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Tax Investigation Framework 2018 (Revised)

The Inland Revenue Board [“IRB”] has recently issued the revised Tax Investigation Framework 2018 [“the revised Framework”] to replace the previous Tax Investigation Framework issued on 1st October 2013. Some of the significant changes are as follows:-

- Paragraph 3.2 of the revised Framework.
 - The IRB officers can obtain information/documents from any relevant person to assist in the investigation.
- Paragraph 3.3 of the revised Framework.
 - Taxpayer can be prosecuted in court for tax evasion.
- Paragraph 7.4 of the revised Framework.
 - Upon completion of the investigation procedure, the IRB will issue a letter of settlement to the taxpayer. If the taxpayer agrees with the settlement, the taxpayer will sign an agreement/letter of undertaking. Assessment will be raised and the case is deemed concluded. In the case where the taxpayer does not agree with the investigation findings, the IRB will raise assessment with penalty based on its best judgement.

Hyperlinks

- [Moore Stephens Malaysia](#)
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- [Tax Investigation Framework 2018 \(Revised\)](#)

Contact details

Advent MS Tax Consultants Sdn Bhd [703669-U]
Unit 3.3A, 3rd Floor, Surian Tower
No. 1 Jalan PJU 7/3, Mutiara Damansara
47810 Petaling Jaya, Selangor, Malaysia

T +603 7728 1800
F +603 7728 9800
E tax@moorestephens.com.my
www.moorestephens.com.my



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- iv. Paragraph 8.2.4 of the revised Framework.
 - The taxpayer has the rights to appoint qualified tax agents under Section 153 of the Income Tax Act 1967 [“the Act”] for the investigation. However, the rights to appoint qualified spokespersons/adviser at any time or a lawyer during the process of investigation or prosecution has been removed.
- v. Paragraph 10.1.2 of the revised Framework.
 - For failure to furnish the tax return form for 2 years of assessment or more, the person will be liable to a fine of not less than RM1,000 and not more than RM20,000 or to imprisonment for a term not exceeding 6 months or to both under Section 112(1A) of the Act. Special penalty of up to three (3) times of the tax payable can also be imposed.
- vi. Paragraph 10.1.3 of the revised Framework.
 - Where no prosecution has been instituted in relation to the default in furnishing a tax return form, a penalty of up to three (3) times of the tax payable can be imposed under Section 112(3) of the Act.
- vii. Paragraph 11 of the revised Framework.
 - Tax and penalties must be paid in one lump sum. However, taxpayers may apply for settlement by instalments. The first payment must be at least 25% of the total tax payable and penalties which has to be made on the date of the agreement. The balance sum has to be made in accordance with the instalment scheme approved by the IRB.
- viii. Paragraph 12.1 of the revised Framework.
 - Section 97A(2) and Sections 99 to 102 of the Act allows the taxpayer to appeal against the assessment raised by the IRB. The appeal must be made using Form Q and be submitted to the branch where the investigation is conducted. The appeal to the Special Commissioners of Income Tax has to be submitted within 30 days from the date of the notice of assessment.
- ix. Paragraphs 13.2 and 13.6 of the revised Framework.
 - Under Section 4 (offence of money laundering) of the Anti-Money Laundering, Anti-Terrorism Financing and Proceeds of Unlawful Activities Act 2001 [“AMLATFPUAA”], any person who commits a money laundering offence shall upon conviction be liable to imprisonment for a term not exceeding 15 years and fine of not less than 5 times the sum or value of the proceeds of an unlawful activity or instrumentalities of an offence at the time the offence was committed or RM5 million, whichever is higher.

- Under Section 34 (obstruction to exercise powers of an investigation officer) of the AMLATFPUAA, any person who commits an offence shall, upon conviction, be liable to a fine not exceeding RM3 million or to imprisonment for a term not exceeding 5 years of both. In the case of continuing offence, he shall be liable to further fine of RM3,000 for each day or part thereof during which the offence continues to be committed.

The above revised Framework takes effect from 15th May 2018.

PN No. 2/2018 – Clarification on the Non-Application Clause in Income Tax Orders and Income Tax Rules

The IRB has recently issued the Practice Note [“PN”] No. 2/2018 - Clarification on the Non-Application Clause in Income Tax Orders and Income Tax Rules to clarify on the IRB’s interpretation of the non-application clause stipulated in the Income Tax Orders and Income Tax Rules.

The non-application clause under the Income Tax Orders and Income Tax Rules stipulates that each of the incentives granted by the Government is mutually exclusive i.e. only one incentive can be claimed by a taxpayer in the same year of assessment.

The PN clarifies that where reference is made to Section 127 of the Act under the non-application clause in an Income Tax Order or Income Tax Rule, it would apply to a person who has been granted a specific exemption under Section 127(3)(b) and Section 127(3A) of the Act. Exemptions under Section 127(1) of the Act which are general exemptions granted pursuant to Part I, Schedule 6 of the Act are not included therein.

This publication is provided gratuitously and without liability. It is intended as a general guide only and the application of its contents to specific situations will depend on the particular circumstances involved. Readers should seek appropriate professional advice regarding any particular problems that they encounter, and this tax update should not be relied on as a substitute for advice. Accordingly, Advent MS Tax Consultants Sdn Bhd assumes no responsibility for any errors or omissions it may contain, whether caused by negligence or otherwise, or for any losses, however caused, sustained by any person that relies on it. Should further information, clarification or advice be required on any of the contents stated herein, please feel free to contact our tax team.

Hyperlinks

➤ [PN No. 2/2018](#)