GUIDELINES: TAX CORPORATE GOVERNANCE FRAMEWORK

Inland Revenue Board of Malaysia

As at 23 February 2024

Note : This guideline should be read together with the Tax Corporate Governance Framework issued by IRBM

Published by
Inland Revenue Board of Malaysia

Published on 11 April 2022
Updated on 27 July 2022
Updated on 23 February 2024

TABLE OF CONTENTS

LIST OF ABBREVIATION

CC	Cooperative Compliance
COSO	Committee of Sponsoring Organisation
ERM	Enterprise Risk Management
GRI	Global Reporting Initiative
ICF	Internal Control Framework
IRBM	Inland Revenue Board of Malaysia
ITRF	Income Tax Return Form
LSE	Large and Special Enterprises
OECD	Organisation for Economic Co-operation and Development
SME	Small and Medium Enterprises
TCF	Tax Control Framework
TCG	Tax Corporate Governance
TCGF	Tax Corporate Governance Framework

01 INTRODUCTION

Tax Corporate Governance (TCG) encompasses the rules, relationships, systems, and processes under which authority is exercised and controlled within an organisation. It comprises the mechanisms by which businesses, officeholders, and those in control are held to account responsible.

The approach aims to move away from traditionally confrontational interactions to foster a mutually beneficial relationship and build an environment of trust and transparency.

Organisation for Economic Co-operation and Development (OECD) publications emphasize the importance of creating a “win-win situation” for both tax administrations and taxpayers. Therefore, the Tax Corporate Governance Framework (TCGF) should be based on three main pillars – (i) mutual trust, (ii) understanding, (iii) openness and transparency, and are rooted in the overall compliance strategy of the tax authority. However, they differ in terms of, for instance, threshold / eligibility criteria, their legal basis, and taxpayers interactions to ensure that high levels of compliance are achieved and maintained. In this regard, the Guidelines may be reviewed from time to time.

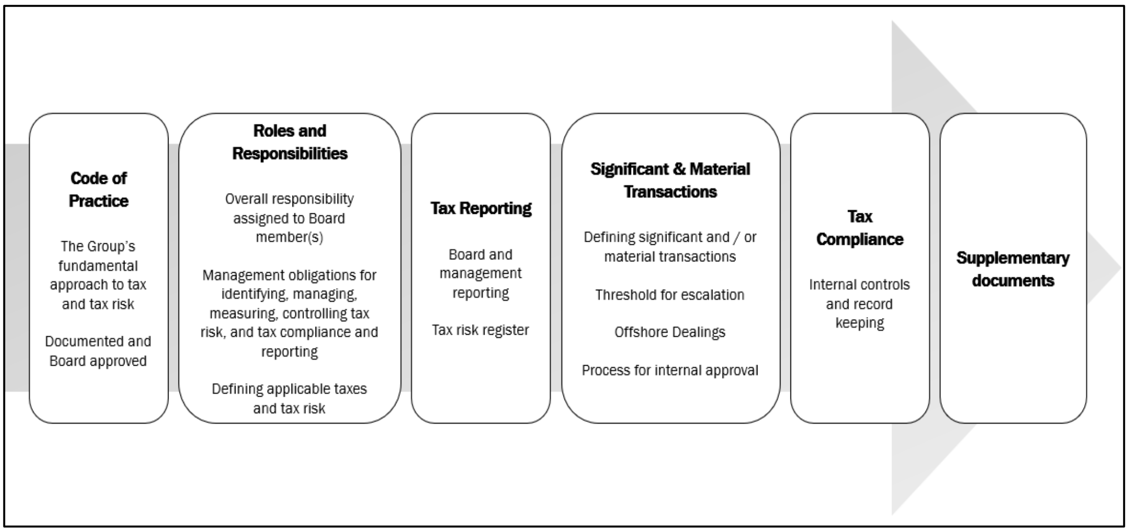
Tax Risk Management should be part of any good corporate governance practice. Thus, the framework should be designed to identify, manage and monitor material taxation risk to an organisation. An effective TCG should cover both the strategic and operational levels.

Strategic Level	Operational Level
• Board and Management informed and involved in Tax and Tax Risk Management • Developed, documented, and approved Tax Control Framework (policies, procedures, systems, and controls) • Set clear process to evaluate and manage tax risks arising on material transactions • Known and understood tax risk appetite, approved by the Board • Embedded into the broader governance framework and business culture • Adequate provisioning for potential tax liabilities	• Clearly defined and understood roles and responsibilities around Tax Governance • Process to identify, report and manage tax risks • Accurate and reliable tax reporting • Adequately resourced tax function • Monitoring and implementation of changes in tax law and practices • Timely compliance with all reporting and compliance obligations

1.1. An Overview of Tax Corporate Governance Framework

Tax Corporate Governance shall comprise a clear guide and disclosure on organisation code of practice, overall roles and responsibilities, tax reporting, significant and material transactions, tax compliance, and supplementary documentation.

Diagram 1: An Overview of Tax Corporate Governance



1.2. Disclaimer

This guideline is provided only as a guide to assist in the dissemination and awareness of TCG. It is a supplement to the taxpayer’s corporate compliance reference materials. Each taxpayer must determine how a specific requirement applied to its particular circumstances and any other areas that need to be addressed.

NOTE : Kindly note that the guideline is not intended to capture all regulatory governance on an exhaustive basis.

02 OBJECTIVES

The objective of this guideline is to guide the organisation in designing and operating its TCGF. It is intended to support the framework issued by IRBM through a more in-depth explanation of the items and processes in TCG practice.

TCG can benefit both the Taxpayers and Tax Authority in terms of:

2.1. Provide Greater Certainty

With the implementation of TCGF, the tax-related issues can be identified earlier and mitigation action can be taken properly. A well-functioned TCGF will provide greater certainty to the tax authority in terms of tax risk management and reporting by the business entity. It supports the idea that sufficient action has been taken to ensure tax compliance.

2.2. Earlier Resolution Of Tax Issues

With better certainty, the tax authority can make a better judgement and this implies earlier resolution of tax issues.

2.3. Better Transparency

Transparency can be achieved primarily through tax returns and information disclosure. Companies can develop tax transparency as a parameter they need to take into account, which requires them to adapt to be ready and prepared to be transparent. The need to understand a taxpayer's overall tax situation applies to all taxpayers (natural persons and companies). However, more transparency is needed in the case of businesses operating in several jurisdictions.

Owners or managers should be able to form the view that the financial records of the business, including tax reporting, reflect a true and fair view of that business. In the end, effective tax governance is demonstrated by meeting obligations including lodgment and payment obligations in full and on time.

03
TAX CORPORATE GOVERNANCE PRINCIPLES

The framework outlines the IRBM's expectation on the application of the principles of TCG within an organisational setting. The OECD identifies the following six principles in creating a good TCGF in its report on Co-operative Tax Compliance:

3.1. Tax Strategy Established

The tax strategy should be documented and owned by the Board of Directors (BOD) / senior management of the enterprise. The IRBM do not set the reporting format on how the strategy needs to be documented. However, the establishment of the tax strategy needs to be formalized through approval by the BOD / senior management.

3.2. Applied Comprehensively

All transactions entered into by an enterprise are capable of affecting its position in one way or another, which means that the TCGF needs to be able to govern the full range of the enterprise's activities and ideally should be embedded in the day-to-day management of business operations. This indicates how the activities are being reported by the taxpayers. If the transaction gives a significant impact on the organisation, it should be clearly stated in the organisation's report.

3.3. Responsibility Assigned

The board of an enterprise is accountable for the design, implementation, and effectiveness of the tax control framework (TCF) of that enterprise. The role of the enterprise's tax department and its responsibility for the implementation of the TCGF should be recognized and properly resourced. The TCF not only involves the enterprise's tax departments but the whole entity in the organisation's tax ecosystem. Therefore, the responsibility in each process must be properly assigned (refer **paragraph 7**).

3.4. Governance Documented

There needs to be a system of rules and reporting that ensures transactions and events are compared with the expected norms and potential risks of non-compliance identified and managed. This governance process should be explicitly documented and sufficient resources deployed to implement the TCGF and review its effectiveness periodically.

3.5. Testing Performed

Compliance with the policies and processes embodied in the TCGF should be the subject of regular monitoring, testing, and maintenance. The testing procedures can be performed by an independent person such as an organisation internal audit or professional bodies appointed by the organisation from time to time (at least once a year). For documentation purposes, it is advised that the testing result should be reported properly and made available upon request by the IRBM.

3.6. Assurance Provided

The TCGF should be capable of providing assurance to stakeholders, including external stakeholders such as a tax administration, that tax risks are subject to proper control and that outputs such as tax returns can be relied upon. This is accomplished by establishing the entity's "risk appetite" and then by ensuring that their Risk Management Framework is capable of identifying departures from that with mechanisms for mitigating/eliminating the additional risk.

NOTE : IRBM recommends that organisations consider adopting a TCGF that is suited to their circumstances and the needs of the relevant local corporate rules and legislation.

04
TERMS FOR APPLICATION OF TAX CORPORATE GOVERNANCE

TCGF is suitable for all sizes and types of businesses that give priorities and resources to corporate governance matters. However, it is recommended for large corporations to have their tax strategy published and TCF within the organisation, as well as Board and / or top management endorsement of the above-mentioned tax documents.

4.1. Our Criteria

For this guideline, IRBM are looking for companies that meet the following criteria for TCG application:

4.1.1 Large Companies / Public listed / Government Linked Companies / State Owned Enterprise (with turnover RM100mil and above)[1], Updated 23/02/2024
4.1.2 Compliant taxpayers (return form submission and tax payment), and
4.1.3 Companies with established Tax Control Framework.

4.2. Application Of Tax Corporate Governance

The application of the TCG is based voluntarily.

[1] The threshold is applied at the entity level

Taxpayers who are interested and satisfy the pre-requisites of TCGF can submit the application form to IRBM to officially participate in the programme.

An Authentication Letter (surat pengesahan) will be given to taxpayers once the IRBM is satisfied with the internal control after performing the preliminary review and assessment process.

4.3. TCG Programme Timeframe

The **proposed** time frame from the date of acceptance of the participant by the IRBM to the award of participation status: 8 - 12 months, with a potential extension of time application subject to IRBM's approval.

Other consideration:
Since the TCGF are subjected to steady and consistent reporting , a **renewal of participation** status process is necessary from time to time to ensure that the organisation's TCGF continues to meet the standards for the programme. The organisation must inform the IRBM of its intention to renew the participation at any time within **12 months** before the status expires.

The validity of the IRBM's Authentication Letter is subjected to the above process.

05
RETURN FORM SUBMISSION

5.1. Return Form (RF) submission as per requirement stated in the ITA 1967.

5.2. The taxpayer has the right to submit an Amended Return Form (ARF) if there is any amendment after submitting the RF pursuant to Section 77B of the ITA 1967.

5.3. Voluntary Disclosure can be done by the taxpayer after the submission of the Return Form as set out in the Tax Audit Framework (TAF).

06 REQUIREMENTS FOR THE IMPLEMENTATION OF TAX CORPORATE GOVERNANCE FRAMEWORK

6.1. A well-functioned TCF is an internal control instrument that focuses specifically on a business's tax processes. These are not necessarily restricted to the tax department. A TCF forms an integral part of a organisation's Business or Internal Control Framework (ICF). Process owner(s) from business and departmental functions should maintain a standard operating procedure (SOP) to demonstrate that key controls under the ICF are carried out.

6.2. Transparency, trust, and mutual understanding between taxpayers and tax authorities in relation to organisation activities, transactions, regulations, and tax laws.

6.3. Preparation, storage of records and documents of business transactions must be complete and orderly. Process owner(s) from business and departmental functions should maintain SOP to demonstrate that the above requirements are enforced.

6.4. Preparation and submission of special accounts (if any).

07
TAX CONTROL FRAMEWORK

7.1. The Tax Control Framework (TCF) is a system for identifying, overcoming, controlling, and reporting tax risks. This framework forms part of a business control framework that is different for each organisation. The objective of this framework is to form tax functions within an effective, efficient, and transparent organisation.

7.2. Elements of Tax Control Framework

7.2.1. Strategic tax control / risk identification evaluation:

a) Tax strategy

(The tax strategy should be endorsed by the Board or top management of the organisation and published on an annual basis, by reference to the period covered by the business's annual report or accounts)

b) *"tax risk appetite"*

c) principles of governance

d) responsibility structure

7.2.2. Tax management control / control activities framework:

a) Business planning cycle and control processes including monitoring.

b) Tax management information

7.2.3. Tax operation control

a) Taxation and control processes.

b) Information technology (IT) processes related to taxation and control.

7.2.4. Reporting, and

7.2.5. Continuous monitoring

7.3. In developing the TCF, there are no specific formats to follow because each business has different levels of need. However, it is proposed that the formed TCF should have the key component for better effectiveness.

IRBM has outlined the key component (building blocks) of the TCF. TCF should cover:

7.3.1. Tax Organisation

Taxpayers are required to understand the taxation process in each subsidiary organisation, business, and division besides knowing the duties and responsibilities of the employees involved.

7.3.2. Tax Planning

Control over the effects of taxation for each business activity. Tax planning should be in accordance with the organisation's risk appetite. Taxpayers are advised to obtain consultancy services from suitably qualified professionals and where necessary seek an advance ruling from IRBM.

7.3.3. Tax Risk Management

Identify the risks of each situation / activity that may have a tax effect. Assess risks and make comparisons with the organisation's risk appetite then implement controls.

7.3.4. Communication

Communicate taxation strategies to all related personnel.

7.3.5. Information Strategy

Automates control in the organisation's system.

7.3.6. Monitoring

Ensure that the control plan is implemented best. This includes monitoring in terms of tax file registration, submission of Income Tax Return Forms (ITRF), tax reporting, tax payments, and other applicable reporting.

According to COSO (2013) Internal Control – Integrated Framework, the objective of monitoring is to provide continuous assurance. Continuous monitoring to assess the adequacy and effectiveness of internal control is important. The Institute of Internal Auditors (IIA) summarizes the following principles of continuous monitoring; Updated 23/02/2024

No	Principle	Explaination
1.	Purpose	Consider the business objective and critical success factors.
2.	Risk	Determine the likely obstacles that would inhibit the organization's success.
3.	Response	Align diverse sources of data to discover and corroborate emerging risks such as configurable conditions, changes, event logging, financial transactions, and unstructured data.
4.	Timing	Detect control issues in real time.
5.	Action	Track deficiencies for corrective action.

7.3.7. Tax Accounting

The tax component must be identified in the financial statements (income statement, balance sheet, cash flow statement).

Example:

a) Deferred income tax liabilities can be included in the long-term liabilities section of the balance sheet.

b) Sales tax is usually listed on the balance sheet as current liabilities.

7.3.8. Tax Compliance

Tax compliance shall cover four areas of compliance which are tax registration, tax filing, tax reporting and tax payment.

7.4. Control Testing

Testing of TCF should combine the monitoring process with the maintenance of the framework.

The monitoring component should contain feedback tools and solutions to detect and correct errors and improve the TCF so that any errors are not repeated.

Maintenance should take place regularly and **follow any fundamental changes to the business**, such as changes in business strategy, in the board, in the tax department, in tax legislation, in the business structure or model, in the supply chain, and following major acquisition or disposal.

Monitoring the TCF is **the responsibility of the organisation** however, the revenue body shall conduct real-time testing to assure itself that the TCF is functioning and producing the expected outcome.

Processes exist to regularly test the effectiveness of the organisation's internal controls and rules to manage and report on business risks.

What IRBM look for:

a) Develop audit plans for testing systems and controls relating to tax functions.
b) Document process for retaining working papers, reconciliation processes, and error exception processes.
c) Set audit committee reviews of the effectiveness of controls and procedures in place.

The effectiveness of the TCF has several aspects, as mentioned in the OECD Publishing (2013), "The importance of the Tax Control Framework", in Co-operative Compliance: A Framework From Enhanced Relationship to Co-operative Compliance[2], such as: Updated 23/02/2024

a) Detection of tax related risks and opportunities;
b) Disclosure of tax related risks and opportunitites;
c) Preventing tax related errors;
d) Detection and correction of errors; and
e) The learning cycle, errors need to be followed by actions to improve the TCF.

7.4.1. Reporting Control Testing

New 23/02/2024

Depending on the type of testing, the size and complexity of the organisation, and the maturity of the internal control process, the results of control testing may be presented to management verbally or in writing. As suggested by COSO (2013), the reporting format and contents may vary, but it typically includes the following elements:

a) Description of the process and controls to be tested, including a description of the risks to be mitigated by the identified controls.

[2] OECD (2013), *"The importance of the Tax Control Framework" in Co-operative Compliance: A Framework From Enhanced Relationship to Co-Operative Compliance, OECD Publishing, Paris.*

b) Listing of personnel involved in the testing, including control performers, process owners, and testers.

c) Description of tests performed, results, and determination of control deficiencies.

d) Rating of control deficiencies in order to assist in prioritizing remediation actions and plans.

e) Summary of management remediation plans, personnel responsible for remediation, and deadlines.

NOTE : In determining the extent of documentation to be prepared and retained, the organisation may consider what is necessary to provide an understanding of the work performed.

7.5. Reporting Tax Governance, Control And Risk Management

New 23/02/2024

In reporting tax governance, control and risk management, the format and content of the report may differ. IRBM did not set any specific requirements for reporting tax governance, control and risk management. However, IRBM encourage the organisation to follow some of the best practices as a guide.

Example:

The GRI organisation has launched a global reporting standard - GRI 207: Tax 2019. In reporting tax governance, control and risk management, the standard requires the reporting organisation to report the following information:

7.5.1. A description of the tax governance and control framework, including:

a) the governance body or executive-level position within the organization accountable for compliance with the tax strategy;

b) how the approach to tax is embedded within the organization;

c) the approach to tax risks, including how risks are identified, managed, and monitored; and

d) how compliance with the tax governance and control framework is evaluated.

7.5.2. A description of the mechanisms for reporting concerns about unethical or unlawful behavior and the organization's integrity in relation to tax.

7.5.3. A description of the assurance process for disclosures on tax, and if applicable, a reference to the assurance report, statement, or opinion.

08
TAX CORPORATE GOVERNANCE EVALUATION

8.1. Upon TCG review, the effectiveness of tax corporate governance will be evaluated.

8.2. Evaluation will be based on how the following functions influence organisation tax compliance:

8.2.1. Engagement and guidance of top management;

8.2.2. Organisation and functions of accounting and audit divisions;

8.2.3. Tax and accounting procedures with internal checks and balances;

8.2.4. Dissemination of information and recurrence prevention measure; and

8.2.5. Measures to control inappropriate acts.

8.3. The IRBM may conduct a review of the organisation's TCGF from time to time. As per paragraph 4.2, the Authentication Letter (surat pengesahan) or statement issued on the organisation on TCGF based on the review shall not indicate IRBM evaluation on the effectiveness of the organisation TCGF. In this regard, taxpayers should perform a self-assessment or self-certification on the effectiveness of the ICF.

09
TCG REVIEW

9.1. Organisation Self Review

9.1.1. The organisation should perform a self-review on the effectiveness of their internal control framework.

9.1.2. Through self-review, the organisation can identify, manage, mitigate and report the risk.

9.1.3. The organisation should be able to demonstrate that the assurance processes are sufficient to evaluate the effectiveness of tax-related key controls.

9.2. Review by Independent Reviewer

9.2.1. Organisation must engage an Independent Reviewer to perform an **independent review** on the organisation's Tax Control Framework.

9.2.2. The independent reviewer is the management and internal audit of the organisation itself or professional firms engaged by the organisation to perform agreed-upon procedures review of tax risk management and governance framework.

9.2.3. The independent review shall be carried out by:

a) Approved tax agent;

b) Internal auditor with suitable qualification; or

c) Qualified independent person.

9.2.4. The independent review shall be performed on a regular basis.

9.2.5. The **Independent Review Report** shall be prepared annually and shall be made available to the IRBM upon request.

9.3. Review by IRBM

9.3.1. IRBM will conduct a TCG review for the organisations that participated in the program.

9.3.2. Taxpayers who fulfil the requirement and criteria listed by IRBM will be deemed to be <u>qualified for the benefits</u> of the program and <u>shall not be subjected to audit and investigation.</u>

9.3.3. Access to **Taxpayer's TCG Review Report**

The internally reviewed reports on tax matters should be made available when the organisations is approached for a review by IRBM.

The report is contemporaneously recorded to show the commitment of the organisation on tax matters. IRBM can use this document to review their tax position and consider no penalty to be imposed on any tax issue arise.

9.3.4. In the implementation of the Cooperative Compliance, the tax administrator will set meetings/discussions with taxpayers to discuss the submission of return forms of income tax, risks identified through TCF, the risks identified by tax administrators, and other related matters.

9.3.5. IRBM's Approach in TCG Review

a) IRBM will perform an **adequacy review** on the organisation's TCGF and an **effectiveness review** on the organisation's TCF.

b) Participating organisations in the TCG programme must adhere to the tax governance principles. Therefore, in conducting an adequacy review, IRBM will evaluate the adequacy of the organisation's TCG based on the application of the following tax governance principles:

   i. Tax strategy established
   ii. Applied comprehensively
   iii. Responsibility assigned
   iv. Governance documented

v. Testing performed

vi. Assurance provided

NOTE : For details, please refer **paragraph 3** of these guidelines.

c) The IRBM intends to apply an evidence-based approach in assessing the effectiveness of the organisation's TCF. TCF shall clearly state the organisation's responsibilities at the board and management level as well as provide access to the internal audit team to test TCF compliance and record the results of control tests. The focus of the control test includes the following:

Board Control:

i. Formalized tax control framework (tax strategy document and policies endorsed by the board of directors);

ii. Formalized company director roles/responsibilities for tax risks management;

iii. Formal evidence of tax risk review and familiarity with tax risks matters;

iv. Periodic internal control testing, including senior management's attestation/formal board review of the testing results.

Managerial-level responsibilities:

i. Must have clearly defined and documented tax compliance and risk management roles/responsibilities;

ii. Senior management's active role and governance with objective criteria to demonstrate best practices;

iii. Identification of significant transactions via a policy, process, risk rating;

iv. Ensuring data controls are in place;

v. Record-keeping policies, including a formal tax record-retention policy;

vi. Documented internal control framework;

vii. Documented procedures explaining significant differences between accounting disclosures, financial statements, and tax return;

viii. Complete and accurate tax disclosures, including a compliance risk review and tax return review;

ix. Tax governance policies addressing legal and administrative changes.

d) In reviewing and evaluating the effectiveness of TCF, IRBM's review and evaluation will be classified into three (3) important areas, namely:

i. Review of the existence of the TCF;

ii. Review and evaluate the Effectiveness of the TCF Design; and

iii. Examine and assess whether TCF is functional and practical.

10
SUBMISSION OF ESTIMATE OF TAX PAYABLE

10.1. Companies, co-operatives societies, trust bodies, and limited liability partnerships (LLPs) in operation must submit e-CP204/CP250 not later than 30 days before the commencement of the basis period for a year of assessment.

10.2. Companies, co-operatives societies, trust bodies, and LLPs that have just commenced operations and have a first basis period for a year of assessment of not less than six (6) months, e-CP204/CP250 must be submitted within three (3) months from the date of commencement of operations.

10.3. Form CP204/CP250 for a year of assessment can be amended in the 6th or 9th month or both in the basis period for a year of assessment.

11
TAX PAYMENT

11.1. Advance payment

11.1.1. CP 204/ CP250 - All companies, co-operative societies, trust bodies, and LLPs are required to pay their monthly instalment by the fifteenth day of a calendar month beginning from the second month of the basis period for the year of assessment in respect of which that estimate has been furnished.

11.1.2. Monthly tax deduction - Employer shall pay to the Director-General, not later than the fifteen day of every calendar month, the total amount of tax deducted or should have been deducted by him from the remuneration of employees during the preceding calendar month.

11.2. Payment of Balance of Tax

11.2.1. Tax amount or the balance due, after deducting advance payments, (or the full amount, if no advance payments have been made) shall be paid within the stipulated time or in accordance with such other terms as may be mutually agreed.

11.2.2. Once the actual tax for any year of assessment is determined (Deemed assessment), the balance of tax i.e. the actual tax after deducting the instalment amount (if any), must be paid within the allowable period.

11.2.3. For a formal assessment, the balance of tax must be paid within 30 days from the assessment notice served.

11.3. Withholding Tax

A person (referred herein as "payer") is liable to make payment (other than the income of non-resident public entertainers) to a non-resident person (NR payee), shall deduct withholding tax at the prescribed rate from such payment and (whether such tax has been deducted or not) pay that tax to the Director General of Inland Revenue within one month after such payment has been paid or credited to the NR payee.

11.4. Taxation on Labuan Business Activities

A Labuan entity must make full payment to:

11.4.1. Tax charged for a year of assessment; or

11.4.2. Tax charged for a year of assessment after deduction of tax rebate under section 8A of the Labuan Business Activity Tax Act 1990 (LBATA) (if any) while filing profit statements and statutory declaration under section 5 of the LBATA.

11.5. Real Property Gains Tax (RPGT)

11.5.1. The acquirer must retain all the consideration or 3% of the total value of the consideration (whichever is lower) and the payment must be paid to the Director General of Inland Revenue (DGIR) within 60 days after the date of disposal of the asset.

11.5.2. For disposal of assets involving non-citizen and non-permanent resident disposal, the acquirer must retain all consideration or 7% of the total value of the consideration (whichever is lower) and the payment must be paid to DGIR within 60 days after the date of disposal of assets.

11.5.3. Where the disposer is a company incorporated in Malaysia or a trustee of a trust or a body of persons registered under any written law in Malaysia and the chargeable asset is disposed within 3 years of its acquisition date, the acquirer shall retain 5% of the value of the consideration and pay this to the DGIR within 60 days of the disposal.

11.5.4. RPGT payment must be paid by the disposer within 30 days from the date the Notice of Assessment is served whether there is an appeal or not against the assessment.

12

TAX CORPORATE GOVERNANCE PROCESS FOR TCG PROGRAMME

TCG will require more structured, well-documented policies and procedures and an independent controls testing programme.

To be effective, a TCGF should provide a real, practical tool for managing risk. The process characteristics can differ from one organisation to another.

An approach to implementing tax governance procedures is described in the following process.

STEP 1 : GETTING READY

a) Satisfy pre-requisites

To establish or strengthen your tax governance and tax risk management framework and policies to manage tax risks. These are the suggested pre-requisites :

Tax Strategy / Policy	• Review Tax Strategy • Develop or Update Tax Policy • Publish the Tax Strategy / Tax Policy
Tax Risk and Controls	• Review current tax risks • Determine key Tax Procedures and Controls
Document Procedures and Test Controls	• Document Key Tax Procedures • Develop a Testing Programme

For TCG Programme, the organisation is expected to fulfil the basic TCGF principles as outlined in the framework and have an effective Tax Control Framework in place.

b) Preliminary self-assessment using Self-Review Assessment Template (APPENDIX 1). The template is intended to be a risk-assessing tool for organisations.

Examples of Items to be included in the self-review assessment template are:

i. Tax Strategy

The IRBM expects that the organisation to have adopted a clear policy on:

a. The formulated objective
b. The allocation of duties and responsibilities
c. Tax risk management
d. The risk appetite
e. The method of communication
f. Transparency toward stakeholders
g. Monitoring with accountability toward internal and external stakeholders.

ii. Tax risk management controls

a. Control environment
b. Systems and controls
c. Tax risk management
d. Change management
e. Information
f. Review assessment

iii. Transactions

   a. Tax classification of transactions
   b. Provision movement
   c. Capital allowances
   d. Payment to non-residents
   e. Transfer pricing
   f. Record keepingc

iv. Tax Reporting

   a. Information extraction
   b. Checks and approvals
   c. Submission of returns

v. Monitoring

   a. Tax compliance
   b. Risk management
   c. Disclosure and reporting

Updated 23/02/2024

Organisations are expected to periodically evaluate the effectiveness of their basic principles and to share their findings report with their key stakeholders.

c) Submission of participation form.

STEP 2 : REVIEW BY INDEPENDENT REVIEWER

a) Appointment of the independent reviewer by the participants to perform a review assessment on the TCGF.
b) The independent reviewer is the management and internal audit (for large corporates), or professional firms engaged by entities to perform agreed-upon procedures review of tax risk management and governance framework.

STEP 3 : SUBMISSION OF SELF-REVIEW ASSESSMENT REPORT AND REPORT FINDINGS PREPARED BY THE INDEPENDENT REVIEWER TO THE IRBM

a) Taxpayers are required to submit the Self-Review Assessment Report upon request by the IRBM.

b) The internally reviewed reports on tax matters should be made available when the organisation is selected for a compliance check.

c) The Self-Review Assessment Report and report findings prepared by the independent reviewer shall be approved by the board.

STEP 4 : EVALUATION BY IRBM

a) Review documents submitted including the supplementary documents.

b) Meetings with IRBM.

c) IRBM to conduct an assessment based on the information received.

d) The review will be carried out in two phase; New 23/02/2024

   i. Adequacy review

   ii. Effectiveness review

e) Organisations who do not meet the requirements will not be accepted in the programme.

STEP 5 : CONCLUSION OF ASSESSMENT BY IRBM

Status of the TCG Programme

* The flowchart is presented in **APPENDIX 2.**

13 SIGNIFICANT AND MATERIAL TRANSACTION APPROVAL PROCESS

For businesses that need an (unqualified) opinion on the financial statements (annual accounts), the materiality observed by the Tax Administration will generally be lower than the materiality observed by an external account when auditing the annual accounts. A lower degree of materiality means that more substantive procedures must be performed. Depending on the findings on the quality of the internal control and checking systems and the quality of the audit work already carried out, one determines whether such work focusing on actual data should be done.

13.1. Escalation threshold (i.e. summary of an acceptable level of tax risk for day-to-day and what requires escalation)

- 13.1.1. Materiality (RM)
- 13.1.2. Approval limits
- 13.1.3. Objective level of tax risk
- 13.1.4. Key sensitive area – Offshore expansion/setup, related party transactions, legal/accounting/tax differentials, and financial products.

13.2. Internal approval process

- 13.2.1. Roles and responsibilities
- 13.2.2. Timing
- 13.2.3. Review by Tax Function – approval guidelines
- 13.2.4. Decision points

13.2.5. Chain of reporting

13.2.6. Requirement for external advice

13.3. Qualitative materiality

Refers to the significance of an identified misstatement and, in particular, the nature of misstatement to lead to an adjustment of a tax return, even when the financial consequences are relatively small.

13.4. Legislative change impact

The report shall cover any legislative changes that may have an impact on the accuracy and reliability of the organisation's tax reporting.

14 SUPPLEMENTARY DOCUMENTS

Supplementary document means a document, information memorandum, policy statement, circular, questionnaire, and instruments mentioned herein amending and/or supplementing and/or novating and/or substituting the terms and conditions of this Agreement, either mentioned in this Agreement (e.g. Client Categorization, General Risk Disclosure, Investor Compensation Fund, Order Execution Policy, Conflict of Interest Policy, Contract Specifications, relevant fees, and costs), or otherwise indicated as such by the organisation;

Example of Supplementary Documents:

14.1. Memorandum, policy statement, circular.

14.2. Tax compliance manual – explains the flow of accounting information, preparation procedures, and workflow, analytical reviews, and tax disclosure processes

14.3. Tax accounting manual

14.4. Transfer pricing documents

14.5. Related party transaction

14.6. Tax incentive:

- a) Application documents
- b) Approval/rejection letter
- c) Appeal for revision

14.7. Significant / material or subsequent event

15
SCOPE / APPLICATION

Applies to the following types of taxes/tax risks:

a) Income tax

b) Petroleum tax

c) Real Property Gains tax

d) Transfer pricing

e) Withholding tax

f) Tax payment

g) Monthly tax deduction of employees (CP39, CP39A), additional monthly deduction (CP38)

h) Stamp duty

i) Taxation on Labuan Business Activities

j) Tax incentives

k) Tax strategies

l) Public Ruling compliance

m) Tax rules and regulations

n) Advanced Ruling

16 DISCLOSURE GUIDE

When reporting how compliance with the tax governance and control framework is evaluated, the organisation can describe the process through which the tax governance and control framework is monitored, tested, and maintained. The organisation may refer to any tax governance, internal control frameworks, or generally accepted risk management principles that are applied to tax.

17 CONCLUSION

The implementation of the TCG is in addition to the existing tax compliance strategy. It enables IRBM to implement a more effective and efficient tax compliance strategy towards increasing tax compliance among taxpayers under the LSE segment. Organisation are encouraged to adopt the TCG framework for better risk management.

18
CONTACT INFORMATION

Any enquiries regarding these guidelines can be directed to:

Tax Compliance Department
Headquarters Inland Revenue Board of Malaysia
HASiL Tower, Level 14,
Persiaran Rimba Permai,
63000 Cyberjaya, Selangor.

☎ : 03-8911 1000

✉ : tcg@hasil.gov.my

APPENDIX 1

TAX CONTROL FRAMEWORK

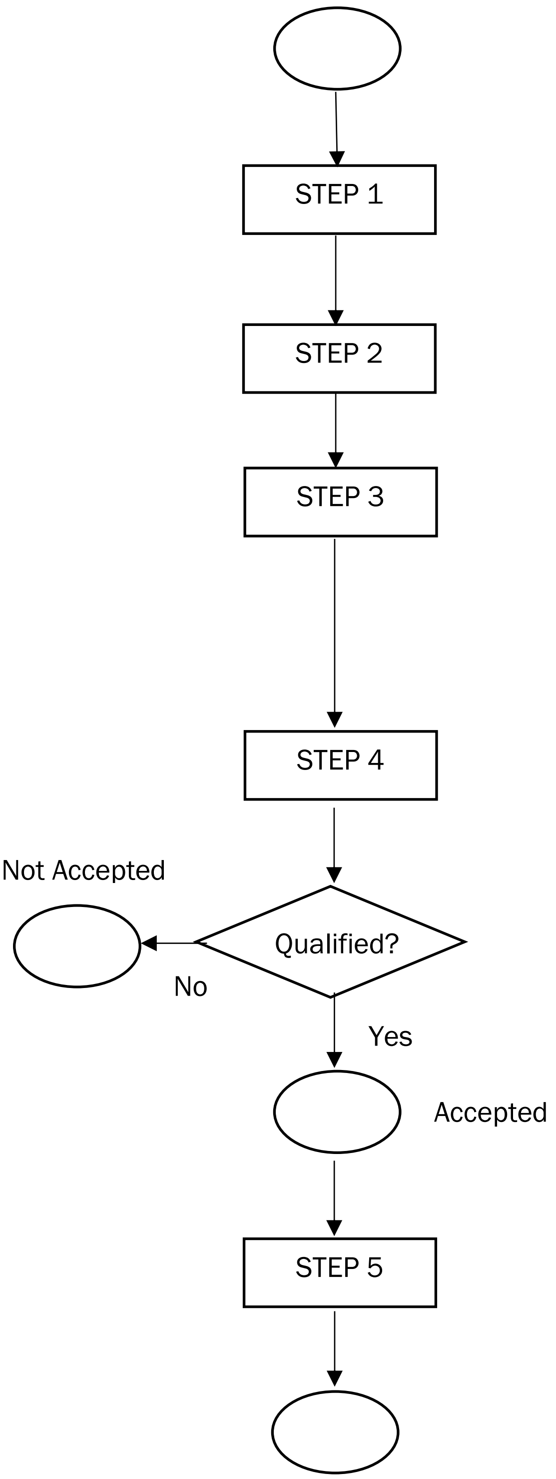
SELF-REVIEW ASSESSMENT CHECKLIST

NO	ITEMS	YES	NO	N/A	REMARK
A	**TAX STRATEGY**				
1.	Strategy #1				
2.	Tax Policy				
3.	Approach to tax				
B	**TAX GOVERNANCE, CONTROL AND RISK MANAGEMENT**				
1.	Control environment				
2.	Systems and controls				
3.	Tax risk management				
4.	Change management				
5.	Information and communication				
6.	Review and assessment				
7.	Control testing and report				
8.	Assurance				
C	**TRANSACTIONS**				
1.	Tax classification of transactions				
2.	Provision movement				
3.	Capital allowances				
4.	Payment to non-residents				
5.	Transfer pricing				
6.	Record keeping				
D	**TAX REPORTING**				
1.	Information extraction				
2.	Checks and approvals				
3.	Submission of returns				
E	**MONITORING**				
1.	Tax Compliance:				
	1.1. Tax Registration				
	1.2. Tax Filling				
	1.3. Tax Reporting				
	1.4. Tax Payment				
2.	Risk management				
3.	Disclosure and reporting				

NOTE : This checklist template only serves as a guide and is not strictly enforced.

APPENDIX 2

TAX CORPORATE GOVERNANCE PROCESS FLOWCHART



START

1. Getting Ready
   a. Satisfy pre-requisites
   b. Preliminary self-assessment
   c. Submission of participation form

2. Review by Independent Reviewer

3. Submission of TCG documentation to the IRBM
   a. self-review assessment report
   b. report findings prepared by independent reviewer / TCG Review Report
   c. supplementary documents.

a.

4. Review by IRBM

New
23/02/2024

5. Conclusion of assessment by IRBM
   - Review Status of the TCG Programme

END

Inland Revenue Board of Malaysia
Lembaga Hasil Dalam Negeri Malaysia

Persiaran Rimba Permai, Cyber 8,
63000 Cyberjaya, Selangor, Malaysia

Tel : +603-8911 1000

https://www.hasil.gov.my/