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 Praisi are not required to complete and submit Form C.P.8D.


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”.

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)
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](http://www2.deloitte.com/my/en/services/tax.html)

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**Contact Us**

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<thead>
<tr>
<th>Services / Names</th>
<th>Designation</th>
<th>Email</th>
<th>Telephone</th>
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</thead>
<tbody>
<tr>
<td><strong>Business Tax Compliance &amp; Advisory</strong></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Yee Wing Peng</td>
<td>Managing Director</td>
<td><a href="mailto:wyee@deloitte.com">wyee@deloitte.com</a></td>
<td>(603) 7610 8800</td>
</tr>
<tr>
<td>Julie Tan</td>
<td>Executive Director</td>
<td><a href="mailto:jultan@deloitte.com">jultan@deloitte.com</a></td>
<td>(603) 7610 8847</td>
</tr>
<tr>
<td><strong>Business Model Optimisation</strong></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Hisham Halim</td>
<td>Executive Director</td>
<td><a href="mailto:hihalim@deloitte.com">hihalim@deloitte.com</a></td>
<td>(603) 7610 8832</td>
</tr>
<tr>
<td><strong>Business Process Solutions</strong></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Julie Tan</td>
<td>Executive Director</td>
<td><a href="mailto:jultan@deloitte.com">jultan@deloitte.com</a></td>
<td>(603) 7610 8847</td>
</tr>
<tr>
<td>Gabriel Kua</td>
<td>Director</td>
<td><a href="mailto:gkua@deloitte.com">gkua@deloitte.com</a></td>
<td>(606) 281 1077</td>
</tr>
<tr>
<td><strong>Financial Services</strong></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Chee Pei Pei</td>
<td>Executive Director</td>
<td><a href="mailto:pechee@deloitte.com">pechee@deloitte.com</a></td>
<td>(603) 7610 8862</td>
</tr>
<tr>
<td><strong>International Tax</strong></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Tan Hooi Beng</td>
<td>Executive Director</td>
<td><a href="mailto:hooitan@deloitte.com">hooitan@deloitte.com</a></td>
<td>(603) 7610 8843</td>
</tr>
<tr>
<td><strong>Oil &amp; Gas</strong></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Toh Hong Peir</td>
<td>Executive Director</td>
<td><a href="mailto:htoh@deloitte.com">htoh@deloitte.com</a></td>
<td>(603) 7610 8808</td>
</tr>
<tr>
<td><strong>Mergers &amp; Acquisitions</strong></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Sim Kwang Gek</td>
<td>Executive Director</td>
<td><a href="mailto:kgsim@deloitte.com">kgsim@deloitte.com</a></td>
<td>(603) 7610 8849</td>
</tr>
<tr>
<td><strong>R&amp;D and Government Incentives</strong></td>
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<td></td>
</tr>
<tr>
<td>Hisham Halim</td>
<td>Executive Director</td>
<td><a href="mailto:hihalim@deloitte.com">hihalim@deloitte.com</a></td>
<td>(603) 7610 8832</td>
</tr>
</tbody>
</table>
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  sopthean@deloitte.com  (607) 222 5988

Kuching
Tham Lih Jiun  Executive Director  ljtham@deloitte.com  (603) 7610 8875
Chai Suk Phin  Senior Manager  spchait@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