



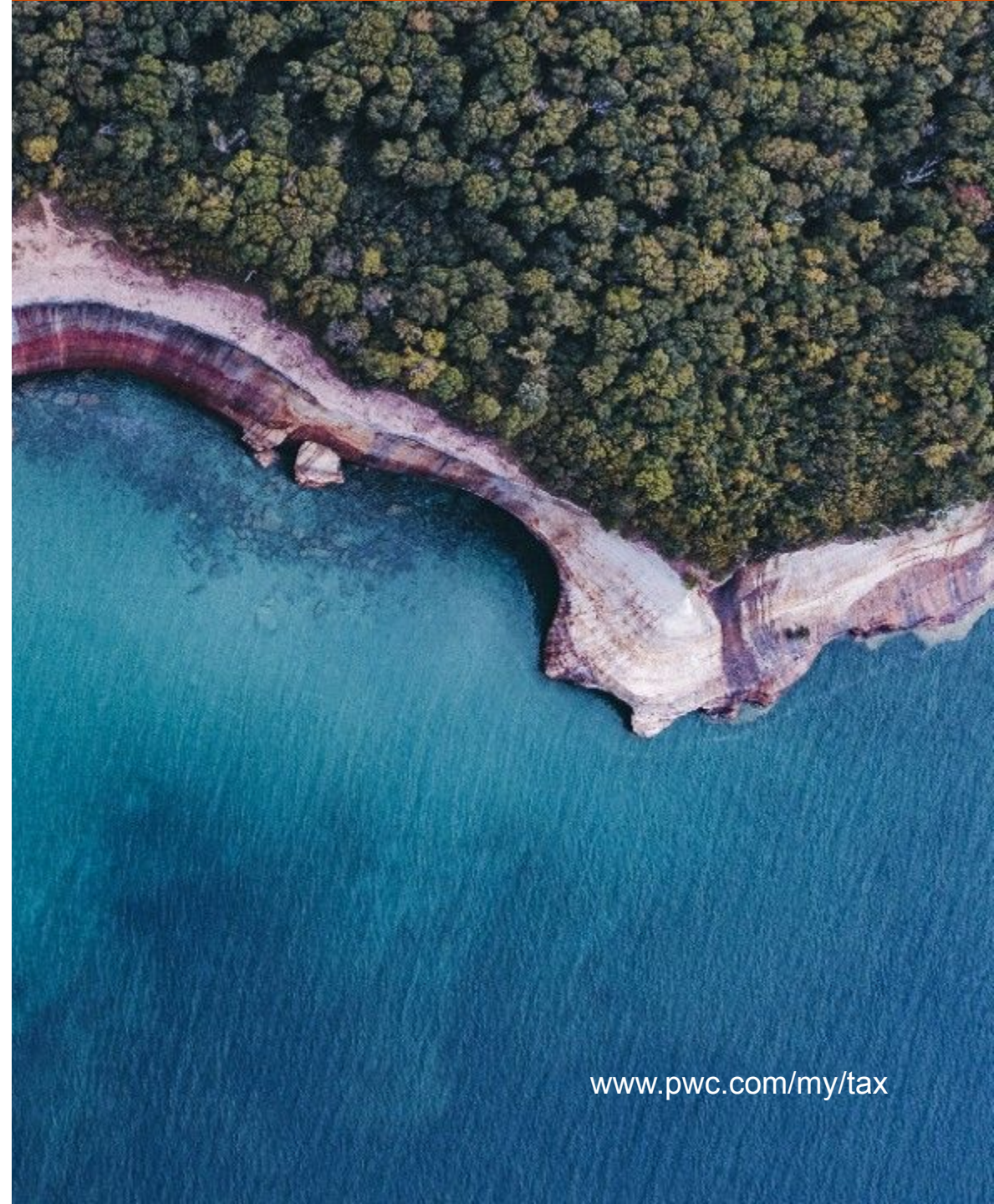
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Frequently Asked Questions on Surcharge under Subsection 140A(3C) of the Income Tax Act 1967

The Inland Revenue Board (IRB) has recently issued the Frequently Asked Questions on Matters Arising from Subsection 140A(3C) of the Income Tax Act 1967 dated 18 January 2024 (“the FAQ”).

The following are the salient points:

- A surcharge is imposed on a Transfer Pricing (TP) adjustment regardless of whether the TP adjustment will result in an assessment / additional assessment or not.
- The surcharge under subsection 140A(3C) of the Income Tax Act 1967 (“ITA 1967”) will only be applicable for TP audit cases which commence on or after 1 January 2021 regardless of the year of assessments (YAs) covered in those audit exercises. For TP audit cases which have been initiated before 1 January 2021, penalty under subsection 113(2) of the ITA 1967 will be imposed on cases where there is tax undercharged.
- The surcharge under subsection 140A(3C) is mutually exclusive with the penalty under subsection 113(2). Where there is a tax undercharged arising from TP adjustment, IRB will only impose the surcharge under subsection 140A(3C).
- Surcharge under subsection 140A(3C) is applicable to companies granted with tax exemption if there is any TP adjustment.
- Taxpayers who are aggrieved with the surcharge under subsection 140A(3C) may submit a written appeal application to the IRB for an abatement.

The FAQ is available on IRB’s website www.hasil.gov.my (International > Transfer Pricing).



Updated MIDA Guidelines on Tax Incentive for Shipbuilding and Ship Repairing

The Malaysian Investment Development Authority (MIDA) has released the updated Guideline and Procedures for Shipbuilding and Ship Repairing Incentive (“the Guideline”) on its website.

The contents of the Guideline were updated and the salient points are as follows:

- Applications for the following incentives to MIDA are extended to 31 December 2027 [Budget 2023 (Retabled) measure]:
 - Income tax exemption of 70% of statutory income (SI) for 5 years; or
 - Investment tax allowance of 60% on qualifying capital expenditure (to be set off against 70% SI).
- Unutilised pioneer losses after the end of the pioneer period qualifies to be carried forward for a period of 10 consecutive YAs (previously, 7 consecutive YAs).

The Guideline is available on MIDA’s website www.mida.gov.my (Forms and Guidelines > Service Sector > Shipbuilding and Ship Repairing).



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