



Tax Espresso A snappy delight

Greetings from Deloitte Malaysia Tax Services

Amendments To Form E, CP8D, EA & EC in Respect of Remuneration for Year 2016

The professional bodies had been informed by the Inland Revenue Board (IRB) via a [letter dated 20 October 2016](#) that amendments have been made to the Form C.P.8D and Form EA / EC for the provision of additional information in respect of remuneration for year 2016, a [Sample Form E 2016](#) has also been provided.

Quick links:

[Deloitte Malaysia](#)

[Inland Revenue Board](#)

Takeaways:

Amendments To Form E, CP8D, EA & EC in Respect of Remuneration for Year 2016

Gross Employment Income – New Subsection 13(1A)

Tax Case

FT Sdn Bhd v Ketua Pengarah Hasil Dalam Negeri (KPHDN) (Special Commissioners of Income Tax) 2016

Public Rulings

Public Ruling (PR) 8/2016: Industrial Buildings Part I

These amendments or improvements are made for the following purposes:

- I. To verify or to reference the information of employees who opt for Monthly Tax Deduction as final tax.
- II. To standardise information retained by the IRB, the employer (Form E and C.P.8D) and the employee / taxpayer (Form EA / EC).

Employers are also advised to note that:

- I. The submission of Form E and C.P.8A is considered complete only if it is received on or before the final stipulated date for submission.
- II. Employers who have submitted the required information via e-Data Prais are not required to complete and submit Form C.P.8D.

Public Ruling (PR)
9/2016:
Gratuity

Upcoming events

[2017 Employer Income Tax Reporting Seminar](#)

Important deadlines:

Due date for 2017 tax estimates for companies with January year-end (1 January 2017)

6th month revision of tax estimates for companies with June year-end (31 December 2016)

9th month revision of tax estimates for companies with March year-end (31 December 2016)

Statutory filing of 2016 tax returns for companies with May year-end (31 December 2016)

Gross Employment Income – New Subsection 13(1A) of the Income Tax Act 1967

Finance Bill 2016 introduced a new Subsection 13(1A) to the Income Tax Act 1967 (the ITA) that will take effect retrospectively from Year of Assessment 2015.

The new Subsection 13(1A) of the Income Tax Act 1967 states: *“The total amount of gross income referred to in subsection (1), where applicable, shall include any amount of **output tax paid under the Goods and Services Tax Act 2014** in connection with the gross income which is borne by the employer”.*

By virtue of Paragraph 5 of the First Schedule to the Goods and Services Tax Act 2014 (GST Act), there is a deemed supply by the employer where goods are given free as gifts to or for temporary private use by the employees. Where the total value on the series of gift given to the same person in the same year exceeds RM500.00, the employer is required to account for output tax on such goods given free to the employees or for temporary private use by the employees (except certain items where output tax need not be accounted for as per the Guide on Employee Benefits as at 10 November 2016).

Where the above mentioned output tax paid under the GST Act is borne by the employer, then the taxable value of employment income shall include the amount of output tax in connection with the gross income borne by the employer.

Where the goods given free are tax-exempted (e.g. mobile phone given free, long service awards value less than RM2,000, and etc.), any output tax borne by the employer shall not form part of the gross income from an employment.

Tax Case

FT Sdn Bhd v Ketua Pengarah Hasil Dalam Negeri (KPHDN) (Special Commissioners of Income Tax) 2016

Issue:

Whether a holding company loan used to pay off trade creditors of a subsidiary company and subsequently written off formed the trading gains of the subsidiary company which was subject to tax under Section 4(a) of the Income Tax Act 1967 (ITA);

Decision:

The taxpayer's appeal was dismissed by the Special Commissioners of Income Tax (SCIT). *[Being dissatisfied with the SCIT's decision, the taxpayer has made an appeal to the High Court.]*

The SCIT found that the real character of the RM30 million loan was part of the operating expenses of the taxpayer. When the repayment was waived by the holding company (FHB), it became part of the trading gains of the taxpayer which was rightly subjected to tax by the KPHDN.

There was no dispute that the loan given by FHB to the taxpayer was for its trading purpose. When the loan was written off by FHB, the taxpayer's obligation to repay the loan did not arise any more. Therefore, in the financial year ended 31 Dec 2005, there was no longer any need to repay the loan to FHB.

Evidence of witness and the accounts of the taxpayer showed that the RM30 million loan was not a gift *per se* unconnected with the taxpayer's business activity but was part of the taxpayer's income producing activity and formed part of its operating expenses. Therefore the RM30 million loan on which payment had been waived by FHB was income in the hands of the taxpayer and the KPHDN was correct in raising an assessment.

No evidence had been adduced by the taxpayer to show that the RM30 million loan was capital in nature. The taxpayer had not proven that the assessment made by the KPHDN was excessive. The SCIT found that the RM30 million loan given to the taxpayer that had been written off by FHB was part of the taxpayer's trading gains which was subject to tax under section 4(a) of the ITA for the Year of Assessment 2005.

The taxpayer's appeal against the assessment and the penalty was dismissed as the taxpayer was unable to show that the RM30 million loan for its 'operating expenses' had changed in character to become 'capital'.

Public Rulings (PR)

PR 8/2016: Industrial Buildings Part I

PR 8/2016 was published by the IRB on 23 November 2016 to explain, with illustrations, the types of buildings that qualify as industrial buildings under Schedule 3 of the ITA.

PR 9/2016: Gratuity

The IRB has issued PR 9/2016 on 23 November 2016 to replace PR 8/2013 dated 25 June 2013. The issuance of PR 9/2016 is mainly to explain the amendment introduced by the Finance Act 2015 under Subsection 25(1) of the ITA whereby effective year of assessment 2016, all employment income receivable for any particular period will be taxed in the year the payment is received.

We invite you to explore other tax related information at:
<http://www2.deloitte.com/my/en/services/tax.html>

Contact Us

Services / Names	Designation	Email	Telephone
Business Tax Compliance & Advisory			
Yee Wing Peng	Managing Director	wpjee@deloitte.com	(603) 7610 8800
Julie Tan	Executive Director	jultan@deloitte.com	(603) 7610 8847
Business Model Optimisation			
Hisham Halim	Executive Director	hihalim@deloitte.com	(603) 7610 8832
Business Process Solutions			
Julie Tan	Executive Director	jultan@deloitte.com	(603) 7610 8847
Gabriel Kua	Director	gkua@deloitte.com	(606) 281 1077
Financial Services			
Chee Pei Pei	Executive Director	pechee@deloitte.com	(603) 7610 8862
International Tax			
Tan Hooi Beng	Executive Director	hooitan@deloitte.com	(603) 7610 8843
Oil & Gas			
Toh Hong Peir	Executive Director	htoh@deloitte.com	(603) 7610 8808
Mergers & Acquisitions			
Sim Kwang Gek	Executive Director	kqsim@deloitte.com	(603) 7610 8849
R&D and Government Incentives			
Hisham Halim	Executive Director	hihalim@deloitte.com	(603) 7610 8832

Real Estate

Tham Lih Jiun Executive Director ljtham@deloitte.com (603) 7610 8875

Tax Audit & Investigation

Chow Kuo Seng Executive Director kuchow@deloitte.com (603) 7610 8836

Global Employer Services

Ang Weina Executive Director angweina@deloitte.com (603) 7610 8841

Indirect Tax

Tan Eng Yew Executive Director etan@deloitte.com (603) 7610 8870
Senthuran Elalingam Executive Director selalingam@deloitte.com (603) 7610 8879

Transfer Pricing

Theresa Goh Executive Director tgoh@deloitte.com (603) 7610 8837
Hisham Halim Executive Director hihalim@deloitte.com (603) 7610 8832

Branches / Names	Designation	Email	Telephone
Penang			
Ng Lan Kheng	Executive Director	lkng@deloitte.com	(604) 218 9888
Everlyn Lee	Director	evelee@deloitte.com	(604) 218 9913
Ipoh			
Ng Lan Kheng	Executive Director	lkng@deloitte.com	(604) 218 9888
Lam Weng Keat	Director	welam@deloitte.com	(605) 253 4828
Melaka			
Chee Pei Pei	Executive Director	pechee@deloitte.com	(603) 7610 8862
Gabriel Kua	Director	gkua@deloitte.com	(606) 281 1077
Johor Bahru			
Chee Pei Pei	Executive Director	pechee@deloitte.com	(603) 7610 8862
Thean Szu Ping	Director	spthean@deloitte.com	(607) 222 5988
Kuching			
Tham Lih Jiun	Executive Director	ljtham@deloitte.com	(603) 7610 8875
Chai Suk Phin	Senior Manager	spchai@deloitte.com	(608) 246 3311
Kota Kinabalu			
Tham Lih Jiun	Executive Director	ljtham@deloitte.com	(603) 7610 8875
Cheong Yit Hui	Manager	yicheong@deloitte.com	(608) 823 9601



Yee Wing Peng



Julie Tan



Hisham Halim



Chee Pei Pei



Tan Hooi Beng



Toh Hong Peir



Sim Kwang Gek



Tham Lih Jiun



Chow Kuo Seng



Ang Weina



Tan Eng Yew



Senthuran Elalingam



Theresa Goh



Ng Lan Kheng



Everlyn Lee



Lam Weng Keat



Gabriel Kua



Thean Szu Ping



Chai Suk Phin



Cheong Yit Hui



Deloitte

Level 16, Menara LGB
1, Jalan Wan Kadir
Taman Tun Dr. Ismail
60000 Kuala Lumpur, Malaysia

Deloitte refers to one or more of Deloitte Touche Tohmatsu Limited, a UK private company limited by guarantee ("DTTL"), its network of member firms, and their related entities. DTTL and each of its member firms are legally separate and independent entities. DTTL (also referred to as "Deloitte Global") does not provide services to clients. Please see www.deloitte.com/my/about for a more detailed description of DTTL and its member firms.

Deloitte provides audit, consulting, financial advisory, risk advisory, tax and related services to public and private clients spanning multiple industries. Deloitte serves four out of five Fortune Global 500® companies through a globally connected network of member firms in more than 150 countries and territories bringing world-class capabilities, insights, and high-quality service to address clients' most complex business challenges. To learn more about how Deloitte's approximately 245,000 professionals make an impact that matters, please connect with us on [Facebook](#), [LinkedIn](#), or [Twitter](#).

This communication contains general information only, and none of Deloitte Touche Tohmatsu Limited, its member firms, or their related entities (collectively, the "Deloitte network") is, by means of this communication, rendering professional advice or services. No entity in the Deloitte network shall be responsible for any loss whatsoever sustained by any person who relies on this communication.

About Deloitte in Malaysia

In Malaysia, services are provided by Deloitte Tax Services Sdn Bhd and its affiliates.

© 2016 Deloitte Tax Services Sdn Bhd

To no longer receive emails about this topic please send a return email to the sender with the word "Unsubscribe" in the subject line.