MINIT MESYUARAT
MAJLIS DIALOG OPERASI BIL. 1/2007
ANTARA
LEMBAGA HASIL DALAM NEGERI MALAYSIA
DAN
PERSATUAN AKAUNTAN BERTAULIAH

JABATAN PENGURUSAN HASIL
LEMBAGA HASIL DALAM NEGERI MALAYSIA
4 APRIL 2007

Minit Mesyuarat
Majlis Dialog Operasi Bil. 1/2007
Tarikh : 4 April 2007 (Rabu)
Tempat : Bilik Gerakan, Tingkat 16, Blok 9
Masa : 9.00 pagi

Senarai Kehadiran:

1	Dr. Mohd. Shukor Bin Hj. Mahfar	Timbalan Ketua Pengarah (Operasi) **(Pengerusi)**
2	Pn. Ng Oi Leng	Pengarah Wilayah Persekutuan Kuala Lumpur
3	En. Mohd. Azmi Bin Wan Abd. Rahman	Pengarah Jabatan Teknologi Maklumat
4	En. Mahmood Bin Daud	Pengarah Cawangan Cukai Korporat dan Petroleum
5	En. Mohd. Idris Bin Mamat	Pengarah Jabatan Pematuhan
6	En. Sait @ Mohammad Sait Bin Ahmad	Pengarah Jabatan Pengurusan Hasil
7	En. Wan Abd. Jamil Bin Wan Abd. Rashid	Pengarah Negeri Selangor
8	Pn. Salmah Bt. Kassim	Pengarah Jabatan Undang-Undang
9	En. Kamaruzzaman Bin Hj. Ab. Salleh	Pengarah Cawangan Jalan Duta, Kuala Lumpur
10	Cik Puteh Mariah Bt.Harun	Pengarah Bhg. Operasi, Jabatan Pengurusan Hasil
11	En. Azhar Bin Husin	Pengarah Bhg. Pungutan, Jabatan Pengurusan Hasil
12	Cik Ramlot Bt. Keli	Pengarah Cawangan Pungutan
13	Cik Marina Bt. Aziz	Pengarah Jabatan Keutuhan dan Integriti
14	En. Mohammed Noor Bin Ahmad	Pengarah Jabatan Pemprosesan
15	Pn. Halijah Bt. Bulat	Pengarah Jabatan Teknikal

16	Pn. Salamatunnajan Bt. Besah @ Sitam	Pengarah Pusat Khidmat Pelanggan
17	En. Zulkiflee Bin Md. Tahir	Pengarah Cawangan Tidak Bermastautin
18	En. Marsidi Bin Zelika	Pengarah Bhg. Kajian Semula Dasar Jabatan Penyelidikan dan Pembangunan
19	Pn. Cheong Peck Lian	Ketua Penolong Pengarah Jabatan Siasatan
20	Pn. Bidari Bt. Ahmad Sapawi	Ketua Penolong Pengarah Bhg. Operasi Jabatan Pengurusan Hasil
21	Dr. Veerinderjeet Singh	MIT/MIA
22	En. Harpal Singh Dhillon	MIT
23	En. Lim Kah Fan	MIT
24	Pn. Mariah Tasbi Bt. Abd. Wahid	MIT
25	En. Peter Lim Thiam Kee	MIA
26	En. Sam Soh Siong Hoon	MIA
27	Cik Pauline Tam Poh Lin	MIA
28	Cik Cheong Li Wei	Setiausaha MIA
29	Pn. Noor Azlin Bt. Abu Bakar	Setiausaha MIA
30	En. Beh Tok Koay	MICPA
31	En. Poon Yew Hoe	MICPA
32	En. Ong Lay Seong	MICPA
33	Pn. Melissa Yeoh	MICPA
34	En. Danial Bin Badderon	MATA
35	En. Rosalie Bin Md. Usop	MATA

36	Pn. Salmizah Bt. Mokhtar	MATA
37	Pn. Haslinda Bt. Azman	Sekretariat MATA
38	En. Zainal Bin Abidin Pit	MAICSA
39	En. Tang Kok Kee	MAICSA
40	Cik Kulwant Kaur	MAICSA
41	En. Meor Bin Nasmi	Sekretariat MAICSA
42	En. Lau Haw Chong	MACS
43	En. Tan Beong Chu	MACS
44	Tn. Hj. Ab. Rahim Bin Abdullah	MACS
45	En. Mohd. Salimi Bin Ahamad	Sekretariat MACS

Urusetia:

1	En. Md. Seniman Bin Selamat	Ketua Penolong Pengarah Bhg. Operasi Jabatan Pengurusan Hasil
2	Cik Saw Guat Eim	Penolong Pengarah Bhg. Operasi Jabatan Pengurusan Hasil

Tidak Hadir Dengan Maaf:

1	Cik Norhayati Bt. Mat Kassim	Ketua Penolong Pengarah Bhg. Operasi Jabatan Pengurusan Hasil
2	Pn. Umi Kalsom Bt. Harun	Ketua Penolong Pengarah Bhg. Pungutan Jabatan Pengurusan Hasil
3	Pn. Lim Fang Lan	Ketua Penolong Pengarah Bhg. Pungutan Jabatan Pengurusan Hasil

1. Pendahuluan

1.1 Tuan Pengerusi mengalu-alukan kehadiran wakil-wakil dari MIT, MIA, MICPA, MATA, MAICSA dan MACS ke majlis dialog ini. Beliau memperkenalkan pegawai-pegawai dari LHDNM yang hadir dalam mesyuarat. Seterusnya wakil-wakil persatuan memperkenalkan diri masing-masing.

1.2 Tuan Pengerusi seterusnya menjemput wakil rakan dialog untuk membentangkan isu-isu yang ingin dibincangkan.

2. Isu-isu Asal daripada MIT / MIA / MICPA

2.1 Processing of Dividend Vouchers in a Section 110 Refund Case (refer to Minutes of Operations Dialogue held on 10 April 2006)

Taxpayers are required to submit the original dividend vouchers to the Processing Centre where there is a repayment arising from Section 110 credits. Members have reported that taxpayers are required to resubmit the original dividend vouchers again to the Cawangan Syarikat when a desk audit is carried out. The LHDNM responded in the previous dialogue that the resubmission occurred due to requests to expedite the repayment.

However, members have informed that the resubmission continues to occur even in cases where there has been no request to expedite.

This has also occurred for individuals where the Assessment Branch still requests for the duplicate of the tax return, Form HK-3 and the dividend vouchers when processing the repayment.

The Institutes would like to highlight that the resubmission of tax returns, dividend vouchers, etc only causes further delay in processing the refund as the supporting documents requested for have been verified by the Processing Centre.

Alternatively, we would propose that only the original tax return be submitted to the Processing Centre whilst all the supporting documents (together with a duplicate copy of the tax return) be forwarded to the Cawangan Syarikat/Assessment Branch. This, however, would not be an efficient process.

JAWAPAN:

Perkara ini berlaku sekiranya kes diaudit untuk mengesahkan kesahihan baucar dividen atau di mana borang nyata, Helaian Kerja HK-3 dan baucar dividen yang dikemukakan adalah tidak lengkap, tidak teratur atau tidak seragam dengan amaun yang dilaporkan di dalam borang.

Untuk mempercepatkan proses pembayaran balik seksyen 110, LHDNM berharap pembayar cukai dan ejen cukai memberikan kerjasama dengan:-

(i) mengemukakan borang nyata yang lengkap dan betul (rujuk Lampiran A untuk Senarai Kesilapan-kesilapan Biasa Dalam Pengisian Borang B / BE) ;

(ii) menyenaraikan dividen yang diterima dalam Helaian Kerja HK-3 mengikut tarikh bayaran pada baucar;

(iii) mengemukakan baucar dividen asal dan bukannya salinan fotostat;

(iv) mengemukakan baucar dividen asal untuk tahun semasa (tidak termasuk baucar dividen yang dikecualikan cukai) ;

(v) menandakan 'Status Cukai' di belakang sampul sekiranya dihantar melalui pos biasa, poslaju, pos berdaftar atau syarikat kurier;

(vi) mengasing dan menyenaraikan kes-kes pembayaran balik (seksyen 110) serta menyatakan status cukainya di atas kelompok tersebut sekiranya dihantar secara berkelompok oleh ejen cukai;

(v) menyerahkan semua kes pembayaran balik seksyen 110 di Kaunter Khas No. 16, Tingkat 12, Pusat Pemprosesan Pandan Indah; dan

(vii) menghantar Helaian Kerja HK-3 dan baucar dividen asal bersama dengan pengesahan penerimaan borang secara e-filing oleh LHDNM ke Pusat Pemprosesan atau cawangan LHDNM yang terdekat sekiranya borang nyata dikemukakan melalui e-filing.

2.2 Assignment of Tax Officers (refer to Minutes of Operations Dialogue held on 10 April 2006)

Members continue to inform that there are still desk audit cases which involve repayment or revised tax computations where no officers have been assigned or if one is assigned, no indication of when the case will be finalised. In the previous operations dialogue held on 10 April 2006, it was stated that audit cases are required to be finalised within 3 months.

The Institutes urge the LHDNM to expedite the finalisation of these cases, especially those that involve repayment cases.

JAWAPAN:

Perenggan 7.6.9 dalam Rangka Kerja Audit Cukai menetapkan bahawa kes audit cukai perlu diselesaikan dalam tempoh tiga (3) bulan dari permulaan audit.

2.3 Delay in Issuance of Receipt for Withholding Tax Payment (refer to Minutes of Operations Dialogue held on 10 April 2006)

The Institutes continue to receive feedback from its members that withholding tax receipts are still issued on a date later than the **actual date of payment** for payments made by post. It is noted that the LHDNM has acknowledged in the operations dialogue of 10 April 2006 that such incidents occur due to the voluminous documents received via post. Any penalty imposed would be based on the date of receipt of the payment and not the receipt date.

Notwithstanding this, the Institutes urge the LHDNM to look into this matter as unnecessary time and costs are incurred by the taxpayer to resolve the discrepancy that occurs.

JAWAPAN:

Merujuk kepada Perkara 3.1 dalam Minit Mesyuarat Majlis Dialog Operasi Bil. 1/2006 yang bertarikh 10 April 2006, ejen cukai boleh mengemukakan maklumat kes yang terlibat sekiranya masih terdapat pembayar cukai yang dikenakan kenaikan cukai kerana kelewatan dalam meresitkan bayaran.

2.4 Appeal Procedure

According to the Minutes of the Operations Dialogue held on 16 February 2005, the LHDNM has stated that an appeal made via a letter (in place of a formal appeal or Form Q) can be submitted within 30 days from the notice of assessment. However, the validity of the appeal is being questioned by assessors in some branches as being inadequate or too general. We believe that an appeal in the form of a letter is intended to reduce administrative burden and not to jeopardize the validity of the appeal. If the letter of appeal is inadequate it is up to the LHDNM's officers to request for additional information.

The Institute would like to reconfirm that a letter of appeal submitted within 30 days from the date of a deemed assessment or notice of assessment is a valid appeal.

JAWAPAN:

Prosedur rayuan tidak berubah dan Ketetapan Umum Bil. 3/2001 masih berkuat kuasa. Perenggan 3.3 dan 3.4 dalam Ketetapan tersebut dirujuk.

Contoh surat rayuan terhadap taksiran yang diminta oleh pihak persatuan akan dikeluarkan kemudian.

2.5 Extension of Filing Deadline for March and December year-end cases

The Institutes welcome the flexibility allowed by the LHDNM for companies with March and December year-ends to submit their tax returns on or before 14 days after the stipulated deadline. This is due to the huge volume of tax returns that need to be filed for March and December-year-end companies in October and July respectively every year.

The Institutes would like to request that the above administrative concession for both March and December year-end companies should continue to apply in 2007 on an automatic basis without the need for the Institutes to apply for specific extensions i.e. no penalty will be imposed on taxpayers if the Forms C and R of the March and December year-end companies are received by the LHDNM on or before 14 November or 14 August respectively. This concession will also apply to payments of tax under Section 103(1) of the Income Tax Act, 1967.

Instead of applying for the concession annually, we would like to propose that the concession be granted for an indefinite period. Advance notice should be given to taxpayers if the concession is to be withdrawn.

JAWAPAN:

Tempoh 14 hari masih diberikan sebagai konsesi bagi kes-kes tertentu. (Perkara 2.14 dalam Minit Mesyuarat Majlis Dialog Operasi Bil. 1/2006 bertarikh 10 April 2006 dirujuk.) Sebagai contoh, penalti tidak akan dikenakan sekiranya borang nyata diterima oleh LHDNM pada atau sebelum 14 November 2007 bagi syarikat yang menutup akaun pada 31 Mac 2007 atau 14 Ogos 2008 bagi syarikat yang menutup akaun pada 31 Disember 2007.

2.6 Timely response from the LHDNM to E-mail Enquiries

We are pleased to note that the LHDNM has provided different e-mail addresses for different types of enquiries on the website. Nevertheless, some members of the Institutes have reported that there is no response from the LHDNM with regard to their enquiries via email.

The Institutes hope that all enquiries via email can be responded to by the LHDNM within a specific time frame, say not more than 10 working days in resolving taxpayers' problems under the self assessment system.

JAWAPAN:

Mengikut amalan biasa, semua pertanyaan melalui e-mel akan dijawab dalam tempoh 7 hari dari tarikh penerimaannya. Walau bagaimanapun, semasa tempoh puncak iaitu minggu terakhir pengembalian Borang Nyata terutamanya bagi kes individu (minggu terakhir April), bilangan pertanyaan melalui e-mel naik dengan amat ketara hinggakan jawapan tidak dapat diberikan dalam tempoh yang ditetapkan mengikut garis panduan. Oleh itu, sekiranya pertanyaan memerlukan jawapan yang segera atau melibatkan tindakan di cawangan LHDNM yang tertentu, pertanyaan tersebut boleh dihantar ke alamat e-mel pegawai perhubungan awam (PRO) cawangan berkenaan (rujuk Lampiran B untuk senarai nama, alamat e-mel, nombor telefon dan nombor faks PRO cawangan-cawangan LHDNM).

2.7 Updating of Records

2.7.1 Statement of Accounts

The Institutes have been informed that its members are still receiving statements of account which are not updated and are incomplete. For example, the payment of the Schedular Tax Deductions (STD) notwithstanding that the Form PCB2(ii) has been forwarded to the Collections Branch. This has caused confusion and a lot of time and energy is wasted in trying to reconcile the amount due to/from the LHDNM.

To avoid resources being wasted unnecessarily, the Institutes urge the LHDNM to update their computer database on a timely basis so that taxpayers are able to receive the most current statements of account with a detailed breakdown.

JAWAPAN:

Pihak LHDNM mengambil perhatian terhadap isu ini.

2.7.2 Updating of System by Processing Centre

We have been informed by members who have called up the Collections Branch to enquire on the status of tax refunds for 2005 that they have been advised that the taxpayer's 2005 tax liability has not been reflected in the system. Therefore, any tax refund due cannot be processed. The Collections Branch advised to submit a photocopy of the tax return to the Assessment Branch (individual cases) directly to enable the officer to update the system manually.

The Institutes wish to confirm the status of the 2005 tax returns submitted in April and June 2006. The Institutes would also appreciate an update of the IRB's Processing Centre procedures and would like to enquire as to how such delays can be avoided.

JAWAPAN:

Perkara ini diambil perhatian oleh pihak LHDNM. Oleh sebab itu, LHDNM sentiasa menggalakkan penggunaan e-filing sejak ia diperkenalkan.

2.7.3 Updating of Records by Collections Branch

The Institutes have been informed of cases where instalments have been paid on time but penalties are still being imposed. There are also cases where the utilisation of tax credits have been approved but a refund cheques are still received.

The Institutes are of the view that the LHDNM should endeavour to update the records of taxpayers on a timely basis and not solely rely on the tax agents/taxpayers. The co-operation of the LHDNM, taxpayers and tax agents is essential for an efficient self-assessment system (SAS). Currently, any utilisation of tax credits requires the written application by the taxpayer or tax agent, as the case may be. The Institutes would like to seek the co-operation of the Collections Branch to update the taxpayers' records on a timely basis so that lesser time is used to reconcile the differences.

JAWAPAN:

Tindakan sedang diambil oleh pihak LHDNM untuk menyelesaikan masalah ini.

2.8 Revised Tax Computations

Members have informed that the processing of revised tax returns of companies which shows a nil liability/losses for the year are usually not carried out on an urgent basis. Such revision may occur when, for example, a tax computation is revised to take into account additional capital allowances claim.

The Institutes wish to highlight that the processing of all revised tax returns must be expedited.

JAWAPAN:

Sila rujuk jawapan untuk Perkara 2.2.

2.9 Tax Refunds

The Institutes have been informed that, in some instances, the refund of excess STD or taxes paid by individual taxpayers as well as corporate taxpayers have been slow despite the relevant information having been provided to LHDNM. Some of the reasons for the delay include the inputting of data by Processing Centre, transfer of officers as well as lack of supporting information provided by the taxpayers.

The Institutes wish to seek clarification on the status of refunds and urge for the processing of refunds to be expedited. We also wish to know the status of the unprocessed tax returns for YAs 2004 and 2005 tax returns submitted earlier.

JAWAPAN:

Pihak LHDNM sentiasa mengambil tindakan yang proaktif dan mengkaji prosedur yang lebih baik supaya kes pembayaran balik dapat diproses dalam tempoh maksimum tiga (3) bulan dari tarikh borang nyata yang lengkap diterima.

Pembayar cukai perlu memastikan borang nyata yang dihantar itu diisi dengan lengkap. Penggunaan e-filing juga akan mempercepatkan pemprosesan borang.

2.10 Notice of Instalment Payment (CP 205)

Upon receiving the completed CP204, the Notice of Instalment Payment (CP205) will be issued by LHDNM. The estimate of tax shall not be less than 85% of the revised estimate of tax payable for the immediately preceding year of assessment or if no revision was made, not less than 85% of the estimate of tax payable furnished. A lower than 85% estimate of tax payable may be requested but is subject to the approval of the LHDNM.

Members have reported that where a lower estimate is requested and subsequently rejected, the CP205 received is based on the estimate or revised estimate of tax payable for the immediately preceding year of assessment when in fact it should be 85% of the estimate or revised estimate of tax payable for the immediately preceding year of assessment.

The Institutes would like the LHNDM to allow taxpayers to ignore the "wrong" CP205 and proceed to pay based on the 85% threshold. The Institutes would also appreciate an assurance that no penalties are imposed in such situations.

JAWAPAN:

Mengikut peruntukan subseksyen 107C(3) Akta Cukai Pendapatan 1967, amaun anggaran cukai hendaklah sekurang-kurangnya 85% daripada anggaran cukai dipinda atau 85% daripada anggaran cukai jika tiada anggaran cukai dikemukakan bagi tahun taksiran sebelumnya. Anggaran cukai yang kurang daripada 85% hanya dibenarkan sekiranya terdapat alasan yang kukuh dan menasabah.

Penghapusan kenaikan cukai adalah berdasarkan fakta kes.

2.11 Determination of Basis Period for Company Commencing Business

Members have reported that Notices of Estimated Assessments were issued under Section 90(3) with penalties imposed under Section 112(3) under the following scenario:-

For example, ABC Sdn Bhd has a 30 June financial year end but commenced business in May 2004. According to Public Ruling No. 6/2001, the basis periods and filing deadlines would be as follows:-

	Basis Period	**Filing Deadline**
Y/A 2004	May 2004 – 31 Dec 2004	31 Jan 2006
Y/A 2005	1 Jan 2005 – 31 Dec 2005	31 Jan 2007
Y/A 2006	1 Jul 2005 – 30 Jun 2006	31 Jan 2008

The Notice of Estimated Assessments issued in respect of Y/A 2005 was received in December 2006. As can be seen, the filing deadline for Y/A 2005 is on 31 January 2007 (i.e. within 7 months after the financial year end of 30 June 2005). Requests for a Reduced Assessment to rectify the error can only be processed with the submission of the audited accounts and tax computation. For obvious reasons, these documents would not be available at this juncture for submission. Hence, the taxpayers are required to settle the tax payable and penalty first.

The Institutes would like to propose that companies commencing business be allowed to follow their financial period as their basis period in order to further simplify the determination. This would avoid any misinterpretation on the part of the taxpayers and LHDNM. If our suggestion is followed, the basis periods would be as follows:-

Proposed Basis Period

Y/A 2005	May 2004 – 30 Jun 2005
Y/A 2006	1 Jul 2005 – 30 Jun 2006

JAWAPAN:

Tempoh Perakaunan Syarikat	***Tarikh Pengemukaan Borang Nyata***
Mei 2004 - 30 Jun 2005	*31 Jan 2006*
1 Jul 2005 - 30 Jun 2006	*31 Jan 2007*

Mengikut Ketetapan Umum No. 7/2001, tempoh asas syarikat tersebut perlu diselaraskan seperti berikut:-

Tahun Taksiran	***Tempoh Asas***	***Tarikh Pengemukaan Borang Nyata***
2004	*Mei 2004 - 31 Dis 2004*	*31 Jan 2006*
2005	*1 Jan 2005 - 31 Dis 2005*	*31 Jan 2007*
2006	*1 Jul 2005 - 30 Jun 2006*	*31 Jan 2007*

Oleh itu, cadangan pihak persatuan supaya tempoh perakaunan diterima sebagai tempoh asas syarikat yang memulakan operasi tidak boleh dipertimbangkan.

Mengikut peruntukan seksyen 77A Akta Cukai Pendapatan 1967, syarikat dikehendaki memfailkan Borang Nyata dalam tempoh tujuh bulan dari tarikh berikutan tarikh tutup tempoh perakaunan yang merupakan tempoh asas bagi tahun taksiran berkenaan. Merujuk kepada contoh di atas, Borang Nyata bagi tahun taksiran 2005 dan 2006 hendaklah dikemukakan selewat-lewatnya pada 31 Januari 2007 (iaitu tujuh bulan dari 30 Jun 2006).

Pihak LHDNM tidak perlu membangkitkan taksiran anggaran di bawah seksyen 90(3) untuk tahun taksiran 2005 bagi syarikat tersebut kerana tempoh pengemukaan borang nyata tersebut masih belum tamat. Taksiran anggaran hanya boleh dibangkitkan selepas tarikh 31 Januari 2007.

2.12 Outstanding Taxes

2.12.1 Members have been receiving letters from the LHDNM indicating an outstanding amount which appears in the computer system. The letter is issued without appending the detailed tax payment position of the individual taxpayer and therefore, it is difficult to verify the amount. In addition, most of the time, the outstanding tax is due to STD that has not been fully updated notwithstanding that supporting documents (i.e. Form PCB2(ii) and receipts) have been submitted to the LHDNM earlier.

2.12.2 We note that some of the outstanding taxes relate to YA 2000 (PYB) and prior years. As the employer is only required to retain records for 7 years, it would be difficult for them to substantiate the STD made in 1995 to 1999.

The Institutes acknowledge that the detailed computations are available upon request from the relevant branches (as indicated in the Minutes of Operations Dialogue held on 10 April 2006). To reduce the unnecessary time spent in requesting and in order to be more efficient, the Institutes would like to suggest that the detailed computations, updated accordingly, be included in the letters sent to taxpayers.

JAWAPAN:

Perhatian telah diambil oleh pihak LHDNM terhadap perkara ini dan tindakan sewajarnya akan diambil.

2.13 Non-Issuance of Reduced Assessment or Additional Assessment

Members have informed that they have encountered instances where Notices of Reduced Assessments are not issued for successful appeals to the Director General and Notices of Additional Assessment not issued where additional tax liability has arisen. Instead, letters were issued by the Assessment Branch (for individuals) to collect the additional tax assessed and members were advised to deal directly with the Collections Branch to find out the amount of tax discharged (where reduced assessments are applicable).

The Institutes would like to express its concern that such incidents have occurred. The Institutes urge the LHDNM to look into this matter. Notices of Additional Assessments or Reduced Assessment should be rightfully issued for the above instances.

JAWAPAN:

Perkara ini diambil perhatian oleh LHDNM dan tindakan susulan akan diambil untuk menangani isu tersebut.

2.14 Leaver Cases

2.14.1 Resubmission of tax return

Our members have encountered instances where the officer has requested to resubmit the tax return using the 2004 return (SAS format) as the tax return submitted earlier (which used the 2003

tax return) was not under SAS format. (Note that, the 2004 SAS tax return format was only released by the LHDNM in 2005). This was to facilitate the issuance of the tax clearance letter.

The Institutes wish to highlight that taxpayers should not be required to resubmit the tax return. The resubmission will only cause further delay.

JAWAPAN:

Perenggan 3 dalam surat pejabat ini [No. Rujukan: LHDNM.01/32(S)/193/31] yang bertarikh 28 Mac 2007 telah dikeluarkan kepada pihak persatuan berkenaan 'Panduan Pengemukaan Borang Nyata Bagi Kes-Kes Pemberhentian Kerja dan Meninggalkan Negara'; dan salinannya telah diedarkan ke cawangan-cawangan LHDNM sebagai peringatan.

Bagi kes pemberhentian luar negara ('Foreign Leaver'), borang nyata tahun taksiran sebelumnya boleh digunakan dengan memotong tahun taksiran lama dan menulis tahun taksiran yang berkenaan misalnya potong tahun taksiran 2006 dan tulis 2007. Borang nyata yang telah lengkap diisi dan ditandatangani hendaklah dihantar ke cawangan LHDNM di mana fail dikendalikan supaya tindakan segera dapat diambil. Cawangan berkenaan akan membangkitkan taksiran dan mengeluarkan surat penyelesaian cukai kepada ejen cukai/majikan.

2.14.2 Delay in issuing tax clearance letter

The Assessment Branch takes more than one month to issue the tax clearance letters especially in cases where tax agents are not allowed to meet with the officer when submitting the final tax return for the "leaver" cases.

The Institutes are of the view that the issuance of clearance letters should be processed on a timely basis.

JAWAPAN:

Cawangan LHDNM akan mengeluarkan surat penyelesaian cukai dalam tempoh tiga puluh (30) hari dari tarikh cawangan LHDNM menerima notis pemberhentian kerja (CP22A / CP22C / CP21). Untuk mempercepatkan proses tersebut, adalah digalakkan supaya perkataan 'LEAVER' dicapkan pada ruang kosong di sudut atas sebelah kanan borang berkenaan.

2.14.3 Leaver prior to April 2007

Our members were given to understand that the tax returns can be submitted directly to the Assessment Branch in order to expedite the issuance of the tax clearance. However, problems were encountered in April 2006 where some of the branches refused to accept the tax returns for YAs 2005 and 2006. They advised our members to submit the tax returns to the Processing Centre and to forward a duplicate copy to them.

We would like to seek the LHDNM's confirmation as to the proper procedure with regard to the filing of the tax returns for leavers prior to April 2007.

JAWAPAN:

Sila rujuk jawapan untuk Perkara 2.14.1.

2.15 STD on Perquisites

Pursuant to Public Ruling No. 1/2006, in the case where the salary of the employee is not sufficient to absorb the monthly STD on the perquisites (such as club memberships, tuition fees, scholarships, etc), the employer has to obtain approval of the Collection Branch to allow the employee to pay by instalments. In practice, under the Employment Act 1955, an employer must not deduct more than 50% from the employee's remuneration. Further, an employee may have his own commitment in repaying loans from a financial institution, etc.

The Institutes wish to highlight the administrative burden involved as under such circumstances, there is a need by the employer to know how the instalment amount is determined. In addition, the employee's consent may be required as the employer should also consider the financial position of the employee and the employee would not agree to such deductions as he may have heavy financial commitments.

In order to reduce the administrative burden, the Institutes wish to suggest that perquisites not be subject to STD. Alternatively, the LHDNM could consider allowing the STD to be payable in instalments on the total perquisites received. For example, by the end of December 2006, the employer should know the total amount of perquisites received by each employee for 2006. Only then, the employer will apply for the instalment scheme beginning from January 2007.

JAWAPAN:

Ketetapan Umum No. 1/2006 masih berkuat kuasa.

Walau bagaimanapun, cadangan daripada pihak persatuan / institut mengenai perkara tersebut adalah dialu-alukan.

2.16 Passport Certification prior to the Expatriates' Cessation of Employment.

Some of the expatriate clients of our members are based outside Kuala Lumpur. In order to facilitate the passport certification process, the expatriates' passport would be forwarded to our members who are the tax agents. Our members encountered problems in certifying the expatriates' passport (whose tax file is located in the outstation branch) as recently the IRB branches within KL refuse to do the passport certification (even though the tax agents have provided them with the complete set of documents) except in the presence of the expatriates.
In addition, we have been informed that the IRB officers will not verify the passport without the Form CP21. There would be instances where the passport needs to be verified prior to the expatriate leaving the country. For example, when the expatriate renews his passport, the expired passport will be retained by the respective embassies. Therefore, there is a need to verify the residence status based on the old passport before it is surrendered.

The Institutes would appreciate it if the above issues can be looked into. We see no basis/rationale to insist that the expatriate must be at the IRB branch in person. We are also of the view that the verification of the passports of expatriates who are renewing their passports should be carried out by the IRB.

JAWAPAN:

Bagi pembayar cukai yang mempunyai pas pekerjaan, tempoh sahlaku pas pekerjaan boleh diambil sebagai bukti beliau berada di Malaysia. Sekiranya tiada pas pekerjaan, pengesahan pasport masih boleh diamalkan.

Bagi tujuan cukai, taraf mastautin boleh ditentukan oleh cawangan yang mengendalikan fail pembayar cukai berkenaan sama ada pembayar cukai tersebut hadir ataupun diwakili oleh ejen cukai, dengan syarat maklumat yang diperlukan adalah lengkap.

2.17 STD Audit

Members have informed that insufficient time has been provided by the IRB officers to produce the required documents such as list of workers, payroll, salary vouchers, EA forms, Form 49, minutes of AGM, etc. Generally, the time allowed/granted is 7 days. However, there are instances where the officers visit the premises immediately after the telephone conversation. In addition, requests for an extension of time have also been rejected.

The Institutes would like to request that taxpayers be allowed a timeframe of 14 to 30 days to produce the required documents. Certain documents are not kept by the employers. Companies should also be allowed to request for an extension of time, if necessary.

JAWAPAN:

Di bawah Perenggan 7.2 dalam Rangka Kerja Audit Cukai, pembayar cukai/majikan yang dipilih untuk diaudit akan dimaklumkan melalui surat pemberitahuan lawatan audit. Tempoh surat pemberitahuan dikeluarkan adalah ***14 hari dari tarikh lawatan****. Pembayar cukai/majikan boleh membuat permohonan untuk menangguhkan tarikh lawatan audit atas sebab-sebab yang tidak dapat dielakkan dan yang munasabah. Walau bagaimanapun, sekiranya LHDNM memerlukan tempoh yang lebih pendek ianya boleh ditetapkan dengan persetujuan pembayar cukai/majikan. Pengesahan lawatan akan dimaklumkan melalui telefon terlebih dahulu jika perlu.*

2.18 Tax Instalments on Additional Tax Payable after Tax Audit

Where an additional assessment has been raised as a result of a tax audit and the taxpayer has made a request to settle the additional tax by instalments to the Collection Branch, the Director General under Section 103(7) of the Act may allow the tax to be paid by instalments without any penalty being imposed.

However, the Institutes understand from its members that in practice the Collection Branch has insisted on imposing a penalty on the instalments paid.

We are of the view that the practice of imposing penalty for instalment payments granted following an application made by the taxpayer is incorrect as it is not provided for under Section 103(7) and would request that the imposition of such penalty for such cases be stopped.

JAWAPAN:

Mengikut Perenggan 12.3 dalam Rangka Kerja Audit Cukai, seseorang pembayar cukai yang tidak berkemampuan boleh memohon kepada Pengarah Cawangan LHDNM yang berkenaan untuk kelulusan bagi menjelaskan secara ansuran, cukai dan penalti yang berbangkit daripada pelarasan audit. Kenaikan cukai lewat bayar akan dikenakan ke atas baki cukai yang tidak dibayar sekiranya pembayar cukai gagal mematuhi peraturan bayaran yang telah dipersetujui.

2.19 Completion of Form C and Supporting Worksheets

2.19.1 Item E11 of the Form C for YA 2006

Item E11 – Total capital allowance on assets acquired in the basis period

Clarification has been obtained from the Processing Centre that item E11 includes only capital allowance for assets purchased during the current basis period. It has also been clarified that E11 is to exclude capital allowance on capital repayments in respect of assets acquired via hire-purchase in the preceding year(s) as well as assets acquired in the prior year but only put into use in the current basis period.

Members have reported that the above definition has not only created additional reconciliation work for the taxpayers but that it also does not serve any purpose.

The Institutes would like to clarify the purpose of item E11. We are of the opinion that for the purpose of tracking the amount of unutilised capital allowances to be carried forward, a more meaningful definition would be to disclose the total current year capital allowances, which includes capital allowance on new qualifying expenditure ("QE"), existing QE, as well as capital allowance on capital repayments of hire purchase assets.

JAWAPAN:

Perkara tersebut telah diambil perhatian oleh pihak LHDNM. Akan tetapi, untuk mengekalkan keseragaman bagi Tahun Taksiran 2006, maka keterangan bagi Perkara E11 dalam Buku Panduan Borang C di laman web LHDNM hanya akan dipinda mulai Tahun Taksiran 2007 supaya mengambil kira juga elaun modal untuk aset-aset yang diperoleh secara sewa-beli dan pajakan kewangan.

2.19.2 Item XIII of the Form C for YA 2006

Item XIII – Substantial change in shareholding

Based on the Buku Panduan Borang C 2006, "perubahan besar dalam pemegang saham dikatakan berlaku apabila **lebih daripada 50%** pemegang saham pada hari terakhir tempoh asas.....**tidak sama** dengan pemegang saham pada hari pertama....."

Based on the reading of Section 44(5A), the Institutes wish to inform that even if there is a change in 50% of the shareholders, Section 44(5A) would apply i.e. any unabsorbed losses or capital allowances would not be eligible to be carried forward.

JAWAPAN:

Keterangan asal untuk Perkara XIII dalam Buku Panduan Borang C 2006 di laman web telah didapati tidak jelas dan menimbulkan kemusykilan. Oleh itu, keterangan tersebut telah pun dipinda supaya merangkumi perubahan dalam pemegangan saham sebanyak 50% dan bukan hanya perubahan yang melebihi 50% sahaja.

Keterangan Asal:

*Perubahan besar dalam pemegangan saham dikatakan **berlaku** sekiranya lebih daripada 50% pemegangan saham pada hari terakhir tempoh asas bagi tahun taksiran dalam mana kerugian larasan dan elaun modal itu ditentukan adalah **tidak sama** dengan pemegangan saham pada hari pertama tempoh asas bagi tahun taksiran dalam mana kerugian larasan dan elaun modal itu boleh dibenarkan sebagai potongan.*

Keterangan Selepas Dipinda:

*Perubahan besar dalam pemegangan saham dikatakan **tidak berlaku** sekiranya lebih daripada 50% pemegangan saham pada hari terakhir tempoh asas bagi tahun taksiran dalam mana kerugian larasan dan elaun modal itu ditentukan adalah **sama** dengan pemegangan saham pada hari pertama tempoh asas bagi tahun taksiran dalam mana kerugian larasan dan elaun modal itu boleh dibenarkan sebagai potongan.*

2.19.3 Worksheet HK-F2 – Pelarasan Kerugian bagi Perniagaan dan Perkongsian yang Menikmati Insentif

The Institutes wish to highlight that the calculation of the amount of losses brought forward (item A) should be adjusted to exclude the losses ascertained under Section 44(5A) where the shareholders of the company are not substantially the same. The adjustment was made in Worksheet HK-F1 but not reflected in other relevant worksheets such as HK-F2. In addition, the amount of capital allowance brought forward should also be adjusted accordingly in the relevant schedules.

JAWAPAN:

Secara amnya, Helaian Kerja HK-F1 adalah untuk kegunaan syarikat yang tidak menikmati insentif sementara Helaian Kerja HK-F2 pula untuk kegunaan syarikat yang menikmati insentif.

Sebagai contoh, di mana sesebuah syarikat mengalami perubahan sebahagian besar dalam pemegangan syer ('substantial change'), kerugian perniagaan biasa (misalnya kerugian bukan perintis) dan elaun syarikat tersebut tidak boleh dihantar hadapan dan seterusnya tidak boleh diserap dalam tahun taksiran berikutnya. Dalam keadaan ini, Helaian Kerja HK-F1 boleh digunakan. Akan tetapi untuk perniagaan yang menikmati insentif seperti Elaun Pelaburan Semula dan Elaun Cukai Pelaburan, sekatan peruntukan 'substantial change' ini tidak terpakai dan Helaian Kerja HK-F2 boleh digunakan.
Walau bagaimanapun, Helaian-helaian Kerja HK-F1 dan HK-F2 hanya disediakan sebagai panduan sahaja dan tidak semestinya memenuhi kehendak kesemua situasi perniagaan.

2.19.4 Worksheet HK-PC13

- **Pengiraan Pendapatan Berkanun bagi Syarikat Pusat Pengedaran Serantau (RDC)/Syarikat Pusat Perolehan Antarabangsa (IPC)**

The Institutes wish to highlight the following issues:-

(a) In the Worksheet HK-PC13, taxpayers are required to select either "Jualan Eksport Penghantaran Luaran" or "Jualan Tempatan".

The Institutes would like to enquire why taxpayers are required to select only one category i.e. either export sales or local sales.

(b) According to the Income Tax (Exemption) (No. 41) Order 2005 and Income Tax (Exemption) (No. 42) Order 2005, the amount of statutory income exempted is the sum of (i) all income from the qualifying activities in respect of its direct export sales (ii) a part of the income from qualifying activities from drop shipment export sales and (iii) a part of the income from qualifying activities from local sales.

The Institutes wish to highlight that the income from qualifying activities in respect of its direct export sales is not reflected in Worksheet HK-PC13.

JAWAPAN:

LHDNM bersetuju dan Helaian Kerja HK-PC13 dalam Buku Panduan Borang C 2006 akan dipinda selaras dengan maksud:-

(i) Perintah Cukai Pendapatan (Pengecualian) (No. 41) 2005 [P.U. (A) 308/2005] untuk Syarikat Pusat Pengedaran Serantau

(ii) *Perintah Cukai Pendapatan (Pengecualian) (No. 42) 2005 [P.U. (A) 309/2005] untuk Syarikat Pusat Perolehan Antarabangsa*

2.20 Implementation of E-filing

20.1 Review of e-filing Procedures

The Institutes acknowledge the advantage of e-filing but however, the system has not been very effective. Some of the concerns include the hardware requirements, the obtaining of the PIN numbers for clients, fear of confidentiality, etc.

The Institutes wish to suggest that tax agents be allowed to click the return as preparers of the tax returns rather than clicking under the taxpayer's ID. This would also minimise the independence and risks issues for the tax agents. A master ID could also be given to each tax agent to submit the tax returns for their clients. This would eliminate the problem of obtaining individual PIN numbers for expatriate clients (which may be many) especially when these PIN numbers become invalid when they leave the country.

Also, a pilot trial run could be conducted with some tax agents to test the system effectively. Individual taxpayers should be able to download the PIN number online without the need to visit the IRB branches.

20.2 PIN Number for expatriates

Our members have reported problems in activating the PIN number allocated for expatriates. This is due to the new passport numbers not being updated in the LHDNM's system. Consequently, tax agents are required to go to the LHDNM to verify the passport number and to ensure that the information in the computer system has been fully updated.

The Institutes hope the LHDNM would endeavour to update its system on a timely basis, say within 2 days after notification of a change in the passport numbers.

JAWAPAN BAGI ISU NO. 20.1 & 20.2:

Pihak LHDNM telah membenarkan ejen cukai untuk memohon nombor PIN bagi pihak pelanggan mereka, dengan syarat mereka hendaklah mengikut prosedur seperti berikut:-

(i) Permohonan boleh dikemukakan ke:

- *(a) Cawangan-cawangan LHDNM yang berdekatan;*
- *(b) Pusat Khidmat Pelanggan, Jabatan Pemprosesan, Pandan Indah; atau*
- *(c) Unit Pembangunan Sistem Hasil, Bahagian Operasi, Jabatan Pengurusan Hasil.*

(ii) Ejen cukai hendaklah menyenaraikan maklumat pelanggan mereka dengan menyatakan:-

- *(a) Nama penuh;*
- *(b) Nombor kad pengenalan (baru dan lama) / nombor pasport;*
- *(c) Nombor rujukan cukai.*

(iii) Permohonan hendaklah disertakan dengan:-

- *(a) **Surat kebenaran** memohon nombor PIN e-Filing daripada pembayar cukai; atau*
- *(b) **Surat lantikan** sebagai ejen cukai yang menyatakan ejen cukai dilantik untuk mengendalikan urusan percukaian termasuk memfailkan borang; dan*
- *(c) **Perakuan** bahawa ejen cukai akan bertanggung jawab sepenuhnya ke atas keselamatan nombor PIN dan sijil digital pelanggannya.*