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Client Alert
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Inland Revenue Board Issues Updated Tax Audit Framework for 2018

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Introduction

The Malaysian Inland Revenue Board ("**IRB**") has issued an updated Tax Audit Framework ("**2018 Framework**"), which is effective from 1 April 2018 onwards. The 2018 Framework replaces the previous Tax Audit Framework that was issued on 1 May 2017.

The 2018 Framework sets out the rights and responsibilities of audit officers and taxpayers in the event of an audit, and provides a general outline of how income tax audits are conducted. This alert discusses the key updates contained in the 2018 Framework.

Key Updates

Tighter timeline to furnish documents and information

In a typical audit, the IRB will contact the taxpayer by way of a letter, which lists the documents and information that are to be furnished to the IRB. Previously, taxpayers were granted a 21-day period to respond to the IRB's request for documents and information. Under the 2018 Framework, the timeline for taxpayers to comply with the IRB's request has been shortened to 14 days.

If the taxpayer does not respond by the deadline, the IRB may still proceed to commence the audit (for e.g., by visiting the taxpayer's premises without notice).

Given the tighter timeline, taxpayers should carry out periodic reviews of their tax records to ensure that documents and information that are typically requested by the IRB at the commencement of an audit are readily available.

Raising a Notice of Assessment without a formal desk audit

The 2018 Framework states that in certain cases, a desk audit will not be conducted, and the IRB will not issue any letter to the taxpayer to request for documents or information prior to issuing a Notice of Assessment. In such cases, the IRB will provide the taxpayer with details of the audit adjustments and the additional tax payable together with the Notice of Assessment.

Taxpayers should be aware of their rights of appeal in the event that a Notice of Assessment is received, given the fairly short deadline to file an appeal by way of the prescribed Form Q (i.e., 30 days from the date of receipt of the Notice of Assessment).

Expansion of audit to associated companies and controlled companies

Under the 2018 Framework, the IRB may expand the scope of the audit to include associated companies and controlled companies, without prior notice to the taxpayer.

Expected time frame for the completion of tax audits

Under the 2018 Framework, the expected timeframe for the completion of audit cases has been reduced to 3 months from 4 months. The IRB will inform the taxpayer if the audit cannot be completed within 3 months.

Tighter timeline to respond to proposed tax adjustments

Upon completion of the audit process, the IRB will inform the taxpayer of any proposed tax adjustments and issues that arose in the course of the audit. Under the 2018 Framework, the taxpayer has 18 days to object to the proposed tax adjustments; previously, the taxpayer had 21 days.

Voluntary disclosure by taxpayers

The IRB encourages taxpayers to voluntarily disclose any tax non-compliance, either in writing or by way of e-mail to the Director of the relevant IRB branch. Under the 2018 Framework, a taxpayer that: (i) meets its tax return filing deadline, and (ii) makes a voluntary disclosure before the commencement of an audit (i.e., before the IRB issues a letter to request for documents and information), can generally expect a reduction in the penalties that would normally apply. Concessionary penalty rates[1] may apply depending on the timing of the voluntary disclosure:

Timing of Voluntary Disclosure	Penalty Rate
Within 60 days from the tax return filing deadline	10%
After 60 days but less than 6 months from the tax return filing deadline	15.5%
More than 6 months from the tax return filling deadline	35%

Comments

The tighter timelines under the 2018 Framework appear to be aimed at reducing the duration of tax audits, and are consistent with recent announcements by the Director General of Inland Revenue that there will be an increase in the number of desk audits this year. Given that the IRB is intensifying its efforts to detect tax non-compliance, taxpayers should consider undertaking a health check or review of their tax position to identify potential risk areas and conduct risk mitigation planning.

[1] In contrast, under the Income Tax Act 1967, a penalty of up to 100% of the undercharged tax may be imposed for an incorrect tax return.

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