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Greetings from Deloitte Malaysia Tax Services

Public Rulings

Public Ruling (PR) No. 3/2015: Failure to Furnish Information within a Stipulated Period

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Takeaways:

Public Rulings

Public Ruling No. 3/2015:
Failure to Furnish Information
within a Stipulated Period

Public Ruling No. 4/2015:
Entertainment Expense

PR 3/2015 was issued by the Inland Revenue Board (IRB) on 29 July 2015 to explain a taxpayer's duty to keep records and documents, situations where a taxpayer is required to furnish information within a specified period as well as the consequences of non-compliance.

Effective year of assessment (YA) 2014, Section 39(1A) of the Income Tax Act 1967 (ITA) provides that in ascertaining the adjusted income of a taxpayer, no deduction of expenses from the gross income shall be allowed if the person fails to comply with a notice issued by the Director General (DG) under Section 81 of the ITA which requires the taxpayer to furnish information in respect of such deduction claimed by the taxpayer within a specified time or such extended time as may be allowed by the DG.

Deduction is only allowed if the taxpayer submits the records or documents in accordance with the requirement as specified in the notice issued by the DG under Section 81 of the ITA. Application for an extension of time (EOT) should be made before the expiration of the time specified in the notice and EOT may be granted based on the merits of each case (whether the reason given is reasonable and acceptable). Taxpayer will be notified of the outcome for EOT in the form of a notice under Section 81 of the ITA.

In the event the records and documents cannot be furnished but if the taxpayer is able to submit supporting evidence and reasonable grounds to prove the occurrence of circumstances beyond the taxpayer's control, the DG may give due consideration to allow the deduction of expenses claimed. However this submission is subject to approval by the DG who must be satisfied that the taxpayer has made every endeavor to obtain the records or documents from third parties but still fails to get it and

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Income Tax (Deduction for Consultation and Training Costs for the Implementation of Flexible Work Arrangements) Rules 2015 [P.U.(A) 134/2015]

Events

Short Term Business Travelers
Date: 20 August 2015
Venue: Menara LGB
Kuala Lumpur

The Employer's Mandate & GST Compliance Workshop

<u>Date</u>	<u>Venue</u>
7 Sept 2015	Sandakan
8 Sept 2015	Kota Kinabalu
9 Sept 2015	Miri
10 Sept 2015	Sibu
11 Sept 2015	Kuching

there is no other avenue to obtain the requested records and documents.

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PR No. 4/2015: Entertainment Expense

PR 4/2015 was issued by the IRB on 29 July 2015 to replace PR 3/2008 dated 22 October 2008, mainly to include the redefinition of “entertainment” under Section 18 of the ITA via Finance Act 2014 which is effective YA 2014.

Effective YA 2014, definition of entertainment has been redefined to include provision of food, drink, recreation or hospitality or the provision of accommodation or travel in connection with the said provision, 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.

With the redefinition of “entertainment” under Section 18 of the ITA, promotional expenses wholly and exclusively incurred in the production of business income that have an entertainment element (e.g. provision of food, drink, recreation etc) will only qualify for 50% deduction unless they fall into the provisos (i) to (viii) of Section 39(1)(l) of the ITA (as opposed to a full deduction on promotional expenses prior to YA 2014). 100% deduction will be given under Section 33(1) of the ITA provided the promotional expenses do not consist of any element of entertainment and does not fall under the definition of entertainment.

Cost of vouchers, coupons, tickets, gifts and so on incurred wholly related to sales arising from business are only allowed as entertainment expenses under proviso

Making the Most of the Latest Tax Development / Updates in 2015

Date: 14 September 2015

Venue: Menara LGB
Kuala Lumpur

GST Return Compliance Workshop

<u>Date</u>	<u>Venue</u>
11 Sept 2015	Kuching
23 Sept 2015	Kuala Lumpur

Deloitte Tax Challenge 2015

- Registration opens:

3 August 2015

- Final & Gala Dinner:

12 November 2015

Important deadlines:

Due date for 2016 tax estimates for companies with September year-end (31 August 2015)

6th month revision of tax estimates for companies with February year-end (31 August 2015)

9th month revision of tax estimates for companies with November year-end (31 August 2015)

Statutory filing of 2015 tax returns for companies with January year-end (31 August 2015)

(vii) of Section 39(1)(l) of the ITA when customers have redeemed the said.

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Technical Guideline

Guidelines on Tax Treatment related to the Implementation of MFRS 121 (or Other Similar Standards)

The IRB has issued a technical guideline entitled “Guidelines on Tax Treatment related to the Implementation of MFRS 121 (or Other Similar Standards)” (“These Guidelines”) dated 24 July 2015. These Guidelines aim to provide explanation on the tax treatment related to the implementation of Malaysian Financial Reporting Standard 121 (MFRS 121) or any other accounting standards with regard to the impact of foreign currency translation.

MFRS 121 stipulates the accounting principles underlying the recognition of foreign currency transactions and the translation of foreign currency financial statements into the local currency as presented in the Financial Statements.

In principle, gain or loss on foreign exchange which is revenue in nature is taxable or deductible when it is realised.

On the other hand, gain or loss on foreign exchange which is capital in nature, whether realised or unrealised is neither taxable nor deductible for income tax purposes. However, when payment is made (realised), any gain or loss from the said payment will reduce or increase the amount of the qualifying expenditure entitled under the ITA.

Foreign exchange differences are considered as realised when RM currency is physically converted into or exchanged for the other foreign currencies or functional currencies. Translation gains or losses will neither be taxable as income nor deductible as tax deduction or incurred as qualifying expenditure under ITA.

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IRB's Announcement

Unapproved Institutions under Section 44(6) ITA 1967

The IRB has recently announced that the Corporate Kifayah CSR Fund for Charity organised by the Bureau of Community Service Kifayah Management Corporate CSR - Corporate for Charity / Organization Management Succession Young Entrepreneur Development Initiative State is not an organisation approved under Section 44(6) of the ITA as the conditions set out in the ITA have not been fulfilled. Hence, any cash contribution to the said organisation is not eligible for tax deduction under Section 44(6) of the ITA.

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Gazette Orders

Petroleum (Income Tax)(Deduction for Consultation and Training Costs for the Implementation of Flexible Work Arrangements) Rules 2015 [P.U.(A) 132/2015] and Income Tax (Deduction for Consultation and Training Costs for the Implementation of Flexible Work Arrangements) Rules 2015 [P.U.(A) 134/2015]

P.U.(A) 132/2015 and P.U.(A) 134/2015 ("These Rules") which were gazetted on 29 June 2015 are deemed to have effect from the YA 2014. These Rules allow double deduction for the expenses incurred in relation to consultation fee and cost of training employees ("qualified expenses") for the implementation of flexible work arrangements (FWA) or enhancement of existing FWA as certified by Talent Corporation Malaysia Berhad (TCMB). Application for such certification must be received by TCMB within the period from 1 January 2014 until 31 December 2016.

The double deduction is allowed for a period of 3 consecutive YAs commencing from the YA relating to the basis period in which the certification is given by TCMB. The qualified expenses shall be verified by TCMB and the total amount of the expenditure shall not exceed RM500,000 for each YA. If the total amount of any expenses exceeds the amount which would reasonably be expected to be incurred in the ordinary course of business, the Director General of Inland Revenue may disallow the expenses to the extent of that excess.

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