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Taxavvy

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Income Tax (Accelerated Capital Allowance)(Information and Communication Technology Equipment) Rules 2014

The Inland Revenue Board (“IRB”) has recently communicated to the Chartered Tax Institute of Malaysia (“CTIM”) the position in relation to sub-rule 7(d) in the gazette order *Income Tax (Accelerated Capital Allowance)(Information and Communication Technology Equipment) Rules 2014* – PU (A) 217/2014 (“the ACA Rules”).

Sub-rule 7(d) relates to the non-application of the ACA Rules where a person qualifies for a deduction under any other rules made under section 154 of the Income Tax Act 1967.

In the previous communications between the IRB and CTIM, the IRB had stated that a person can, in the same year of assessment, make a claim for the accelerated capital allowance under the ACA Rules and the expenses under the following gazette orders:

- a) Income Tax (Deduction for Audit Expenditure) Rules 2006 [PU (A) 129/2006],
- b) Income Tax (Deduction for Expenses in relation to Secretarial Fee and Tax Filing Fee) Rules 2014 [PU (A) 336/2014], or
- c) Income Tax (Deduction for Cost relating to Training for Employees for the Implementation of Goods and Services Tax) Rules 2014 [PU (A) 334/2014]

However, the IRB has recently further clarified to CTIM that this concurrent claim can only be made **after** the ACA Rules has been amended. The IRB and Ministry of Finance are in the process of reviewing the amendments to sub-rule 7(d) of the ACA Rules.

Public Ruling 2/2015 – Taxation of real estate investment trust or property trust fund

The IRB has issued a revised Public Ruling 2/2015 – Taxation of real estate investment trust or property trust fund (“PR 2/2015”) dated 19 June 2015. PR 2/2015 replaces Public Ruling 9/2012 – Taxation of real estate investment trusts / property trust funds dated 26 November 2012.

The main change of PR 2/2015 is the inclusion of guidance and examples on the application of paragraph 38A of Schedule 3, Income Tax Act 1967 in relation to the control transfer provisions on disposal of industrial buildings, in particular, the determination of a company’s entitlement to residual profits and residual assets.

The public ruling is available on IRB’s website www.hasil.gov.my (Laws and Regulations > Public Ruling).

Extension of deadline for submission of Forms B, BT, M, MT and P via e-filing

The IRB has issued a press release dated 23 June 2014, announcing that the deadline for submission of Income Tax Return Form and payment of tax payable for YA 2014 for **individuals with business income** (Forms B, BT, M, MT and P) has been extended to 15 July 2015. This extension only applies to tax payers who submit their income tax return forms via e-filing.

Where submission is made manually, the deadline for submission and payment of tax payable remains as at 30th June 2015.

Tax Audit Framework – Financial and Insurance

The IRB has recently issued on 26 June 2015, a Tax Audit Framework – Financial and Insurance (“the FI audit framework”). The FI audit framework is dated and effective from 1 June 2015. The contents of the FI audit framework are consistent with that of the general Tax Audit Framework (“general audit framework”) dated 1 February 2015, except for the following salient points:

- 1) The FI audit framework is applicable to the following industries:
 - a) *Financial / Islamic Finance industry*
e.g. financial institutions / Islamic financial institutions such as commercial banks, investment banks, Islamic banks, International Islamic banks, and non-financial institutions such as Bank Pembangunan, Bank Pertanian, Export-Import bank.
 - b) *Financial / Islamic Finance intermediaries*
e.g. financial leasing, factoring, credit card services, stock, shares and bond brokers, operational and control services of financial markets, and other financial intermediaries.
 - c) *Insurance / Takaful*
e.g. composite, life and general insurance.
 - d) *Insurance / Takaful intermediaries*
e.g. broker, loss adjuster and licenced insurance agents.
- 2) The audit scope will cover between 1 to 3 years of assessment, as compared to 1 year of assessment under the general audit framework. Similar to the general audit framework, the audit scope can be extended to 5 years of assessment.

3) The timeframe for settlement of an audit is as follows:

Business activity	Settlement timeframe
Commercial banks, investment banks, Islamic banks, International Islamic banks, and non-financial institutions such as Bank Pembangunan, Bank Pertanian, Export-Import bank	8 months (240 calendar days) from the commencement of audit visit
Financial leasing, factoring, credit card services, stock, shares and bond brokers, operational and control services of financial markets, and other financial intermediaries	4 months (120 calendar days) from the commencement of audit visit
Insurance and Takaful, including re-insurance and re-Takaful	8 months (240 calendar days) from the commencement of audit visit
Businesses such as brokers, agents and adjusters	4 months (120 calendar days) from the commencement of audit visit

- 4) The paragraphs on the Monitoring Deliberate Tax Defaulters (“MDTD”) Programme and the penalties under MDTD Programme have not been included.
- 5) Taxpayers may direct any matters concerning any audit carried out under the FI audit framework to Financial and Insurance Unit of the Large Taxpayers Branch.

The FI audit framework can be downloaded from IRB’s website www.hasil.gov.my (Undang-undang and Peraturan > Rangka Kerja Audit LHDNM).

Let's talk

Our offices	Name	Email	Telephone
Kuala Lumpur	Jagdev Singh	jagdev.singh@my.pwc.com	+60(3) 2173 1469
Penang / Ipoh	Tony Chua	tony.chua@my.pwc.com	+60(4) 238 9118
Johor Bahru	Benedict Francis	benedict.francis@my.pwc.com	+60(7) 222 4448
Melaka	Teh Wee Hong Au Yong	wee.hong.teh@my.pwc.com paik.hup.au@my.pwc.com	+60(3) 2173 1595 +60(6) 283 6169
Labuan	Jennifer Chang	jennifer.chang@my.pwc.com	+60(3) 2173 1828

Our services	Name	Email	Telephone
Corporate Tax Compliance & Planning			
▪ Consumer & Industrial Product Services	Theresa Lim Margaret Lee	theresa.lim@my.pwc.com margaret.lee.seet.cheng@my.pwc.com	+60(3) 2173 1583 +60(3) 2173 1501
▪ Emerging Markets	Fung Mei Lin	mei.lin.fung@my.pwc.com	+60(3) 2173 1505
▪ Energy, Utilities & Mining	Lavindran Sandragasu	lavindran.sandragasu@my.pwc.com	+60(3) 2173 1494
▪ Financial Services	Jennifer Chang	jennifer.chang@my.pwc.com	+60(3) 2173 1828
▪ Technology, InfoComm & Entertainment	Heather Khoo	heather.khoo@my.pwc.com	+60(3) 2173 1636
GST / Indirect Tax	Wan Heng Choon Raja Kumaran	heng.choon.wan@my.pwc.com raja.kumaran@my.pwc.com	+60(3) 2173 1488 +60(3) 2173 1701
International Tax Services / Mergers and Acquisition	Frances Po	frances.po@my.pwc.com	+60(3) 2173 1618
Transfer Pricing, Tax Audits & Investigations	Jagdev Singh	jagdev.singh@my.pwc.com	+60(3) 2173 1469
International Assignment Services	Sakaya Johns Rani Hilda Liow	sakaya.johns.rani@my.pwc.com hilda.liow.wun.chee@my.pwc.com	+60(3) 2173 1553 +60(3) 2173 1638
Corporate Services	Lee Shuk Yee	shuk.yee.lee@my.pwc.com	+60(3) 2173 1626
Japanese Business Consulting	Junichi Fujii	junichi.fujii@my.pwc.com	+60(3) 2173 1480

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