



TAX AUDIT FRAMEWORK

ON INCOME TAX & EMPLOYER



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1.0 INTRODUCTION

- 1.1 A fair, transparent and impartial tax administration system will enhance the public's confidence in the tax system. Adherence to tax law should be strictly enforced and taxation offences such as non-compliance and tax evasion should be penalised in accordance with the provisions of the tax laws currently in force.
- 1.2 Under the Self-Assessment System (SAS), tax audit is the main activity of the Inland Revenue Board of Malaysia (IRBM) to enhance voluntary tax compliance. A taxpayer may be selected for audit at any time. However, if the taxpayer has been selected for audit, this does not mean that the taxpayer has committed an offence.
- 1.3 This Tax Audit Framework Income Tax and Employer (TAF ITE) is issued by IRBM to ensure that tax audits are carried out fairly, transparently and impartially. This framework outlines the rights and responsibilities of audit officers, taxpayers and tax agents. Generally, this TAF ITE aims to:
 - 1.3.1 assist audit officers to perform their duties more efficiently and effectively;
 - 1.3.2 assist taxpayers / employers to understand the audit work process and fulfil their responsibilities
 - 1.3.3 ensure that only approved tax agents are appointed to represent taxpayers in the audit process; and
 - 1.3.4 assist tax agents to understand the scope of their duties and responsibilities.
- 1.4 For the purpose of standardising the IRBM's audit work process as well as defining the rights and responsibilities of audit officers, taxpayers, employers and tax agents in a more orderly and clear manner IRBM's TAF ITE has been updated by merging all audit work processes in one document, covering income tax audit, financial and insurance tax audit, withholding tax audit, capital gains tax audit, Labuan business activities audit and employer audit.

2.0 STATUTORY PROVISIONS

The statutory provisions regarding IRBM's tax audits are not only limited to the Income Tax Act 1967 (ITA). It also covers the application of the Petroleum (Income Tax) Act 1967 (PITA), Real Property Gains Tax Act 1976 (RPGT), Promotion of Investments Act 1986 (PIA), Stamp Act 1949 (SA), Labuan Business Activity Tax Act 1990 (LBATA) and other acts administered by the IRBM. Apart from that, any legal provisions under Income Tax Regulations, Income Tax Rules (ITR), Income Tax Exemptions, Guidelines, Public Rulings, Practice Notes and other tax-related legal reference documents are also applied in the auditing process by IRBM audit officers.

3.0 IRBM TAX AUDIT

3.1 Objectives of Tax Audit

- 3.1.1 The main objective of tax audit is to encourage voluntary compliance with the tax laws and regulations in line with the implementation of SAS.
- 3.1.2 In addition, tax audit activities are an approach based on the concept of Awareness, Education, Services (AES) to provide awareness, education and services to taxpayers / employers on their rights and responsibilities under the provisions of the tax laws that are currently in force.
- 3.1.3 Apart from that, audit activities are one of the methods to enforce compliance of tax laws. Audit officers are responsible in ensuring that correct income reporting and appropriate tax payment has been made to avoid leakages of national revenue.

3.2 Tax Audit Activities

- 3.2.1 For the purpose of this TAF ITE, IRBM's Tax Audit comprises of income tax audit, withholding tax audit, capital gains tax audit, Labuan business activities audit and employer audit activities. The explanations related to the activities are as follows:

a. **Income Tax Audit**

- i. The Income Tax Audit activities under the TAF ITE refers to the enforcement of the ITA and PITA activities apart from the issues with withholding tax, capital gains tax and employer responsibilities.
- ii. The implementation of audit activities covers **all categories of corporate taxpayers from various industries including the financial, insurance and petroleum industries**. Other than that, audit activities can also be carried out on taxpayers other than companies.
- iii. Tax audit generally refers to the activity of reviewing / examining the taxpayer's business records and financial affairs to ensure that the correct income has been declared and the taxes that should be calculated and paid are in accordance with the tax laws and regulations that are currently in force.

b. **Withholding Tax Audit**

Withholding Tax Audit refers to the activities of examining the taxpayer's business records and financial affairs to ensure that the withholding tax that should have been withheld has been deducted and remitted to IRBM in accordance with the tax laws and regulations that are currently in force.

c. **Capital Gains Tax Audit**

Effective from 01 January 2024, Capital Gains Tax (CGT) has been introduced in Malaysia. Therefore, CGT audit activities will be carried out with the aim of reviewing the amount acquisition and disposal of shares as well as claims on related expenses in the calculation of taxable profits.

d. Labuan Business Activities Audit

This audit activity focuses on the review of substance over form in determining whether the activities carried out by the taxpayer fulfilled the requirements under LBATA or should be taxed under the ITA. In addition, review will also be conducted on any other related tax issues.

e. Employer Audit

An employer audit involves the process of reviewing, inspecting and verifying business records and documents (such as payroll records) and information related to employment to ensure that these employer's responsibilities and obligations are complied with:

- i. Make monthly tax deductions based on the Scheduled Tax Deduction (MTD) as required and to be remitted to the IRBM within the prescribed period as provided under section 107 of the ITA and ITR.
- ii. Fulfil the employer's responsibilities as required under section 83 of the ITA in relation to employment records and reporting of employee's information.
- iii. Ensure employers comply with the additional deduction instruction (CP38) to settle employee's income tax arrears.

3.3 Audit Review Methods

- 3.3.1 IRBM carries out two (2) methods of audit reviews for all audit activities as described in paragraph 3.2, namely general review and comprehensive review.

General Review

- a. General review refers to document review activities carried out at the IRBM's office only. It involves issues or adjustments of income, review of compliance with employer's responsibilities and review of Labuan business activities as well as taxation matters that can be resolved through correspondences.

- b. A general review of income tax audit activities and capital gains tax audit involves review / examination of income and expenditure information as well as various types of claims made by taxpayers in Income Tax Return Form (ITRF) in a specific and focused manner.
- c. The implementation of a general review for a withholding tax audit will involve checking on all information related to the Letter of Payment submitted by the payer.
- d. In the implementation of an employer audit, an audit review under section 83 of the ITA will be conducted on a general review basis involving the process of inspection and verification of employment records and documents, along with a written notice that must be submitted to the Director General containing information related to the employee.
- e. If necessary, general review cases may be referred for a comprehensive review action. Under such circumstances, the taxpayer will be notified via letter, notice or official email as part of the normal process of commencing the comprehensive review action.

3.3.2 Comprehensive Review

- a. A comprehensive review of tax audit activities involves an interview session on to the modus operandi of the business and can be conducted either at the taxpayer's premise, IRBM's office (including the conduct of online interviews), or any premises or places as agreed by the taxpayer and IRBM.
- b. It involves reviewing all the business documents of the taxpayer / employer business documents, including:
 - i. business records related to income reporting;
 - ii. business records related to expenses claims and allowances computation;

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- iii. review of the agreement document to ensure that the implementation of the terms and conditions of the agreement is true as stated (substance over form);
 - iv. compliance with the conditions and eligibility of approved incentive claims;
 - v. compliance related to deductions and remittances of withholding taxes; and
 - vi. review of documents and information related to the employment of employees to ensure that the employer makes the appropriate deduction of MTD / CP38 and remit the payment of MTD / CP38 to the IRBM within the stipulated period as stated in the ITR.
- c. In the case of sole proprietorships and partnerships, if the business records are not sufficiently kept, the audit review may involve reviewing / examining the taxpayer's non-business records such as personal bank statements, list of assets ownership and other documents. Taxpayers will be notified in advance via official letter or email before a comprehensive review is conducted.
- d. A review of Labuan business activities is carried out based on the minimum compliance requirements of the current legislation, to verify the eligibility to remain taxable under LBATA.

4.0 YEARS OF ASSESSMENT COVERED

The years of assessment covered in the implementation of IRBM's tax audit activities are as follows:

Audit Activities	Audit Coverage	Time Limit	Non-application of the Time Limit
Tax audit under the provisions of the ITA and PITA provisions except issue on withholding tax / employer / Labuan business activities	Can cover up to three (3) years of assessment	Up to five (5) years of assessment (subsection 91(1), ITA / subsection 39(1), PITA)	The limitation on the period of coverage does not apply to audit cases involving fraud, wilful default or negligence. (subsection 91(3), ITA / subsection 39(3), PITA)
Withholding Tax Audit	Can cover up to three (3) years of assessment	Up to five (5) years of assessment (subsection 91(1), ITA)	
Employer Audit	Can cover up to two (2) years of remuneration	Offence under Section 83 of the ITA, up to twelve (12) years from the year the offence was committed (subsection 121(1) of the ITA)	
Labuan Audit	Can cover up to three (3) years of assessment	Up to five (5) years of assessment (subsection 6(2) of the LBATA)	The limitation on the period of coverage does not apply to audit cases involving fraud, wilful default or negligence. (subsection 6(4) of the LBATA)

5.0 SELECTION OF CASES

The selection of tax audit cases is conducted through computerised systems analysis based on tax risk assessment criteria and / or based on various sources of information received. The criteria and types of sources of information may change over time. Some examples of the basis used are:

- a) information received from third party;
- b) industry issues; and / or
- c) amount of controlled transactions made by related company with significant value transactions.

6.0 TAX AUDIT IMPLEMENTATION

As explained in paragraph 3.3, audit activities can be carried out through general or comprehensive review. The audit work process involves several phases as described below:

6.1 Initial Audit Action

6.1.1 General Review

- a. For cases that require the taxpayer / employer to submit documents and information, a ***Surat Memohon Dokumen dan Maklumat*** (Request for Documents and Information Letter) will be issued to the taxpayer / employer via official email or mail.
- b. Taxpayers / employers are required to provide feedback within fourteen (14) calendar days from the date of the ***Surat Memohon Dokumen dan Maklumat*** (Request for Documents and Information Letter).
- c. If the required documents in respect of business transactions in Malaysia are kept abroad by the relevant company, it is the responsibility of the taxpayer / employer to obtain all required documents and to submit them completely to IRBM.
- d. If the taxpayer / employer fails to provide feedback within the specified time, the audit action will resume using appropriate methods based on existing documents and information.

- e. Failure of the taxpayer to submit the documents within the specified period may result in the amount of the expenses claimed in the tax computation being disallowed and the Notice of Additional Assessment being raised.
- f. For cases where the IRBM has documents and information as the clear basis for raising an assessment, *Surat Memohon Dokumen dan Maklumat* (Request for Documents and Information Letter) will not be issued. However, the Notice of Assessment raised will be issued to the taxpayer together with the income adjustment information and the computation of tax imposed.

6.1.2 **Comprehensive Review**

- a. A *Surat Memohon Dokumen dan Maklumat* (Request for Documents and Information Letter) will be issued to the taxpayer / employer by official email or mail to acquire documents and information.
- b. The taxpayer / employer is required to provide feedback within fourteen (14) calendar days from the date of the *Surat Memohon Dokumen dan Maklumat* (Request for Documents and Information Letter).
- c. If the required documents in respect of business transactions in Malaysia are kept abroad by the relevant company, it is the responsibility of the taxpayer / employer to prepare all required documents at the taxpayer's / employer's premises for audit review or to submit the documents prior to the audit visit.
- d. Failure of the taxpayer / employer to provide feedback within the specified time does not prevent the audit action to proceed using the appropriate methods based on the existing documents and information.
- e. Failure of the taxpayer to submit the documents within the specified period may result in the amount of the expenses claimed in the tax computation being disallowed and the Notice of Additional Assessment being raised.

- f. In situations where IRBM obtains information on income that has not been reported or underreported by the taxpayer, the taxpayer's failure to lodge an objection with supporting documents within the stipulated period will result in the issuance of Notice of Additional Assessment.
- g. The IRBM will conduct an initial review of the documents submitted and prepare a list of request for additional documents if necessary.
- h. The IRBM may conduct a visit to any premises of a taxpayer / employer or related to the taxpayer / employer by informing the taxpayer / employer in advance.
- i. For comprehensive review cases involving a visit to premises of the taxpayer / employer, a **Surat Pemberitahuan Lawatan Pematuhan** (Compliance Visit Notification Letter) will be issued to the taxpayer / employer at least fourteen (14) calendar days prior to the date of the visit.
- j. The audit visit for employer audit cases is only applicable to comprehensive review method / employer audit under Section 107 ITA.
- k. Taxpayers / employers may contact the relevant State Operations Director / Division Director of IRBM for the purpose of confirming the audit visit.
- l. If a *Surat Pemberitahuan Lawatan Pematuhan* (Compliance Visit Notification Letter) has been issued, the taxpayer / employer may apply to postpone the date of the audit visit on reasonable grounds and unavoidable circumstances.
- m. *Surat Pemberitahuan Lawatan Pematuhan* (Compliance Visit Notification Letter) will contain the following:
 - i. date of visit;
 - ii. records that should be made available;
 - iii. year of assessment / year of remuneration to be audited;
 - iv. name of the audit officer; and
 - v. duration of the visit.

- n. For comprehensive review cases without involving a visit to the taxpayer's premises, a *Surat Penentuan Permulaan Tempoh Penyelesaian Kes* (Determination of Commencement of Case Settlement Period Letter) will be issued to the taxpayer.
- o. An audit examination with due notice may be extended to related companies / businesses connected or controlled by the taxpayers, if necessary.

6.2 Tax Audit / Employer Audit Visit

6.2.1 An audit visit is only applicable to a comprehensive review activity. The audit examination can be performed in the following places:

- a. business premises of the taxpayer / employer's office;
- b. office of the IRBM (face-to-face / online); or
- c. other appropriate places as agreed upon by both parties including in the premise of tax agent.

6.2.2 During the tax audit visit / employer audit, the audit officer will:

- a. introduce himself and produce an authority card bearing the name and photograph of the officer or a letter of authority issued by the IRBM;
- b. inform the taxpayer / employer on their purpose at the beginning of the visit;
- c. notify the taxpayer / employer / tax agent that under section 80 of the ITA, section 33 PITA and / or other subsections under the acts administered by IRBM, the officer shall at all times has full and free access to:
 - i. enter and inspect all lands, buildings and places; and
 - ii. view all books, documents, objects, articles, materials and things as well as examine, retrieve, make copies or extracts of any document without any payment charges.

- d. In addition, the audit officer is also responsible for:
 - i. inform the scope and duration required for the audit officer to review / examine documents;
 - ii. inform the names, telephone numbers of the office of the officer and senior officer in charge of the audit;
 - iii. notify the taxpayer's / employer's rights and responsibilities during the audit;
 - iv. conduct document review / examination at the places visited;
 - v. access, download and retrieve relevant information from any electronic media equipment; and
 - vi. interview the taxpayer / employer as well as any person / key staff / employees concerned as may required in the premises visited.

6.2.3 Apart from the places where business records are kept, audit officers can also visit selected locations like manufacturing plants and related storage warehouses to complete the process of understanding the taxpayer's industry and business.

6.3 **Duration of Audit Visit**

6.3.1 The time required to carry out a comprehensive review visit for tax audit / employer audit is between **one (1) to three (3) days**.

6.3.2 However, the period may be extended depending on the following factors:

- a. the size and the complexity of business transactions which are carried out;
- b. the form in which records are kept; or
- c. the extent of co-operation from the taxpayer / employer.

6.4 Record Review / Asset Examination

- 6.4.1 During the audit process, the audit officer should be allowed to review all business records including:
- a. financial records of the company / business;
 - b. stock records and documents;
 - c. transaction ledger / payment voucher / bank statement;
 - d. employer documents such as payroll records, salary / allowance / emolument payment vouchers, annual salary statements, Form E / CP.8.D / CP39, MTD payment declaration and so on;
 - e. physical inspection on business assets to verify claims made; and
 - f. other relevant documents.
- 6.4.2 In certain circumstances, the audit officer may also need to review records other than the taxpayer's business records for sole proprietor and also partnership audit cases.
- 6.4.3 Under the provisions of section 80 of the ITA, section 33 PITA, section 22D LBATA, the audit officer is allowed to have full access to the taxpayer's / employer's records. If necessary, the audit officer shall be allowed to make copies of the relevant records and documents.
- 6.4.4 If there is a need for the collection of the taxpayer's / employer's original documents and records by the audit officer, the audit officer shall provide a list and an acknowledgement of the receipt of the documents and records and the list shall be signed by the audit officer and the taxpayer / employer or tax agent. The taxpayer / employer can review the documents and records and make copies of the lists (if necessary).

- 6.4.5 If accounting books and records / employer's documents such as payroll, payment voucher and financial records are stored electronically, the audit officer is allowed to access computer systems, servers or gadgets and to download accounting data into a compact disc, pen drive, portable hard disk or any other storage media.
- 6.4.6 The audit officer will review all relevant documents and records to determine that the correct amount of income has been reported, the amount of MTD / CP38 deducted and remitted is accurate and the employer's responsibilities under section 83 ITA are complied. The records are generally as follows:
- a. Business Records
- i. Taxpayer can obtain guidance on record-keeping from the public rulings issued by the IRBM.
 - ii. Pursuant to section 138A of the ITA, the Director General of Inland Revenue (DGIR) is empowered to issue public rulings on the interpretation of any provisions of the ITA.
 - iii. The public rulings regarding record-keeping have been issued as follows:
 - a) IRBM Public Ruling No. 4/2000: Keeping Sufficient Records (Companies & Co-operatives) (Revised);
 - b) IRBM Public Ruling No. 5/2000: Keeping Sufficient Records (Individuals and Partnerships) (Revised); and
 - c) IRBM Public Rulings No.6/2000: Keeping Sufficient Records (Person Other than Companies, Co-operatives or Individuals) (Revised).

b. Records Other Than Business Records

For audit of cases other than company such as a sole proprietorship and partnership if there are insufficient records, the audit officer should review existing business records as well as additional records / information as follows:

- i. bank statement;
- ii. credit card statement;
- iii. asset ownership;
- iv. family / personal expenses;
- v. other matters as provided for under section 79 of the ITA.

6.4.7 Sections 82 and 82A of the ITA, section 34A of the PITA and section 22E of the LBATA, require taxpayer / employer to maintain sufficient and complete records in order to determine the income or loss of the business. Records and documents include:

- a. books of account which record receipts and payments or income and expenditure;
- b. financial statement;
- c. invoices, vouchers, receipts and such other documents as are necessary to verify any of the items recorded in the account book;
- d. all agreements, contracts and other documents relating to business activities with related companies and third parties;

- e. payroll listing, emolument payment ledger, salary and allowance payment vouchers, pay slips, annual salary statements (EA / EC statements), Forms E and CP.8.D, Form CP39, MTD payment declarations, and any other records including company and individual income tax payment records specified by DGIR;
- f. documents, objects, materials, articles and objects which are handled and stored in any form of electronic medium; and
- g. any other records as may be specified by the DGIR.

6.4.8 Failure to comply with subsections 82(1), 82(3) and 82(5) of the ITA, section 34A of the PITA and / or other subsections under other acts administered by the IRBM to maintain a sufficient and complete record is an offence under section 119A of the ITA, section 57A of the PITA and / or other subsections under other acts administered by the IRBM.

6.4.9 If the taxpayer / employer fails to maintain a sufficient and complete record, the audit officer will use the best method or approach to determine whether the income has been properly reported / the compliance with the employer's responsibilities under sections 83 and 107 of the ITA and ITR is correct and orderly.

6.5 Tax Audit Findings

6.5.1 Taxpayer may be called to the IRBM's office to discuss the relevant audit findings issues.

6.5.2 In addition, the taxpayer himself may be present at the IRBM office to seek clarification on the progress of the audit process or to provide further information to expedite the settlement of the audit.

6.5.3 The taxpayer shall be notified in writing through the **Surat Penemuan Semakan Kes** (Case Review Findings Letter) covering the following matters:

- a. the audit issues raised; and
- b. the reasons and rationale of the issues raised.

- 6.5.4 The taxpayer will be given the opportunity to provide feedback and clarification regarding the audit findings.
- 6.5.5 If the taxpayer is dissatisfied with the audit findings which are issued, the taxpayer may **formally make an objection within eighteen (18) calendar days** from the date of the *Surat Penemuan Semakan Kes* (Case Review Findings Letter) by submitting additional information and supporting evidence to support his objection.
- 6.5.6 The taxpayer's objections will be reviewed and the taxpayer will be informed accordingly of the audit findings finalised through ***Surat Pemberitahuan Keputusan Perbincangan*** (Decision of Discussion Notification Letter).
- 6.5.7 If no objection is received within eighteen (18) calendar days from the date of the *Surat Penemuan Semakan Kes* (Case Review Findings Letter), the taxpayer is deemed to have agreed to the audit findings, and a Notice of Assessment will be issued.

6.6 Employer Audit Findings

- 6.6.1 For employer audit cases under section 107 ITA and section 83 ITA, audit findings letter will be issued according to the categories of findings as follows:
- a. compliant employer;
 - b. non-compliant employer; or
 - c. employer with no MTD eligibility.
- 6.6.2 Audit Findings Letter together with the MTD Calculation Statement of all employees and compound statement (proposed compound amount) will be issued to the employers who failed to comply.
- 6.6.3 If the employer is not satisfied with the audit findings issued, the employer may lodge a formal objection within eighteen (18) calendar days from the date of the letter of audit findings by submitting additional information and evidence to support the objection.

- 6.6.4 Employers' objection will be reviewed and appropriate notification will be made to employers upon finalization of the review process.
- 6.6.5 If no objection is received within eighteen (18) calendar days from the date of the audit findings letter, the employer is deemed to have agreed with the audit findings.
- 6.6.6 Employers who agree with the audit findings may contact the Klang Valley Legal Branch or the relevant State Legal Section of IRBM for compound payment.

6.7 **Audit Settlement**

- 6.7.1 Amount of income, tax and penalty adjustments (if any) and the years of assessment involved shall be notified through **Surat Penyelesaian Kes** (Case Settlement Letter).
- 6.7.2 Subsequently, notice of assessment or notification of non-chargeability will be issued.
- 6.7.3 If no issues are found and no adjustment is made, a **Surat Penyelesaian Kes Tanpa Pelarasan Pendapatan** (Case Settlement Without Adjusted Income Letter) will be issued.
- 6.7.4 For general review case where IRBM has documents and clear information as a basis to raise an assessment, **Surat Penemuan Semakan Kes** (Case Review Finding Letter) will not be issued. However, the Notice of Assessment that has been raised will be issued to the taxpayer together with information on income adjustments and computation of the tax imposed.

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6.7.5 The commencement date of the audit completion period according to the methods of review is as follows:

Audit Review Methods		Commencement of Completion Period
General Review		The date the <i>Surat Memohon Dokumen dan Maklumat</i> (Request for Documents and Information Letter) was issued to the taxpayer / employer.
Comprehensive Review	Visit to the taxpayer / employer's premises or any agreed place	The date of commencement of the audit visit
	IRBM's Office (face-to-face / online)	The date the <i>Surat Penentuan Permulaan Tempoh Penyelesaian Kes</i> (Letter of Determination of the Commencement of the Case Settlement Period) was issued

6.7.6 Tax audit / employer audit cases must be completed from the date of commencement of the audit as follows:

No	Tax Audit Case Settlement Period		
	Types of Audit Activities	Types of Business Activities	Settlement Period
1	Tax Audit / Employer Audit		90 calendar days
2	Withholding Tax	Payor	90 calendar days
		Payee	180 calendar days

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No	Tax Audit Case Settlement Period		
	Types of Audit Activities	Types of Business Activities	Settlement Period
3	Finance and Insurance	Financial leasing, factoring, credit card services, stock brokers, stocks and bonds, financial market services and operations / other financial intermediaries	90 calendar days
		Broker, agent and adjuster (Insurance and Takaful includes Re-Insurance and Re-Takaful)	
		Commercial banks, investment banks, Islamic banks and other financial institutions	240 calendar days
		Insurance and Takaful business includes Re-Insurance and Re-Takaful	
4	Petroleum Tax	Exploration	450 calendar days
		Production	

6.7.7 However, the above settlement period does not apply to cases where further verification is required from the relevant parties.

6.7.8 Completed audit cases will not be re-audited for the same year of assessment and issue. However, in the event of other issues or new information are received for that year of assessment, a re-audit may be carried out.

7.0 VOLUNTARY DISCLOSURE

7.1 Voluntary disclosure means the taxpayer makes a voluntary disclosure in relation to the calculation of taxable income after the due date for ITRF submission in writing by letter or electronic medium to the relevant State Operation Director / Division Director of IRBM at any time **before the commencement of audit action.**

- 7.2 For employer audits, voluntary disclosure means that the employer makes a voluntary disclosure in writing through letter or electronic medium to the relevant State Operation Director / Director Division of IRBM, after the stipulated period for the payment of MTD's or the money withheld should have been deducted / remitted or after the stipulated period for the submission of Form E or written notice should have been submitted, and at any time **before the commencement of employer audit action**.
- 7.3 The commencement of an audit action for the purpose of voluntary disclosure means the action on the date of *Surat Memohon Dokumen dan Maklumat* (Request for Documents and Information Letter) where the letter will be issued to the taxpayer by official e-mail or mail for the purpose of inquiring or obtaining information or documents related to the audit issue.
- 7.4 A voluntary disclosure must be submitted together with the following basic documents:
- 7.4.1 copy of ITRF;
 - 7.4.2 audited accounts / income statements;
 - 7.4.3 information of incentives and compliance with conditions;
 - 7.4.4 complete set of original tax computation and amendments;
 - 7.4.5 complete information on voluntary disclosure issues together with ledgers / documents related to the additional income issues; and
 - 7.4.6 other related information.
- 7.5 IRBM will review the documents provided and will request for additional documents or information as well as require the taxpayer / employer to provide further clarification at the IRBM office if necessary.
- 7.6 Taxpayers / employers who fail to submit complete documents and information as outlined in this TAF ITE without reasonable excuse are deemed to have failed to meet the voluntary disclosure requirements and will result in their voluntary disclosure not being accepted.

- 7.7 Taxpayers / employers will be informed if there are any further adjustments that need to be made to the amount of voluntary disclosure submitted before the tax computation is finalised by mutual consent.
- 7.8 If there is no further adjustment and the amount of tax computation submitted by the taxpayer is accepted as is, then the voluntary disclosure is final and a notification will be issued to the taxpayer before the assessment is raised.
- 7.9 If the documents submitted by the taxpayer / employer are incomplete:
- 7.9.1 an audit visit will be conducted or a letter of enquiry will be issued to the taxpayer / employer;
- 7.9.2 further review will be made on the additional information obtained from the audit visit / enquiry letter;
- 7.10 This voluntary disclosure is only offered to taxpayers who complied with ITRF submission obligations.

8.0 RIGHTS AND RESPONSIBILITIES

8.1 IRBM Audit Officers

- 8.1.1 The audit officer is required to adhere to the rules and code of ethics set forth by the IRBM in performing his duties as follows:
- a. professional, well mannered, trustworthy, honest and has integrity;
 - b. always ready to give explanations on the objectives of the tax audit and the rights and responsibilities of the taxpayer / employer;
 - c. knowledgeable and administering tax laws fairly and equitably;
 - d. co-operative and is always ready to give advice and guidance to the taxpayer / employer;
 - e. ensure that the audit is carried out smoothly with optimal use of time;

- f. request for documents, books of accounts and information that are relevant to the audit only;
- g. provide an explanation on the finding of the case review and give an opportunity to the taxpayer / employer to provide an explanation and response on the issues raised within the stipulated period; and
- h. ensure the rights and interest of taxpayer / employer, tax agent and taxpayer's documents are safeguarded.

8.1.2 Identification of audit officer:

- a. each audit officer is given an authority card bearing his name and photograph. This card also contains a statement that the officer is authorised to review the book of accounts, documents and records at the taxpayer's / employer's premises;
- b. taxpayer / employer is advised to check the authority card in order to verify the authenticity of the audit officer's identity; and
- c. taxpayer / employer may check with the respective State Operation Director / Division Director of IRBM if there are any doubts on the authenticity of the audit officer.

8.1.3 An audit officer is prohibited from:

- a. having any personal or financial interest in the business of a taxpayer / employer being audited;
- b. recommending to the taxpayer / employer to appoint a particular tax agent for the audit case; and
- c. abusing his position or power in carrying out his duties as provided under section 118 of the ITA and section 56 PITA.

8.2 Taxpayer / Employer

8.2.1 Responsibilities of taxpayer / employer:

- a. give co-operation, courteous, fair, honest and has integrity;
- b. provide reasonable facilities and assistance to enable the audit officer to carry out his duties as outlined in Public Ruling No. 7/2000 – Providing Reasonable Facilities And Assistance which includes the following:
 - i. provide access to audit officer to enter into business premises, provide information and make available documents and records for examination;
 - ii. provide explanation regarding the business, the accounting and information systems;
 - iii. allow examination and copying of records, documents and books of accounts whether in the physical and / or electronic medium;
 - iv. assist in the provision of or provide access to records, documents and books of account in the physical and / or electronic medium; and
 - v. allow the use of copiers, telephone or other communication devices, electrical equipment, office space, furniture and electronic copy system facilities such as compact discs, pen drives, portable hard disks or any other storage media.
- c. Co-operate in providing complete responses to all queries:
 - i. if the question is unclear, the taxpayer may request further clarification from the audit officer;
 - ii. in the case of a sole proprietor or partnership, the taxpayer may be asked specific questions regarding expenses, savings, bank accounts, asset and other matters; and

- iii. taxpayer will be considered to have committed of an offence under the ITA, PITA, LBATA and ITR provisions if he fails to co-operate in providing the required information.
- d. comply with the notice under section 81 of the ITA / notice under section 34 of the PITA.

8.2.2 The taxpayer / employer is prohibited from:

- a. giving any form of gifts to the audit officer and transacting any business with the audit officer during the period when the audit is conducted;
- b. making any form of payments to the audit officer; and
- c. obstructing the audit officer from exercising his duties. Such obstruction is an offence under section 116 of the ITA and section 54 PITA which involves the following:
 - i. obstructing or refusing to allow an audit officer from entering any lands, buildings, places and premises in accordance with section 80 of the ITA, section 33 PITA and section 22D LBATA;
 - ii. obstructing an audit officer from performing his functions and duties under the provisions of the ITA, PITA and LBATA;
 - iii. refusing to provide book of accounts, or other documents in the custody of or under his control when required by the audit officer;
 - iv. failing to provide reasonable assistance to the audit officer in carrying out his duties; or
 - v. refusing to answer or give responses to questions raised during the audit process.

8.2.3 Rights to appoint tax agent / interpreter

- a. Taxpayers / employers have the right to appoint registered tax agent during the implementation of IRBM tax audits if necessary.
- b. The appointment of a tax agent must be made formally through the issuance of a tax agent appointment letter and a copy of the letter must be submitted to IRBM before the commencement of any functions of the agent.
- c. Taxpayers / employers also have the right to use the services of an interpreter during the interview or discussion session if the taxpayer is not fluent in Malay or English.

8.3 Approved Tax Agent

- 8.3.1 An individual is only allowed to practise the profession as a tax agent, tax consultant or tax adviser to represent a taxpayer / employer if the person is a tax agent as defined under subsection 153(3) of the ITA namely any professional accountant or person approved by the Minister of Finance under subsection 153(1) of the ITA.
- 8.3.2 IRBM reserves the right to refuse the appointment of an agent by the taxpayer if the appointed person fails to produce proof of approval of the tax agent under subsection 153(3) of the ITA which is still in force.
- 8.3.3 A tax agent has a social responsibility towards the country as a whole. A tax agent must provide the best advice to his clients and emphasize to his clients the obligation to pay taxes as required by law.
- 8.3.4 Approved tax agent is subjected to the code of ethics issued by the IRBM based on principles related to integrity, accountability, transparency and social responsibility. Failure of a tax agent to comply with the Code of Ethics of Tax Agent may result in the tax agent's approval being revoked or terminated or not renewed.

- 8.3.5 In performing duties, the approved tax agent must:
- a. act with integrity, high professionalism and knowledge of tax law and tax practice;
 - b. be honest, trustworthy, transparent and always give full co-operation to taxpayer / employer and IRBM, such as notifying termination of service as tax agent and adhering to the procedures and guidelines set by IRBM;
 - c. refrain from misusing information acquired or abusing position as a tax agent for personal gain;
 - d. always provide accurate feedback on the progress of the audit process and advise the taxpayer / employer based on accurate and correct facts; and
 - e. safeguard the confidentiality of all information and ensure that the information is not disclosed to any unauthorised party (subsection 138 (1) of the ITA, subsection 71(1) of the PITA and subsection 20(1) LBATA).
- 8.3.6 Approved tax agent is prohibited from:
- a. giving wrong advice and working with taxpayer / employer to reduce the amount of tax due;
 - b. delaying the process of completing a tax / employer audit or giving up entrusted responsibility; and
 - c. offering or giving any form of gift to the audit officer including on behalf of the taxpayer / employer.

9.0 CONFIDENTIALITY OF INFORMATION

IRBM will ensure that all information obtained from the taxpayer / employer whether through interviews, discussions, correspondence or examination of records and documents are confidential and for the use of income tax purposes only.

10.0 OFFENCES / PENALTIES / INCREASE IN TAX / FINES / POWER TO COMPOUND

10.1 Income Tax / Petroleum / Capital Gains Tax Audit

- 10.1.1 In the event of an understatement or omission of any income as a result of the audit findings, penalty equivalent to the undercharged tax amount (100%) may be imposed under subsection 113(2) of the ITA and subsection 52(2) PITA. However, for the purposes of this TAF ITE, the penalty under subsection 113(2) of the ITA and subsection 52(2) PITA is imposed at the following rates:

Offence	Rate
Penalty on first offence	15%
Penalty on second offence	30%
Penalty on third offence and thereafter	45%

- 10.1.2 Nevertheless, the DGIR may exercise his discretion in accordance with subsection 124(3) of the ITA / section 63 PITA to reduce or eliminate penalties imposed.
- 10.1.3 The determination of the taxpayer's penalty rate for the first or second offence refers to the record of the imposition of penalties under subsection 113(2) of the ITA / 52(2) PITA from 01 January 2020 until 30 April 2022. If the taxpayer is not subject to a penalty under subsection 113(2) of the ITA / 52(2) PITA during the period 01 January 2020 to 30 April 2022, any audit findings from 01 May 2022 involving the imposition of a penalty under subsection 113(2) of the ITA / 52(2) PITA will be considered as the first offence (15%). On the other hand, if the taxpayer has been penalised under subsection 113(2) of the ITA / 52(2) PITA during the period 01 January 2020 to 30 April 2022, any audit findings from 01 May 2022 involving the imposition of penalties under subsection 113(2) of the ITA / 52(2) PITA will be considered as a second offence (30%).
- 10.1.4 For audit findings involving technical adjustments, no penalties under subsection 113(2) of the ITA / 52(2) PITA will be imposed for shortfall or omission of any income (0%).

- 10.1.5 Technical adjustment refers to cases involving differences in the interpretation of tax legislation determined based on the facts and issues of each case.
- 10.1.6 If the IRBM has issued a stance through Public Ruling / Guidelines / Practice Note / Income Tax Regulations / Income Tax Order (Exemption) / Income Tax Rules, the consideration for the grounds of technical adjustment is not applicable. In the event of tax fraud for which the taxpayer is found to have deliberately made improper tax reporting, a penalty will be imposed under subsection 113(2) of the ITA / 52(2) PITA at a rate of 100% on the understated amount of tax.
- 10.1.7 Concession penalty rate may apply for cases where eligible taxpayers voluntarily make a disclosure. Taxpayers are not eligible to make voluntary disclosure when the audit action has commenced.
- 10.1.8 The penalty rate under subsection 113(2) of the ITA / 52(2) PITA for voluntary disclosure cases is 15%. However, if the taxpayer has submitted the first voluntary declaration through the Amended Return Form (ARF) and subsequently made an additional voluntary disclosure within six (6) months from the date of submission of ITRF, the penalty rate for that voluntary disclosure is 10%.

10.2 Withholding Tax Audit

- 10.2.1 If there is a failure / underpayment of withholding tax from the audit findings, an increase in tax will be charged under subsections 107A(2), 109(2), 109B(2), 109D(3), 109E(4), 109F(2) and subsection 109G(2) of the ITA.
- 10.2.2 Effective from the year of assessment 2011, in addition to the increase in tax for late payment mentioned in paragraph 10.2.1 above, DGIR is empowered to impose a penalty under subsection 113(2) of the ITA if:
 - a. The deduction for expenses related to the payment has been claimed in the ITRF submitted or claimed in the information provided to DGIR in calculating the payer's adjusted income (proviso to section 39 / paragraph 2D of Schedule 3 of the ITA); or

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- b. Withholding tax deductions made or paid after the deadline for submission of ITRF for a year of assessment relating to the payment of income subject to withholding tax.

10.2.3 A concession rate increases may be charged in cases where a voluntary disclosure is made by the payer. Therefore, payers are encouraged to make voluntary disclosure before an audit is conducted. All voluntary disclosures must be made in writing to the relevant State Director / Special Branch.

10.3 Summary of Penalty Rate / Tax Increase

Therefore, for the purposes of this TAF ITE, the summary of the penalty rate / tax increase imposed on the audit findings is as follows:

Audit Activities	Type of Offences	Penalty Rate	
Income Tax Audit, Petroleum Income Tax Audit and Capital Gains Tax Audit	Audit Findings (<i>incorrect returns</i>) Note: Please refer to paragraph 10.1.3 for the determination of the number of offences	Penalty on first offence	15%
		Penalty on second offence	30%
		Penalty on third offence and thereafter	45%
	Technical Adjustments	0%	
	Wilful Default / Fraud	100%	

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Audit Activities	Types of Offences	Penalty Rate	
Income Tax Audit, Petroleum Income Tax Audit and Capital Gains Tax Audit	Voluntary disclosure before audit commence	Within 6 months from the deadline for submission of the ITRF provided that the first ARF has been submitted before the supplementary voluntary disclosure letter	10%
		After the deadline for submission of the ITRF	15%
Withholding Tax Audit	Failure to / under / late to remit	Increase in Tax	10%
		Penalty under subsection 113(2) for the offence of claiming expenses under subsection 39 of the ITA	As per number of income tax audit offences

10.4 Labuan Tax Audit

Under LBATA, starting from 01 January 2025, offences committed may be subject to fines and penalties as follows:

Statutory Provisions	Description of Offences	Punishments
Section 23 LBATA	a. fails to furnish the correct particulars as required by the Director General under paragraph 5(3)(b) or 10(3)(b) LBATA	May be fined not less than RM 20,000.00 and not exceeding RM 1,000,000.00 or imprisonment for a term not exceeding two (2) years or both.

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Statutory Provisions	Description of Offences	Punishments
	<p>b. fails to comply with a notice given under section 22B, 22C or subsection 22D(5) LBATA</p> <p>c. contravenes section 22EB LBATA</p>	<p>However, the offence can be compounded pursuant to section 24 LBATA not exceeding 50% of the maximum fine amount (RM500,000.00) except for the penalty imposed upon conviction.</p>
Section 23A LBATA	Failure to furnish return of profits	<p>May be fined not less than RM 20,000.00 and not exceeding RM1,000,000.00 or imprisonment for a term not exceeding three (3) years or both.</p> <p>However, the offence can be compounded pursuant to section 24 LBATA not exceeding 50% of the maximum fine amount (RM500,000.00) except for the penalty imposed upon conviction.</p>
Section 23B LBATA	Make incorrect return of profits and information	<p>May be fined not less than RM200.00 and not exceeding RM20,000.00 or imprisoned for a term not exceeding six (6) months or both.</p>

10.5 Employer Audit

10.5.1 For employer audit cases, any audit findings related to employer offences will be subject to fines and penalties as follows:

Statutory Provisions	Description of Offences	Punishments
Section 107 ITA	Failure to comply with subrule 10(1) or rule 13 of ITR	<p>May be fined not less than RM200.00 and not exceeding RM20,000.00 or imprisoned for a term not exceeding six (6) months or both.</p>

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Statutory Provisions	Description of Offences	Punishments
Paragraph 120(1)(b) ITA	Fail to file a return under subsection 83(1) of the ITA or a return under subsection 83(1A) or 83A(1) of the ITA	The offence can be compounded under section 124 of the ITA. In the case of repeat offences, the number of offences will be taken into account in determining the amount of compound that can be imposed.
Paragraph 120(1)(c) ITA	Fail to file forms CP22, CP22A / CP22B and CP21 under subsection 83(2), (3) or (4) of the ITA	
Paragraph 120(1)(e) ITA	Failure to comply with directions under subsection 83(5) and section 107 of the ITA	

10.5.2 Repeat offences for employer audit activities under section 107 ITA and section 83 ITA means an offence committed more than once or repeatedly.

10.5.3 The first offence for the purpose of determining the amount of compound will be taken into account from the date of the first audit finding letter issued to the employer.

11.0 COMPLAINTS

11.1 Taxpayer may complain if he is dissatisfied with the attitude of the audit officer or the manner in which the tax audit is being carried out to the respective State Operation Director / Division Director / State Director / Chief Tax Compliance Officer / Deputy Director General / Director General of Inland Revenue.

11.2 The IRBM will take decisive, fair and impartial action in handling complaints received.

11.3 The IRBM will not entertain any complaint which is found to have no basis and has elements of bad faith.

- 11.4 The IRBM will lodge a complaint against tax agent or its representative who is uncooperative or acting unprofessionally and contrary to the code of ethics to the relevant authorities such as the Ministry of Finance Malaysia / Chartered Tax Institute of Malaysia / Malaysian Institute of Accountants / Malaysian Institute of Certified Public Accountants / Malaysian Tax Accountants Association / Bar Council.

12.0 TAX / COMPOUND PAYMENT PROCEDURES

- 12.1 If there are any tax and penalties arising from the audit adjustments, payments shall be made through ByrHasil service at the official portal of IRBM / commercial banks appointed by IRBM or at the Pos Malaysia Berhad counter by using the correct Bill Number / Tax Identification Number (TIN).
- 12.2 The taxpayer is required to make full payment of the tax imposed and the penalties arising from the audit adjustments within thirty (30) days from the date the Notice of Assessment is raised.
- 12.3 However, the IRBM may consider the taxpayer's application to settle the additional tax and penalty payment in instalments for a stipulated period, based on the justification provided.
- 12.4 Application for instalments scheme must be submitted to the relevant State Operation Director / Division Director of IRBM for approval.
- 12.5 If the taxpayer fails to make the payment within the specified period allowed or the agreed instalments period, a tax increase will be imposed on the unpaid tax balance.
- 12.6 For cases involving the employer audit findings and the imposition of compound, the compound payment procedure will be referred to the Klang Valley Legal Branch or the relevant State IRBM Legal Section.
- 12.7 Compound payment must be made within the stipulated period. If no compound payment is received within the said period, the prosecution action may proceed.

13.0 APPEAL PROCESS

- 13.1 Taxpayers who are not satisfied with the Notice of Assessment / Notification of Non-Chargeability can appeal against the assessment raised by the IRBM in accordance with the provisions of subsection 97A(2) and sections 99 to 102 of the ITA / sections 43 to 46 of the PITA / section 6D of the LBATA.
- 13.2 An appeal can be submitted to the Special Commissioner of Income Tax within thirty (30) days after the service of the Notice of Assessment / Notification of Non-Chargeability .
- 13.3 An appeal against the assessment must be made through a completed Form Q to the relevant State Operation Director / Division Director of IRBM. Please refer to the Appeal Procedure (Form Q) on IRBM's website.
- 13.4 Effective from 1.1.2013, payors who are subject to withholding tax under section 109, 109B or 109F of the ITA may appeal to the Special Commissioner of Income Tax if the basis of the payer's appeal is that the payment of withholding tax is not subject to tax under the ITA (Provisions under Section 109H ITA). Appeal must be made within thirty (30) days from the date the amount is due to DGIR through the appeal to the Special Commissioner of Income Tax form (CP 15D).
- 13.5 However, appeals related to withholding tax payments cannot be made by taxpayers under the following circumstances:
 - 13.5.1 A non-resident person has filed an appeal to the Special Commissioner of Income Tax in respect of payments under section 4A or paragraph 4(f) of the ITA in relation to withholding tax;
 - 13.5.2 Payments under section 4A or paragraph 4(f) of the ITA to non-residents have not been allowed as deductions under section 39 of the ITA in the computation of adjusted income; or
 - 13.5.3 The withholding tax payable is not remitted by the payor to the DGIR.

13.6 Employer Audit Review (Appeal)

- 13.6.1 Audit case will be forwarded to the Klang Valley Legal Branch or the relevant State IRBM Legal Section for further action after eighteen (18) calendar days from the date the audit finding letter is issued.
- 13.6.2 If the employer is still not satisfied with the audit findings / amendments to the audit findings issued, the employer may appeal to the Klang Valley Legal Branch or the relevant State IRBM Legal Section by submitting additional information and evidence to support his objection.
- 13.6.3 Well-founded employer appeals will be reviewed. The employer will be notified accordingly on any audit findings finalised after the review .

14.0 EFFECTIVE DATE AND CANCELLATION

This Tax Audit Framework Income Tax and Employer is effective from 15 March 2025 and revokes:

- 14.1 Tax Audit Framework (Malay version) dated 01 May 2022 and Tax Audit Framework (English version) dated 15 December 2019;
- 14.2 Tax Audit Framework Finance and Insurance (Malay version) dated 01 May 2022 and Tax Audit Framework Finance and Insurance (English version) dated 18 November 2020;
- 14.3 Petroleum Tax Audit Framework (Malay version) dated 01 May 2022 and Petroleum Tax Audit Framework (English version) dated 15 December 2019;
- 14.4 Audit Framework For Employer (Malay version) dated 01 October 2021; and
- 14.5 Tax Audit Framework On Withholding Tax (Malay version) dated 01 August 2015.

**Director General of Inland Revenue,
Inland Revenue Board of Malaysia.
15 March 2025**