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## Revised Tax Audit Framework

The Inland Revenue Board (IRB) released the revised Tax Audit Framework (Pindaan 1/2017) on 23 May 2017. The audit framework is effective from 1 May 2017 and replaces the Tax Audit Framework issued in 2015. The following are the salient changes in the revised framework:

### Previous Audit Framework

- Covers 1 year of assessment (YA), depending on the focus of the audit.
- Extendable to 5 YAs, depending on issues uncovered during audit, but this doesn't apply to cases of fraud, wilful default or negligence.
- Field audits are carried out at taxpayer's premises.
- The taxpayer will be given 14 days notice prior to the audit visit. However, with the agreement of the taxpayer, a shorter period of notice may be fixed by IRB.
- The taxpayer can request for postponement of the audit based on reasonable grounds.



### New Audit Framework

- Covers 3 YAs and will be a full audit.
- Extendable to 5 YAs, depending on the issues uncovered during audit, but this doesn't apply to cases of fraud, wilful default or negligence.
- The audit can also be extended to related businesses / companies with common director, without prior notice to the taxpayer.
- Field audits are carried out at taxpayer's premises or IRB offices or an agreed suitable location.
- The taxpayer will be given 14 days notice prior to the audit visit. However, audit visits can also be conducted without prior notice.
- Where notice is issued, the taxpayer can request for postponement of the audit based on reasonable grounds.
- A field audit commences on the date of the documentation request letter that is issued to the taxpayer, or on the first day of audit visit at any of the taxpayer's premises.
- Desk audits commences on the date the taxpayer is contacted via a CP800 / CP800A.
- Taxpayers are required to respond within 21 days of the documentation request letter / CP800 / CP800A. Failure to do so will mean that the IRB can visit any premises in connection with the taxpayer without prior notice.
- Notwithstanding the above, the IRB may visit any premises in connection with the taxpayer without prior notice.
- The new framework also outlines the duties / powers of an IRB officer during a field audit. Please refer to part 7.3.2 of the new framework.

Field audits can be carried out without prior notice at any premises in connection with the taxpayer.

IRB is allowed to access the company's server or computer system to download accounting data onto any storage medium.

### Previous Audit Framework

- Examination of records will only be carried out at the taxpayer's premises. The IRB should be allowed to make copies of the records.
- Where the work place is not suitable or copying facilities are not available, records may be examined at IRB's office. Any records taken will be listed and returned to the taxpayer upon completion of examination.
- Where records are kept in electronic form, hard copies should be made available for examination. Otherwise the taxpayer should facilitate and assist the IRB officers to access the computer system and copy the electronic records onto tapes, disks or diskettes.
- Field audit cases with findings and / or where there is failure to furnish or provide the correct business code in the income tax return, will be listed in the Monitoring Deliberate Tax Defaulters (MDTD) list.



**Examination  
of records**

### New Audit Framework

- IRB officers, at any time, are allowed full access to taxpayer's records under section 80 of the Income Tax Act 1967 as follows:
  - a) Full and free access and search of all land, buildings and places, and
  - b) Full and free access of all books, documents, objects, articles, material and goods, as well as to check, take, make copies or extract from any document without making any payment.
- The examination of records may be conducted at any premises in connection with the taxpayer or IRB office. The IRB should be allowed to make copies of the records.
- If the books and accounting records are stored electronically, the IRB officer is allowed to access the computer system, server or gadget to download accounting data onto tapes, CDs, floppy disks, pen drives, portable hard disks or any other storage media.
- Cases are listed in the MDTD list where:
  - a) There are audit findings and penalties imposed involving company, non-company and employment files. Audit findings for non-company and employment files exclude reliefs or rebates.
  - b) There is insufficient records for company and non-company files.
  - c) Incorrect or no business code is entered into the income tax returns for company and non-company files.



**Monitoring  
deliberate tax  
defaulters**



Under the 2015 Audit Framework, taxpayers are encouraged to make voluntary disclosures before the commencement of the audit. Concessionary penalties are imposed where voluntary disclosures are made within certain timeframe.

However, under the new 2017 Audit Framework, taxpayers are not entitled to make voluntary disclosure when the tax audit has commenced.

A comparison of the new and old penalties rates under the two audit frameworks is set out below:

	2015 Audit Framework	2017 Audit Framework
Penalties for voluntary disclosure within 60 days from the due date of filing the tax return.	10%	10%
Penalties for voluntary disclosure more than 60 days to 6 months from the due date of filing the tax return.	15.5%	15.5%
Penalties for voluntary disclosure before being selected for audit		
• Up to 6 months from the due date of filing the tax return.	As above	
• More than 6 months to 1 year from the due date of filing the tax return.	20%	N/A
• More than 1 year to 3 years from the due date of filing the tax return.	25%	
• 3 years and beyond, from the due date of filing the tax return.	30%	
Penalties for voluntary disclosure:		
• After being notified of the field audit but before commencement of examination of documents.	35%	N/A
• After the document request letter is issued in a desk audit, and within 21 days the taxpayer has made the voluntary disclosure and provided the relevant documents.		
Penalties for voluntary disclosures made beyond 6 months	N/A	35%

The revised tax audit framework is available on IRB's website [www.hasil.gov.my](http://www.hasil.gov.my) (Laws and Regulations > IRBM Tax Audit Framework > [Tax Audit Framework 2017](#)).

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## ***IRB clarifies the imposition of 100% penalty for failure to declare income and correct information***

The IRB issued a media release on 16 May 2017, to clarify that the 100% penalty for failure to declare income and correct information will be imposed from 1 January 2018.

As a step towards elevating the level of voluntary compliance among taxpayers by dealing with hard-core tax defaulters, IRB has provided the following examples of situations which will be subject to the 100% penalty rate:

- Repeated offences of undeclared or incorrectly declared income received in the a return form,
- Refusal to give full cooperation during an audit or investigation,
- Failure to give information or documents requested to assist an audit or investigation,
- Carrying out an organised tax evasion scheme, or
- Failure to comply with the tax law even though the taxpayer has been audited or investigated before.



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