii) The approved extension of time will not apply to payment of outstanding taxes under subsection 103(1), ITA, and any debt owing under the Saving and Transitional Provisions of Finance Acts 2007 and 2009. Any payment due must be made before or on the *due date for filing* of the return.
- d) Employer Return Form E 2009 must be submitted by 31 March 2010. A grace period of seven (7) days is also available for manually filed forms received through the post. A

request for extension of time is allowed for manual filing. The same conditions, as for Forms C & R, apply.

- e) Tax agents are not allowed to use the PDF version of tax return forms with effect from year of assessment 2009.
- f) There is no need to submit original dividend vouchers together with the return forms for repayment cases. However, the taxpayer has to submit Attachment B1/Worksheet HK-3 to support the claim.

2. Form C.P. 8D

Guidelines have been provided for the submission of form C.P. 8D using Microsoft EXCEL.

3. Real Property Gains Tax

Details have been provided in the filing programme for the use of the relevant forms.

Members may view the details of filing programme on the website of the Institute at http://www.ctim.org.my/technical_techdev_direct.asp or on the website of the IRB at http://www.hasil.gov.my/lhdnv3/documents/maklumat_terkini/Program%20Memfailkan%20Borang%20Tahun%202010.pdf.

4. Acts which have recently come into force.

- Labuan Limited Partnerships And Limited Liability Partnerships Act 2010 (Act 707)
- Labuan Foundations Act 2010 (Act 706)
- Labuan Islamic Financial Services And Securities Act 2010 (Act 705)
- Labuan Financial Services And Securities Act 2010 (Act 704)

These Acts provide the framework for the setting up of new structures i.e. the Labuan Foundations, Labuan Limited Partnerships and Labuan Limited Liability Partnerships as well as the introduction of changes to the Labuan Islamic Financial Services and Securities, designed to reflect the developments in the global financial services sector.

5. Request for 2011 Budget Proposals

CTIM is preparing a memorandum on issues to be considered for the National Budget for 2011. This memorandum is to be submitted to the Ministry of Finance (MOF).

We invite members to submit views and suggestions on any proposals to be considered. Please include your rationale for all proposals or suggestions that you feel should be incorporated in the memorandum. The Technical and Public Practice Committee will review all suggestions and proposals and where appropriate, include them in the memorandum for submission to the MOF.

Members are requested to submit all views and proposals on any issue to be considered together with the rationale for the proposals and/or suggestions not later than **25 March 2010**. Please submit all proposals to kslim@ctim.org.my or fax to the Institute at 03-2162 8990.

CONTINUING PROFESSIONAL DEVELOPMENT (CPD) PROGRAMMES

1. Seminar: Highlights of the Leading Tax Cases in 2009: Discerning the Judicial Mood in Interpreting Tax law

8 CPD Points

Date : 9 March 2010
Time : 9.00 am – 5.00 pm
Venue : Park Royal Hotel, Kuala Lumpur

Topics and Speakers:

▪ ***Kerajaan Malaysia v Neraca Untung Sdn Bhd Rayuan Sivil W-01-1-2005 (Court of Appeal)***

- Analysis of Section 145 of the ITA 1967: The service of a notice of assessment

Speaker:

Mr Andrew Davis
Partner, Issacs & Davis

▪ ***SE&TM Sdn Bhd v Ketua Pengarah Hasil Dalam Negeri (Rayuan No. PKCP(R) 14/2008***

- Whether the IRB may restrict reinvestment allowance to production area only?

Speaker:

Datuk D.P. Naban
Senior Partner, Lee Hishammuddin Allen & Gledhill

▪ ***RPC Shares / Para 34A of Schedule 2 to the Real Property Gains Tax Act, 1976***

- KPHDN v Binastra Holding Sdn Bhd
- KPHDN v Casio Computer Co. Ltd

▪ ***Sec 91(1) of the Income Tax Act, 1967 - Disallowance of capital allowances brought forward from "time barred periods"***

- PKCP (R) 9/2008

Speaker:

Mr Vijey M Krishnan
Partner, Raja, Darryl & Loh

▪ ***Fairy Tales & Nightmares in Tax Disputes***

Speaker:

Mr Anand Raj
Partner, Shearn Delamore & Co.

▪ ***Judicial Review in the Tax Field***

- Ta Wu Realty Sdn Bhd v Ketua Pengarah Hasil Dalam Negeri & Anor [2009] 1 MLJ 555.

Speaker:

Mr Sudharsanan Thillainathan
Partner, Shook Lin & Bok

2. Seminar: Goods & Services Tax – "The Way Forward"

8 CPD Points

Date : 15 March 2010

Time : 9.00 am – 5.00 pm
Venue : Park Royal Hotel, Kuala Lumpur

Topics and Speakers:

▪ ***The rationale and latest development on the Goods and Services Tax (GST) Bill***

Speaker:

YBhg Dato' Kamariah bt Hussain (*invited*)
Chairman, Tax Review Panel, Ministry of Finance Malaysia

▪ ***Laying the Foundation***

Speaker:

Mr Ronnie Lim
Managing Director, Deloitte KassimChan Tax Services Sdn Bhd

▪ ***Getting ready! – What need to be considered by businesses on GST***

Speaker:

Mr Raja Kumaran
Executive Director, PricewaterhouseCoopers Tax Services Sdn Bhd

▪ ***Comments on GST Bill***

Speaker:

Mr Bhupinder Singh
Executive Director, Ernst & Young Tax Consultants Sdn Bhd

▪ ***Special schemes for GST***

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ONLINE SURVEY

Please find attached, the URL link

<http://inforec.uitm.edu.my/perseus/se.ashx?s=151C4C3D4044EBF5> to an online survey relating to "members' experience in filing their tax returns via the IRB's e-filing system in 2009". Kindly click on the attached link in order to complete the online survey.

This online survey is conducted by Cik Mazilena Tajuddin who is currently pursuing her Master in Business Administration (MBA) degree at the University of Technology MARA. She is carrying out her survey on members' experience in the use of the IRB's e-filing system in 2009. After the survey, a summarised article on the survey results will be sent to CTIM.

The Institute is supportive of tax research which is essential in developing any ideas for further improving the tax system in the country. As such, the Institute encourages members to complete

the survey by accessing the URL link attached above. All queries pertaining to the survey can be forwarded to mazilenataj@yahoo.com or laimingling@salam.uitm.edu.my.

Thank you.

REMINDER

Survey on Corporate Taxpayers Perception towards the Self Assessment System

We would like to appeal to those of you who have received the survey envelopes to distribute the envelopes to your corporate clients. Please remind your corporate clients to complete the survey and return it using the self-addressed reply-paid envelope. Kindly contact the researcher at khadijah.mohdisa@postgrad.curtin.edu.au if you have any enquiries.

Thank You.

For queries or feedback on the CTIM e-circular, please email secretariat@ctim.org.my.

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e-CTIM No.09/2010

12 March 2010

TO ALL MEMBERS

TECHNICAL

1. Income Tax – e-filing of return forms BE, B, M, P and E for the year 2009

The Inland Revenue Board has issued a press statement on 4 March 2010 with regard to the e-filing of tax return forms BE, B, M, P and E for the year 2009. Taxpayers are urged to e-file their return forms early to avoid the challenges normally faced when filing is done near the due filing date. A taxpayer who is e-filing for the first time must first apply for his/her personal identification number (PIN). This application may be done by emailing to pin@hasil.gov.my or by telephone to 1-300-88-3010. As for users who have forgotten their passwords for the e-filing system, they may call the helpline 03-4289 3535.

Members may view the press statement at the website of IRB at [http://www.hasil.gov.my/lhdnv3/documents/maklumat_terkini/Kenyataan%20Media%20e-filing%20%204%20Mac%202010%20pindaan .pdf](http://www.hasil.gov.my/lhdnv3/documents/maklumat_terkini/Kenyataan%20Media%20e-filing%20%204%20Mac%202010%20pindaan.pdf).

2. Service tax -- Customs Positive and Negative List for service tax

The Royal Malaysian Customs (RMC) has recently issued a revised "Positive and Negative List" for the purpose of service tax. Members may view the revised list at the website of the Institute at http://www.ctim.org.my/technical_techdev_indirect.asp or at the website of the RMC at <http://www.customs.gov.my/index.php/bm/component/content/article/193>

CROWE HORWATH IS RECRUITING A TAX MANAGER

Crowe Horwath is inviting suitably qualified candidates to apply for the position in their organization . Please click on [http://www.ctim.org.my/pdf/Horwath%20Recruitment%20\[31%20Tax%20Guardian%20210X297mm.pdf](http://www.ctim.org.my/pdf/Horwath%20Recruitment%20[31%20Tax%20Guardian%20210X297mm.pdf)

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MEMBERSHIP SERVICES

Minutes of the 17th AGM

We are pleased to inform you that the minutes of the 17th AGM held on 13 June 2009 has been uploaded onto CTIM's website at
[http://www.ctim.org.my/PDF/membership/general/17th%20AGM%20minutes%2013Jun09FINAL.p
df](http://www.ctim.org.my/PDF/membership/general/17th%20AGM%20minutes%2013Jun09FINAL.pdf)

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