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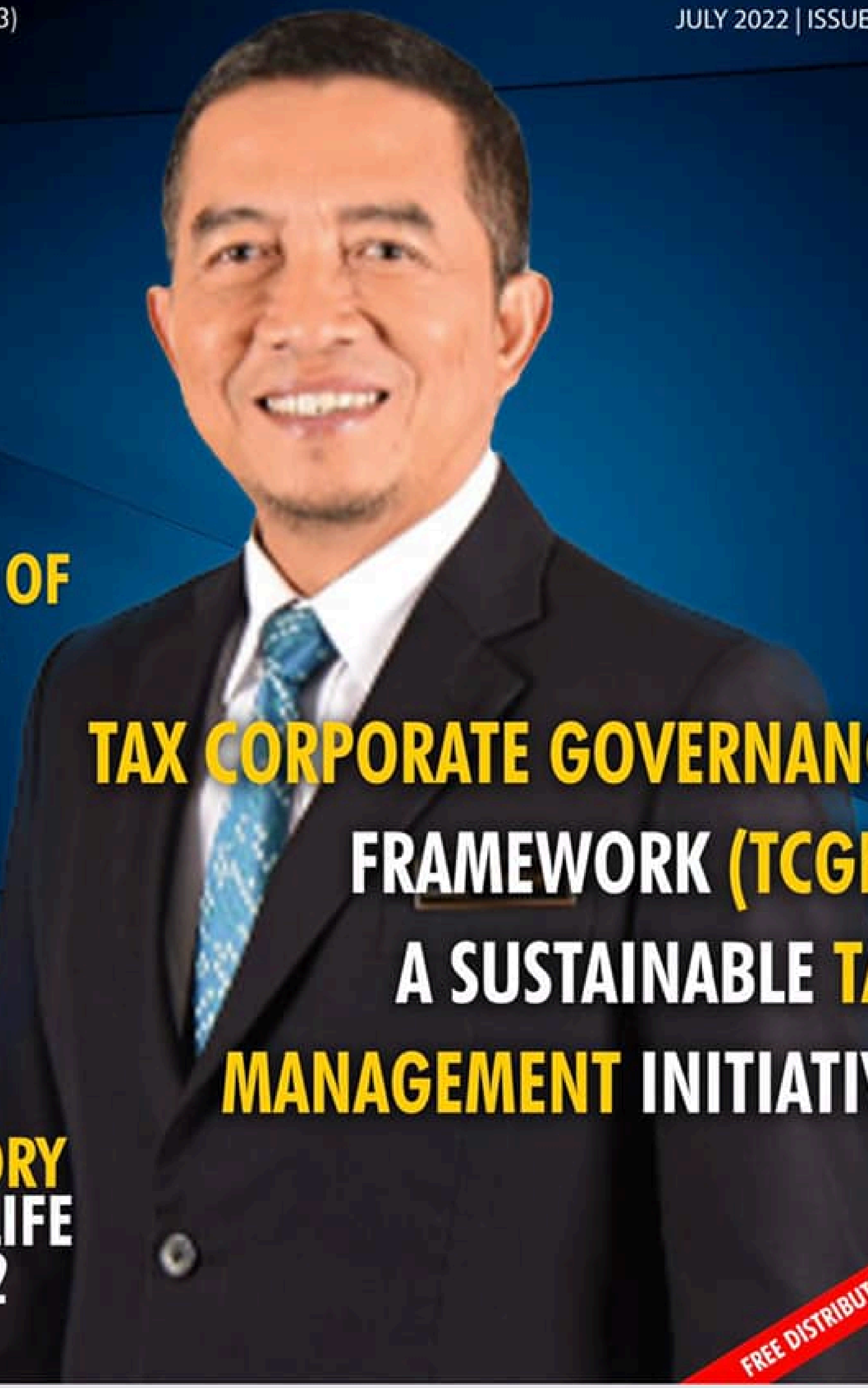

POWER OF RUMOR

TAX CORPORATE GOVERNANCE FRAMEWORK (TCGF): A SUSTAINABLE TAX MANAGEMENT INITIATIVE

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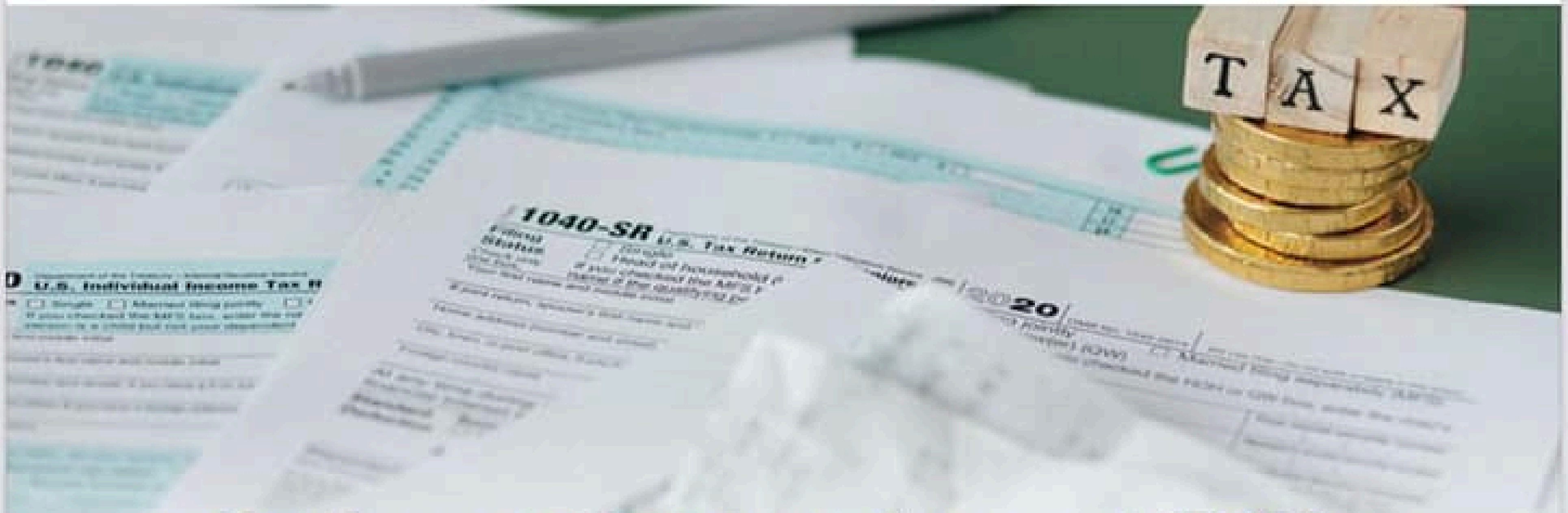

Tax Corporate Governance Framework (TCGF): A Sustainable Tax Management Initiative

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The Tax Corporate Governance Framework (TCGF) and accompanying guidelines have been developed by the Malaysian Inland Revenue Board to assist organisations with the design and implementation of their TCGFs and to encourage voluntary participation in the TCGF programme. Both of these aims are stated in the TCGF's strategic plan. What exactly is the TCGF, and why is it so crucial to have it?

The rules, relationships, procedures, and processes that regulate the exercise and management of authority inside an organisation are made up of what is known as "corporate governance." It encompasses the practices of accountability for corporations, office holders, and other people in positions of authority.

There is a rising expectation in Malaysia that companies have a degree of governance that ensures the accountability, openness, and integrity of the tax system. This expectation is being driven by the government. Depending on the size and nature of the firm, the organisation may already have governance structures in place to suit the expectations of a variety of stakeholders as well as the requirements of the Inland Revenue Board of Malaysia (IRBM).

It is clear that Malaysia is making a shift to the new business paradigm as a result of the introduction of TCGF by IRBM. Rather than continuing to function solely as an enforcement agency, the IRBM now promotes company operations by supplying a variety of services and by fostering the expansion of firms through the administration of taxes in an appropriate manner.

In a nutshell, the objectives of the TCGF are to

(a) promote tax compliance and reduce tax risks;

(b) test the robustness of an organisation's framework;

(c) understand how to demonstrate the operational effectiveness of an organisation's key internal controls to its stakeholders, including the IRBM; and

(d) protect against the financial, regulatory, and reputational risks that are associated with taxation.

Tax Governance Framework

Tax Corporate Governance consists of the rules, relationships, procedures, and methods that regulate the exercise and control of authority within an organisation. It includes the procedures that hold organisations, officeholders, and people in power accountable. The method is to move away from often hostile encounters in order to foster mutually beneficial connections and establish an environment of trust and candour.

OECD publications emphasise the necessity for a "win-win" scenario between tax authorities and taxpayers. Therefore, the Tax Corporate Governance Framework (TCGF) should be based on three key pillars:

(i) mutual trust,

(ii) mutual understanding, and

(iii) openness and transparency.

These are integrated into the broader compliance strategy of the tax authority. To ensure that elevated levels of compliance are achieved and maintained, they vary, for instance, in terms of threshold/eligibility criteria, their legal basis, and interactions with taxpayers.

According to the OECD's 2016 report on Cooperative Tax Compliance: Building Better Tax Control Frameworks ("OECD 2016 Report"), a Tax Control Framework assures the accuracy and completeness of an enterprise's tax filings and disclosures. The elements of a Tax Control Framework should ensure stakeholders that tax risks are adequately controlled and that outputs such as tax returns can be relied upon. In other words, assuring the prompt payment of the exact tax amount.

Similarly, tax officials must collect the right tax amount when it is due. According to the OECD's 2013 study on Cooperative Tax Compliance: From Enhanced Relationships to Co-operative Compliance ("OECD 2013 Report"), tax authorities' compliance risk management is crucial to carrying out this goal. However, tax authorities can only benefit from compliance risk management if they differentiate between high-risk and low-risk or negligible-risk regions and respond and influence compliance accordingly. In the Malaysian self-assessment system, tax compliance is mainly enforced by tax audits.

Computerised systems are used to identify tax audit cases based on risk assessment variables and/or numerous information sources. When the same guarantee provided by the taxpayer's tax corporate governance is shared/disclosed/made visible to the IRB, cooperative tax compliance will offer the chance to refine this approach further. This is a core principle of a "cooperative" compliance programme.According to the OECD 2013 Report, when the Tax Control Framework of participants in a cooperative compliance programme is determined to be effective, and when participants provide complete disclosures and are transparent with the tax authority,

In this sense, the Guidelines may be reviewed periodically. Tax Risk Management must be an inherent part of good corporate governance. Therefore, the framework should be built to recognise, manage, and monitor the considerable taxation risk of a corporation. Effective Tax Corporate Governance must include both operational and strategic levels.

Tax administration framework good tax administration is an element of good business management. A robust tax governance framework establishes the tools and processes inside an organisation for detecting tax risks, assessing those risks, and taking the necessary steps to mitigate their impact. A robust tax governance system can instil confidence that the organisation is reporting and paying the correct amount of tax, allowing it to achieve greater tax transparency. The implementation of the Tax Corporate Governance Frameworks ("TCGF") is an effort by the IRBM to promote a cooperative, equitable, and efficient tax compliance process in Malaysia.

Tax Corporate Governance must incorporate transparent guidance and disclosure of the organisation's code of conduct, general duties and obligations, tax reporting, major and material transactions, tax compliance documentation, and more informatior.

Key Principles

IRBM implemented recommendations from the 2016 OECD basic principles report. There are six TCGF principles, including defining a tax strategy, thoroughly implementing it, assigning tasks, documenting governance, conducting testing, and providing assurance.

The tax strategy should be well-documented and owned by the Board of Directors and senior management of the enterprise. All transactions engaged in by an enterprise have the potential to affect its position in some manner; therefore, the TCGF must be able to oversee the entire spectrum of the enterprise's activities and, ideally, should be integrated into the management of day-to-day business operations.

The board of directors is accountable for the design, implementation, and efficacy of the organisation's tax control mechanism. The tax department's function and responsibility for implementing the TCGF must be acknowledged and sufficiently resourced.

Governance documentation is vital. A system of rules and reporting is required to ensure that transactions and occurrences are compared with expected norms and that risks associated with non-compliance are discovered and managed.

This governance model should be adequately established, and sufficient resources should be committed to implementing the TCGF and periodically evaluating its effectiveness. Compliance with the TCGF's principles, and procedures should be monitored, tested, and maintained routinely. Therefore, testing must be done.

Finally, the provided assurance. The TCGF should be able to assure stakeholders, including external stakeholders such as a tax administration, that tax risks are effectively managed, and outputs such as tax returns can be relied upon. This is achieved by identifying the entity's "risk appetite" and ensuring that its Risk Management Framework can identify departures from this with methods for mitigating or eliminating the additional risks.

According to the OECD 2016 Report, this pillar can be considered as the cumulative result of adopting the other pillars; if all are in place, it can provide the necessary trust.

IRBM recognises that varied organisations may select distinct governance procedures based on factors such as their size, complexity, history, and corporate culture. While the IRBM assumes that all businesses will have some degree of Tax Corporate Governance, it recognises the need for flexibility in the application of Tax Corporate Governance principles. In light of these factors, the described components should be seen as an indicator of the IRBM's best practices for the TCGF, as opposed to a set of rigid regulations.

An organisation may use the following components of the TCGF to develop its own TCGF:

(a) Expression of tax risk tolerance
(b) Identification of tax risks to be covered
(c) Segregation of duties and assignment of tax-related responsibilities
(d) Process of tax risk management
(e) Intended result - Eventually expected result of improved image and reputation, higher tax authority confidence, better management of tax affairs, decreased inquiries and tax audits, and decreased expenses and resources.

IRBM recommends organisations, when evaluating the robustness of their TCGF, consider creating a TCGF that is tailored to their circumstances and the requirements of the applicable local corporate rules and legislation.

Benefits for Organisations

The following are some of the ways an effective TCGF can help an organisation give benefits not only to the organisation but also to the IRBM:

(a) Communicate its position on tax risks by assuring all stakeholders that tax risks are being standardised and integrated across the organisation.

(b) Achieve greater clarity with respect to its tax affairs in cases where the absence of a specified tax compliance control system could result in various parts of the organisation adopting diverse and potentially conflicting tax strategies.

Benefits of TCGF for Organisations and IRBM

Organisation Benefits	IRBM's Benefits
• Better tax risk management	• Gain a comprehensive understanding of the organisation's business and tax governance and risk management practices.
• Promotion of operational effectiveness in organisations	
• Establishment of a tax risk management platform	• Improve its relationship with the taxpaying public
• Promotion of proactive risk detection procedures	• Encourage cooperative compliance that is business-friendly and consistent with worldwide standards and government objectives
• Enhancing business confidence in tax administration	
• Protection of the reputations of the organisation's executive team and its stakeholders	• Increase efficiency and resource effectiveness.
• Ensuring the accuracy of tax reporting and enhancing the trustworthiness of corporate records	• Enable a focus on audits and enforcement for high-risk situations.
• Cost savings potential in compliance	• Receive tax returns and payments in a timely and accurate manner
• Greater assurance regarding tax obligations.	

TCGF Programme

The TCGF Programme is an arrangement between the Inland Revenue Board (IRB) and taxpayers, primarily large corporations, to engage incorporate tax compliance issues in order to develop transparent cooperation in tax matters. The IRB encourages organisations to develop their TCGF in accordance with the direct tax matters under the IRB's jurisdiction, such as income tax, petroleum income tax, real property gains tax, transfer pricing, withholding tax, stamp duty, tax incentives, tax strategies, compliancewith public Rulings, Tax rules and regulations, and Advanced Ruling, among others.

Participation in the TCGF Programme is entirely optional. To be eligible for the TCGF award of participation status, interested taxpayers must submit an application to the IRB. The IRB will evaluate the application and verify the participant's eligibility. A taxpayer must perform an internal audit of its TCGF. Within six months following participation permission, the completed self-review assessment report and findings from an independent reviewer must be submitted to the IRB for examination. Participants who qualify will be entitled to receive TCGF Programme rewards.

Benefits of Joining the TCGF programme

Participants will receive the following benefits because of their participation in the TCGF Programme:

1. Less stringent oversight of compliance operations
(a) Fewer or no tax audits will be performed.
(b) Increased materiality or smaller sample size.
2. Expedite tax refunds
(a) Efforts will be made to accelerate tax refunds for complying participants, assuming no anomalies are identified and subject to management approval; refunds will be processed as quickly as possible.

Admission Requirements for the Programme

The following are some of the ways an effective TCGF can help an organisation give benefits not only to the organisation but also to the IRBM:

This programme is tailored specifically for

(b) Large Companies / Publicly Traded Businesses (with turnover 100mil and above)

(c) Companies that have received the best IRBM Taxpayer Award

(d) Government-Linked Companies / State-Owned Enterprise

(e) Taxpayers who are in compliance (return form submission and tax payment)

In addition, if your organisation fits under any of these categories, participation in the programme is strongly recommended.

(a) Have moderately to highly complex structures and business models;

(b) Engage in numerous transactions; and

(c) Emphasise tax risk management as part of their company governance.

(d) Rely on substantial built-in controls in their systems and procedures to generate timely and accurate data for financial and tax reporting.

(e) Promote openness and transparency when interacting with the IRB.

Taxpayer Preparation

Taxpayers are responsible for ensuring that the Tax Control Framework (TCF), once approved and recorded, satisfies the requirements and criteria established by the IRB and is made available for review by the IRB.

Tax Control Framework

TCF is an internal control instrument that primarily focuses on a company's tax activities. Moreover, it is a method for detecting, mitigating, regulating, and reporting tax hazards. TCF is an abbreviation for tax control framework.

Due to the reality that firms have variable degrees of needs, there are no universally applicable templates. In contrast, the IRB has proposed the following framework components.

IRBM Evaluation

Upon the TCGF assessment, the effectiveness of an organisation's TCGF will be reviewed. The evaluation will be based on how the following functions affect the the tax compliance of the organisation:

- Engagement and leadership of senior administration
- Structure and responsibilities of the accounting and audit departments
- Internally controlled accounting and tax procedures.
- Dissemination of knowledge and repeated preventive measures
- Measures to avoid inappropriate behaviour

During the review application of TCGF programmes, IRBM key focus areas and the documentation needed during the review process.

Conclusion

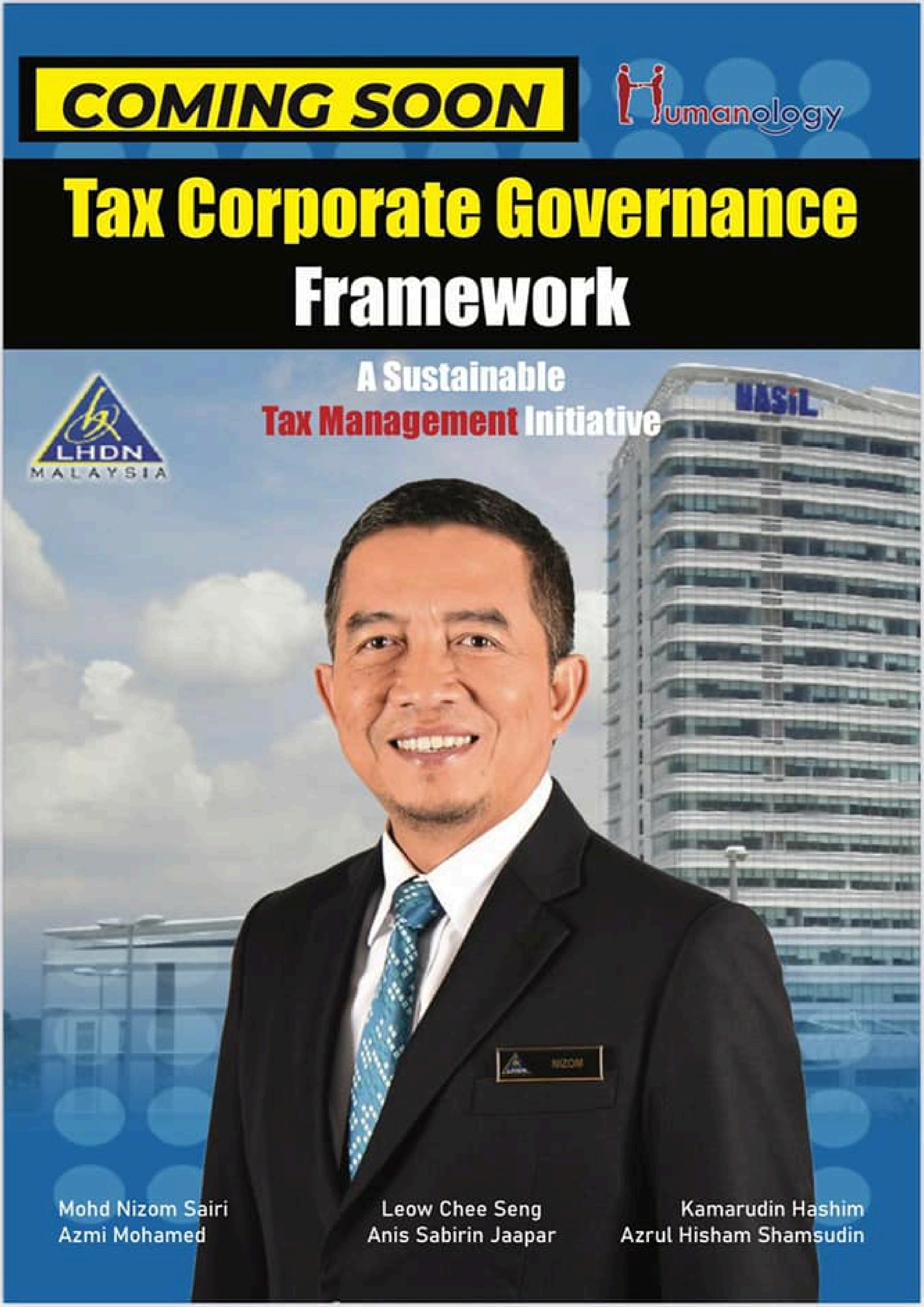
The TCGF is implemented in addition to the current tax compliance strategy. It allows IRBM to develop a more effective and efficient tax compliance approach to increase taxpayer tax compliance.

The IRBM is committed to providing guidance to help businesses build efficient tax governance to meet their commitments. Therefore, organisations are highly urged to adopt and implement a robust TCGF.

Proposed Tax Control Framework	
Tax Organisation	In addition to knowing the roles and obligations of the relevant personnel, you must also be familiar with the taxes procedure in each subsidiary organisation, business, and division.
Tax Planning	The effects of taxation on each economic activity should be managed in accordance with the risk tolerance of the organisation. The IRB recommends that taxpayers receive advisory services from adequately qualified professionals and, if required, request an advance ruling.
Tax Risk Management	Identify and evaluate the risks associated with each situation/activity, compare them to the organisation's risk tolerance, and apply controls.
Communication	Share and deliver the taxation strategies to personnel.
Information Strategy	Automation of organisation system
Monitoring	Keep close monitoring to ensure the control is conducted
Tax Accounting	The tax component must be identified in the financial statements (income statement, balance sheet and cash flow statement).
Tax Compliances	Compliance with tax registration, tax filing, tax reporting, and tax payment obligations.

Key Focus Areas of IRB during Reviewing Documentation for the TCGF

Domain	Explanation	Evidence of Support
Tax and Accounting Results	Accounting and tax results are subject to review procedures. Economic performance or variations are reflected in tax consequences, which are comprehended and explicable.	- Reconciliation of tax computation to financial statements - Audit reports - Justification to explain the gap in practice (if applicable)
Significant or new transactions	Transactions are traceable, well-documented, and subject to inspection and approval for tax risk purposes.	- Document process to identify and map major categories of transactions to relevant tax classifications - Determine parameters of a significant or material tax risk - Tax strategy / tax policy – materiality and organisation "risk appetite"
Control Framework	Existing systems and procedures enable accurate reporting and transparent decision-making.	- Tax strategy document comprising code of practice, tax risks management, etc. - Tax document control list for record-keeping - Examine and revise the TCGF yearly
Control Testing	There are processes in place to test the effectiveness of the organisation's internal controls and policies regularly.	- Develop testing strategies for tax-related systems and controls - Establish audit committee reviews of the efficacy of in-place controls and processes
Role and Responsibility	Clearly defined roles and responsibilities for each stakeholder in an organisation's tax risk management.	- Clear lines of authorisation and approval for tax choices and administration - Board of Directors induction pack for directors that includes briefings on major accounting and tax problems
Management Tax Risk	Managing tax risks requires knowledge of Malaysian tax law and regulations, as well as the IRB's perspective on tax treatments and published judgements.	- Develop templates containing the essential details of identified tax concerns to be submitted to the board for decision-making purposes. - Document management of communication protocol and devise strategies to mitigate detected tax risks. - Tax strategy / tax policy – approach in tax risk management.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About Writers

Datuk Mohd Nizom bin Sairi telah dilantik sebagai Ketua Pegawai Eksekutif (CEO) Lembaga Hasil Dalam Negeri Malaysia (LHDNM) pada 19 Oktober 2021. Beliau merupakan pemegang Ijazah Sarjana Muda Sains dengan Kepujian dari Laurentian University Canada dan juga Ijazah Sarjana Pengurusan Sistem Maklumat dari Lawrence Technological University America. Selain itu, beliau juga merupakan pemegang Diploma Percukaian Lanjutan dari Akademi Percukaian Malaysia.

MOHD NIZOM BIN SAIRI

Datuk Mohd Nizom bin Sairi mempunyai pengalaman yang luas dalam bidang operasi dan pentadbiran cukai langsung di Malaysia. Beliau memulakan karier di LHDNM lebih 35 tahun dahulu dan telah memegang pelbagai jawatan penting di LHDNM yang merangkumi Pengarah Jabatan Pematuhan Cukai, Pengarah Jabatan Siasatan, Pengarah Negeri Perak, Pengarah Akademi Percukaian Malaysia, Timbalan Ketua Pegawai Eksekutif (Pengurusan) dan Timbalan Ketua Pegawai Eksekutif (Operasi Cukai) sebelum menjawat portfolio CEO LHDNM.

Terkenal dengan kewibawaan beliau sebagai "speaker", Datuk Mohd Nizom bin Sairi sering dipilih untuk mewakili Malaysia dan LHDNM di seminar, persidangan dan bengkel sama ada di peringkat nasional mahupun antarabangsa. Aspirasi utama Datuk Mohd Nizom bin Sairi sebagai CEO LHDNM adalah untuk mencipta pentadbiran percukaian yang dilihat sebagai rakan strategik oleh setiap pihak berkepentingan. Beliau juga ingin merealisasikan visi beliau dalam usaha mendidik dan membina Keluarga Malaysia yang celik cukai dan seterusnya meningkatkan tahap pematuhan cukai secara sukarela di Malaysia.

LEOW CHEE SENG

As a researcher, consultant, and trainer, Datuk Dr. Leow has earned a stellar reputation on a global scale. His areas of expertise extend to the realms of marketing, metaphysics, strategic management, human resources, and the study of human attitude and behaviour. He was an advisor for the United Nations Industrial Development Organization and a visiting professor at Nguyen Tat Thanh University in Vietnam.

He has published over a hundred works ranging from management to behaviour. He is a strategic partner for various governmental agencies including Inland Revenue Board of Malaysia, Standard Malaysia, Department of Safety and Health and others.

KAMARUDIN BIN HASHIM

Kamarudin Hashim adalah Pengarah Negeri LHDNM Selangor dan telah berkhidmat dengan LHDNM selama 31 tahun. Pernah bertugas sebagai Pengarah Cawangan di Kuching dan Cheras. Beliau juga pernah menjadi Pengarah Negeri di Terengganu dan Kelantan serta Pengarah Negeri Negeri Sembilan dan Melaka.

Beliau merupakan Pengerusi Panel Semakan Rayuan Negeri Selangor dan Pengerusi Panel Penemuduga Permohonan Ajen Cukai. Mempunyai pengalaman luas dalam bidang Pengoperasian Percukaian seperti Audit Cukai, Pungutan, CKHT, Duti Setem dan Khidmat Pelanggan.

AZMI MOHAMED

Azmi Mohamed is current the Branch Director Petaling Jaya. He has served Inland Revenue Board Malaysia for 31 years after graduation from UKM. He has vast experience in individual dan Company tax audit. On top of that he has also served in the Research and Development Department of IRB, Deputy Director in Cheras and Shah Alam Branch. Futhermore, he was a former Director of Kluang Branch and the Deputy Director for the Law Tranning Centre at the Malaysian Taxation Academy.

AZRUL HISHAM BIN SHAMSUDIN

Azrul Hisham Bin Shamsudin a professional Director with more than 21 years of experience in tax audit in Inland Revenue Board. He graduated from Bachelor in Accounting from UKM. Currently, he is the branch director of Klang, Inland Revenue Board of Malaysia.

ANIS SABIRIN JAAPAR

Puan Anis Sabirin Jaapar –Tahun 1997 merupakan tahun bermulanya perkhidmatan beliau di Lembaga Hasil Dalam Negeri Malaysia (LHDNM). Sehingga kini, beliau telah berkhidmat di 12 cawangan dan Jabatan termasuk Pejabat Ketua Pegawai Eksekutif, Cawangan Seremban, Cawangan Duta, Jabatan Percukaian Antarabangsa dan Jabatan Dasar Percukaian. Pada tahun 2017/2018, beliau telah dilantik sebagai Secretariat to the Forum on the Harmful Tax Practices (FHTP) bagi Program Penempatan Sementara Antarabangsa (PESAT) di OECD, Paris selama setahun. Beliau juga terlibat sebagai Ahli Mesyuarat bagi Task Force on the Digital Economy (TFDE), Working Party 1 dan Working Party 11, BEPS Action 1 on Two Pillar Approach serta Ketua Projek bagi Project BEPS2.0. Mempunyai pengalaman melebihi 20 tahun dalam aktiviti percukaian membuatkan beliau pakar dalam mengendalikan pandangan dan memberi khidmat nasihat berhubung isu-isu percukaian tempatan dan antarabangsa. Terkini, beliau merupakan Pengarah Cawangan Shah Alam.

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