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PR No. 3/2015 – Failure to Furnish Information within a Stipulated Period

The Inland Revenue Board [“IRB”] has recently issued the Public Ruling [“PR”] No. 3/2015 – Failure to Furnish Information within a Stipulated Period to explain the income tax treatment of a taxpayer who fails to furnish information within stipulated period.

Salient points of the abovementioned PR include:-

i. Power to Call for Information

- The Director General of Inland Revenue [“DGIR”] may request from a taxpayer any information and particulars, either orally or in writing, within a specified time in an audit case.
- The requisite information and particulars consist of records and supporting documents such as :-
 - books of accounts which record receipts and payments or income and expenditure;
 - invoices, vouchers, receipts and such other documents to verify the entries in the books of accounts;
 - materials which are kept in electronic form that can be referred to easily and are convertible into written form. Documents should be retained in its original form if these documents are kept in a manual form and subsequently converted into an electronic form; and

Hyperlinks

- [Moore Stephens Malaysia](#)
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- [Inland Revenue Board](#)

- [PR No. 3/2015](#)

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Hyperlinks

- any other records and documents as may be specified by the DGIR.
- ii. Duty to Keep Records and Documents
- Every taxpayer is required to keep records and documents for the purposes of ascertaining his chargeable income and tax payable for a period of 7 years from the end of the year of assessment in which the tax return is submitted to the DGIR.
- iii. Records and Documents not Furnished within a Stipulated Period
- Effective year of assessment [“YA”] 2014, Section 39(1A) of the Income Tax Act 1967 [“the Act”] 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 provide supporting records and documents in respect of such expenses within the time specified in a notice made under Section 81 of the Act.
 - Application for an extension of time to furnish the information and particulars may be granted depending on merits of the case provided that:-
 - the application is made before the expiration of the time specified in the notice; and
 - the reason given is reasonable and acceptable.
 - The notification for extension of time will be issued in the form of a notice which will state whether the application for extension of time is approved or otherwise and the period of extension of time approved by the DGIR.
- iv. Consideration for Circumstances not within Control
- If the records and documents cannot be furnished due to circumstances beyond the control of the taxpayer (e.g. documents are lost or destroyed as a result of natural disaster, theft, embezzlement of cash and etc.), the taxpayer must prove the occurrence of such circumstances by submitting the following documents:-
 - newspaper clippings, photographs and police reports;
 - other proofs that are appropriate and reasonable; or
 - records or documents from third parties.
 - If the taxpayer is able to submit the supporting evidence and reasonable grounds for his inability to produce the requested records or documents as requested, the DGIR will give consideration to allow the deduction of expenses claimed.

- The DGIR must be satisfied that there is no other avenue for the company to obtain such records or documents.

Double Deduction for Consultation and Training Costs for the Implementation of Flexible Work Arrangements

Following the 2014 Budget Announcement, the Income Tax (Deduction for Consultation and Training Costs for the Implementation of Flexible Work Arrangements) Rules 2015 has been gazetted to provide a double deduction on the consultation fee and costs of training the employees incurred by a qualifying person for the implementation or enhancement of existing flexible work arrangements as certified by Talent Corporation Malaysia Berhad ["Talent Corp"]. The application for obtaining such certification has to be made within the period from 1st January 2014 until 31st December 2016.

The allowable costs of training are:-

- Training course or programme fee;
- Internal trainer fee;
- Training material cost;
- Rental of training space;
- Examination fee; and
- Training-related travelling expenses incurred by the employees and trainers as follows:-
 - economy class air fare if travel by air transport or actual cost incurred if travel by land or water transport;
 - accommodation not exceeding RM300 per day; and
 - sustenance not exceeding RM150 per day.

The expenses must be verified by Talent Corp and the total amount of expenditure shall not exceed RM500,000 for each year of assessment for a period of 3 consecutive years of assessment commencing from the basis period the certification is given.

For the purposes of the above Rules:-

"Qualifying person" means:-

- a company incorporated under the Companies Act 1965;
- a limited liability partnership registered under the Limited Liability Partnership Act 2012; or
- a partnership registered under the Partnership Act 1961;

and resident in Malaysia.

Hyperlinks

- [Income Tax \(Deduction for Consultation and Training Costs for the Implementation of Flexible Work Arrangements\) Rules 2015](#)

“Flexible work arrangements” means flexible arrangements:-

- a. at a place of work;
- b. in the scheduling of working hours; or
- c. in the number of hours worked

The above Rules are deemed to have effect from the YA 2014.

GST – Guides

The Royal Malaysian Customs Department [“RMCD”] has recently issued the following guides on Goods and Services Tax [“GST”] to provide an understanding of GST and its implications on various businesses/matters:-

- Industry Guides
 - Approved Trader Scheme (revised as at 24.07.2015)
 - Tertiary Education (new as at 10.07.2015)
- Specific Guides
 - Employee Benefits (revised as at 18.06.2015)
 - Supply (revised as at 13.07.2015)

GST – Frequently Asked Issues

The RMCD has recently issued the following panel decisions to provide clarification on GST frequently asked issues:-

- Director General’s Decision 7/2015 (issued on 27.07.2015)
- Director General’s Decision Amendments 4/2015 (issued on 10.07.2015)

Hyperlinks

- [Director General’s Decision 7/2015](#)
- [Director General’s Decision Amendments 4/2015](#)

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