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### Guidelines on Dispute Resolution Proceeding

The Inland Revenue Board ["IRB"] has recently issued the Guidelines on Dispute Resolution Proceeding ["DRP"] to provide guidance on DRP as a mechanism to resolve disputes arising from an appeal or relief filed by a taxpayer and to spread awareness of taxpayer's rights and responsibility in relation to DRP.

Salient points of the abovementioned Guidelines include:-

- i. The DRP is introduced on 1<sup>st</sup> July 2013 to provide taxpayers an opportunity to be heard by an independent DRP Panel who was not involved in the raising of assessment before their appeal or application for relief is forwarded to the Special Commissioners of Income Tax.
- ii. The DRP is an alternative means of dispute resolution to resolve appeal and/or application of relief whereby the Dispute Resolution Department or State Director's Office, IRB acts as neutral party to facilitate the negotiation process to reach an out of court settlement.

## Hyperlinks

- [Moore Stephens Malaysia](#)
- [Moore Stephens International](#)
- [Inland Revenue Board](#)
  
- [Guidelines on Dispute Resolution Proceeding](#)

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## Hyperlinks

- iii. Taxpayer can request for a DRP for the following:-
- Categories of Appeal
    - Section 99 of the Income Tax Act 1967 [“the Act”] whereby taxpayer who is aggrieved by an assessment made in respect of him for any year of assessment by the Director General of Inland Revenue;
    - Section 97A of the Act (non-chargeability case);
    - Section 109H of the Act (withholding tax);
    - Section 43 of the Petroleum (Income Tax) Act 1967 [“PITA 1967”]; and
    - Section 18 of the Real Property Gains Tax Act [“RPGTA 1976”].
  - Application for Relief
    - Error or mistake in a return or statement made by a taxpayer under Section 131 of the Act;
    - Non-error or mistake under Section 131A of the Act;
    - Error or mistake under Section 66 of PITA 1967; and
    - Error or mistake under Section 19 of RPGTA 1967.

### Guidelines on Procedure for Submission of Amended Return Form

The IRB has, on 22<sup>nd</sup> April 2019, issued the updated Guidelines on Procedure for Submission of Amended Tax Return Form to replace the previous Guideline No. 1/2010 dated 30<sup>th</sup> November 2010 with some updates.

The following should be noted for submission of the Amended Tax Return Form:-

- a taxpayer must have submitted the original tax return form within the stipulated period.
- the Amended Tax Return Form for self-amendment must be submitted within the 6-month period after the statutory deadline for submission of the tax return form.
- self-amendment is allowed for rectification of errors in respect of:-
  - under-reporting / non-reporting of income;
  - expenses / other deductions over-claimed; or
  - capital allowances / incentives / reliefs over-claimed.
- the additional tax payable arising from the amendment of the tax return form is subject to increase in tax as follows:-

<u>Amended Return Form Submitted</u>	<u>Rate</u>
○ within 60 days from the statutory deadline for submission of tax return	10%
○ after 60 days but not later than 6 months from the statutory deadline for submission of tax return	15.5%

- [Guidelines No. 3/2019 - Procedure for Submission of Amended Return Form \(updated on 22nd April 2019\) \(in Bahasa Malaysia\)](#)

## Hyperlinks

- the tax payable or additional tax payable arising from the self-amendment including the increase in tax shall be due and payable on the day the Amended Tax Return Form is furnished to the IRB.
- where the Amended Tax Return Form is submitted within 60 days from the statutory deadline and the tax or additional tax payable is not paid within the 60-day period, an additional 5% penalty will be imposed on the unpaid tax (including the 10% increase in tax).

The updates included in the abovementioned revised Guidelines are as follows:-

- commencing from year of assessment ["YA"] 2014, the IRB has introduced the e-filing system for submission of the Amended Tax Return Form.
- the Amended Tax Return Form will not be subject to audit except where:-
  - the tax return form is submitted within the stipulated period but with computational errors;
  - the tax return form is received after the stipulated period;
  - there are computational errors in the Amended Tax Return Form; or
  - the Amended Tax Return Form is received after the 6-month period.

### **Deduction for Expenditure on Issuance of Retail Debenture and Retail *Sukuk***

Following the 2019 Budget announcement, the Income Tax (Deduction for Expenditure on Issuance of Retail Debenture and Retail *Sukuk*) Rules 2019 has been gazetted to extend the deduction of the additional expenses incurred by a resident company for another 2 years in respect of the issuance of the following:-

- retail debenture;
- retail *sukuk* structured pursuant to the principle of *Murabahah* or *Bai' Bithaman Ajil* (based on the concept of *Tawarruq*), *Mudharabah*, *Musyarakah*, *Istisna'* or any *Shariah* principle other than principle mentioned in (iii); and
- retail *sukuk* structured pursuant to the principle of *Ijarah* or *Wakalah* comprising a mixed component of asset and debt.

The issuance of the above must be approved or authorised by the Securities Commission under the Capital Markets and Services Act 2007.

➤ [Income Tax \(Deduction for Expenditure on Issuance of Retail Debenture and Retail \*Sukuk\*\) Rules 2019](#)

## Hyperlinks

The allowable additional expenses are:-

- the professional fee relating to due diligence, drafting and preparation of prospectus;
- the printing cost of prospectus;
- the advertisement cost of prospectus;
- the Securities Commission Malaysia prospectus registration fee;
- the Bursa Malaysia processing fee and initial listing fee;
- the Bursa Malaysia new issue crediting fee; and
- the primary distribution fee.

The amount of deduction allowed in respect of a retail debenture / retail *sukuk* under (i) and (ii) shall be a double deduction whereas the deduction in respect of a retail *sukuk* under (iii) shall be a single deduction.

The above Rules shall have effect for the YA 2019 and YA 2020.

### Deduction for Expenditure on Issuance of *Sukuk*

Following the 2019 Budget announcement, the Income Tax (Deduction for Expenditure on Issuance of *Sukuk*) Rules 2019 has been gazetted to extend the deduction for expenditure incurred by a company resident for another 2 years in respect of the issuance of *sukuk* structured pursuant to the principle of *Ijarah* or *Wakalah* which is:-

- approved or authorised by, or ledged with, the Securities Commission Malaysia under Capital Markets and Services Act 2007; or
- approved by the Labuan Financial Services Authority established under the Labuan Financial Services Authority Act 1996.

The above Rules shall have effect for the YA 2019 and YA 2020.

### Guides on Goods and Services Tax

- i. The Goods and Services Tax ["GST"] Guide on Declaration and Adjustment After 1<sup>st</sup> September 2018 (as at 19<sup>th</sup> April 2019) was published by Royal Malaysian Customs Department ["RMCD"] on 22<sup>nd</sup> April 2019.
- ii. The GST Guide on Tax Invoice, Debit Note, Credit Note and Retention Payment After 1<sup>st</sup> September 2018 (as at 29<sup>th</sup> April 2019) was published by RMCD on 8<sup>th</sup> May 2019.

➤ [Income Tax \(Deduction for Expenditure on Issuance of \*Sukuk\*\) Rules 2019](#)

➤ [GST Guide on Declaration and Adjustment After 1st September 2018](#)

➤ [GST Guide on Tax Invoice, Debit Note, Credit Note and Retention Payment After 1st September 2018](#)

### Guides on Sales Tax

- i. The Guide on Sales Tax Deduction Facility (as at 13<sup>th</sup> January 2019) is withdrawn and replaced by the Guide on Sales Tax Deduction Facility (as at 19<sup>th</sup> April 2019).
- ii. The Guide on Sales Tax Exemption under Schedule C, Sales Tax (Persons Exempted from Payment of Tax) Order 2018 [“the Order”] (as at 24<sup>th</sup> April 2019) was published by RMCD on 30<sup>th</sup> April 2019.

### Additional Compliance on Sales Tax Exemption

- i. Sales tax exemption under Schedule B of the Order
  - Any person who has claimed for the sales tax exemption under Schedule B of the Order is required to prepare a report and that report must be signed by an authorised officer of the company. The report shall be submitted to RMCD upon request.

Type of Report	Item	Period To Prepare Report
Laporan CJ(P) Jadual B-01	1, 2, 3 and 4	Every 3 months from the date of exemption certificate
Laporan CJ(P) Jadual B-02	4	

- ii. Sales tax exemption under Schedule C of the Order
  - Any person who has claimed for the sales tax exemption under Schedule C of the Order is required to prepare a report and that report must be signed by an authorised officer of the company. The report shall be submitted to RMCD upon request.

### Hyperlinks

- [Guide on Sales Tax Deduction Facility](#)
- [Guide on Sales Tax Exemption under Schedule C, Sales Tax \(Persons Exempted from Payment of Tax\) Order 2018](#)
- [Laporan CJ\(P\) Jadual B-01](#)
- [Laporan CJ\(P\) Jadual B-02](#)
- [Laporan CJ\(P\) Jadual C-01](#)
- [Laporan CJ\(P\) Jadual C-02](#)
- [Laporan CJ\(P\) Jadual C-03](#)

## Hyperlinks

Type of Report	Item	Responsible Party	Period To Prepare Report
Laporan CJ(P) Jadual C-01	1, 2, 3 and 4	Registered manufacturer	Every 3 months from the date of exemption certificate
Laporan CJ(P) Jadual C-02	3 and 4	Person acting on behalf of a registered manufacturer	Every 3 months from the date of exemption certificate until all goods purchased on behalf are delivered to the registered manufacturer who appointed him
Laporan CJ(P) Jadual C-03	5	Registered manufacturer who sends goods to be completed by a sub-contractor	Every 3 months from the date of exemption certificate

### Compliance Audit Framework (Indirect Tax)

The Compliance Audit Framework (as at 30<sup>th</sup> April 2019) was published by RMCD on 10<sup>th</sup> May 2019 (currently only made available in our National language).

➤ [Compliance Audit Framework \(in Bahasa Malaysia\)](#)

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