

14 August 2016 | Issue 7-2016

Taxavvy

Stay current. Be tax savvy.

Tax Collection Framework
2015

Minutes of DESIRE Dialogue
1/2016

Reduction of penalty and
waiver of increase in tax

Guidelines on tax clearance
application

Public Ruling 4/2016 – Tax
incentives for child care
centre and kindergarten
operators



www.pwc.com/my

Tax Collection Framework 2015

The Tax Collection Framework 2015 (“the Framework”) was first issued in August 2015. The Framework was amended on 20 April 2016 and posted on the Inland Revenue Board’s (IRB) website on 29 July 2016.

The Framework provides guidance to taxpayers, employers and tax agents on the requirements pertaining to the collection of taxes by the IRB under the following tax acts:

- Income Tax Act 1967 (ITA)
- Petroleum Income Tax Act 1967
- Real Property Gains Tax Act 1976
- Labuan Business Activity Tax Act 1990

The Framework also covers withholding taxes, methods of payment, collection and refund of taxes, as well as compensation for late refunds.

In this respect, we wish to highlight the following pertaining to the compensation for overpayment of tax under section 111D of the ITA:

- Effective from year of assessment (YA) 2013, a compensation of 2% of the amount of tax refund will be paid to the taxpayer in the event IRB is late in paying the tax refund.
- The IRB clarified in the Framework that a taxpayer is only entitled to the compensation if the tax return is submitted by the taxpayer within the stipulated timeframe. In the case of a company, limited liability partnership (LLP), trust body and co-operative society, the submission timeframe is within 7 months from the date following the close of the accounting period which constitutes the basis period for the YA.
- The Framework also list situations where the taxpayer is not eligible for the compensation.

A copy of the Framework is available on IRB’s website www.hasil.gov.my (Laws and Regulations > Tax Collection Framework).

Minutes of DESIRE Dialogue 1/2016

The minutes of the DESIRE Dialogue 1/2016 held on 19 May 2016 has been issued by the IRB. The dialogue discussed issues relating to filing, penalties, tax payments/refunds and other tax matters.

The following are the salient points to take note in relation to the Form C:

- 1. Part A12 (Dividends)** – Dividend income is now inserted under “Other Statutory Income” for purposes of capturing dividends received by companies which are taxed on a world scope basis. (Item 1 of the minutes)

2. **Part J (Income of preceding year not declared)** – As there is insufficient space in this part to accommodate the information required where more than one YA is involved, a covering letter should be submitted to the relevant IRB branch to provide the additional information. (Item 2 of the minutes)
3. **Part P18 & P19 (Total loan to/from directors)** – The amount to be indicated here is the amount outstanding as per the Balance Sheet. (Item 2 of the minutes)
4. **Part R4 (Transfer pricing documentation prepared)** – The taxpayer should tick “No” if this is not applicable to the company. (Item 3 of the minutes)
5. **Part L1 (Business code)** – This field is marked as a mandatory field in the Form e-C. The IRB has confirmed that no penalties will be imposed where a dormant company leaves this field blank. (Item 5 of the minutes)
6. **Completion of Form e-C** – Where an item/box in the Form e-C is not applicable to the taxpayer, the item/box can be left blank. (Item 12 of the minutes)

A copy of the minutes is available on IRB’s website www.hasil.gov.my (Internal Links > Dialogue Minutes for Operational & Technical Issues).

Reduction of penalty and waiver of increase in tax

The IRB issued an amended guideline dated 1 August 2016 pertaining to the offer to reduce penalty and waive increase in tax (“tax amnesty”). The changes are essentially to extend the tax amnesty to transfer pricing audits based on the following stipulated reduced rates:

Transfer pricing documentation	Penalty rates
Available	15%
Not available	25%

The reduced penalties for transfer pricing audit cases are also subject to the following conditions:

- Reduction in penalties based on voluntary disclosure is not applicable for transfer pricing audits.
- The tax amnesty only applies to transfer pricing audits which are on-going and completed within the period of 1 March 2016 to 15 December 2016.
- This concession is applicable for cases which have been audited where the taxpayer had made payment in full within 30 days from the date of notice of assessment / additional assessment.

The guideline is available on IRB’s website www.hasil.gov.my (Internal Links > Operational Guidelines).

Guidelines on tax clearance application

A new guideline on tax clearance application dated 31 July 2016 was recently issued by the IRB. It outlines the documentation and application requirements in various circumstances for companies, LLP, Labuan companies and Labuan LLP. The guideline replaces the tax clearance application guideline dated 15 September 2009 which only covered companies.

The guideline is available on IRB's website www.hasil.gov.my (Internal Links > Operational Guidelines).

Public Ruling 4/2016 – Tax incentives for child care centre and kindergarten operators

The IRB has issued *Public Ruling 4/2016 – Tax incentives for child care centre and kindergarten operators* (PR 4/2016) dated 9 August 2016. PR 4/2016 provides guidance on the tax treatment of the tax incentives available to child care centres and kindergarten operators. They are:

1. Tax exemption on the statutory income for a person who is a child care centre / kindergarten operator. The exemption is for a period of five consecutive YAs commencing from:
 - YA 2013 in relation to an existing child care centre / kindergarten, or
 - the first invoice issued by a child care centre / kindergarten that commences its business from the YA 2013.
2. Industrial building allowance for a building which is constructed or purchased by a person who operates a child care centre / kindergarten. The building has to be owned and used by the person in the business of a child care centre / kindergarten operator.

PR 4/2016 is available on IRB's website www.hasil.gov.my (Internal Links > Public Rulings).

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	Margaret Lee Steve Chia	margaret.lee.seet.cheng@my.pwc.com steve.chia.siang.hai@my.pwc.com	+60(3) 2173 1501 +60(3) 2173 1572
▪ 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	raja.kumaran@my.pwc.com	+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	Yuichi Sugiyama Clifford Yap	yuichi.sugiyama@my.pwc.com clifford.eng.hong.yap@my.pwc.com	+60(3) 2173 1191 +60(3) 2173 1446

pwc.com/my

Taxavvy is a newsletter issued by PricewaterhouseCoopers Taxation Services Sdn Bhd. Whilst every care has been taken in compiling this newsletter, we make no representations or warranty (expressed or implied) about the accuracy, suitability, reliability or completeness of the information for any purpose. PricewaterhouseCoopers Taxation Services Sdn Bhd, its employees and agents accept no liability, and disclaim all responsibility, for the consequences of anyone acting, or refraining to act, in reliance on the information contained in this publication or for any decision based on it. Recipients should not act upon it without seeking specific professional advice tailored to your circumstances, requirements or needs.

© 2016 PricewaterhouseCoopers Taxation Services Sdn Bhd. All rights reserved. "PricewaterhouseCoopers" and/or "PwC" refers to the individual members of the PricewaterhouseCoopers organisation in Malaysia, each of which is a separate and independent legal entity. Please see www.pwc.com/structure for further details.