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Double deduction for cost of implementing flexible work arrangements

The following rules have been gazetted on 29 June 2015:

1. Income Tax (Deduction for Consultation and Training Cost for the Implementation of Flexible Work Arrangements) Rules 2015
2. Petroleum (Income Tax) (Deduction for Consultation and Training Costs for the Implementation of Flexible Work Arrangements) Rules 2015

Both the Rules are effective from year of assessment (“YA”) 2014. The salient points of the Rules are as follows:

Item	Salient points
Incentive	<ul style="list-style-type: none"> • Double deduction on consultation fee and costs of training employees of a qualifying person for the implementation or enhancement of Flexible Work Arrangements (“FWA”). • FWA means flexible arrangements: <ol style="list-style-type: none"> a) at a place of work, or b) in the scheduling of working hours, or c) in the number of hours worked • The claimant must submit an application for certification of the FWA by Talent Corporation Malaysia Berhad (“TalentCorp”), from 1 January 2014 until 31 December 2016. • The double deduction is given for 3 consecutive YAs, commencing from the YA in which TalentCorp certification is received. • The expenses are to be verified by TalentCorp and shall not exceed RM500,000 for each YA.
Qualifying person	<ul style="list-style-type: none"> • A company incorporated under the Companies Act 1965, • A limited liability partnership registered under the Limited Liability Partnerships Act 2012, • A partnership registered under the Partnership Act 1961, • A chargeable person under the Petroleum Income Tax Act 1967, <p>which is resident in Malaysia.</p>
Eligible costs of training	<ul style="list-style-type: none"> • training course / programme fee • internal trainer fee • training material cost • rental of training space • examination fee • training-related travelling expenses of employees and trainers, limited as follows: <ol style="list-style-type: none"> i) travelling: <ul style="list-style-type: none"> • to and from Malaysia – economic class air fare • within Malaysia – economic class air fare, or actual land or water transport cost. ii) accommodation – maximum of RM300/day iii) sustenance – maximum of RM150/day.

Public Ruling 3/2015 – Failure to furnish information within a stipulated period

The Inland Revenue Board (“IRB”) has issued *Public Ruling 3/2015 – Failure to furnish information within a stipulated period* dated 29 July 2015, which explains the tax treatment when a taxpayer fails to furnish information within a stipulated timeframe.

The salient points are as follows:

- A deduction for the expenses will be disallowed under section 39(1A) of the Income Tax Act 1967 (“ITA”) if the taxpayer fails to:
 - a) submit all the records or documents that meet the requirements specified in the notice issued under section 81 of the ITA, or
 - b) furnish the required information within the timeframe stipulated in the notice under section 81.
- Where information cannot be furnished due to circumstances beyond the taxpayer’s control, the Director General may give due consideration to allow a deduction of expenses provided the taxpayer:
 - a) is able to submit the supporting evidence and reasonable grounds for the inability to provide the information, and
 - b) has made every endeavour to submit one of the following records / documents:
 - newspaper clippings, photographs and police reports,
 - other proofs that are appropriate and reasonable, or
 - records or documents from third parties.

Public Ruling 4/2015 – Entertainment expense

The IRB has also issued *Public Ruling 4/2015 – Entertainment expense* dated 29 July 2015. This Public Ruling replaces Public Ruling 3/2008. The salient changes in the new public ruling are as follows:

- The definition of “entertainment” is updated to be consistent with the amended definition which takes effect from YA 2014.
- A definition of “promotion” is now included in the public ruling.
- New examples have been inserted to illustrate the IRB’s position with respect to certain types of entertainment and promotional expenses.

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

IRB guidelines on tax treatment related to the implementation of MFRS 121 (or other similar standards)

The IRB has issued a *Guideline on the tax treatment related to the implementation of MFRS 121 (or other similar standards)* dated 24 July 2015. The guide sets out the tax treatment in relation to 3 scenarios, i.e. companies which use the following currencies as the mode of payment/receipt for their business transactions:

1. RM currency
2. Neither RM currency nor functional currency
3. Functional currency

The salient points of the guidelines are:

1. Business that uses RM currency as mode of transaction

- The actual amount of the transaction denominated in RM will be recognised for tax purposes.
- Foreign exchange differences are considered as realised when RM currency is physically converted into or exchanged for the functional currency.
- Any foreign exchange differences upon translation from RM to functional currency, and from functional currency to presentation currency (RM) will be disregarded.

2. Business that uses neither RM currency nor functional currency as mode of transaction (i.e. business uses foreign currency)

- For any transaction denominated in foreign currency, the spot exchange rate between the foreign currency and RM at transaction date is to be applied to determine the RM value of the transaction for tax purposes.
- Foreign exchange differences are considered as realised when the RM currency is physically converted into or exchanged for the other foreign currencies or functional currencies.
- Any foreign exchange differences upon translation from foreign currency to functional currency, and from functional currency to presentation currency (RM) will be disregarded.

3. Business that uses functional currency as mode of transaction

- For any transaction denominated in functional currency, the spot exchange rate between the functional currency and RM at transaction date is to be applied to determine the RM value of the transaction for tax purposes.
- Foreign exchange differences are considered as realised when the RM currency is physically converted into or exchanged for the functional currency.
- Any foreign exchange differences upon translation from functional currency to RM is to be disregarded.

The guideline is available on IRB's website (www.hasil.gov.my) (Laws and Regulations > Technical Guidelines).

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	Raja Kumaran Wan Heng Choon	raja.kumaran@my.pwc.com heng.choon.wan@my.pwc.com	+60(3) 2173 1701 +60(3) 2173 1488
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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