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Greetings from Deloitte Malaysia Tax Services

Tax Audit Framework on Withholding Tax 2015

The Inland Revenue Board (IRB) has recently issued the Bahasa Malaysia version of the Tax Audit Framework on

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Withholding Tax 2015 (“This Framework”) which takes effect from 1 August 2015.

The contents of this Framework are essentially the same as the Tax Audit Framework 2015 (issued by IRB on 1 February 2015), except for the following key differences:

- i) This Framework is only applicable to withholding tax audit and some of the terms used are different from those used in the Tax Audit Framework 2015 such as “payer” for “taxpayer” and “audit findings” for “audit adjustments”.
- ii) Tax audit on withholding tax will generally cover three (3) years of assessment;
- iii) The time frame for settlement of a tax audit on withholding tax should be six (6) months from the commencement of the audit;
- iv) If it is discovered following an audit finding that there has been failure / underpaid of withholding tax, increase in tax will be imposed under Section 107A(2) / Section 109(2) / Section 109B(2) / Section 109D(3) / Section 109E(4) / Section 109F(2) / Section 109G(2) of the Income Tax Act 1967 (ITA);
- v) Effective 1 January 2011 for year of assessment 2011, in addition to the increase in tax for late payment mentioned in item (iv) above, the Director General of Inland Revenue (DGIR) is empowered to impose a penalty under Section 113(2) of the ITA if a claim for deduction of expense related to the withholding tax payment was made in the income tax return form (ITRF) furnished or claimed in the information given to the DGIR in arriving at the adjusted income of the payer but the withholding tax payment was made or paid after

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MASB Announces Deferral of Effective Date of MFRS 15

Events

GST Return Compliance Workshop
Date: 23 September 2015
Venue: Menara LGB
Kuala Lumpur

The Employer’s Mandate
Date: 29 September 2015
Venue: Menara LGB
Kuala Lumpur

GST / Customs Audit Workshop
Date: 7 October 2015
Venue: Menara LGB
Kuala Lumpur

the due date of furnishing the ITRF for the year of assessment.

- vi) Any taxes and penalties to be paid arising out of audit findings must be made to one of the Payment Centres located in Kuala Lumpur, Kota Kinabalu and Kuching based on the location of the payer's income tax file.
- vii) There is no provision for payer to apply for instalments in settling the total tax liability; and
- viii) Effective 1 January 2013, a payer who needs to pay withholding tax under Sections 109, 109B or 109F of the ITA may appeal to the Special Commissioners of Income Tax (SCIT) via Form CP 15D within thirty days from the date an amount is due to be made to the DGIR based on the reason that withholding tax payment is not liable to be paid under the ITA [Section 109H] except where:
 - a) An appeal has been filed to the SCIT by the non-resident person related to payment under Section 4A or paragraph 4(f) of the ITA to which the appeal relates.
 - b) Payment under Section 4A or paragraph 4(f) of the ITA to the non-resident made by the payer is disallowed as deduction under Section 39 of the ITA in arriving at the adjusted income of the payer; or
 - c) The amount of withholding tax due to be paid has not been made to the DGIR by the payer.

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Deloitte Tax Challenge 2015

- Registration opens:
3 August 2015
- Launch Ceremony:
14 September 2015
- Final & Gala Dinner:
12 November 2015

Important deadlines:

Due date for 2016 tax estimates for companies with October year-end
(1 October 2015)

6th month revision of tax estimates for companies with March year-end
(30 September 2015)

9th month revision of tax estimates for companies with December year-end
(30 September 2015)

Statutory filing of 2015 tax returns for companies with February year-end
(30 September 2015)

Tax Collection Framework 2015

The IRB has recently issued the Bahasa Malaysia version of the Tax Collection Framework 2015 (“The framework”) dated 11 August 2015.

The framework provides guidance to taxpayers, employers and tax agents on the payment rules and payment methods which can be used based on different types of tax payment. It also explains the IRB’s methods of tax collection and refund.

The framework also covers detailed explanation on the following:

- i) Monthly Tax Deduction (MTD);
- ii) Instalment payment scheme under Section 107B of the ITA - CP500;
- iii) Instalment payment scheme under Section 107C of the ITA - CP204;
- iv) Instalment payment scheme under Section 49A of the Petroleum Income Tax Act 1967 (PITA) – CP250;
- v) Payment of Real Property Gains Tax (RPGT);
- vi) Payment of tax under Labuan Business Activity Tax Act 1990 (LBATA);
- vii) Payment of withholding tax;
- viii) Payment services (avenues of payment);
- ix) Tax recovery; and
- x) Tax refund.

Among the salient points of the framework are:

- i) Any appeal in respect of disagreement with the MTD instruction may be made to the Collection Unit of the relevant branch which handles the file.
- ii) Increase in withholding tax is 10% of the total outstanding withholding tax if the payer fails to pay the withholding tax or pays the withholding tax after the stipulated deadline i.e. within one month after paying or crediting the recipient.
- iii) Cheque issued by banks outside Malaysia is not accepted by the IRB for withholding tax payment.
- iv) Unlike other tax payments, withholding tax cannot be paid through the banks.
- v) Taxpayers who fail to comply with the instalment scheme under Sections 107, 107B and 107C of the ITA or taxpayers who do not have a tax instalment scheme under Sections 107, 107B and 107C of the ITA are not eligible for compensation on late tax refund under Section 111D of the ITA.

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Public Rulings

Public Ruling (PR) No. 5/2015: Taxation of Limited Liability Partnership

The IRB has issued PR 5/2015 on 14 August 2015 to replace the PR No. 3/2014 dated 9 May 2014. The contents of PR 5/2015 are essentially the same as the previous PR with some changes as follows:

| Reference in PR 5/2015 | Remarks | | | | | | |
|---|--|---|--------------------------------------|-------------|---|---------|-----|
| 7.2(a) | In addition to keep complete accounting records of the business of a limited liability partnership (LLP), the accounts or documents of the partnership or company prior to its conversion to LLP must be kept by the LLP for a period of seven years. | | | | | | |
| New Paragraph 10.8 | <p>A new paragraph is inserted to explain the assessments related to years of assessment of a partnership or a company prior to its conversion to an LLP as provided under Sections 75B(3) and 75B(4) of the ITA which take effect from 31 December 2014 [Act 764].</p> <p>Any assessment associated with the income of a partnership or a company before conversion to an LLP is made as follows:-</p> <table border="1"><thead><tr><th>Type of business before conversion to a LLP</th><th>Assessment is made under the name of</th></tr></thead><tbody><tr><td>Partnership</td><td>Each partner in the partnership before conversion to an LLP</td></tr><tr><td>Company</td><td>LLP</td></tr></tbody></table> <p>Illustration of the above are provided in the two new examples inserted i.e. Examples 7 and 8.</p> | Type of business before conversion to a LLP | Assessment is made under the name of | Partnership | Each partner in the partnership before conversion to an LLP | Company | LLP |
| Type of business before conversion to a LLP | Assessment is made under the name of | | | | | | |
| Partnership | Each partner in the partnership before conversion to an LLP | | | | | | |
| Company | LLP | | | | | | |

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PR No. 6/2015: Qualifying Expenditure (QE) and Computation of Capital Allowances (CA)

PR No. 6/2015 was issued by the IRB on 27 August 2015 to replace PR No. 2/2001: Computation of Initial & Annual Allowances (AA) in respect of Plant & Machinery (P&M) dated 18 January 2001. The contents of the PR No. 2/2001 have been rearranged as follows:

- i) PR No. 12/2014: Qualifying P&M for Claiming CA dated 31 December 2014; and
- ii) PR No. 6/2015 (this PR).

This PR explains:

- i) tax treatment in relation to QE on P&M for the purpose of claiming CA; and
- ii) computation of CA for expenditure on P&M.

Among the new areas covered in this PR are:

- i) QE for vehicle licensed for commercial use
- ii) Asset that has been used
- iii) Asset installation services
- iv) Expenditure on dismantling and removing asset and restoring the site
- v) Tax treatment of foreign exchange on QE

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Gazette Order

Income Tax (Deduction for Pre-Commencement Expenses in relation to Refinery and Petrochemical Integrated Development) (Amendment) Rules 2015 [P.U.(A) 183/2015]

P.U.(A) 183/2015 was gazetted on 13 August 2015 to amend subrule 3(2) of the Income Tax (Deduction for Pre-Commencement Expenses in relation to Refinery and Petrochemical Integrated Development) Rules 2013 [P.U.(A) 43/2013].

P.U.(A) 183/2015 allows qualifying persons to claim deduction in respect of expenses incurred within seven years (instead of four years as provided in subrule 3(2) of P.U.(A) 43/2013) prior to the commencement date of qualifying activities in Refinery and Petrochemical Integrated Development (RAPID) Complex. These Rules are deemed to have effect from year of assessment 2010.

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We invite you to explore other tax related information at:

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

Other Development: Updates on Accounting

MASB Announces Deferral of Effective Date of MFRS 15

On 8 September 2015, the Malaysian Accounting Standards Board (MASB) confirmed that the effective date of *MFRS 15: Revenue from Contracts with Customers* will be deferred to annual periods beginning on or after 1 January 2018, following the recent press release by the International Accounting Standards

Board (IASB) confirming a one-year deferral of *IFRS 15: Revenue from Contracts with Customers*. However, early application of MFRS 15 is still permitted.

Transitioning Entities

The MASB has consistently used the effective date of MFRS 15 as the basis for setting the effective date for the Transitioning Entities (TEs) to apply the Malaysian Financial Reporting Standards (MFRSs). In light of the IASB's deferral of IFRS 15, the effective date for the TEs to apply the MFRSs will also be deferred to 1 January 2018.

Hence, TEs that have in the alternative chosen to apply the Financial Reporting Standards Framework are mandatorily required to adopt the MFRSs for annual periods beginning on or after 1 January 2018.

TEs are entities within the scope of *MFRS 141: Agriculture and/ or IC Interpretation 15: Agreements for the Construction of Real Estate*, including their parents, significant investors and joint ventures.

Reasons for the deferment

MFRS 15 was issued in September 2014 with the original effective date of 1 January 2017. MFRS 15 is word-for-word with IFRS 15 (including the effective date), which was issued by the IASB in May 2014.

On 22 July 2015, the IASB announced its decision to defer the effective date of IFRS 15 by one year to 1 January 2018. This is mainly because on 30 July 2015, the IASB proposed some targeted amendments to IFRS 15. These proposed amendments are meant to aid implementation of IFRS 15 by clarifying some of the requirements, adding and amending illustrative examples and introducing additional practical expedients on transition.

Also, the deferral aligns the effective date of IFRS 15 with that of the US revenue standard (Topic 606). When Topic 606 and IFRS 15 were issued in 2014, they were fully converged, including the effective date. However, the effective date of Topic 606 was recently deferred by one year in response to stakeholders' feedback.

Next Steps

The MASB also mentioned that a formal amendment to IFRS 15, specifying the new effective date, is expected to be issued by IASB later this month. Once the IASB has issued the amendment, the MASB expects to issue a similar amendment to MFRS 15 by end of October 2015.

Hungry for more information?

Please access our IAS Plus website <http://www.iasplus.com/en> - *The #1 website for global accounting news!*

On the IAS Plus website you can find a comprehensive collection of helpful resources - organised chronologically - on the recently-issued *IFRS 15: Revenue from Contracts with Customers*. Please click for direct access to specific revenue resources:

- Our news article announcing the issue of IFRS 15
- IFRS 15 news
- IFRS 15 events
- Major publications on IFRS 15
- Publications on implementing IFRS 15
- All IFRS 15 publications
- Robert Bruce interviews on IFRS 15
- IFRS Industry Insights on the impact of IFRS 15
- TRG Snapshots summarising each meeting of the Transition Resource Group
- Additional American resources on the joint revenue standard (link to US GAAP Plus)

Deloitte IFRS e-learning

Deloitte has developed high quality e-learning modules on IFRS to help users develop their knowledge and application of the basic principles and concepts of the IFRSs and IASs. The IFRS e-learning modules are **available free of charge** and may be used and distributed freely by those registering with the site, without alteration from the original form and subject to the terms of the Deloitte copyright over the material.

Ready to get started? Please click for direct access to our e-learning database:

<http://www.iasplus.com/en/tag-types/e-learning>

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