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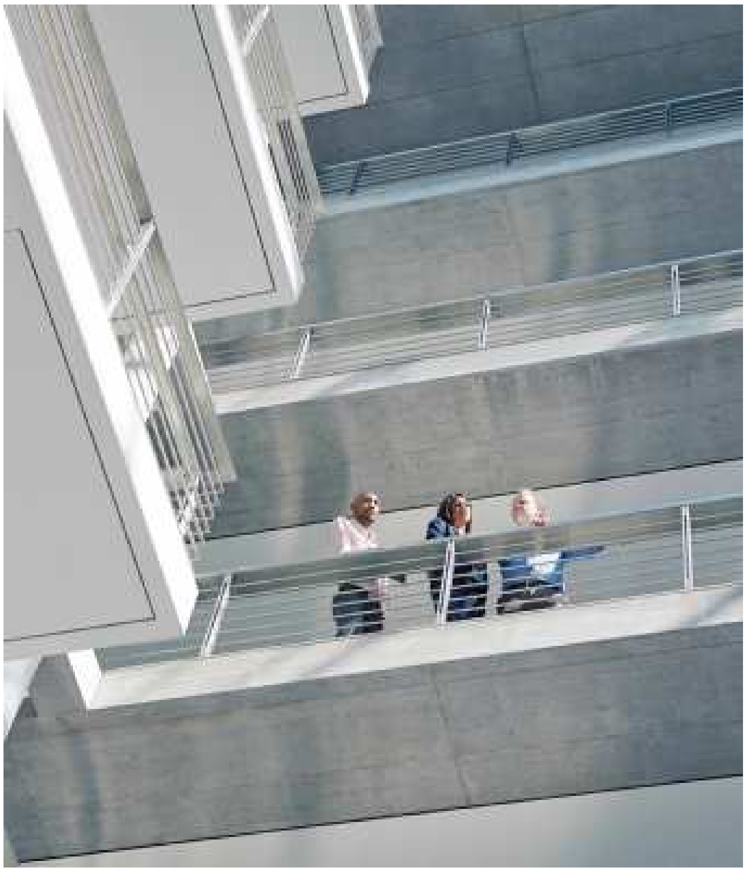

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Amendment to DESIRE Dialogue 1/2016 minutes

The IRB has issued an amendment to the minutes of the DESIRE Dialogue 1/2016, via their letter dated 9 August 2016.

IRB's position on item 8 of Part A in the minutes, pertaining to the furnishing of an e-CP204 for a tax estimate of less than 85% of the previous year of assessment's (YA) tax estimate from YA 2018, is amended as follows:

Previous position

The taxpayer can submit a tax estimate of less than 85% of the previous YA's tax estimate, via e-CP204.

Amended position

To apply for a tax estimate of less than 85% of the previous YA, the taxpayer is required to submit:

An e-CP204 (at 85% of the previous YA's tax estimate) + A letter of appeal for the lower estimate, with supporting documents to the Pusat Pemprosesan Maklumat.

30 days before the commencement of the basis period.

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

Public Ruling 5/2016 – Tax incentives for employers who provide child care centres

The IRB has issued *Public Ruling 5/2016 – Tax incentives for employers who provide child care centres* ("PR 5/2016"), dated 22 August 2016, to explain the tax incentives for employers who provide child care benefits. Key points to note are:

Child care centre

- four or more children under the age of four years from more than one household are cared for a fee.
- registered with the Department of Social Welfare and subject to the Child Care Centre Act 1984.

The incentives

- Further deduction for expenditure incurred on the provision and maintenance of child care centre for employees.
- Further deduction for child care allowance provided to employees.
- Industrial building allowance for the construction or purchase of child care facilities (10% annual allowance).

Public Ruling 6/2016 – Group relief for companies

The IRB has recently issued *Public Ruling 6/2016 – Group relief for companies* ("PR 6/2016"), dated 22 August 2016. PR 6/2016 sets out the circumstances and procedures for claiming group relief, including:

Qualifying criteria for group relief	Steps to determine if companies are related for purposes of group relief	Computation of residual profits, residual assets and equity holders entitlement to residual profits and assets
Timeframe for the IRB to raise additional assessment on the claimant company for incorrectly claiming group relief.	Penalties for incorrect information	Companies not eligible for group relief

The salient points to note are:

1 *Timeframe for the IRB to raise additional assessment on the claimant company for incorrectly claiming group relief*

Section 44A(9)(a) of the Income Tax Act 1967 allows the Director General (DG) to make an assessment or additional assessment within 5 years if it is discovered that the taxpayer had incorrectly claimed group relief.
Para 11.1 of PR 6/2016 illustrates that the 5 year period provided in section 44A(9)(a) refers to 5 years from the year of assessment (YA) in which the discovery of the incorrect claim was made by the DG, and not the YA in which the incorrect group relief claim was made.

2 *Guidance on meaning of "commercial loans" (for computing residual profits)*

The IRB provided further explanation on the general features of a "commercial loan" in para 6.3(a) of PR 6/2016. The IRB has also stated that the term "borrowings" would include any financial arrangements. As such, all financial transactions would be examined to determined if it constitutes a borrowing. Taxpayers are advised to keep records of their financial transactions for these purposes.

Both PR 5/2016 and PR 6/2016 are available on IRB's website www.hasil.gov.my (Internal links > Public Rulings).

Guidelines on automatic double deduction for in-house research & development (R&D) project for SMEs

Following the announcement made by the government in the 2016 Budget in relation to the automatic double deduction for in-house R&D projects for SMEs under Section 34A of the Income Tax Act 1967, the IRB has recently issued its guidelines on the matter.

Qualifying person

- Company incorporated under the Companies Act 1965 and resident in Malaysia.
- Paid-up capital not exceeding RM2.5 million at the beginning of a basis period for a YA, but excludes companies where:
  1) > 50% ordinary share capital is directly or indirectly owned by a related company*, or vice versa,

  or

  2) > 50% ordinary share capital of the company and its related company* are owned, directly or indirectly by a third company.

  * Related company means a company with paid up capital of > RM2.5 million as at the beginning of a basis period for a YA.

Automatic claim procedure

- The procedure to obtain approval for the R&D project remains the same, i.e. application for approval has to be made 6 months prior to the close of the financial year end.
- The above qualifying companies can automatically make the claim in the income tax return, during the incentive period, without having to wait for approval to be granted.
- However, the claim is still subject to IRB's audit and approval.

Qualifying expenditure (QE)

- Expenditure incurred on carrying out in-house R&D but excludes:
  i. Capital expenditure on plant, machinery, equipment, land or building,
  ii. Expenditure on permanent structures such as renovation, additions or expansion of existing permanent structures, or
  iii. Expenditure on acquisition of rights, e.g. acquisition of technology, intellectual property, or royalty payments.

- Total QE incurred for each YA must not exceed RM50,000.
- Where the total QE incurred exceeds RM50,000 in a YA, the claimant is not eligible to make the automatic claim for that YA.

Incentive period

- YA 2016, 2017 and 2018.

The guideline is available on the IRB website www.hasil.gov.my (Internal Links > Technical Guidelines).

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