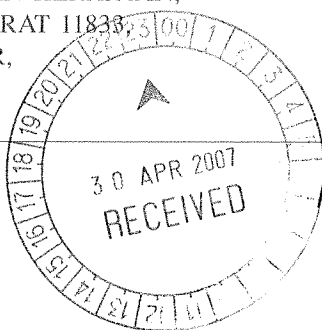




KETUA PEGAWAI EKSEKUTIF/KETUA PENGARAH HASIL DALAM NEGERI  
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Fail Kami: LHDN.01/20/193/21

Tarikh: 25 April 2007

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( u.p: Tn. Hj. Abdul Hamid b. Mohd Hassan )

Tuan,

**MINIT MESYUARAT MAJLIS DIALOG PENYIASATAN  
SEISI 1/2006 ANTARA LEMBAGA HASIL DALAM NEGERI  
DAN PERSATUAN AKAUNTAN BERTAULIAH**

Dengan hormatnya saya merujuk kepada perkara di atas.

2. Lanjutan daripada surat LHDNM bertarikh 4 April 2007, bersama-sama ini disertakan minit dialog Penyiasatan bertarikh 14 Disember 2006 untuk rujukan dan tindakan tuan.

Sekian, terima kasih.

**“ BERKHIDMAT UNTUK NEGARA ”  
“ MESRA, MEMBANTU, MEMUASKAN ”**

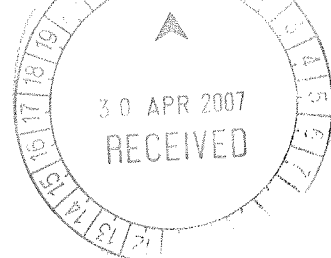
Saya yang menurut perintah,

**( CHE OMAR BIN A RAHAMAN )**

Timbalan Ketua Pengarah (Pematuhan)  
b.p. Ketua Pegawai Eksekutif/ Ketua Pengarah Hasil Dalam Negeri  
Lembaga Hasil Dalam Negeri Malaysia.

BERSAMA KE ARAH SISTEM TAKSIR SENDIRI

(Sila rujuk Fail kami apabila menjawab)



**Minutes Of Dialogue Session 1/2006 Held on 14 December 2006 Between MIA And IRBM on Tax Audits And Tax Investigations.**

**B. Tax Investigations**

**1. Time frame for tax investigation cases**

- 1.1. Members of the Institutes have highlighted that some tax investigation cases have been dormant for more than one year without any issues being raised or any meetings being called. In most of the cases, the documents have been taken but no questions have been raised. On enquiry, taxpayers are told that the investigation branch has limited resources and a meeting will be called soon (but no further action occurs thereafter) or the files are still being examined and the taxpayers are asked either to propose a figure for settlement or to "volunteer areas of wrongdoing". This has caused practical problems to the taxpayers as it may lengthen the period of time unnecessarily in which a company is under investigation and as a result the penalty cost (on any additional tax payable) will increase once an investigation case has exceeded a 6 month frame from the date of investigation. In addition, it also causes undue disruption to the company's business operations/ activities

**Answer**

IRBM informed that firm action has been taken to expedite settlement of long outstanding cases. To that effect the Investigation Department implemented the Civil Investigation Work Procedure Manual in 2005 to standardize and regulate investigation activities of the investigation centers nationwide.

Further, the Investigation Department at Headquarters is continuously monitoring the aging of each investigation case to ensure timely action. Examples cited above are more the exception than the norm now.

In addition, an instruction outlining the procedure pertaining to penalty imposition and installment payments was issued by the IRBM in 2002. The basis for penalty imposition and granting of installments were clearly stated in this internal instruction which has been made public. For example on the issue of time frame, unforeseen circumstances (e.g. officers attending courses, transferred etc) have been accounted for when considering the time taken to settle an investigation case.



- 1.2. The Institutes have also been informed that there are delays in obtaining the signed Composite Assessment (Agreement Pursuant to Section 96 (A) 1 or Notice of Assessment from the IRB after the finalization of tax investigation cases. Documents / files / records are still kept at the IRB's premises during such a period of time and it causes practical difficulties for the tax payers to access their own company's records which are pertinent to their day-to-day business operations.

The Institutes are of the view that the IRB officers should look into the above matters seriously and take the necessary steps to expedite the investigation processes so that the documents and files could be returned to the taxpayers in due course. The Institutes also wish to highlight that in instances where the investigation results in no findings, the case should be closed and not left unresolved indefinitely.

#### **Answer**

**IRBM reiterated the that the Civil Investigation Work Procedure Manual has laid down the time frame for settlement of tax investigation cases, which has to be duly submitted and approved by Headquarters within the stipulated period. The Investigation Department at Headquarters closely monitors the cases to ensure timeliness and speedy return of taxpayer's records.**

**IRBM also will return records not needed or relevant to finalization of the case at the earliest possible instance.**

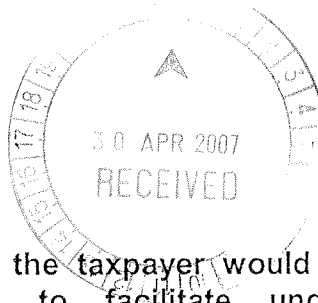
#### **2. Approach to tax investigation**

The Institutes have received feedback from members that certain officers continue to treat the taxpayers with a biased view that taxpayers are "guilty" pending the finalization of the investigation. Some taxpayers have informed that higher penalties have been imposed where the tax payer does not agree with the findings of the investigations.

The Institutes wish to highlight that the IRB should be transparent/open with the information that the IRB has on a particular taxpayer. The taxpayer has the right to know the basis of the investigation rather than be kept in the dark on the investigation. The taxpayer would be able to assist to expedite the finalization of the investigation if he is aware of the issues.

#### **Answer**

**IRBM informed that all investigation officers must adhere to the standards set out in the Civil Investigation Work Procedure Manual with effect from 2005.**



Also in the course of investigation, the taxpayer would be queried on various business/financial matters to facilitate understanding of investigation officers of taxpayer's business. As stated in Civil Investigation Work Procedure Manual taxpayers would be informed of the scope of the tax investigation during the visit. It is taxpayer's prerogative to be informed of the basis of the tax / additional tax computation.

IRBM further commented with effect from the year 2007 onwards, the number of investigation cases handled by an investigation officer at any one time will be limited to prevent backlog of investigation cases.

3. Appointment of tax agents

The Institutes have received feedback from members highlighting the following scenario:-

- i) taxpayers under investigation by the LHDNM receiving calls from other tax agents who are aware of some of the issues under dispute.
- ii) some investigation officers have advised taxpayers not to engage tax agents. This has created an element of fear among taxpayers to approach tax agents for assistance

Answer

IRBM informed section 138 ITA 1967 ensures confidentiality of taxpayer's matters and all investigation officers have taken the secrecy oath, the Board consistently monitors to avoid breach of confidentiality.

IRBM confirmed that taxpayers have the right to choose any tax agent to assist them in dealing with IRBM.

4. Details of documents seized

Members have informed of instances where the IRB has only provided a general list of the records and documents taken from the taxpayers.

The Institutes wish to request that more accurate details of the documents taken should be provided. This will ensure that all the documents taken have been accounted for and this will assist in preventing documents being misplaced. The Institutes also wish to highlight that taxpayers who request for detailed listings should not be seen as being "uncooperative".

Answer

All documents seized during an investigation are duly examined and acknowledged by the taxpayer. The taxpayer has the right to refuse a



general listing of the documents to be seized and can request or insist on a more detailed listing of documents. Usually the taxpayer's staff assists in the listing procedure of documents.

5. Seizure of documents

The mannerism of certain IRB officers is unprofessional during an investigation at the time of looking for and seizing documents. In a specific case, the IRB officer turned up for the tax investigation without a warrant. Further, other documents which were not related to the companies under the tax investigation were also screened through by the IRB officers even though they were specifically asked not to do so.

We would strongly suggest that the IRB officers should be more professional in handling cases. It is also hoped that the IRB officers would treat all staff of a company being investigated with due respect. A tax investigation should not be viewed as a criminal case.

**Answer**

IRBM informed as stipulated in Civil Investigation Work Procedure Manual, the investigation officer should produce the authority card, introduce him and the team to the taxpayer as well as explain the purpose of the visit. Under section 137 of ITA 1967 taxpayer has the right and can demand the investigation officer to produce the authorization.

As empowered under section 80 ITA 1967, the investigation officer has the right to inspect copy and confiscate all documents in the premises, in the custody of or under the control of the taxpayer.

Currently, all investigation officers have been instructed to seize and confiscate documents and records of taxpayer in a manner stipulated in the Criminal Investigation Procedure regardless of whether the investigation case will be settled through civil or criminal mode of settlement.

6. Assignment of new officers

The Institutes have been informed that in certain instances where the investigation officer has been replaced or transferred, the new officer will begin to review the case afresh and starts to raise the same issues all over again.

The Institutes would like to enquire on the procedures involved where investigation officers are assigned to take over existing cases. The fresh review of resolved issues will only cause further delay in the finalization of the case.

## **Answer**

IRBM informed that the new officers assigned to take over existing cases need to review the investigation cases to ensure fairness to Revenue as well as the taxpayer, however care will be taken to minimize further delay and disruption to taxpayer.

### **7. Proposed framework for tax investigations**

The Institutes forwarded a proposal framework for tax investigations at the previous dialogue held on 10th May 2005 for the IRB's consideration. The proposed framework outlined the objectives and general principles of tax investigations, the rights and obligations of the IRB officers as well as the taxpayers, the procedures involved penalties and avenues of complaints in the event of tax investigations.

The IRB informed in the previous dialogue held on 10th May 2005 that the IRB is in the midst of drafting a comprehensive frame work for tax investigations which would include rights and obligations of taxpayers, tax agents and the IRB. It was also stated in the minutes of the said dialogue that due consideration will be given to our proposed framework (wherever possible) in drafting the IRB's framework for tax investigations.

The Institutes wish to highlight the importance of having a framework and would like to enquire on the status of the framework from the IRB so that it can be referred to in dealing with the IRB with regard to any tax investigation cases. In this regard, a copy of our proposed framework is attached (see Appendix 3) for easy reference.

## **Answer**

**The final draft of the Framework for Tax Investigations will be reviewed by the Tax Review Panel of the Ministry of Finance.**