

▶▶ Tax Flash



September 2011

PR No. 7/2011 – Notification of Change in Accounting Period of a Company / Trust Body / Co-operative Society

The Inland Revenue Board ["IRB"] has recently issued the Public Ruling ["PR"] No. 7/2011 – Notification of Change in Accounting Period of a Company / Trust Body / Co-operative Society. This PR provides guidance on the procedure for informing the IRB on the change in accounting period of a company, trust body or co-operative society and rescheduling of instalment scheme. In relation to this, the provisions under Section 107C of the Income Tax Act 1967 ["the Act"] is of relevance.

Salient points of the abovementioned PR include:-

i. Notification of Change in Accounting Period

- A company, trust body or co-operative society is required to notify the Director General of Inland Revenue ["DGIR"] on the change in its accounting period by way of a prescribed Form CP204B. The due date for the submission of the Form CP204B is either:-
 - 1 month before the beginning of a new accounting period if the accounting period is shortened; or
 - 1 month before the end of the original accounting period if the accounting period is extended.

Failure to do so, the company, trust body or co-operative society shall furnish a tax estimate (Form CP204) not later than 30 days before the beginning of the new accounting period.

- If the notification of change in accounting period and revision of tax estimate are made:-
 - in the 6th or 9th month of the basis period, both Form CP204A (i.e. revised tax estimate) and Form CP204B shall be furnished.

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References

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- other than in the 6th or 9th month of the basis period, only Form CP204B shall be furnished and the DGIR will direct the instalments to be paid by issuing Notice of Instalment Payment ["Form CP205"]. Such company, trust body or co-operative society has to provide justification if:-
 - the new revised estimate is less than the revised estimate or original estimate (if there is no revised estimate furnished); and
 - the instalments for the new basis period are less than the revised instalments or original instalments (if there are no revised instalments).

ii. Accounting Period is Shortened

- If the change of accounting period is notified other than in the 6th or 9th month of the basis period but within the new basis period, the revised estimate of tax payable will be acceptable if:-
 - the new revised estimate of tax payable is higher than the revised estimate or original estimate (if there is no revised estimate furnished);
 - the new revised instalments are higher than the revised instalments or original instalments (if there are no revised instalments).

The new monthly instalments are determined by dividing the difference between the new revised tax estimate and the revised/original tax estimate by the remaining months of the shortened period.

- If the change of accounting period is notified after the end of the basis period, the revised estimate would not be acceptable. The original monthly instalments shall continue until such time when the Form CP204B is received by the DGIR.

iii. Accounting Period is Extended

- If the change of accounting period is notified after the 6th month of the basis period and the amount of revised tax estimate is higher, then the difference between the revised tax estimate and the original tax estimate will be divided by the number of months which was extended.
- If the revised instalment is less than the original instalment before the accounting period is extended, the instalment to be paid for the extended accounting period is the original instalment. The monthly instalment for the extended period shall not be less than the monthly instalment for the original accounting period.



iv. Increase in Tax under Section 107C(10)

- From the year of assessment ["YA"] 2012 onwards, the amount of tax as estimated by the DGIR via issuance of Form CP205 is deemed to be a revised estimate of tax payable which is to be used to determine the increase in tax under Section 107C(10) of the Act i.e. if the difference between the actual tax and the revised tax estimate or the original tax estimate (if there is no revised tax estimate furnished) exceeds 30% of tax payable.

Various examples are set out in the PR to illustrate how the instalment scheme is rescheduled under different scenarios.

The above PR takes effect from the YA 2012.

New Penalty Rates for Late Submission of Tax Returns

Any person who defaults in furnishing a return in accordance with Section 77(1) or 77A(1) of the Act shall be liable to the following:-

- i. Section 112(1) – fine ranging from RM200 to RM2,000; or
- ii. Section 112(3) – penalty of up to treble the amount of the tax (before any set-off, repayment of relief) [where no prosecution is pursued under Section 112(1)].

In the past, the IRB had imposed penalties based on graduated scale rates with a minimum of RM200 up to a maximum of RM2,000 for late submission of tax returns, depending on the number of offences committed by the taxpayers, in line with the imposition of penalty as stipulated under Section 112(1) of the Act.

Recently, the IRB has deviated from past practice and imposed penalties ranging from 20% to 35% of the tax payable for late submission of tax returns, depending on the duration taken to submit the tax return after the stipulated due date.

The Chartered Tax Institute of Malaysia ["CTIM"] has appealed to the IRB for a lower penalty rate to be imposed for late submission of tax returns and to apply this rate on a prospective basis after adequate notice is given to the taxpayers. In replying to the said matters raised by the CTIM, the IRB stated that:-

- i. the new penalty rates for late submission of tax returns will be applied to tax returns submitted to the IRB after 1st June 2011;
- ii. should the new penalty rates be applied on the tax returns submitted before 1st June 2011, taxpayers may appeal to the IRB for a reduction of the penalty based on the old rates; and
- iii. where the taxpayers have special circumstances or valid reasons for the late submission of tax returns, an appeal for a reduction of the penalty may be made directly to the Deputy Director General at the IRB's Headquarters, Kuala Lumpur which will be considered on a case to case basis.

Subsequently, the CTIM has pursued further with the IRB on the above. The IRB has agreed to reconsider the matters and will revert with their decision in due course.



Petroleum (Income Tax) (Amendment) Act 2011

The Petroleum (Income Tax) (Amendment) Act 2011 has been gazetted on 18th August 2011 to take effect the amendments introduced in the Petroleum (Income Tax) (Amendment) Bill 2011 as highlighted in our July 2011 issue of *Tax Flash*.

The above amendment Act is deemed to have come into operation on 30th November 2010.

GST – Draft Guidelines

The Royal Malaysian Customs has recently issued the following draft guidelines on the Goods and Services Tax ["GST"] to provide an understanding of the GST and its implications:-

- i. GST Industry Guides
 - Auctioneer
 - Relief on Second-Hand Goods (Margin Scheme)
- ii. GST Specific Guides
 - Import
 - Transfer of Business as a Going Concern

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