



**MINIT MESYUARAT
MAJLIS DIALOG OPERASI BIL. 1/2006
ANTARA
LEMBAGA HASIL DALAM NEGERI MALAYSIA
DAN
PERSATUAN AKAUNTAN BERTAULIAH**

**JABATAN PENGURUSAN HASIL
LEMBAGA HASIL DALAM NEGERI MALAYSIA
10 APRIL 2006**

Minit Mesyuarat Majlis Dialog Operasi Bil. 1/2006

Tarikh : 10 April 2006

Tempat : Bilik Gerakan, Tingkat 16, Blok 9

Masa : 9.00 pagi

Senarai Kehadiran:

1	Datuk Mohd. Saian Bin Hj. Ridzuan	Timbalan Ketua Pengarah (Operasi) (Pengerusi)
2	Pn. Hasmah Bt. Abdullah	Pengarah Wilayah Persekutuan Kuala Lumpur
3	En. Shahmin Ta Bin Abdullah	Pengarah Jabatan Pengurusan Hasil
4	En. Mohd. Azmi Bin Wan Abd. Rahman	Pengarah Jabatan Teknologi Maklumat
5	En. Sabin @ Sapilin Bin Samitah	Pengarah Jabatan Siasatan
6	En. Mohd. Nizom Bin Sairi	Pengarah Jabatan Pematuhan
7	En. Mahmood Bin Daud	Pengarah Cawangan Cukai Korporat dan Petroleum
8	En. Sait @ Mohammad Sait Bin Ahmad	Pengarah Jabatan Pungutan
9	Pn. Salmah Bt. Kassim	Pengarah Jabatan Undang-Undang
10	Pn. Nor'aini Bt. Ja'afar	Pengarah Jabatan Teknikal
11	En. Abd. Aziz Bin Hashim	Pengarah Pusat Pemprosesan
12	Cik Puteh Mariah Bt. Harun	Pengarah Bhg. Perancangan dan Dasar Operasi
13	En. Abu Tariq Bin Jamaluddin	Pengarah Bhg. Rayuan Cukai dan Semakan Kehakiman
14	Cik Marina Bt. Aziz	Pengarah Jabatan Keutuhan dan Integriti
15	En. Muhamad Mustafa Bin Said	Pengarah Perancangan dan Perkhidmatan Korporat
16	En. Ramachandra A/L V.K. Vasu	Timbalan Pengarah Cawangan Jalan Duta, K.L.

17	Pn. Salamatunnajan Bt. Besah @ Sitam	Pengarah Pusat Khidmat Pelanggan
18	En. Zulkiflee Bin Md. Tahir	Pengarah Cawangan Tidak Bermastautin
19	Pn. Marhaini Bt. Mahmood	Ketua Penolong Pengarah Jabatan Pengurusan Hasil
20	En. Md. Seniman Bin Selamat	Ketua Penolong Pengarah Jabatan Pengurusan Hasil
21	Pn. Wan Saodah Bt. Wan Abu Bakar	Ketua Penolong Pengarah Jabatan Pengurusan Hasil
22	En. Mohd. Yusof Bin Harun	Ketua Penolong Pengarah Jabatan Pengurusan Hasil
23	En. Zabidi Bin Abd. Rashid	Ketua Penolong Pengarah Jabatan Pengurusan Hasil
24	En. Aruljothi Kanagaretnam	Ketua Penolong Pengarah Jabatan Pengurusan Hasil
25	Dr. Veerinderjeet Singh	MIT/MIA
26	En. Harpal Singh Dhillon	MIT
27	En. Lim Kah Fan	MIT
28	Cik Sunita Nathan	Secretariat MIT
29	Cik Eow Siew Lee	Secretariat MIT
30	En. Peter Lim Thiam Kee	MIA
31	En. Sam Soh Siong Hoon	MIA
32	Cik Pauline Tam Poh Lin	MIA
33	En. Mohd. Noor Abu Bakar	MIA
34	Cik Cheong Li Wei	Secretariat MIA
35	En. Beh Tok Koay	MICPA
36	En. Ong Lay Seong	MICPA

37	Pn. Tan Shook Kheng	MICPA
38	Pn. Melissa Yeoh	Secretariat MICPA
39	En. Zamani Ismail	MATA
40	En. Rosalie Bin Md. Usop	MATA
41	En. Faizal Yusop	Secretariat MATA
42	Cik Olivia Oon	MAICSA
43	En. Lau Haw Chong	MACS

Urusetia:

1	Y.M. Raja Roslan Effendy Bin Raja Abdillah	Ketua Penolong Pengarah Jabatan Pengurusan Hasil
2	Cik Saw Guat Eim	Penolong Pengarah Jabatan Pengurusan Hasil

Tidak Hadir:

1	Pn. Ng Oi Leng	Pengarah Wilayah Persekutuan
2	En. Kamaruzzaman Bin Hj. Ab. Salleh	Pengarah Cawangan Jalan Duta, K.L.

1. Pendahuluan

- 1.1** Tuan Pengerusi mengalu-alukan kehadiran wakil-wakil dari MIT, MIA, MICPA, MATA, MAICSA dan MACS ke majlis dialog ini. Beliau memperkenalkan pegawai-pegawai dari LHDNM yang hadir dalam mesyuarat. Seterusnya wakil-wakil persatuan memperkenalkan diri masing-masing.
- 1.2** Tuan Pengerusi seterusnya menjemput wakil rakan dialog untuk membentangkan isu-isu yang ingin dibincangkan.

2. Isu-isu Asal daripada MIT / MIA / MICPA

2.1 Submission of Income Tax Returns

Currently, all non-business income individual tax returns (Form BE) are required to be filed by 30 April. As most of the individual taxpayers are under this category and there is only one deadline for them to file the tax returns and settle the balance of the tax liability by 30 April, a lot of problems/difficulties were encountered last year by members of the Institutes. These difficulties are highlighted below with the view of ensuring that these issues can be handled effectively this year.

2.1.1 Submission by courier services

With regard to the submission of tax returns (Forms BE) to the Processing Centre at Pandan Indah by courier services, the Institutes were informed that the courier services staff can proceed to the 12th Floor of the Processing Centre and drop the return forms at the counter without the need to queue up. However, the courier staff would only be able to obtain the acknowledgement copy one week later. The LHDNM's officers will sort out the acknowledgement copy according to the name of the courier service company.

In view of the above, the Institutes sincerely hope that, where necessary, more LHDNM staff are deployed so as to speed up the matter and the acknowledgement copies could be given out immediately upon verifying that the relevant return forms are received.

JAWAPAN:

Pembayar cukai dan ejen cukai sentiasa dinasihatkan supaya mengemukakan borang nyata dengan lebih awal. Oleh kerana bilangan borang yang diterima pada hari-hari terakhir menjelang 30 April adalah terlalu banyak, maka masa diperlukan untuk menyemak dan mengesahkan

penerimaan borang-borang yang dihantar melalui perkhidmatan "courier" bagi mengelakkan sebarang masalah/pertikaian kelak. Pihak Persatuan diminta bekerjasama supaya jangan menghantar borang-borang nyata pada saat-saat terakhir.

Untuk mengatasi masalah tersebut, penggunaan *e-filing* digalakkan kerana akuan terima dapat diperolehi secara "on-line". Pelbagai usaha telah dilakukan oleh LHDNM termasuk pemberian sijil digital percuma dan taklimat pembelajaran *e-filing* kepada pembayar-pembayar cukai di sektor awam dan swasta. Pihak Persatuan diminta menyokong usaha LHDNM dengan menggunakan *e-filing* mulai tahun ini dan mengubah cara pemikiran ("mindset")/ keyakinan pembayar cukai terhadap penggunaan *e-filing*. Pihak Persatuan boleh menghubungi LHDNM jika pembelajaran *e-filing* diperlukan dan sekiranya menghadapi masalah talian.

2.1.2 Submission via postal services

The Institutes were also informed that the postal date is acceptable as the date of submission of the tax return to the LHDNM if one uses postal services.

Please be informed that the only way a taxpayer can get evidence of posting is via registered mail or delivery by Poslaju. This means additional cost to taxpayers. Normal mailing of tax returns, however, does not seem to suffice as no proof of posting is available. Notwithstanding this, we believe that the LHDNM should be assisting taxpayers rather than having taxpayers incur additional costs. It should be noted that when the LHDNM sends out correspondence to taxpayers, the letters are not registered or sent via Poslaju and the LHDNM does not need to have any proof of posting a letter. The taxpayer should not be placed in a different situation.

In this connection, the Institutes hope that the LHDNM can look into other ways of assisting taxpayers on this matter.

JAWAPAN:

Sebagai konsesi, penalti tidak akan dikenakan sekiranya borang nyata diterima dalam tempoh 14 hari dari tarikh terakhir untuk pengembalian borang nyata. Untuk borang nyata yang diterima selepas tempoh 14 hari tersebut di mana penalti telah dikenakan, rayuan boleh dipertimbangkan jika dapat dibuktikan bahawa ia dihantar pada atau sebelum tarikh terakhir untuk pengembalian borang nyata.

2.1.3 Submission to assessment branches

We would like to seek confirmation as to the current position for the submission of Form BE and Form B on 30 April and 30 June respectively.

The Institutes are of the view that insisting that all taxpayers to go to Pandan Indah to file tax returns is not an appropriate step. This causes various problems including long queues which resulted in the courier companies refusing to deliver the outstation return forms to Pandan Indah as mentioned in 1.1 above as well as unnecessary stress and frayed tempers. We do note that in the last few days of April 2005, other branches did accept tax returns.

In this regard, the Institutes would like to suggest that taxpayers/tax agents be allowed to submit tax returns at the various Assessment Branches so as to avoid the bottleneck that would normally occur on the last day of filing tax returns. These branches can then collate and send the tax returns to the Processing Centre. We believe this should be part of the service provided by the LHDNM.

JAWAPAN:

Semua borang nyata mesti dikemukakan ke Pusat Pemprosesan di Pandan Indah, Kuala Lumpur. Untuk mengatasi masalah ini, pihak Persatuan digalakkan supaya menggunakan *e-filing* mulai tahun ini.

2.1.4 Acknowledgement cards

The Institutes were surprised to be informed that last year acknowledgement cards were not issued to taxpayers who came to file their tax returns.

We would like to suggest that such cards/slips should be issued to taxpayers as proof of submission. For the future, we would like to suggest that on the cover page of the tax return, the LHDNM could have a perforated slip which can be filled up by a taxpayer and torn off and then stamped by the LHDNM counter staff to acknowledge receipt. This would cut down the time spent in filling up acknowledgement cards.

JAWAPAN:

Amalan mengeluarkan kad akuan terima tidak akan dipraktikkan lagi oleh LHDNM. Sekiranya borang nyata dikemukakan melalui *e-filing*, akuan terima dapat diperolehi secara “on-line”.

2.2 Completion of Borang B/BE

The Institutes wish to seek clarification on the following matters:-

2.2.1 Where column is not applicable

It is noted that certain items in a particular column in the Borang B/BE may not be relevant to all taxpayers.

The Institutes wish to clarify in such instances should the column be (i) left blank, (ii) a dash be drawn across the last 3 boxes or (iii) a "0" is inserted.

(We have been informed that the Kuantan branch office is advising taxpayers to leave the column blank whilst a sample of the Borang BE from the e-filing software shown during the Program Pembelajaran shows a "0". It is also noted that for the completion of Borang C & R, taxpayers are allowed to either leave the column blank or indicate a dash in the column.)

JAWAPAN:

Ruang yang tidak berkenaan tidak perlu diisi.

2.2.2 Assistance

As 2005 was the first year the Borang B/BE was submitted, it is highly likely that mistakes were made by taxpayers and tax agents in completing the forms.

In order to minimise future errors, the Institutes propose that the LHDNM provide assistance in highlighting whatever errors made and the correct approach that should be adopted to avoid a repeat of such errors.

JAWAPAN:

LHDNM berterima kasih atas inisiatif pihak Persatuan untuk mengurangkan kadar kesilapan dalam pengisian Borang B / BE.

Sila rujuk Lampiran yang disertakan untuk senarai kesilapan-kesilapan biasa dalam pengisian borang nyata berdasarkan Borang B / BE 2004.

2.2.3 Issuance of Borang B / BE

It was reported in the Chinese dailies that the LHDNM may not be issuing the Borang B/BE for Year of Assessment 2007 to taxpayers in view of the available e-filing services.

The Institutes would like to seek clarification on the accuracy of such reports and highlight that the practice of the LHDNM in issuing the return forms should continue. To facilitate the successful implementation of the self assessment system, this would require the co-operation of both the LHDNM and taxpayers.

JAWAPAN:

Tiada isu.

2.3 Payment of Final Tax Liability to be given 30 days Extension of Time from the Date of Submission of Tax Return

Under the Official Assessment System, the legislation allowed the taxpayers to pay tax to the LHDNM within 30 days from the date of issuance of a Notice of Assessment and a grace period of additional 14 days was granted by concession.

It is proposed that a provision be introduced in the current tax legislation to allow taxpayers to settle their final tax balance within 30 days from the date of submission of the tax returns (deemed assessment) so as to ease the financial burden of the taxpayers.

JAWAPAN:

Layanan yang sama seperti untuk borang nyata iaitu tempoh 14 hari dibenarkan sebagai konsesi. Sila rujuk Perkara 2.1.2.

2.4 Utilisation of Tax Credits

2.4.1 *The Institutes are of the view that the utilisation of available tax credits should not be by request. The offset of tax credits should be done automatically so long as there are available tax credits unless a request for refund has been made by the taxpayer. Taxpayers should not be required to make a request for an offset. This would assist to ease the administrative burden of both the LHDNM and taxpayers.*

JAWAPAN:

Tuan Pengerusi menjelaskan bahawa terdapat dua keadaan “set-off” untuk kes “clear credit” iaitu:-

- (a) “set-off” adalah automatik bagi cukai yang masih terhutang; dan
- (b) baki kredit (jika ada) selepas itu boleh digunakan sepenuhnya untuk “set-off” ansuran akan datang yang perlu dibayar (tiada had bilangan ansuran) tetapi permohonan daripada pembayar cukai diperlukan.

Kredit cukai akan dibayar balik sekiranya tiada permohonan daripada pembayar cukai.

Pihak Persatuan boleh menghubungi LHDNM sekiranya terdapat masalah di cawangan berhubung perkara di atas.

2.4.2 *Under the self assessment system, when the tax returns are filed, any excess tax paid can be refunded or utilised to offset against future tax liabilities. We have been informed that in practice, such tax credits will only be allowed for utilisation after the return has been keyed into the system.*

The Institutes are of the view that where the taxpayer is able to provide supporting documents to substantiate the available tax credits, the utilisation should be allowed by the LHDNM. The Institutes also wish to clarify the time frame taken from the submission date to the time the relevant data is captured into the system.

JAWAPAN:

“Clear credit” hanya dapat ditentukan selepas borang diproses, di antaranya cukai kena bayar mesti direkodkan dalam lejer pembayar cukai.

Pemprosesan borang fizikal memakan masa kerana perlu melalui pelbagai proses seperti pengisihan borang, kemasukan data dan sebagainya. Walau bagaimanapun LHDNM akan menangani masalah tempoh pemprosesan borang tetapi pihak Persatuan juga boleh membantu dengan memastikan bahawa borang nyata yang dikemukakan adalah teratur; dan kes-kes bayaran balik diasingkan dan dicatatkan sedemikian pada sampul surat. Ini adalah kerana kes-kes bayaran balik seksyen 110 (dividen) dan lebih bayaran akan diproses terlebih dahulu.

Sebagai langkah mempercepatkan pemprosesan borang, LHDNM menggalakkan penggunaan *e-filing*.

2.5 Processing of Dividend Vouchers in a Section 110 Refund Case

Where there is a repayment arising from Section 110 credits, taxpayers are required to submit the original dividend vouchers together with the tax return to the Processing Centre. After the necessary verification by the Processing Centre, the original vouchers are returned to the taxpayers. However, when a desk audit is carried out, the Cawangan Syarikat has requested for the dividend vouchers again.

The Institutes wish to clarify the procedure undertaken by LHDNM to process repayments arising from Section 110 credits and the need for the dividend vouchers to be submitted twice to the LHDNM. The Institutes also wish to highlight that in the spirit of self assessment, the refund of Section 110 credits should be processed irrespective of whether tax audits have been conducted.

JAWAPAN:

Senario ini berlaku apabila pembayar cukai memohon supaya dipercepatkan kes bayaran balik ataupun bila kes diaudit. Mengikut prosedur, kes bayaran balik seksyen 110 (dividen) biasanya akan diaudit untuk mengesahkan kesahihan baucar dividen.

Di bawah keadaan biasa, sekiranya borang nyata adalah lengkap dan betul; dan baucar dividen telah disenaraikan dengan betul dan teratur dalam helaian kerja HK-3, maka tempoh purata lebih kurang satu bulan diperlukan untuk memproses. Akan tetapi tempoh proses tidak lagi sedemikian jika borang diterima pada hari-hari terakhir menjelang tarikh terakhir untuk pengembalian borang nyata.

2.6 Outstanding Taxes

The Institutes have been informed that the LHDNM has issued letters regarding the outstanding taxes payable by some companies. The companies are required to respond or settle the outstanding amount within 14 days from the date of the letter, failing which actions may be taken against the company or the directors under Section 75A of the Income Tax Act 1967 (the Act). However, no detailed calculation was provided as to the derivation of the outstanding figure.

The Institutes would like to highlight the following:-

- (a) the calculation of the outstanding tax payable figure should be provided to enable taxpayers to understand the derivation of the said figure in order for them to respond;***

- (b) *a reasonable time frame should be given for taxpayers to verify and revert to the LHDNM.*

JAWAPAN:

- (a) Pada kebiasaannya, LHDNM akan memberikan pengiraan cukai masih terhutang yang kena dibayar. Akan tetapi sekiranya tiada sebarang maklum balas daripada pembayar cukai dalam tempoh masa yang dinyatakan, LHDNM akan mengeluarkan surat pemberitahu cukai masih terhutang yang dijanakan oleh sistem berdasarkan baki bersih dan tidak menunjukkan pengiraan terperinci. Pembayar cukai boleh menghubungi Cawangan/Unit Pungutan yang mengendalikan kes tersebut untuk mendapatkan pengiraannya.
- (b) Sekiranya tempoh masa yang diberikan tidak memadai, pembayar cukai boleh memohon untuk lanjutan masa berdasarkan fakta kes.

2.7 Issuance of Computation of Repayment

Members of the Institutes have informed that Computations of Repayment (COR) have been issued for companies before desk audits are carried out. It is expected that upon the receipt of a COR, the refund cheque would be sent to the taxpayers in due course. However, upon further enquiry, taxpayers have been informed that the case has not been selected for audit and therefore, the refund cheques cannot be processed.

The Institutes would like to seek clarification as to when a COR would be issued as the above practice creates confusion.

JAWAPAN:

Pengiraan bayaran balik (COR) hanya dikeluarkan selepas tindakan Audit Meja diambil.

2.8 Benefit of Doubt to be given to Expatriate Employees whose Residence Status could not be determined at the point of Submission of the Tax Return

In view of the manner in which the tax residence status is determined (especially for individuals who may qualify as a tax resident under Section 7(1)(b) of the Act), an expatriate who may technically not be qualified as a tax resident at the time of filing of the tax return, may be qualified as a tax resident if time up to July of the same calendar year was given.

In view of the above circumstance, the Institutes would like to request the LHDNM to accept the tax return which is filed based on tax resident basis and only raise the Additional Assessment without imposing any penalties if the individual expatriate fails to qualify as a tax resident subsequently. The individual expatriate would then settle the additional tax when the Additional Assessment is issued.

JAWAPAN:

Mengikut prosedur biasa, majikan dinasihatkan supaya membuat potongan PCB pada kadar 28% bagi tempoh enam bulan pertama pekerja asing itu berada di Malaysia. Bagi pekerja asing yang datang selepas bulan Jun, majikan perlu membuat potongan PCB pada kadar 28% bagi tempoh enam bulan dalam tahun berikutnya.

Tindakan tersebut diambil kerana:-

- (a) pekerja asing menamatkan tempoh perkhidmatan mereka lebih awal dari tempoh yang tercatat dalam kontrak misalnya dalam tempoh 24 jam; dan ini mengakibatkan cukai terhutang yang tidak dapat dijelaskan.
- (b) pekerja asing tidak mematuhi syarat perenggan 7(1)(b) Akta Cukai Pendapatan 1967 kerana tempoh ketiadaan sementara ("temporary absence") bagi lawatan sosial sering melebihi 14 hari.

PCB hanya boleh dibuat pada kadar cukai untuk pemastautin jika dapat dibuktikan bahawa pekerja asing itu berada di Malaysia sekurang-kurangnya 182 hari dalam tahun pertama.

Penentuan taraf mastautin berdasarkan permit kerja boleh dipertimbangkan mengikut fakta kes.

2.9 Resolving Appeals on a Timely Basis

Paragraph 3.7.1 of the Public Ruling 3/2001 provides that an appeal must be forwarded to the Special Commissioners of Income Tax (SCIT) within 12 months from the date of receipt and if the review cannot be completed within that period, the Director General of Inland Revenue (DGIR) may apply for an extension of that period, which will not be more than 6 months.

However, feedback from the members of the Institutes indicates that some of the appeal cases have been outstanding for more than 2 years despite numerous calls and reminders to the Assessment Branch and Technical Division of the LHDNM. The Institutes are of the view that it

is unfair to taxpayers as they are forced to pay the tax which in some cases can be very substantial. It is regrettable to hear that a public ruling which is issued to provide guidance to the public and officers of the LHDNM, is not complied with by the LHDNM's officers but it is required to be complied with by taxpayers. In addition, the Institutes are also of the opinion that the review of an appeal case by the LHDNM for a maximum period of 18 months before it is forwarded to the SCIT is far too long.

In view of the above, the Institutes request the LHDNM to resolve all appeals on a timely basis and expedite the process of the review in accordance with paragraph 3.7.1 of the Public Ruling 3/2001.

JAWAPAN:

Keadaan ini tidak sepatutnya berlaku. Pihak Persatuan diminta menghubungi LHDNM sekiranya terdapat kes sedemikian. Arahan telah dikeluarkan kepada semua Pengarah Negeri supaya memantau dan memastikan kes-kes rayuan kepada Pesuruhjaya Khas Cukai Pendapatan diselesaikan dalam tempoh tidak melebihi 12 bulan walaupun lanjutan masa selama 6 bulan boleh dipohon.

2.10. Timely Responses from the LHDNM

2.10.1 Submission of lower tax estimate

Based on the general guideline issued by the LHDNM, Form CP204 which is submitted with a lower tax estimate than the amount allowed by the Act must be accompanied with an appeal letter with valid reasons for the LHDNM's consideration. Consideration of the appeal will be based on the merit of each case as stated in Paragraph 2.1 of the minutes of Operations Dialogue held on 16 February 2005.

Members of the Institutes have highlighted that the reply to the above application is given verbally by the LHDNM's officers without any written evidence for approval or disapproval. The instruction to disregard the Form CP205 which was sent earlier is also given verbally.

JAWAPAN:

Jika surat rayuan diterima bersama dengan borang Anggaran Cukai Yang Kena Dibayar (CP 204), kes tersebut akan diproses dan diluluskan/tidak diluluskan berdasarkan kepada fakta kes. Status kelulusan akan dimasukkan ke dalam sistem komputer dan surat kelulusan (CP 216) akan dikeluarkan oleh sistem kepada pembayar cukai dalam tempoh purata lebih kurang satu bulan. Pihak Persatuan boleh menghubungi Pusat Pemprosesan di Pandan Indah sekiranya CP 216 tidak diterima.

2.10.2 Letter for refund/set-off of credit balances

The Institutes were informed that letters for refund of credit balances are not replied to even though follow-up has been made. For those cases where the taxes have not been assessed yet, the application letters will be put in a wait case and the file will not be distributed to the officers for further action until the taxpayers have done some follow up and requested the officer in charge to look into the refund application.

Members have come across situations whereby the approval to set-off the instalment payments with the credit balance was given verbally by the LHDNM's officer and the instalment payment was discontinued accordingly. After some time, the taxpayers received a statement showing penalties for those instalments which were allowed to be set-off. Upon further enquiry, members were informed that the officer had resigned and the new person-in-charge alleged that there was no proof of such approval.

In view of the above situations, the Institutes would like to request the LHDNM to update the computerised system on a timely basis and provide a written response (with detailed breakdown for those cases related to tax balances) to all written applications submitted by taxpayers on a timely basis to avoid unnecessary confusion and disputes which is unproductive for all concerned.

JAWAPAN:

Untuk mempercepatkan proses bayaran balik, penggunaan *e-filing* digalakkan. Jika tiada maklum balas kepada permohonan untuk bayaran balik/"set-off", pembayar cukai dinasihatkan supaya merujuk semula kepada Cawangan/Unit Pungutan yang mengendalikan kesnya. Bagi kes "set-off", adalah dinasihatkan supaya mendapatkan jawapan/kelulusan secara bertulis daripada Cawangan/Unit Pungutan yang berkenaan untuk mengelakkan sebarang masalah/pertikaian kelak.

2.11 Assignment of Tax Officers

The Institutes have been informed that there are instances where no officers have been assigned to handle specific cases at the Cawangan Syarikat. In the event an officer has been assigned, the officer is unable to provide an indication as to when the particular case can be finalised.

The Institutes wish to propose that the assignment of officers be done quickly to expedite the finalisation of cases, especially where revised computations submitted involve tax refunds. Taxpayers are imposed with various deadlines to comply for example, within 7 months after the financial year end to submit the tax returns, within 30 days before the beginning of the financial year to submit the CP 204, etc. Likewise, it is also hoped that officers are able to provide an indication of when the cases can be finalised.

JAWAPAN:

Mengikut Pekeliling yang telah dikeluarkan, kes-kes audit mesti diselesaikan dalam tempoh 3 bulan. Pihak Persatuan diminta mengemukakan senarai kes-kes yang melebihi tempoh 3 bulan walaupun dokumen-dokumen yang dikehendaki oleh LHDNM telah dikemukakan oleh pembayar cukai. Akan tetapi, untuk kes-kes di mana taksiran tambahan dibangkitkan kerana dokumen-dokumen tidak dapat dikemukakan kepada LHDNM sebagai bukti, pembayar cukai boleh membuat rayuan kepada Pesuruhjaya Khas Cukai Pendapatan.

Oleh kerana kebanyakan kes yang dimaksudkan adalah kes rayuan untuk kurangan cukai dan pembayaran balik, LHDNM menasihatkan pihak Persatuan supaya anggaran cukai tidak dibuat dengan sewenang-wenangnya walaupun kesuntukan masa untuk mengemukakan borang nyata mengikut tempoh yang ditetapkan.

2.12 Bilingual Income Tax Returns

With Malaysia opening its doors to foreign manpower, we have seen an increasing influx of expatriates seeking career opportunities in Malaysia. Some of these expatriates may eventually qualify as Malaysian tax residents due to their presence in Malaysia and therefore, will be required under the legislation to discharge their tax responsibilities. With the recent implementation of self-assessment system for individuals, these resident expatriates need to understand their obligations in order for them to fully discharge their responsibilities.

The Institutes would like to propose that the prescribed income tax return be available in both Bahasa Malaysia and English for submission purposes. This will be seen as a genuine gesture of the Government to attract foreign expatriates.

JAWAPAN:

Hanya Borang M ditetapkan ("prescribed") dalam Bahasa Inggeris. Versi Bahasa Inggeris untuk borang nyata lain yang ditetapkan dalam Bahasa Malaysia boleh diperolehi dari laman web LHDNM (<http://www.hasil.org.my>) untuk rujukan dan tidak boleh digunakan sebagai borang nyata ditetapkan untuk tujuan pengemukaan.

2.13 Management Changes in LHDNM

The Institutes noted that there have been recent management changes in the LHDNM.

The Institutes would like to request that in the spirit of co-operation and dissemination of information, the LHDNM inform its dialogue partners i.e. the Institutes of any such changes so that these changes can be disseminated. Perhaps the Public Relations Department could be assigned to communicate such information to the Institutes.

JAWAPAN:

Pihak Persatuan boleh melayari laman web LHDNM untuk mendapatkan maklumat berkenaan.

Atas permintaan pihak Persatuan, maklumat seperti nama, jabatan/cawangan dan nombor telefon Ketua-Ketua di Ibu Pejabat dan Cawangan akan dipaparkan/dikemaskinikan dalam laman web.

**2.14 Extension of filing deadline for December year-end companies
(refer to Minutes of Operations dialogue held on 16 February 2005)**

Members of the Institutes have reported difficulties in coping with the volume of tax returns that need to be filed for December-year-end companies in July every year despite taking various measures such as increasing manpower, etc.

Since taxes are being paid by companies under the instalment scheme, the Institutes would like to request the LHDNM to grant an administrative concession of an automatic two-week extension of time to file the tax returns for December year-end companies. The two-week extension of time is needed by the tax agents to handle the large volume of tax returns for such companies.

The LHDNM has stated that for companies which close their accounts on 31 December, the Forms C and R have to be submitted in accordance with the deadline set by the Act (on or before 31 July 2005). Nevertheless, no penalty was imposed on taxpayers if the Forms are received by the LHDNM on or before 14 August 2005.

The Institutes would like to confirm that the above administrative concession is still applicable for this year. Hence, no penalty will be imposed on taxpayers if the Forms C and R of the December year-end companies are received by the LHDNM on or before 14 August 2006.

JAWAPAN:

Syarikat dikehendaki mengembalikan Borang C dan Borang R mengikut tarikh yang ditetapkan oleh undang-undang.

Sebagai konsesi, penalti tidak akan dikenakan sekiranya borang nyata diterima dalam tempoh 14 hari dari tarikh terakhir untuk pengembalian borang nyata. Untuk borang nyata yang diterima selepas tempoh 14 hari tersebut di mana penalti telah dikenakan, rayuan boleh dipertimbangkan jika dapat dibuktikan bahawa ia dihantar pada atau sebelum tarikh terakhir untuk pengembalian borang nyata.

Layanan yang sama terpakai untuk bayaran baki cukai pendapatan di bawah seksyen 103(1) Akta Cukai Pendapatan 1967.

2.15 Companies under Liquidation

2.15.1 Issuance of clearance letter

(refer to Minutes of Operations Dialogue held on 15 April 2002)

During the dialogue with the Operations Division of the LHDNM held on 15 April 2002, the LHDNM stated that instructions would be given to the assessment branches to expedite the issuance of clearance letters for companies under liquidation.

However, members of the Institutes have reported that the situation has not improved over these years and they are still experiencing delays from the Assessment Branch to obtain clearance letter for companies under liquidation as a result of Members' Voluntary Liquidations or strike-off cases under Section 308 of the Companies Act, 1965. Undue delay of the issuance of the clearance letter only increases the compliance costs of the taxpayer.

In this regard, the Institutes would like to propose that the clearance letter be issued within one month from the date of the application to the Assessment Branch, failing which a NIL deemed assessment will be treated as the final clearance letter from the LHDNM.

JAWAPAN:

Pihak Persatuan diminta memberikan butiran sekiranya masih terdapat kes-kes kelewatan dalam pengeluaran surat penyelesaian.

2.15.2 Requirement to maintain records

Normally, books and records will be destroyed within a short period of time after liquidation or strike-off of a company as there are no funds to store such records once the entity is liquidated.

In view of the above, the Institutes would like to request for an exemption from the requirement of maintaining books and records of a liquidated company.

JAWAPAN:

Rekod-rekod syarikat yang telah dibubarkan hanya boleh dimusnahkan lebih awal sekiranya semua urusan berkaitan cukai pendapatan syarikat telah diselesaikan. Jika tidak, keperluan menyimpan rekod perlu dipatuhi seperti biasa.

3. Isu-isu Tambahan daripada MIT / MIA / MICPA

3.1 *Delay in issuance of receipt for withholding tax payment*

Taxpayers have faced penalty as a result of delay in the issuance of receipt for withholding tax payment, which have been remitted to the LHDNM within one month from date of payment (via courier company and has an acknowledgement of receipt by the LHDNM).

For example, a courier company handed a cheque to LHDNM on 5 February 2005 i.e. within one month of the payment (as per acknowledgement stamp of LHDNM). However the official receipt was only issued on 4 March 2005 (one month later). Due to the delay in the issuance of the receipt by LHDNM, a notification was issued by LHDNM on 16 January 2006 and penalty for late payment was imposed on the taxpayer.

Such incident has caused considerable inconvenience to taxpayers as the taxpayers had to retrieve their records/documents in order to prove that the withholding tax was paid on time. Taxpayers have also experienced penalties imposed for alleged late payment which took place many years ago (in some instances more than 8 years ago). Obviously, the taxpayers would not be able to remember the facts or could not locate the documents and thus, are forced to pay the penalty.

The Institutes would like to propose that the LHDNM:

- (a) Issue receipts for withholding tax immediately on payment of the withholding tax***
- (b) Do not open old cases for the imposition of penalty for genuine cases.***

JAWAPAN:

- (a) Sekiranya bayaran dibuat di kaunter bayaran LHDNM, resit rasmi akan dikeluarkan pada hari bayaran itu dibuat. Apabila bayaran diterima melalui pos, "time-lag" kadangkala berlaku di antara tarikh penerimaan dokumen dan tarikh resitan kerana masa diperlukan untuk**

memproses dokumen yang diterima dengan banyak melalui pos. Akan tetapi, sebarang kenaikan cukai kerana lewat bayaran adalah berdasarkan tarikh penerimaan dokumen dan bukannya tarikh resitan.

- (b) Kes lama yang disemak semula dan dikenakan penalti kerana lewat bayaran boleh dirujuk kepada LHDNM untuk pertimbangan berdasarkan fakta kes.

Semakan semula kes lama dihadkan kepada tempoh 7 tahun dan pihak Persatuan boleh merujuk kepada LHDNM jika terdapat kes yang disemak semula berhubung cukai pegangan yang telah dibayar lebih daripada 7 tahun dahulu.

3.2 Repayment cases (due to section 110 set-off)

When carrying out desk audits for repayment cases, the LHDNM had requested taxpayers to submit photocopies of the Form BE, among other items.

The Institutes wish to clarify the procedure undertaken by LHDNM in processing repayments arising from S110 set-off and the need for the Form BE to be submitted again. The Institutes are of the view that taxpayers should not be made to re-submit a photocopy of the Form BE as the original form has already been submitted to the LHDNM before.

JAWAPAN:

Sila rujuk jawapan untuk Perkara 2.5.

4. Isu daripada MAICSA

Employee Share Option Scheme Benefit

Public Ruling No.4/2004 dated 9/12/2004

Effective from Year of Assessment 2004

IRB Ruling

*Employer is required to deduct PCB on the benefit that arises from ESOS in the month the option is exercised based on PCB schedule. However, employee has the option to pay the tax by instalments through PCB **up to a maximum of 12 months** from the month in which the option is exercised.*

*If employee chooses to pay by himself the tax at the end of the year, **employer** must ensure that the election made by employee is done in writing.*

Issues / problems faced by employer

The provision of a variable number of instalment payment options to employee would cause much difficulty to employer in monitoring PCB deductions, especially when there are multiple options exercised during the month or in the same year with the number of instalment varies for each exercise of options.

In addition, where the PCB deductions spill over to the next calendar year, the employee would have difficulty in determining the balance of tax payable when the Form BE is filed with the IRB in April the following year besides creating administrative work to the employer.

Proposal

IRB to waive the requirement to deduct PCB in respect of tax liability arising from the exercise of ESOS. Employee should be required to pay tax arising from the exercise of ESOS at the time Form BE is filed. This is to provide time to the employee to cash out part of their investment to pay tax. With this procedure, no time and resources are wasted on modifying the payroll system and monitoring of PCB deductions.

Catatan Tambahan:

Pihak Persatuan menyuarakan kesukaran majikan untuk melaksanakan tanggungjawabnya mengikut Ketetapan Umum tersebut terutamanya berhubung ESOS yang ditawarkan oleh syarikat asing (misalnya syarikat induk) di luar Malaysia. Ini adalah kerana tiada mekanisme yang mewajibkan pekerja untuk memberitahu majikannya bila haknya dilaksanakan di bawah opsyen tersebut. Oleh kerana ESOS berkenaan bukan ditawarkan oleh majikan di Malaysia, maka ia tidak dilaporkan dalam penyata pendapatan (Borang EA) pekerja.

JAWAPAN:

LHDNM berpendapat bahawa majikan di Malaysia sepatutnya mengetahui berkenaan ESOS yang ditawarkan itu kerana ia berada dalam kumpulan syarikat yang sama dan berkaitan dengan penggajian yang dijalankan di Malaysia. Oleh itu LHDNM menasihatkan supaya ESOS tersebut dimasukkan dalam Borang EA. Pihak Persatuan diminta mengemukakan kertas kerja berkenaan isu tersebut untuk pertimbangan LHDNM.

Buat masa sekarang, Ketetapan Umum Bil. 4/2004 masih terpakai. Jika majikan mendapati sukar untuk membuat dan memantau PCB, majikan digalakkan untuk membuat potongan PCB sekaligus sebaik sahaja opsyen dilaksanakan ataupun memastikan pekerja itu menyatakan pilihannya secara bertulis sekiranya membayar sendiri.

5. Perkara Lain Yang Berbangkit

5.1 *Ketetapan Umum yang baru untuk laman web*

Menurut pihak Persatuan, Ketetapan Umum yang baru biasanya dimasukkan dalam laman web LHDNM selepas tarikh mulakuatkuasanya.

JAWAPAN:

LHDNM akan memastikan bahawa Ketetapan Umum yang baru dimasukkan dalam laman web pada atau sebelum tarikh berkuatkuasanya.

5.2 *Penggunaan Sijil Digital Pelanggan oleh Ejen Cukai*

Ejen cukai dimaklumkan bahawa sijil digital sendiri ataupun sijil digital pelanggan boleh digunakan untuk mengemukakan borang nyata pelanggan berkenaan. Walaupun sudah ada surat kuasa perlantikan sebagai ejen cukai daripada pelanggan, ejen cukai dinasihatkan supaya mendapatkan surat kebenaran pelanggan untuk mengendalikan sijil digital mereka seperti mendapatkan sijil digital bagi pihak pelanggan dan menggunakan nombor peribadi sijil digital pelanggan untuk mengemukakan borang.

Pihak Persatuan mencadangkan supaya sijil digital khas dikeluarkan untuk membolehkan ejen-ejen cukai mengemukakan borang nyata bagi pihak pelanggan mereka. Cadangan tersebut akan dipertimbangkan.

5.3 *Kadar pematuhan Borang C dan Borang R*

Pihak Persatuan ditanya mengapa kadar pematuhan Borang R tidak setara dengan kadar pematuhan Borang C. Pihak Persatuan menerangkan bahawa mengikut kebiasaan, kedua-dua borang disediakan bersama.

Walau bagaimanapun, LHDNM meminta pihak Persatuan supaya memastikan Borang R dikemukakan oleh pelanggan syarikat.

5.4 *Borang-borang baru untuk Relif Kumpulan*

Dua borang baru diperkenalkan iaitu:

5.4.1 Borang C (RK-T) untuk syarikat menuntut; dan

5.4.2 Borang C (RK-S) untuk syarikat menyerah.

Borang-borang tersebut boleh dimuat turun dari laman web LHDNM.

5.5 *Lesen ejen cukai*

Pihak Persatuan meminta supaya dipercepatkan proses pengeluaran/pembaharuan lesen ejen cukai.

Tuan Pengerusi menjelaskan bahawa syarat-syarat dan pengeluaran/pembaharuan lesen ejen cukai adalah di bawah kuasa pejabat Perbendaharaan tetapi LHDNM akan cuba mempercepatkannya.

6. *Penutup*

Mesyuarat ditangguhkan pada pukul 12.00 tengahari dengan ucapan terima kasih oleh Tuan Pengerusi kepada para hadirin Majlis Dialog tersebut.

LAMPIRAN

SENARAI KESILAPAN-KESILAPAN BIASA DALAM PENGISIAN BORANG B / BE

BIL.	BAHAGIAN DALAM BORANG B / BE 2004	KESILAPAN BIASA	
1	Bahagian Maklumat Asas:	(a)	Bahagian ini tidak diisi dengan lengkap. Terdapat pembayar cukai yang tidak mengisi nama dan maklumat pengenalan diri tetapi sebaliknya melampirkan penyata pendapatan (Borang EA / EC) untuk dilengkapkan oleh pegawai LHDNM.
		(b)	No. rujukan cukai tidak/silap diisi. Ia harus diisi mengikut format seperti pada surat iringan.
2	Bahagian A: Maklumat Individu	(a)	Ruang A2 (Negara Mastautin/Domisil) - Pembayar cukai sepatutnya mengisi kod negara dan bukannya "bilangan" mengikut susunan negara pada senarai dalam Nota Penerangan.
		(b)	Ruang A7 (Jenis Taksiran) tidak/silap diisi dan didapati tidak selaras dengan pengiraan cukai.
		(c)	Pembayar cukai dinasihatkan mengisi ruang A16 (No. Telefon) / ruang A17 (No. Telefon Majikan) supaya boleh dihubungi sekiranya terdapat kesilapan mengisi borang.
3	Bahagian B: Maklumat Suami / Isteri		Bahagian ini tidak diisi walaupun ruang A4 di Bahagian A menunjukkan status "kahwin" dan pelepasan suami / isteri dituntut di Bahagian D. Terdapat pembayar cukai yang mengisi maklumat diri sendiri di Bahagian ini.
4	Bahagian C: Pendapatan Berkanun dan Jumlah Pendapatan	(a)	Amaun pendapatan berserta nilai sen diisi. Terdapat juga petak tambahan dilukis untuk memasukkan nilai sen.
		(b)	Ruang "Jumlah" tidak diisi.
		(c)	Ruang "Dividen" tidak diisi tetapi pelepasan seksyen 110 (dividen) dituntut atau sebaliknya.
		(d)	Pembayar cukai memilih "Taksiran Bersama" di ruang A7 Bahagian A tetapi ruang C17 / C18 (Borang BE) atau ruang C33 / C34 (Borang B) tidak dilengkapkan.
		(e)	Bahagian C tidak dilengkapkan tetapi Borang EA / EC dilampirkan.

BIL.	BAHAGIAN DALAM BORANG B / BE 2004	KESILAPAN BIASA	
5	Bahagian D: Pelepasan dan Pendapatan Bercukai	(a) (b) (c) (d) (e)	Bahagian ini tidak dilengkapkan tetapi resit-resit tuntutan disertakan. Semua pelepasan dituntut pada had maksima atau melebihi had. Pembayar cukai mengisi kedua-dua ruang pelepasan anak di bawah kadar 100% dan 50%. Pelbagai pelepasan lain dituntut di ruang D18. Silap pengiraan "Jumlah Pelepasan" di ruang D19.
6	Bahagian E: Cukai Kena Dibayar	(a) (b) (c)	Bahagian ini tidak dilengkapkan. Silap kadar cukai pendapatan dalam pengiraan. Rebat dituntut walaupun tidak layak. Terdapat pembayar cukai yang menganggap lebihan rebat sebagai cukai terlebih bayar.
7	Bahagian F: Rumusan Cukai dan Bayaran	(a) (b) (c)	Bahagian ini tidak diisi. Lebihan rebat dituntut sebagai cukai terlebih bayar. Pembayar cukai mengisi jumlah PCB termasuk jumlah potongan CP38.
8	Bahagian G: Pendapatan Tahun Kebelakangan		Tidak dilaporkan walaupun terdapat dalam Borang EA / EC.
9	Bahagian Akuan:	(a) (b) (c)	Bahagian ini tidak dilengkapkan. Pembayar cukai tandatangan tetapi tidak mengisi "nama", "no. kad pengenalan" dan "tarikh" atau sebaliknya. Cap jari digunakan sebagai ganti tandatangan.
10	Kesilapan Umum:	(a) (b) (c) (d)	Sebahagian borang terdiri daripada borang asal dan sebahagian lagi borang fotostat. Muka surat borang yang dikemukakan tidak mencukupi. Borang fofostat diisi dan dihantar kepada LHDNM. Menggunakan borang nyata tahun kebelakangan untuk melaporkan pendapatan tahun semasa.

BIL.	BAHAGIAN DALAM BORANG B / BE 2004	KESILAPAN BIASA	
		(e) (f) (g) (h) (i) (j) (k) (l) (m)	Menghantar borang B yang berasingan untuk jenis perniagaan yang berbeza. Menghantar dua borang misalnya Borang BE untuk kes tidak kena cukai dan Borang B untuk kes kena cukai. Mengisi jenis borang yang salah. Tersilap mengisi no. rujukan pembayar cukai lain. “Liquid paper” digunakan untuk membuat pembedulan. Borang diisi dan dokumen/lampiran disertakan. Terdapat juga lampiran disertakan tetapi borang tidak diisi. Pengiraan cukai tidak diselesaikan. Baucar dividen tidak disertakan untuk kes pembayaran balik atau sebaliknya. Garisan melintang dibuat merentasi ruang-ruang yang tidak berkenaan.