

TECHNICAL

Direct Taxation

PUBLIC RULING NO.3/2015 ON FAILURE TO FURNISH INFORMATION WITHIN A STIPULATED PERIOD – SUMMARY OF CONTENTS

The above [Public Ruling \(PR\) No.3/2015](#) was published on 29 July 2015 and alerted in our [e-CTIM TECH-DT 58/2015](#) dated 31 July 2015.

The [PR](#) explains the application of S.39(1A) of the Income Tax Act 1967 (ITA), which took effect from the year of assessment (YA) 2014.

Important Definitions

Para. 3 of the [PR](#) explains the meaning of various terms used in the [PR](#), among which are the following:

Term	Meaning
Notice	a letter of notification issued to a taxpayer under S.81 of the ITA.
Corporation sole	has the ordinary meaning which refers to an office held from time to time by different individuals

The following table summarizes the contents of the [PR](#):

Heading (Para. No.)	Subject and Summary
<i>Application of S39(1A) (4)</i>	<ul style="list-style-type: none"> S.39(1A) of the ITA which was effective from YA 2014, provides that in ascertaining the adjusted income of a taxpayer, no deduction of expenses will be allowed if that person fails to comply with a notice issued by the DGIR under S.81 of the ITA which requires that person to furnish information in respect of such deduction claimed by the taxpayer, within a stipulated period or such extended time as may be allowed by the DGIR. Deduction will only be allowed if the records or documents that meet the requirements specified in the DGIR's notice are submitted. (Refer to Examples 1, 2 and 3)
<i>Provisions in ITA relating to furnishing 'information' (5 – 7)</i>	<ul style="list-style-type: none"> The DGIR is empowered to request for information from the taxpayer which may take the form of records and supporting documents consisting of : <ul style="list-style-type: none"> Books of accounts which record receipts and payments or income and expenditure; Invoices, vouchers, receipts and such other documents verifying entries in the books of accounts; Materials in electronic form which are convertible into written form. Documents should be retained in its original form if these documents are kept in a manual form and subsequently converted

	<p>into an electronic form; and</p> <ul style="list-style-type: none"> ○ Any other records or documents specified by the DGIR. • Every taxpayer has the duty to keep records and documents for the purpose of determining his chargeable income and tax payable. Such records must be kept for a period of 7 years from the end of the YA in which the return form is furnished (S.82 and S.82A). • In a tax audit case, a taxpayer will be required to provide supporting documents and records within the time period specified in a notice. Failure to comply within the stipulated period may result in disallowance of the expenses as provided under S.39(1A). • Application for extension of time must be made before the deadline to furnish the required information in the original notice expires, and extension may be granted if “the reason given is reasonable and acceptable.” If an application for extension of time is not made before the time specified in the notice expires or extension of time has been given but the taxpayer still fails to provide the records and documents requested by the DG, the expenses claimed will not be allowed for deduction. <p>(Refer to Examples 4, 5 and 6)</p>
<p>Consideration for “Circumstances not within control” (8)</p>	<ul style="list-style-type: none"> • Loss of documents and records as a result of natural disasters from fire, flood, theft, embezzlement of cash and so on are regarded as “circumstances beyond the control of the taxpayer.” However such occurrences must be proven by submitting documents such as newspaper clippings, photographs, police reports, other records from third parties, or other proofs that are appropriate and reasonable. • Taxpayer may refer to PR No. 4/2012 on “Deductions for Loss of Cash and Treatment of Recoveries” for the necessary supporting evidence for the loss of records or documents that are caused by theft or embezzlement of cash. • If the DGIR is satisfied that there is no other avenue for the taxpayer to submit the records and documents required by the DGIR, he may give consideration to allow the expenses claimed. <p>(Refer to Examples 7 and 8 for examples of documents that may be acceptable as proof of the loss of the documents required by the DGIR, depending on the circumstances of the case.)</p>

Members may view the PR at the [Institute website](#) and the [LHDNM website](#).

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