



## Tax Espresso

### A snappy delight

## Greetings from Deloitte Malaysia's Tax services group

### Guidelines by Inland Revenue Board Malaysia

#### Compensation On Late Refund Of Overpayment of Tax

Compensation of 2% will be paid to eligible taxpayers for the late refund made by the Inland Revenue Board of Malaysia (IRBM) starting from year of assessment 2013. Late refund means a refund which is made after a period of 90 days in the case of a Return Form (Return) furnished via e-Filing and 120 days in the case of the Return furnished by post or by hand.

#### Conditions that must be fulfilled are:

(a) The Return is furnished before the due date, i.e. 30<sup>th</sup> April or 30<sup>th</sup> June, for an individual who has non-business income only or business income respectively. In the case of a company, limited liability partnership, trust body or a co-operative society, the Return is furnished within 7 months from the date following the close of accounting period.

(b) The Return furnished must be correct and complete.

Over-payment of tax refers to the excess tax paid under the Monthly Tax Deduction, Instalment Payment Notice (CP 500) and Estimate of Tax Payable by a Company/Limited Liability Partnership/Trust body/Co-operative Society (CP 204 / CP 205).

The compensation is calculated on a daily basis commencing after the 90 days or 120 days mentioned earlier.

### Gazette Order

#### Issue 6/2014

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#### Takeaways:

IRB Guidelines:  
Compensation on late refund of overpayment of tax

Gazette Order:  
Income Tax (Exemption)  
Order 2014

#### Tax Case:

Ryoshindoh  
Manufacturing Sdn Bhd v  
Ketua Pengarah Hasil  
Dalam Negeri

#### Important deadlines:

Due date for 2015 tax estimates for companies with July year-end (1 July 2014)

6th month revision of tax estimates for companies with December year-end (30 June 2014)

9th month revision of tax estimates for companies with September year-end (30 June 2014)

### **Income Tax (Exemption) Order 2014**

A resident Malaysian-incorporated company holding a Capital Markets Services Licence is exempted from payment of income tax on its statutory income derived from a business of providing fund management services to business trusts or real estate investment trusts in Malaysia which are managed in accordance with *Syariah* principles and certified by the Securities Commission. This exemption is effective from year of assessment 2014 to year of assessment 2016 [*Income Tax (Exemption) Order 2014 - PU(A) 150/2014*].

***Case law: Whether an assessment made beyond six years is null and void – Whether an earth chamber qualifies for capital allowance – Whether compensation on warranty for defective goods qualify for deduction***

### **Ryoshindoh Manufacturing Sdn Bhd v Ketua Pengarah Hasil Dalam Negeri**

Ryoshindoh (taxpayer) is a company in Mitsubishi's group of companies. It was also the contract manufacturer for Mitsubishi. It produced precision dual gauge and manufactured copper coils and copper alloy. After a field audit, the Director General of Inland Revenue (DGIR) disallowed the following expenditure:

- (a) capital allowance on the capital expenditure of RM4,950 for an earth chamber on the ground that it was not an industrial building or part of an industrial building;
- (b) deduction under Section 33(1) of the Income Tax Act 1967 (ITA) for payment of RM2,026,342 to Mitsubishi Shindoh Co Ltd for the Year of Assessment 2004 for the defective dual gauge and copper coils on the ground that such payments were not made to produce income of the taxpayer.

Three issues were brought up before the Special Commissioners of Income Tax (SCIT).

The first issue was that the assessment was made beyond six years. The DGIR submitted that the taxpayer was negligent and hence the DGIR was allowed to assess at any time as provided for under Section 91(3) of the ITA. The SCIT held that the DGIR failed to prove negligence and failed to give reasons for the delay in the said assessment, hence the said notice was null and void.

The second issue was on the earth chamber where the SCIT held that the capital expenses amounting to RM4,950 qualified for industrial building allowance.

The third issue was on compensation on warranty for defective goods where the SCIT held that the taxpayer was not responsible for any quality issue or losses by Mitsubishi Shindoh after taking into consideration the Marketing Agreement dated 1 November 2002. The SCIT also held that there were no specific authorities to enable a deduction under Section 33(1) of the ITA.

The taxpayer appealed on the third issue and the DGIR on the first and second issues.

The High Court decided for the taxpayer on all the three issues.

We invite you to explore other tax related information at:

[http://www.deloitte.com/view/en\\_MY/my/mysvc/mytax/index.htm](http://www.deloitte.com/view/en_MY/my/mysvc/mytax/index.htm)

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