



Tax Espresso

A snappy delight

Greetings from Deloitte Malaysia Tax Services

Requirement To Notify Change In Accounting Period

Legislative requirement

The Finance (No. 2) Bill 2017 [pending gazette] introduced a new Section 21A(3A) to the Income Tax Act 1967 ("the ITA") to legislate the requirement to notify the Director General of Inland Revenue ("DGIR") on a change in accounting period. It should be noted that the requirement to notify the DGIR was already stated in the Public Ruling No. 7/2011 "Notification of Change in Accounting Period of a Company / Trust Body / Co-operative Society".

The new Section 21A(3A) which takes effect from year of assessment ("YA") 2019 provides that if a company, limited liability partnership ("LLP"), trust body or co-operative society changes its accounting year-end, the DGIR has to be notified through a

Quick links:

[Deloitte Malaysia
Inland Revenue
Board](#)

Takeaways:

Requirement To Notify
Change In Accounting
Period

IRB's Practice Note No.
3/2017

SYB Sdn Bhd v KPHDN
(Special Commissioners
of Income Tax)

Upcoming events

[\(Penang\) Private
Wealth Planning for
business families and
high net worth
individuals](#)

Important deadlines:

Due date for 2019 tax
estimates for
companies with January
year-end
(1 January 2018)

prescribed Form, i.e. Form CP 204B by the following due date:

New accounting period	When to notify the DGIR?
< 12 months	30 days before the end of new accounting period
> 12 months	30 days before the end of old accounting period

6th month revision of tax estimates for companies with June year-end (31 December 2017)

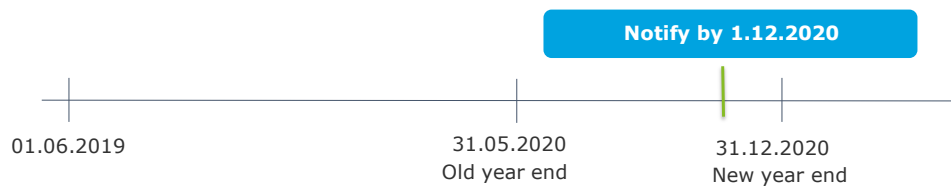
9th month revision of tax estimates for companies with March year-end (31 December 2017)

Statutory filing of 2017 tax returns for companies with May year-end (31 December 2017)

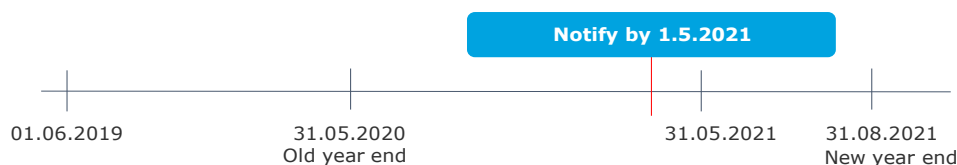
Example:

Original accounting period: 1 June 2019 to 31 May 2020 (YA 2020).

a) Change of accounting period to December 2020 (< 12 months)



b) Change of accounting period to August 2021 (> 12 months)



The potential penalties

With the introduction of the new Section 21A(3A), other sections of the ITA has also been amended to ensure the taxpayers' compliance with the requirement under the new Section 21A(3A). Failure to comply may lead to penalties which may be imposed as shown below:

Offences	Penalty	Effective date
Failure to notify IRB on change in accounting period	RM200 – RM20,000 or imprisonment of not more than 6 months or both	Coming into operation of Finance (No. 2) Act 2017
Late submission of tax return	3 times of tax payable	YA 2019

Late payment of monthly tax instalments	10% on the amount paid late	YA 2019
Underestimation of tax payable	10% x [(Tax payable less tax estimate) - 30% tax payable]	YA 2019

Key takeaways

Given the above, taxpayers will need to adhere to the above stipulated deadlines for furnishing the notification of change of accounting period to the DGIR to avoid any potential penalty arising from non-compliance with the new Section 21A(3A) of the ITA.

IRB's Practice Note No. 3/2017

Further to our [Tax Espresso – Special Alert for October 2017](#), the Inland Revenue Board (IRB) has issued [Practice Note No. 3/2017](#) as a guide to the implementation of the [Income Tax \(Exemption\) \(No. 9\) Order \[the PU Order\]](#) which provides withholding tax exemption on payments made to a non-resident in respect of offshore services falling under Section 4A(i)/(ii) of the Income Tax Act 1967. Essentially the effective date 6 September 2017 in the PU Order refers to the date **services are performed** as shown below:

Services performed outside Malaysia	Withholding tax
≥ 6 September 2017	X
< 6 September 2017	√

Thereby, as explained in Example 2 in the Practice Note No. 3/2017, for offshore services performed by a non-resident from 1 February 2017 to 28 February 2018, only payments made to the non-resident for offshore services performed from 1 February 2017 to 5 September 2017 are subject to withholding tax. It is also provided in Example 4 that a person is eligible to claim for refund on the withholding tax payment made in respect of offshore services performed by the non-resident on/after 6 September 2017.

Note: The Practice Notes No. 1/2017 and No. 2/2017 should still be applicable including where Section 15A withholding tax does not apply for payments made before 17 January 2017 (i.e. before the amendment to Section 15A of the ITA became effective) to non-resident for the offshore services performed on/after 17 January 2017.

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

Issues:

1. Whether the taxpayer is eligible for income tax exemption under the Income Tax (Exemption) (No. 17) Order 2005 ("Exemption Order") for the YA 2008; and
2. Whether the Inland Revenue Board ("the IRB") was right in its imposition of penalty under Section 113(2) of the ITA.

Decision:

The Special Commissioners of Income Tax ("SCIT") dismissed the appeal by the taxpayer on Issue #1 and allowed the taxpayer's appeal on Issue #2 with the following grounds of judgement:

Issue 1

1. Based on Paragraph 3 of the Exemption Order, a person needs to be involved in manufacturing activity as to qualify for the exemption. However the Exemption Order does not define "activities of manufacturing".

As manufacturing activities are governed by the Industrial Co-Ordination Act 1975 ("the ICA"), the SCIT had referred to the definition of "manufacturing activity" under the ICA. Based on this definition of "manufacturing activity" and the findings of fact, the SCIT held that the taxpayer's activities of shipbuilding and repairing fell within the meaning of "activities of manufacturing" as required by the Exemption Order, i.e., the turning of raw materials into a ship undeniably underwent a manufacturing process.

2. The SCIT disagreed with the IRB's contention that a person needed a manufacturing license under ICA to apply for the tax exemption under the Exemption Order. The Exemption Order clearly requires the claimant to be carrying on manufacturing activity but a manufacturing licence is not a pre-requisite of the tax relief. As the taxpayer has the approval from the Ministry of Industrial Development, Sarawak ("MID") to carry on activities of shipbuilding and repairing (i.e. manufacturing), the taxpayer was entitled to apply for tax exemption under the Exemption Order. In addition to that, the SCIT also found that the taxpayer did not fall into the category which was required by the MID to possess a manufacturing license for YA 2008.
3. The SCIT held that the taxpayer was rendered ineligible for income tax exemption for YA 2008 where the taxpayer had no export sales (i.e. nil export sales) in the preceding YA 2007 because the requirement of "value of increased exports" under the Exemption Order could not possibly be obtained. Without the "value of increased exports", there could not be significant increase in "export sales". The definition of "value of increased exports" required "export sales" in basis period and "export sales" in the immediate preceding basis period in order to obtain the "value of increased export". Therefore, it was a mandatory condition that there must be export sales in YA 2008 and there must be export sales in YA 2007.
4. The taxpayer had also failed to support its contention that it had a separate record for export sales as required by the

Exemption Order. The taxpayer did not produce any supporting documents, i.e., a separate file for each exported ship, to the assessor.

Issue 2

The SCIT allowed the taxpayer's appeal on the penalty imposed by the IRB under Section 113(2) as it involved a genuine dispute on the technical interpretation of the Exemption Order. The incorrect return / information was made innocently due to the interpretation of the law and was not a deliberate act of the taxpayer to understate its income or supply incorrect information.

We invite you to explore other tax-related information at:

<http://www2.deloitte.com/my/en/services/tax.html>

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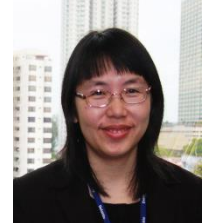
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