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Tarikh : 2 Februari 2015

Tetuan
Chartered Tax Institute of Malaysia
Unit B-13-1 (Unit 1-5), Block B
13th Floor, Megan Avenue II
No. 12, Jln Yap Kwan Seng
50450 Kuala Lumpur

Tuan,

JOINT MEMORANDUM TO INLAND REVENUE BOARD MALAYSIA ON ISSUES ARISING FROM 2015 BUDGET & FINANCE BILL (NO. 2) 2014 & OTHER TECHNICAL MATTERS

Dengan hormatnya saya merujuk surat tuan bertarikh 25 November 2014 berkenaan perkara di atas.

2. Dimaklumkan bahawa setelah penelitian dibuat, isu yang dibangkitkan di bawah Bahagian B Perkara 2 - *Other technical matters raised by the Institutes which have not been resolved* adalah merupakan perkara berbangkit antara pihak tuan dan Jabatan Dasar Percukaian, Lembaga Hasil Dalam Negeri Malaysia. Oleh yang demikian, maklum balas bagi item-item tersebut diberikan secara berasingan seperti yang dilampirkan bersama-sama surat ini.

3. Sehubungan itu, perkara bagi item 2.1 sehingga 2.15 ini tidak akan dibincangkan dalam mesyuarat Joint Memorandum On Issues Arsising From 2015 Budget & Finance Bill (No. 2) 2014 yang dijadualkan pada 4 Februari 2015.

Sekian, terima kasih.

"BERKHIDMAT UNTUK NEGARA"
"BERSAMA MEMBANGUN NEGARA"

Saya yang menurut perintah,

(NOR'AINI BT JA'AFAR)
Pengarah
Jabatan Dasar Percukaian
b.p. Ketua Pegawai Eksekutif/Ketua Pengarah Hasil Dalam Negeri
Lembaga Hasil Dalam Negeri Malaysia.

JOINT MEMORANDUM ON ISSUES ARISING FROM 2015 BUDGET & FINANCE BILL (NO.2) 2014 & OTHER TECHNICAL MATTERS

No.	Subject Matter	Date	Matters pending
PUBLIC RULINGS (PR)			
(2.1)	**JPRWG's comments on draft PR – Exemption of Income from Employment on Board a Ship dated 12 August 2013** • CTIM email to IRB Rulings Division	12 August 2013	Pending IRB's reply. **IRBM reply:** In progress.
(2.2)	**JPRWG's comments on draft PR – Private Retirement Scheme dated 16 May 2014** • CTIM email to IRB Rulings Division	16 May 2014	Pending IRB's reply. **IRBM reply:** PR 9/2014 dated 24 December 2014 issued
(2.3)	**JPRWG's comments on draft PR – Appeal against an assessment and application for relief dated 22 July 2014** • CTIM email to IRB Rulings Division	22 July 2014	Pending IRB's reply. **IRBM reply:** In progress.
(2.4)	**JPRWG's comments on:** **PR No. 1/2014 – Withholding Tax**	8 August 2014	Pending IRB's reply.

No.	Subject Matter	Date	Matters pending
	On Special Classes Of Income; and **PR No. 5/2014 – Ownership and Use Of Asset For The Purpose Of Claiming Capital Allowances** • CTIM email to IRB Rulings Division		**IRBM reply:** In progress.
(2.5)	**JPRWG's comments on draft PR – Basis period of a company, limited liability partnership, trust body and co-operative society dated 25 August 2014** • CTIM email to IRB Rulings Division	25 August 2014 & 16 October 2014	Pending IRB's reply. **IRBM reply:** PR 8/2014 published on 01 December 2014.
(2.6)	**IRB's reply to the JPRWG's comments on the draft PR – Qualifying Plant And Machinery For Claiming Capital Allowances dated 2 April 2014** • IRB Rulings Division's email to CTIM	4 September 2014	The revised draft PR issued to the JPRWG together with IRB's reply on 4 September 2014 did not address the JPRWG's comments on the note in example 10. **IRBM reply:** The PR is ready to be published soon.
(2.7)	**JPRWG's comments on draft PR – Special Allowances for Small Assets dated 23 September 2014**	23 September 2014	Pending IRB's reply. **IRBM reply:**

No.	Subject Matter	Date	Matters pending
	• CTIM email to IRB Rulings Division		PR 10/2014 published on 31 December 2014.
(2.8)	**JPRWG's comments on draft PR – Forest Allowances And Expenses Relating To Timber Extraction dated 23 September 2014** • CTIM email to IRB Rulings Division	23 September 2014	Pending IRB's reply. **IRBM reply:** PR 11/2014 published on 31 December 2014.
(2.9)	**JPRWG's comments on draft PR - Taxation Of Real Estate Investment Trusts / Property Trust Funds (second edition) dated 1 October 2014** • CTIM email to IRB Rulings Division	2 October 2014	Pending IRB's reply. **IRBM reply:** In progress.
OTHER MATTERS			
(2.10)	**Income Tax (Deduction for Cost of Acquisition of Foreign Owned Company) Rules 2013 [P.U.(A) 218 of 2013]** • CTIM letter to IRB Tax Policy Department	12 July 2013	Pending clarification from IRB on the definition of "Minister" in respect of the said Rules. **IRBM reply:** The definition of Minister in respect of the said Rules refers to Minister of Finance as the Rules are governed under Income

No.	Subject Matter	Date	Matters pending
			Tax Act 1967.
(2.11)	**Clarification required on the interpretation of Sub-Rule 7(d) of the Income Tax (Accelerated Capital Allowance) (Information and Communication Technology Equipment) Rules 2014 [P.U.(A) 217/2014]** • CTIM letter to IRB Tax Policy Department	8 October 2014	Pending action from the authorities. **IRBM reply:** Response has been given by IRBM on 10/11/2014.
MEMORANDUM			
(2.12)	**IRB's reply to CTIM Memorandum on Technical Issues dated 11 September 2013** • IRB letter to the Institutes	24 October 2013	(a) The following in the CTIM Memorandum on Technical Issues dated 11 September 2013 are pending the outcome of IRB's review: • No.2 – IBA claim on hotel building by REIT which is not the operator of the hotel. **IRBM reply:** Not eligible for IBA. • No.3 – Apportionment of actual loss from a property development/construction project. **IRBM reply:** Paragraph 10.6.4 of the Public Ruling No. 1/2009 of

No.	Subject Matter	Date	Matters pending
			the above issue is in order. • No.4(ii) – PR No. 1/2013 -- Deduction for Promotion of Export: Paragraph 6.2.1(c). **IRBM reply:** Amendment for PR No.1/2013 published on 29 December 2014. (b) Pending a draft PR to be issued to the JPRWG on the following in the CTIM Memorandum on Technical Issues dated 11 September 2013: • No.13 – Eligibility of Group Relief: o Guidance on the computation of "residual profits" and "residual assets". **IRBM reply:** Draft will be sent to JPRWG for comment.
(2.13)	**IRB's reply to Memorandum for Discussion on Issues Arising from 2013 Budget & Finance (No.2) Bill 2012 dated 16 November 2012** • IRB reply to the Institutes	28 October 2013	Pending the IRB's review of the relevant PRs in respect of the following in the Memorandum for Discussion on Issues Arising from 2013 Budget & Finance (No.2) Bill 2012 dated 16 November 2012: • No. 5(b) – Interest incidental to a business: o Whether interest in relation to a trade debt e.g. interest derived from the Housing Development Account should be assessed under S.4(a) of the ITA.

No.	Subject Matter	Date	Matters pending
			IRBM reply: Section 4B applies.
(2.14)	**IRB's reply to Supplementary Technical Issues for Dialogue with the IRB dated 17 February 2014** • IRB reply to the Institutes	21 March 2014	(a) Pending a draft PR to be issued to the JPRWG on the following in the Supplementary Technical Issues for Dialogue with the IRB dated 17 February 2014: • No. 1 – S.140B -- Special Provision Applicable to Loan or Advances to Director: b) Meaning of "Internal funds". d) Mixed funds. g) Meaning of loans and advances. **IRBM reply:** Draft will be sent to JPRWG for comment. (b) Pending legal advice sought by the IRB on the following issue in the Supplementary Technical Issues for Dialogue with the IRB dated 17 February 2014: • No. 1 – S.140B -- Special Provision Applicable to Loan or Advances to Director: c) Interaction with other laws: Whether the provisions of the Moneylenders Act 1951 were taken into consideration in coming up

No.	Subject Matter	Date	Matters pending
			with S.140B of the ITA as it would not be equitable if a company is forbidden by law to charge interest but is deemed to earn interest income for tax purposes. **IRBM reply:** Issue will be address in the draft PR. (c) Pending amendment to S.49(3) as commented in the following in the Supplementary Technical Issues for Dialogue with the IRB dated 17 February 2014:- • No. 2 – Tax Treatment for Relief on Contribution to Deferred Annuity. **IRBM reply:** Noted.
(2.15)	**Joint Memorandum to Ministry of Finance on issues arising from 2014 Budget & Finance Bill (No. 2) 2013** • CTIM letter to Tax Analysis Division, MOF	9 April 2014	Pending action from IRB on the following: • No. 2 – S.39(1A) -- Disallowance of Expense Due to Failure to Furnish Information on Time: o Written confirmation from IRB that such disallowance will be restricted to cases where the taxpayer deliberately withholds information.

No.	Subject Matter	Date	Matters pending
			IRBM reply: Will take consideration on all factors and will make a stand and further clarification in the PR. • No. 3 – S.77A(4) – Filing of Corporate Tax Returns Based on Audited Accounts: o Written confirmation from IRB that Section 77A(4) would not apply to companies under liquidation or receivership. **IRBM reply:** The requirement of audited account is subjected to the requirement of SSM under the relevant act. (i.e. Companies Act) • No. 5 – S.33(4) o Pending a draft PR on the application of S.33(4) on the timing of deductibility of interest expense to be issued by IRBM. **IRBM reply:** Draft will be sent to JPRWG for comment.