TaXavvy

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Revised Tax Audit Framework

The IRB has issued a revised Tax Audit Framework (Pindaan 1/2018). The revised framework is effective from 1 April 2018. It supersedes the Tax Audit Framework (Pindaan 1/2017) dated 1 May 2017 ("previous framework"). Key changes/new information includes the following:

1) Notification of commencement of audit

Taxpayers will be notified via a document and information requisition letter ("Letter") which will be sent via official email, fax or post. The revised framework also notes that in some situations, taxpayers may not be notified via the Letter. In such cases, the taxpayers will receive the notice of assessment together with the details of tax adjustments made.

2) Shorter deadlines

The following deadlines have been shortened:

	Deadline under previous framework	Deadline under revised framework
Submission of documents / information from the date of receipt of the Letter	21 days	14 days
Submission of written objection to IRB's proposed tax adjustment	21 days	18 days
Audit settlement period	4 months (120 days)	3 months (90 days)

The revised Tax Audit Framework is available on the IRB's website www.hasil.gov.my (Legislation > IRBM Tax Audit Framework).

Public Ruling No. 1/2018 – Disposal of Plant and Machinery Part II – Controlled Sales (PR 1/2018)

PR 1/2018 explains the tax treatment arising from disposals of plant and machinery which are subject to control transfer. This includes the determination of disposal/acquisition dates, etc. Notable points covered in PR 1/2018 includes:

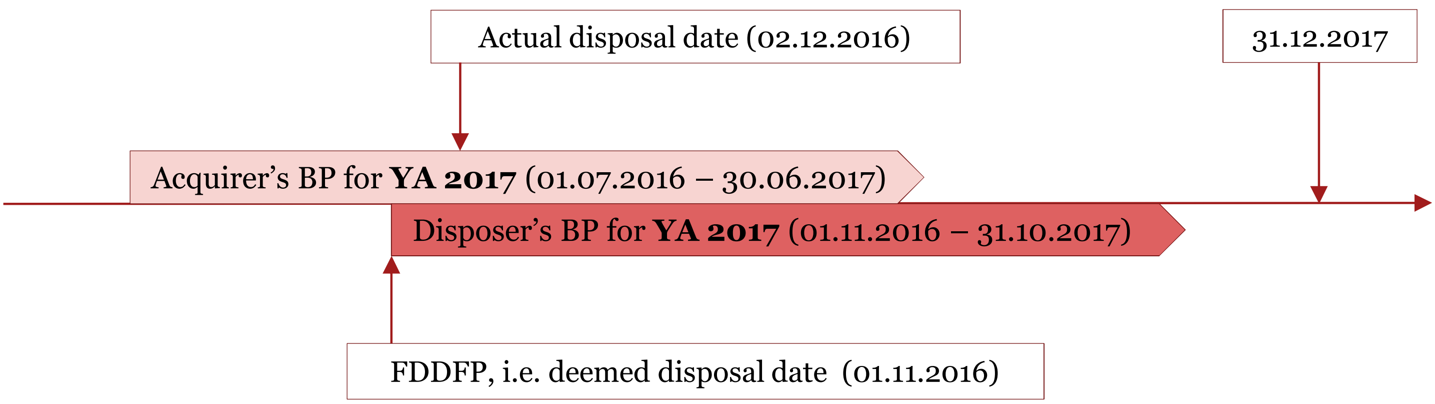
1) Disposer's deemed disposal date

The steps to determine the first day of the disposer's final period (FDDFP) which is the date a disposal is deemed to have taken place for a disposal which is subject to the control transfer provisions are illustrated.

FDDFP refers to the first day of the basis period (BP) for a YA of a disposer which coincides with the first YA for which the acquirer is ordinarily (where control transfer does not apply) eligible to claim capital allowance (CA).

The determination of the FDDFP in a situation where the disposer and acquirer have different basis periods (BP) are illustrated under Example 2 as follows:

- Actual date of disposal = 02.12.2016
- Acquirer's financial year end = 30.06.2017
- Disposer's financial year end = 31.10.2017
- First YA which acquirer may ordinarily claim CA based on actual date of disposal = YA 2017
- Disposer's coinciding YA = YA 2017
- Disposer's BP for that coinciding YA = 01.11.2016 to 31.10.2017
- First day of the disposer's BP for that coinciding YA = 01.11.2016



Public Ruling No. 1/2018 – Disposal of Plant and Machinery Part II – Controlled Sales (PR 1/2018) (cont'd)

2) Acquirer's deemed incurrence date

The dates which an acquirer is deemed to have incurred qualifying expenditure (QE) in respect of an asset acquired under control transfer as provided under the Income Tax (Capital Allowances and Charges) Rules 1969 are illustrated in the public ruling:

Acquirer's deemed incurrence date	Condition
On FDDFP	Where QE was incurred by the disposer before FDDFP
On disposer's incurrence date	Where QE was incurred by the disposer on or after FDDFP

3) Deemed ownership and use of asset by disposer

The following condition of which the disposer is deemed to continue to own and use the asset is illustrated in

Condition	Treatment	Implication
Where the actual date of disposal precedes FDDFP	Disposer deemed to continue to own and use asset in the basis period of the YA which precedes the FDDFP	Disposer continues to claim CA for the YA which precedes the FDDFP.

4) No clawback of CA claimed in respect of assets disposed within 2 years

The IRB states that Paragraph 71 of Schedule 3 of the Income Tax Act which requires the clawback of CA claimed in respect of assets which are disposed of within 2 years does not apply to disposals made within 2 years which is subject to control transfer provisions.

5) Illustrative computation of balancing allowance/charge (BA/BC) in certain situations

Computation of BA/BC for the following are illustrated:

- Normal disposal (where control transfer does not apply) of assets which were acquired under control transfer
- Control transfer of asset involving inheritance of assets of a deceased sole proprietor
- Disposal of asset of a partnership to a person controlled by a partner

PR 1/2018 is available on the IRB's website www.hasil.gov.my (Legislation > Public Rulings).

The IRB has covered disposals which are not subject to control transfer provisions under Public Ruling No. 7/2017 – Disposal of Plant and Machinery Part I – Other Than Controlled Sales. For more information, please refer to TaXavvy Issue 2-2018.

Extension of tax exemption for shipping profits

The 100% tax exemption on statutory income from shipping profits* which was previously available up to the year of assessment (YA) 2013^ has been extended up to YA 2020 by the following gazette orders:

- The Income Tax (Exemption) Order 2018 [ITEO 2018]
- The Income Tax (Exemption) (No. 2) Order 2018 [ITEO 2/2018]

* Shipping profits refers to statutory income derived from the business of:

- transporting passengers or cargo by sea on a Malaysian ship; or
- letting out on charter a Malaysian ship owned by him on a voyage or time charter basis.

The chronology of the tax exemption is as follows:

Authority	Exemption period
Section 54A(1) of the Income Tax Act 1967	Prior to YA 2012
^Income Tax (Exemption) (No. 2) Order 2012	YAs 2012 to 2013
ITEO 2018	YAs 2014 to 2015
ITEO 2/2018	YAs 2016 to 2020

Stamp duty exemption for contract notes in respect of transfer of shares in medium and small capital companies

The Stamp Duty (Exemption) Order 2018 has been gazetted to provide stamp duty exemption on contract notes which are executed for the sale and purchase of shares of a medium and small capital company, i.e. a company which:

- is listed on Bursa Malaysia,
- has a market capitalization of between RM200 million to RM2 billion on 31 December of the year immediately preceding the year when the sale and purchase transaction is executed; and
- is specified as eligible for the stamp duty exemption by Bursa Malaysia.

The exemption is effective for contract notes executed between 1 March 2018 and 28 February 2021.

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