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Tax developments

PR 1/2014

The Inland Revenue Board Malaysia's (IRBM) Public Ruling (PR) No. 1/2014, dated 23 January 2014, provides an explanation on withholding tax on *Special Classes of Income* under section 4A, Income Tax Act 1967 ("ITA") and the consequences for failure to withhold /deduct the relevant taxes and remit the taxes.

This PR replaces a previous PR and addendums to PRs on the same subject. Consequently, some changes have been observed. For instance, it is stated [paragraph 14.1] that where the withholding tax under S.109B, ITA in respect of the special class of income is borne by a taxpayer company, there arises a need to "re-gross" to determine the amount of income on which income tax should be charged, and the quantum of withholding tax that is to be remitted to the IRBM. However it appears that the example provided [Example 25] needs a little work to reflect IRBM's stand.

The examples of services that generate income falling within the scope of paragraph 4A(ii) covers payment for *technical assistance, non-technical assistance, technical services or non-technical services* rendered in connection with scientific, industrial or commercial undertaking, venture, project or scheme. This includes [Example 12] the services pertaining to the entertainment industry that does not fall within the scope of a public entertainer.

A consequence of failure to deduct and remit withholding tax is a 10% increase of the amount of withholding tax which the payer fails to pay. Penalty for filing an incorrect return will be imposed if the withholding tax is paid after the Income Tax Return Form filing deadline, AND a deduction for expenses related to such payment is made in the return furnished.

The intended clarification that is provided on *the due date of payment* (Example 36) requires further clarification, particularly when compared with the information available elsewhere (in Example 24).

Exemption of stamp duty under the Green Lane Policy

An instrument of loan agreement or financing under the syariah executed between a Small and Medium Enterprise which has been approved for an incentive under the Green Lane Policy by the Secretariat for Green Lane Policy of the Ministry of Finance and—



- (a) Bank Pertanian Malaysia Berhad;
- (b) Malaysian Industrial Development Finance Berhad (MIDF); or
- (c) Malaysia Debt Ventures Berhad (MDV),

is exempted from stamp duty.

The loan agreement or financing under the syariah should be executed on or after 1 January 2013 but not later than 31 December 2014 [Stamp Duty (Exemption) Order 2014].

Deduction from remuneration Rules

The Schedule of Monthly Tax Deduction in the Income Tax (Deduction from Remuneration) Rules 1994 has been substituted with a new Schedule with effect from 1 January 2014 [Income Tax (Deduction from Remuneration) (Amendment) Rules 2014].

The new Schedule is in line with the implementation of Monthly Tax Deduction (MTD) as final tax with effect from Year Assessment 2014. It replaces the MTD 2013 Schedule with immediate effect.

To assist employers to adjust to the new Schedule, the Inland Revenue Board Malaysia (IRBM) has given special consideration to use this Schedule starting from 1 March 2014. This special consideration only applies to employers who are not using the Computerised Payroll System in making their employees' monthly tax deduction.

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