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PREMIER TAX EVENT OF THE YEAR
NATIONAL TAX CONFERENCE
2014

12 & 13 AUGUST 2014 | KUALA LUMPUR CONVENTION CENTRE

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DAY 1 : Tuesday, 12 August 2014

***TAX ENFORCEMENT
&
ANTI-MONEY LAUNDERING AND ANTI-TERRORIST
FINANCING ACT (AMLATFA)***

***Speaker: Mdm Amnah Binti Tawil
Director of Enforcement Cooperation
Investigations Department
Inland Revenue Board Malaysia***

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TAX ENFORCEMENT

- DETECTION
- AUDITS
- INVESTIGATIONS
- COLLECTIONS

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INVESTIGATION FOCUS

- Reengineering investigation work processes towards criminal investigation
- Increasing emphasis in investigating money laundering activities
- Joint operations with other government agencies in enforcement activities

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Income Tax Act 1967 & Anti-Money Laundering And Anti-Terrorism Financing Act 2001

- Offences under Section 112, 113 & 114 of ITA 1967 have been gazetted as serious offences under Schedule 2 of AMLATFA 2001 since 7th October 2010.
- As a law enforcement agency, IRBM could enforce laws relating to the prevention, detection and investigation of the serious offence as listed in Schedule 2 of AMLATFA.

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Income Tax Act 1967 & Anti-Money Laundering And Anti-Terrorism Financing Act 2001

Offence of money laundering

s.4(1) Any person who-

- (a) engages in, or attempts to engage in; or
- (b) abets the commission of,

money laundering, commits an offence and shall on conviction be liable to a fine not exceeding five million ringgit or to imprisonment for a term not exceeding five years or both.

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Income Tax Act 1967 & Anti-Money Laundering And Anti-Terrorism Financing Act 2001

Offence of money laundering

s. 4(2) A person may be convicted of an offence under subsection (1) **irrespective of whether there is a conviction** in respect of a **serious offence** or foreign serious offence **or that a prosecution has been initiated for the commission** of a serious offence or foreign serious offence.

Reporting Obligations – Part IV of AMLATFA

Definition of “Reporting Institution” :

- s. 3 – any person, including branches and subsidiaries outside Malaysia of that person, who carries on any activity listed in the First Schedule.

First Schedule

- No 14 – Activities carried out by a member as defined in the Accountants Act 1967 [Act 94].

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Reporting Obligations – Part IV of AMLATFA

- s.14 – report by reporting institutions
 - Suspicious transactions
 - Automatic reporting
- s.25 – monitoring a reporting institution's compliance with Part IV, the competent authority may authorize an examiner to examine any of the reporting institution's records or reports

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Investigation of Money Laundering Activities Under AMLATFA

Investigation : Initiation

1. Suspicious Transaction Report (STR) & CTR
2. Report –
 - (a) enforcement agency
 - (b) any person / any agency

Note : Enforcement Agency – body or agency responsible for the enforcement of the predicate/serious offence

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Investigation of Money Laundering Activities Under AMLATFA

Tax Investigation v ML Investigation

AMLATFA investigation can be opened for two purposes:

- (1) To carry out investigation for the purpose of charging a person under AMLATFA or to initiate forfeiture proceeding against the proceeds of crime; or
- (2) To complement or to support the predicate investigation.

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Investigation of Money Laundering Activities Under AMLATFA

AMLATFA investigation can be opened :

- a. Parallel with the predicate offence investigation where there is reason to suspect the commission of offences under AMLATFA; or
- b. After the opening of the predicate investigation and during the course of the predicate investigation reveals/discloses the commission of offences under AMLATFA.

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Provisions Under AMLATFA Used To Facilitate Tax Investigation

- **Power of an investigating officer**
 - s.31 AMLATFA complements s. 80 of ITA 1967
- **Power to examine persons**
 - s.32 AMLATFA complements s. 81 of ITA 1967

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Provisions Under AMLATFA Used To Facilitate Tax Investigation

- **Search of a person**
 - s.33 –may detain the person for such period as may be necessary to have the search carried out, which shall not in any case exceed 24 hours.....
- **Investigating officer may arrest without warrant**
 - s.41 – may arrest without warrant a person whom he reasonably suspects to have committed or to be committing any offence....

Provisions Under AMLATFA Used To Facilitate Tax Investigation

- **Power to freeze any property (s 44)**
 - Power to freeze any property by LEAs for the purpose of investigation before effecting a seizure
 - Valid for 90 days
 - Variation Order can be issued on a case to case basis

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Provisions Under AMLATFA Used To Facilitate Tax Investigation

- **Power to seize property**

Power to seize any property which is the subject matter of the offence or evidence to the commission of such offence – s 45, 46, 50, 51 & 52

- Moveable property (s 45 & s 46)
- Moveable property in financial institution (s50)
- Immoveable property (s 51)
- Business (s 52)

Provisions Under AMLATFA Used To Facilitate Tax Investigation

- **Forfeiture**

For the recovery of proceeds of crime, AMLATFA provides :

- a. Power to forfeit property at the end of criminal proceeding (s 55) or civil forfeiture proceeding (s 56)
- b. Even if the accused is acquitted, the court is still empowered to forfeit the property seized provided that the court is satisfied :
 - i. the accused is not the true & lawful owner of the property
 - ii. No other person is entitled to the property as a purchaser in good faith for valuable consideration

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Provisions Under AMLATFA Used To Facilitate Tax Investigation

- Investigation powers in relation to a financial institution – DPP may authorized investigation officer to inspect/ request for any information from any financial institution (s48)
- Property tracking (s.67)
- Admissibility of statements by accused persons (s.72)
- Evidence gathered through predicate investigation shall be deemed to be evidence gathered under AMLATFA (s.68)

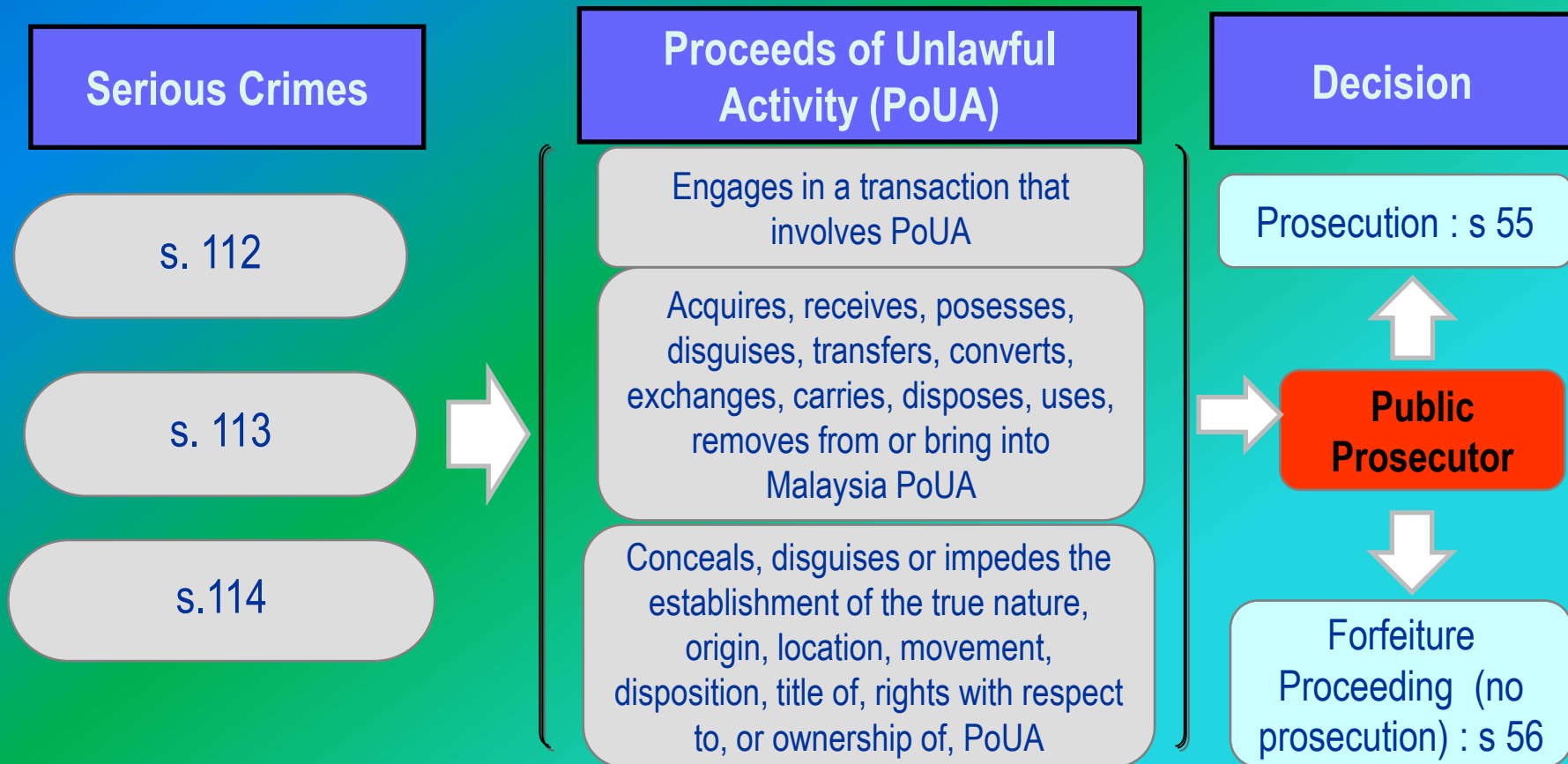
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Serious Crimes => Proceeds => Money Laundering



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Tax Investigations under AMLATFA : Statistics

<u>Year</u>	<u>No.of Cases</u>	<u>RM (million)</u>
2011	106	341
2012	31	218
2013	86	210

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THANK YOU