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Tax Espresso
A snappy delight

March 2018

Greetings from Deloitte Malaysia Tax Services

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3. [GST Workshop: A year in review](#)
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Important deadlines:

Task	Due Date
	31.03.2018
1. 2019 tax estimates for companies with April year-end	✓
2. 6 th month revision of tax estimates for companies with September year-end	✓
3. 9 th month revision of tax estimates for companies with June year-end	✓
4. Statutory filing of 2017 tax returns for companies with August year-end	✓
5. Due date for 2018 CbCR notification for companies with March year-end	✓

Public Ruling No. 1/2018: Disposal of Plant and Machinery Part II – Controlled Sales (PR 1/2018)

The Inland Revenue Board of Malaysia (IRBM) has issued PR 1/2018 on 26 February 2018 to explain the tax treatment on the disposal and the acquisition of an asset between two parties which are related in terms of control, and the meaning of “control” for a company and a partnership.

Various examples are provided in this PR; these are for illustration purposes only and are not exhaustive.

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IRBM updates on filing matters: PIN number request and submission of Form E

a) Applying for the e-filing PIN number

The IRBM has uploaded the [application procedures](#) for obtaining the e-filing PIN number on their website.

b) Form E – Submission by Employers

The IRBM has informed the professional bodies that Form E for the Year of Remuneration 2017 has been uploaded on their website and it can be downloaded for submission purposes at:

www.hasil.gov.my > Download > Forms/info > Employer > Select 2017

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Form MNE (revised): Information on cross-border transactions

In another series of update after the revised Transfer Pricing Guidelines in July 2017, the Inland Revenue Board of Malaysia (IRBM) has issued a revised Form MNE [Pin 1/2017]. The purpose of a MNE Form is to collect information for performance of risk review for selection of cases for transfer pricing audits by IRBM. The Form MNE is issued to taxpayers selected based on certain risk criteria. Generally, the IRBM grants a period of 30 days to respond with the completed Form MNE.

The revised Form MNE is more comprehensive and intends to capture the key data points in line with the changes introduced post BEPS. Noticeably, most of the information sought through Form MNE by the IRBM is also required either as a part of Country-by-Country Reporting (CbCR) template or in a Master file. The key information required to be provided in the revised Form MNE are as follows:

- Name of related parties and their respective countries, in case the taxpayer has any transaction with countries having a lower tax rate compared to Malaysia;
- Details of business restructuring (if any encountered during the last five years);

- Details relating to Research and Development (R&D) activities performed by the taxpayer (if any);
- Details relating to financial assistance received by taxpayers from related parties;
- Legal owner and location of related party within the Group who owns trade/ brand name or IP;
- Name and location of related companies within the group that are performing R&D activities;
- Related party transactions both within Malaysia and outside Malaysia;

It is expected that with the above information which is required to be provided in the revised Form MNE, the IRBM would do more informed and intense audits. In Deloitte, we are equipped to provide any assistance required in regard to filling up of Form MNE and in the subsequent stages of transfer pricing audits.

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Gazette Orders:

- i. Income Tax (Exemption) Order 2018 [P.U.(A) 38/2018]; and**
- ii. Income Tax (Exemption) (No. 2) Order 2018 [P.U.(A) 48/2018]**

The above Exemption Orders exempt a Malaysian resident who is in the business of:

- transporting passengers or cargo by sea on a Malaysian ship, or
- letting out on charter a Malaysian ship owned by him on a voyage or time charter basis,

from income tax payment in respect of statutory income derived from a business source consisting of a Malaysian ship.

The P.U.(A) 38/2018 was gazetted on 14 February 2018 and is deemed to have come into operation from the year of assessment (YA) 2014 until YA 2015. P.U.(A) 48/2017 was gazetted on 21 February 2018 and is deemed to have to come into operation from YA 2016 until YA 2020.

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- iii. Labuan Business Activity Tax (Automatic Exchange of Financial Account Information) Regulations 2018 [P.U.(A) 20/2018]**

The P.U.(A) 20/2018 (the Regulations) was gazetted on 5 February 2018 and is deemed to have come into operation on 1 July 2017.

The Regulations apply to any Labuan entity which is a Financial Institution (FI) defined in Section VIII of the Common Reporting Standard (CRS). A Reporting FI means any Labuan entity which is a FI. The obligations stated in the Regulations are:

- The due diligence obligation (Regulation 5) which requires that every Reporting FI, which is not a Non-Reporting FI, to identify the Reportable Account from the Financial Account maintained by the Reporting FI by applying the due diligence procedure as specified in Sections II to VII of the CRS.
- The reporting obligation (Regulation 13) which requires a Reporting FI, for the calendar year 2017 and the subsequent calendar years, to furnish an information return to the Director General on or before 30 June of the following calendar year to which the return relates, setting out the information required to be reported, in relation to every Financial Account identified as Reportable Account that is maintained by the Reporting FI at any time during a calendar year.

With regard to Subregulation 13(1), a Reporting FI has to furnish an information return to the Director General in relation to every Pre-existing Individual Account identified by the Reporting FI as a Reportable Account that is maintained by the Reporting FI on or before 31 July 2018 for a High Value Account and 31 July 2019 for a Low Value Account (Regulation 14).

There are various other requirements provided in the Regulations.

The Regulations 21 and 22 provide that a person who commits the following shall be guilty of an offence and on conviction, be liable to a fine not exceeding RM1 million or to imprisonment for a term not exceeding 2 years or to both:

1. Makes an incorrect information return (on behalf of himself or another person) by omitting the information required to be provided in accordance with the Regulations, or gives any incorrect information (on behalf of himself or another person) in relation to any information required to be provided in accordance with the Regulations, unless he satisfies the Court that the incorrect return / information was made / given in good faith.
2. Fails to comply with the Regulations. The Court may also order the convicted person to comply with the relevant regulations within 30 days or such other period as the Court deems fit from the date the order is made.

Regulation 23 also provides that the Director General may disregard or vary the arrangement / practice and make adjustments with a view to counteract any direct / indirect effect of anti-avoidance arrangement or practice.

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

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

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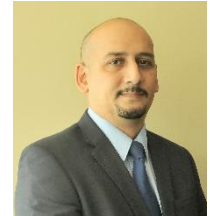
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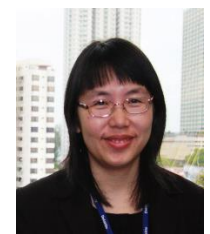
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