



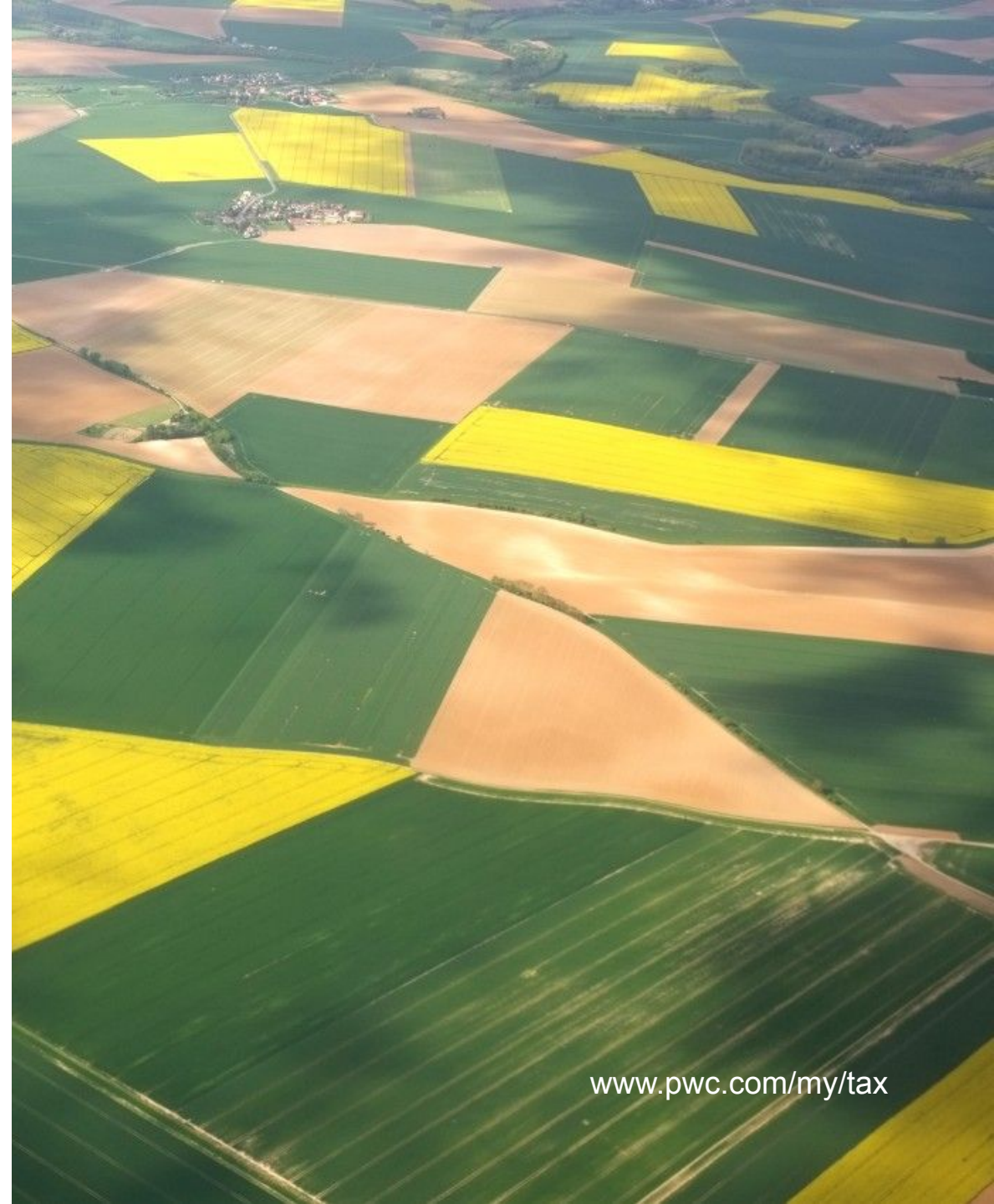
TaXavvy

1 November 2019 | Issue 16-2019

In this issue

- Operational Guidelines GPHDN 5/2019 - Penalties
- Guidelines for approval of Director General of Inland Revenue under Subsection 44(6) of the Income Tax Act 1967 - revised

www.pwc.com/my/tax



Operational Guidelines GPHDN 5/2019 - Penalties

The Inland Revenue Board (IRB) has issued a new Operational Guidelines GPHDN 5 /2019 - Imposition of penalties under subsection 112(3) of the Income Tax Act 1967, subsection 51(3) of the Petroleum (Income Tax) Act 1967, and subsection 29(3) of the Real Property Gains Tax Act 1976, dated 16 October 2019.

The new guidelines is effective from 1 October 2019 and revokes Operational Guidelines GPHDN 1/2015 dated 5 March 2015, which only covered penalties under subsection 112(3) of the Income Tax Act 1967.

The following tables set out the penalty rates for late filing and failure to file tax returns as provided in the new guidelines. The changes in penalty rates from the old guidelines are highlighted as well:

Late filing of tax return - penalty rates

Duration of delay in submission computed from statutory filing due date	Income Tax Act 1967		Petroleum (Income Tax) Act 1967*	Real Property Gains Tax Act 1976*
	Old guidelines	New guidelines		
Within 12 months	20%	15%	15%	15%
More than 12 months to 24 months	25%	30%	30%	20%
More than 24 months to 36 months	30%	45%	45%	25%
More than 36 months	35%			

* Not covered under the old guidelines

Failure to submit tax return - penalty rates

Relevant law	Old guidelines	New guidelines
Income Tax Act 1967	Up to 3 times of the tax payable	45%
Petroleum (Income Tax) Act 1967	Not covered under the old guidelines	
Real Property Gains Tax Act 1976		25%

The guidelines is available on IRB's website www.hasil.gov.my (Legislation > Operational Guidelines)

Guidelines for approval of Director General of Inland Revenue under Subsection 44(6) of the Income Tax Act 1967 - revised

The IRB has updated its guidelines dated 5 September 2019 by reinserting and amending appendices on the minimum spending condition which were previously removed. The guidelines is available on IRB's website www.hasil.gov.my (Legislation > Technical Guidelines).



Minimum spending condition

This condition requires at least 50% of the income earned by the approved institution or organisation in a year to be spent in the following year for activities to achieve the institution's or organisation's objectives. The amended examples set out in the current appendices are now in line with this condition.

Under the amended examples, no minimum spending is required for year 1. Previously, the approved institution or organisation had to spend 50% of the income received in year 1 in the same year.

For year 2 and subsequent years, the approved institution or organisation must spend at least 50% of the income received in the immediate preceding year.

Hence approved institutions or organisations are relieved from the previous requirement of:

- (i) determining the minimum spending threshold of 50% on the aggregate of the unspent income brought forward from the previous year and income received in the current year; and
- (ii) fully spending the unspent income brought forward from the previous year in the current year.

Persons related to the institution or organisation

One of the criteria to qualify for a section 44(6) status is that more than 50%* of the members of the Board of Trustees / Board of Directors / committee members must consist of outsiders who are not related to the institution or organisation.

The application checklists under the appendices now indicate that related persons also include registered members of a company limited by guarantee, organisations registered under the Registrar of Societies or a Body Corporate registered under the Trustees (Incorporation) Act 1952, as the case may be.

Connect with us

Kuala Lumpur

Jagdev Singh

jagdev.singh@pwc.com
+60(3) 2173 1469

Penang & Ipoh

Tony Chua

tony.chua@pwc.com
+60(4) 238 9118

Johor Bahru

Benedict Francis

benedict.francis@pwc.com
+60(7) 218 6000

Melaka

Benedict Francis

benedict.francis@pwc.com
+60(7) 218 6000

Tan Hwa Yin

hwa.yin.tan@pwc.com
+60(6) 283 6169

Kuching

Bryan Chen

bryan.chen@pwc.com
+60(82) 527 218

Labuan

Jennifer Chang

jennifer.chang@pwc.com
+60(3) 2173 1828

Corporate Tax Compliance & Advisory

Consumer & Industrial Product Services

Margaret Lee

margaret.lee.seet.cheng@pwc.com
+60(3) 2173 1501

Steve Chia

steve.chia.siang.hai@pwc.com
+60(3) 2173 1572

Specialist services

Corporate Services

Lee Shuk Yee

shuk.yee.x.lee@pwc.com
+60(3) 2173 1626

Dispute Resolution

Tai Weng Hoe

weng.hoe.tai@pwc.com
+60(3) 2173 1600

Global Mobility Services

Sakaya Johns Rani

sakaya.johns.rani@pwc.com
+60(3) 2173 1553

Hilda Liow

hilda.liow.wun.chee@pwc.com
+60(3) 2173 1638

Emerging Markets

Fung Mei Lin

mei.lin.fung@pwc.com
+60(3) 2173 1505

Energy, Utilities & Mining

Lavindran Sandragasu

lavindran.sandragasu@pwc.com
+60(3) 2173 1494

Indirect Tax

Raja Kumaran

raja.kumaran@pwc.com
+60(3) 2173 1701

Yap Lai Han

lai.han.yap@pwc.com
+60(3) 2173 1491

Chan Wai Choong

wai.choong.chan@pwc.com
+60(3) 2173 3100

International Tax Services / Mergers and Acquisition

Gan Pei Tze

pei.tze.gan@pwc.com
+60(3) 2173 3297

Financial Services

Jennifer Chang

jennifer.chang@pwc.com
+60(3) 2173 1828

Services & Infrastructure

Lim Phaik Hoon

phaik.hoon.lim@pwc.com
+60(3) 2173 1535

Tax Technology

Tax Reporting & Strategy

Yap Sau Shiung

sau.shiung.yap@pwc.com
+60(3) 2173 1555

Pauline Lum

pauline.ml.lum@pwc.com
+60(3) 2173 1059

Transfer Pricing

Jagdev Singh

jagdev.singh@pwc.com
+60(3) 2173 1469

Technology, Media, and Telecommunications

Heather Khoo

heather.khoo@pwc.com
+60(3) 2173 1636

China Desk

Lorraine Yeoh

lorraine.yeoh@pwc.com
+60(3) 2173 1499

Japanese Business Consulting

Yuichi Sugiyama

yuichi.sugiyama@pwc.com
+60(3) 2173 1191

Clifford Yap

clifford.eng.hong.yap@pwc.com
+60(3) 2173 1446



www.pwc.com/my/tax

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.

© 2019 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.