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Malaysia | Tax | September 2014

Tax Espresso
A snappy delight

Greetings from Deloitte Malaysia's Tax services group

A Reminder: Key Changes under the Finance Act 2014 that Impact Your Tax Position (including Estimate of Tax Payable)

The Finance Act 2014 had made several amendments to the Income Tax Act 1967 (ITA) which may have an impact on your

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Takeaways:

A Reminder: Key Changes under the Finance Act 2014 that Impact Your Tax Position (including Estimate of Tax Payable)

Important deadlines:

Due date for 2015 tax

tax position (including the estimate or revised estimate of tax payable). Some of the major amendments are as follows:

(a) **Compulsory acquisition of stock in trade**

Prior to the amendment, compensation received from compulsory acquisition of stock in trade by the relevant authorities was not taxable as the company was not trading when its stock in trade was compulsorily acquired. Under the new Section 24(1)(aa), the amount receivable from stock in trade compulsorily acquired is included as gains or profits from a business. The calculation of estimate of tax payable should include such gains or profits, if any.

(b) **Definition of entertainment**

The definition of “entertainment” has been amended such that (i) the provision of food and drink or hospitality or (ii) the provision of accommodation or travel in connection with (i) above, by a person or an employee of his, with or without any consideration paid whether in cash or in kind, in promoting or in connection with a trade or business carried on by that person would now be subject to strict deductibility rules on entertainment. With the amendment to Section 18 of the ITA, promotional expenses which were previously deductible under Section 33(1) of the ITA, are now defined as “entertainment” expenses which only qualify for 50% deduction unless they fall into the proviso (i) to (viii) of Section 39(1)(*l*).

(c) **Interest expense deductible when due to be paid**

Interest expense has always been claimed as a deduction in the accounts when it is payable. Following the amendment to Section 33(4) of the ITA, interest is deductible only when it is due to be paid, that is, the date when the recipient of the interest has the legal right to receive the interest. Interest that is accrued in the accounts but not payable as yet has to be

estimates for companies
with October year-end
(1 October 2014)

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

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

Statutory filing of 2014 tax
returns for companies
with February year-end
(30 September 2014)

added back in calculating the estimate of tax payable.

(d) **Deemed gross income from loan / advances to director**

A special provision applicable to loan or advances to directors was introduced under Section 140B of the ITA. With effect from YA 2014 (the calculation of deemed interest will commence from 1 January 2014 as announced by the IRB on 19 March 2014), a company that grants loans or advances (which are financed by internal funds) to directors of the company is deemed to have interest income arising from those loans / advances. The IRB has clarified in its reply to the tax professionals dated 21 March 2014 that “internal fund” refers to the excess fund of the company which arise from capital injection, retained earnings and reserves as opposed to loans from third parties such as banks or holding company. The company is advised to segregate internal funds and external funds for purpose of tax computation. The interest income is calculated based on the average lending rate published by the Central Bank of Malaysia. If interest is payable by the director on the loans / advances and the interest is charged at a rate that is less than the average lending rate, the net amount is the interest income for the company. Such gross income from loans / advances to directors has to be imputed in the estimate of tax payable by the company.

(e) **Interest income on related-party loans**

Interest income receivable from loans to a related-party is brought to tax when the interest is obtainable on demand under Section 29(3) of the ITA. Clarification is now provided by way of an amendment to the ITA that the interest is deemed obtainable on demand when the interest is due to be paid. Such interest that is due to be paid is taxable even though the interest has not been received by the company.

We invite you to explore other tax related information at:

http://www.deloitte.com/view/en_MY/my/mysvc/mytax/index.htm

Contact Us

Business tax

Compliance & Advisory

Yee Wing Peng	(603) 7610 8800
Ng Lan Kheng	(604) 228 8255
Julie Tan	(603) 7610 8847

Financial Services

Chee Pei Pei	(603) 7610 8862

International Tax

Tan Hooi Beng	(603) 7610 8843

Oil & Gas

Toh Hong Peir	(603) 7610 8808

Mergers & Acquisitions

Sim Kwang Gek	(603) 7610 8849

R&D and Government Incentives

Daniel Lim	(603) 7610 8845

Real Estate

Tham Lih Jiun	(603) 7610 8875

Tax Audit & Investigation

Chow Kuo Seng	(603) 7610 8836

Global Employer Services

Ang Weina	(603) 7610 8841

Indirect Tax

Tan Eng Yew	(603) 7610 8870
Fan Kah Seong	(603) 7610 8859
Robert Tsang	(+65) 6530 5523

Transfer Pricing

Theresa Goh	(603) 7610 8837
Ian Clarke	(603) 7610 8824

Deloitte

Level 16, Menara LGB
1, Jalan Wan Kadir
Taman Tun Dr. Ismail
60000 Kuala Lumpur, Malaysia