



TRANSFER PRICING TAX AUDIT FRAMEWORK

EFFECTIVE DATE: 31 JULY 2025

INLAND REVENUE BOARD OF MALAYSIA

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1. INTRODUCTION

- 1.1 A fair, transparent and equitable administration of the tax system will enhance the public's confidence in the tax system. Adherence to tax law should be strictly enforced and tax offences such as non-compliance and tax evasion should be penalised in accordance with the provisions of the Income Tax Act 1967 (ITA).
- 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 an audit at any time. However, if a taxpayer has been selected for an audit it does not mean that the taxpayer has committed an offence.
- 1.3 The Transfer Pricing Tax Audit Framework (TPTAF) issued by IRBM aims to ensure that the transfer pricing (TP) tax audit is carried out in a fair, transparent and impartial manner. This TPTAF outlines the rights and responsibilities of audit officers, taxpayers and tax agents. Generally, this framework aims to:
 - a. assist audit officers to perform their duties more efficiently and effectively;
 - b. assist taxpayers to fulfil their responsibilities; and
 - c. provide explanation and guidance in relation to the handling and management of TP tax audit cases for domestic as well as cross-border controlled transactions.

2. STATUTORY PROVISIONS

- 2.1 Generally, statutory provisions under the ITA that are applicable to the Tax Audit Framework (TAF) that is currently in force are also applicable to the TP tax audit.
- 2.2 The statutory provisions under the ITA that apply specifically to the TP tax audit are as follows:
 - a. Section 113B : Failure to furnish contemporaneous transfer pricing documentation (TPD)

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- b. Section 132 : Double Taxation Avoidance Agreements
 - c. Section 139 : Controlled companies
 - d. Section 140A : Power to substitute the price, disregard structure and impose surcharge
- 2.3 In addition, the Rules and guidelines that are applicable in the TP tax audit are as follows:
- a. the Income Tax (Transfer Pricing) Rules 2012 (P.U.(A) 132/2012) which is applicable until the year of assessment 2022.
 - b. the Income Tax (Transfer Pricing) Rules 2023 (P.U.(A) 165/2023) which is applicable from the year of assessment 2023 and subsequent years of assessment.
 - c. Malaysia Transfer Pricing Guidelines (MTPGL) which are currently in force.
- 2.4 Statutory provisions in relation to TP tax audits are not limited to the statutory provisions cited above. It also includes the entire ITA, Real Property Gains Tax Act 1976, Petroleum (Income Tax) Act 1967, Promotion of Investments Act 1986, Stamp Act 1949 and Labuan Business Activity Tax Act 1990.

3. WHAT IS A TRANSFER PRICING TAX AUDIT?

- 3.1 A TP tax audit is an examination of a taxpayer's business records and financial affairs to ensure that the tax rules imposed on controlled transactions are complied with.
- 3.2 This examination is to ensure that TP method used by the taxpayer is in accordance with the method outlined in P.U.(A) 132/2012 and P.U.(A) 165/2023 as well as ensuring that the types of records and documents kept meet the IRBM's requirements.
- 3.3 The TP tax audits is also to ensure that the arm's length principle on controlled transactions is adhered to the income declared is in order, and the tax that should be imposed is computed and paid in accordance with the tax laws.

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- 3.4 The TP tax audit examination will be carried out as a comprehensive audit examination as follows:
- a. at the taxpayer's premises, the IRBM's office or any places agreed by both parties; and
 - b. applying the TAF comprehensive audit examination procedures that involve examination of the taxpayer's business records with additional procedures such as the submission of business information slides as well as the TPD before the audit visit to ensure that the controlled transactions carried out are in accordance with the arm's length principle.
- 3.5 A TPD is an essential document to demonstrate that the controlled transactions have been carried out at the arm's length price. Therefore, taxpayers and tax agents who have prepared the documentation must ensure that the TPD is prepared accurately in accordance with the provisions of the ITA, the Rules and guidelines that are currently in force.

4. OBJECTIVES OF A TRANSFER PRICING TAX AUDIT

- 4.1 The main objectives of a TP tax audit are to:
- a. ensure compliance with the arm's length principle in a controlled transaction;
 - b. ensure compliance with Malaysian tax laws as well as other regulations issued by IRBM; and
 - c. ensure voluntary compliance with the tax laws and regulations and tax compliance can be achieved under the SAS.
- 4.2 Accordingly, the audit officer needs to ascertain that the income reported is correct and in an orderly manner, and that the tax paid by the taxpayer is accurately determined in accordance with the tax laws and regulations.
- 4.3 The TP tax audit activity is an approach of the IRBM to educate and provide exposure to taxpayers on their responsibilities and obligations under the provisions of the ITA.

5. YEARS OF ASSESSMENT COVERED

- 5.1 A comprehensive audit examination of TP case can cover up to six (6) years of assessment.
- 5.2 However, the years of assessment covered to raise the assessment may be extended to seven (7) prior years of assessment, depending on the audit findings. The limit for this coverage period does not apply to TP tax audit cases involving fraud, wilful default or negligence as provided under subsection 91(3) of the ITA.

6. SELECTION OF CASES

- 6.1 The basis used in the selection of TP tax audit cases is based on:
 - a. selection through risk assessment criteria for controlled transactions;
 - b. restructuring of the company group; and
 - c. information received from third parties including foreign tax authorities.

7. IMPLEMENTATION OF TRANSFER PRICING TAX AUDIT

- 7.1 Initial Audit Action
 - 7.1.1. *Surat Memohon Dokumen dan Maklumat (SMDM)* will be issued to the taxpayer through an official e-mail or ordinary post to obtain documents and information including TPD.
 - 7.1.2. The taxpayer is required to provide feedback within fourteen (14) calendar days from the date of the SMDM issued by the IRBM.
 - 7.1.3. If a taxpayer fails to submit TPD within the prescribed time, a written notice under section 113B ITA and subrule 5(3) P.U.(A)165/2023 will be issued to the taxpayer.
 - 7.1.4. *Surat Pemberitahuan Lawatan Pematuhan (SPLP)* will be issued to the taxpayer at least fourteen (14) calendar days prior to the date of the audit visit. However, if the SPLP

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cannot be issued within that period, confirmation of the visit will be notified by phone or e-mail in advance.

- 7.1.5. The contents of SPLP include the following:
 - a. date of visit;
 - b. records that need to be prepared;
 - c. the years of assessment to be audited;
 - d. the names of the audit officer; and
 - e. duration of the audit visit.
- 7.1.6. If a SPLP has been issued, the taxpayer may apply to postpone the date of the audit visit by providing reasonable justification, subject to the discretion of the audit officer.
- 7.1.7. The taxpayer may contact the Audit Manager or Director of the State IRBM / Special Branch Director to verify the audit visit that will be carried out.
- 7.1.8. If the taxpayer fails to provide feedback within the stipulated time, the audit action will be continued by using the appropriate method or approach according to the IRBM's opinion.
- 7.1.9. The taxpayer needs to prepare presentation slides on business information that explain the company's background, the business operations and the company's global operations, the overall structure of the management and functions, record-keeping and accounting control systems, with a focus on controlled transactions. These presentation slides will be presented during the audit visit and a copy of the presentation slides must be submitted to the audit officer at least seven (7) calendar days before the audit visit is carried out.
- 7.1.10. The taxpayer is responsible for providing the documents selected by the audit officer either in hard copy or electronically, as well as providing computer facilities and

access to the system for the audit examination of documents that are only kept in electronic form.

- 7.1.11. The taxpayer is also responsible for ensuring that all documents related to business transactions in Malaysia that are kept abroad by a related company can be accessed by the audit officer in Malaysia. Notification of the audit examination may be forwarded to the company / business related to or controlled by the taxpayer.
- 7.1.12. The IRBM may conduct an audit visit to any premises of the taxpayer or those related to the taxpayer by informing the taxpayer in advance. The audit visit may be extended to the related company if necessary.
- 7.1.13. The commencement date of a TP tax audit refers to the date of the audit visit specified in the SPLP or any other date that has been agreed upon by both parties.
- 7.1.14. In the absence of an audit visit, *Surat Penentuan Permulaan Tempoh Penyelesaian Kes* will be issued to the taxpayers to inform them of the commencement date of the calculation for the audit settlement period.

7.2 Audit Visit

- 7.2.1. The comprehensive audit examination can be conducted in the following premises:
 - a. business premises of the taxpayer / tax agent;
 - b. IRBM office; or
 - c. other place which is appropriate and agreed upon by both parties.
- 7.2.2. During the audit visit, the audit officers will:
 - a. introduce themselves and show the authorization cards bearing the name and photograph of the audit officers concerned or the authorization letter issued by the IRBM;
 - b. inform the purpose of the audit visit to the taxpayer at the initial stage of the visit;

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- c. notify the taxpayer / tax agent that under section 80 of the ITA, the audit officers at all times have 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 and examine, retrieve, make copies or extract from any of the documents, objects, articles, materials and things without any payment charges.
- d. inform the scope and duration needed to examine documents during the audit;
- e. inform the names, office telephone number and senior officer in charge of the audit;
- f. notify the taxpayer's rights and responsibilities during the audit;
- g. conduct document examinations at the places visited;
- h. access, download and retrieve relevant information from any electronic media equipment; and
- i. interview the taxpayer and key personnel from the required departments / divisions / units as well as any personnel deemed necessary at the premises visited.

7.2.3. Besides the location where records are kept, the auditors may visit other selected locations that relate to the taxpayer's business activities.

7.2.4. In certain circumstances, the examination of documents may only be carried out at the IRBM's office.

7.3 Duration of the Comprehensive Audit Visit

The period of time needed to carry out an audit is between one (1) to three (3) days. However, this period may be extended depending on the following factors:

- a. the size and complexity of business transactions carried out;

- b. the form of records kept; or
- c. the level of cooperation provided by the taxpayer.

7.4 Record Examination

- 7.4.1. For the purpose of record examination during the auditing process, the matters explained in the TAF that is currently in force are applicable.
- 7.4.2. The audit officer will conduct an examination of all relevant documents and records to determine that the amount of income that has been reported is correct and regular and that the rules and principles of arm's length have been followed in the controlled transactions involved. The records to be examined include:
 - a. All agreements, contracts and other documents related to business activities with related companies and third parties; and the TPD that was prepared;
 - b. as provided under P.U.(A) 132/2012, P.U.(A) 165/2023 and MTPGL which are currently in effect.
- 7.4.3. Sections 82 and 82A of the ITA require the taxpayer to maintain sufficient and complete records and documents to enable the income or loss from business as well as chargeable income and tax payable to be determined. Records and documents can be in manual or electronic form and include:
 - a. account books that records receipts and payments or income and expenditures;
 - b. financial statement;
 - c. invoices, vouchers, receipts and any other documents necessary to verify any matters recorded in the account books;
 - d. documents, objects, materials, articles and objects that are handled and kept in an electronic medium; and
 - e. any other records or documents specified by the DGIR.

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7.4.4. Any records relating to business in Malaysia must be kept in Malaysia.

7.4.5. Failure to keep sufficient and complete records is an offence under section 119A of the ITA.

7.4.6. If the taxpayer fails to keep sufficient and complete records, the audit officer will use the best method or approach to determine that an income has been reported correctly and regularly in accordance with the tax laws and regulations.

7.5 Audit Settlement

7.5.1. For the purpose of audit settlement, the matters explained in TAF, which is currently in force, are applicable.

7.5.2. The TP tax audit case needs to be completed within 450 calendar days from the audit commencement date. If the case cannot be resolved within that period, the taxpayer will be notified by the IRBM.

7.5.3. For TP tax audits that only involve related companies in Malaysia, if there are any adjustments made to any of those related companies, the offsetting adjustment for the same amount will not be automatically given to the other related parties.

7.5.4. The application for an offsetting adjustment must be made by the other related parties, and audits will be carried out to ensure that the application may be considered under the provisions of the ITA.

7.6 Voluntary Disclosure

7.6.1. Voluntary disclosure means taxpayers make a voluntary declaration after the deadline for submission of the Return Form but before the audit commences.

7.6.2. Voluntary disclosure must be made in writing and submitted together with relevant documentation to the State IRBM Director / Special Branch Director concerned.

7.6.3. A taxpayer who wishes to make a voluntary disclosure needs to fill out the Voluntary Disclosure Form for TP Case

as in **Attachment 1**, which can be downloaded from the IRBM website.

- 7.6.4. In addition to the Voluntary Disclosure Form for TP Case, the taxpayer must also submit the following information and documents:
- a. TPD and organisational chart for the relevant years of assessment;
 - b. audited accounts, tax computation, a copy of the Return Form and information on incentives (if any) for relevant years of assessment;
 - c. computation of comparability analysis and copy of audited accounts of comparable companies for relevant years of assessment; and
 - d. information on omitted income or error in reported income / claims along with supporting documents.
- 7.6.5. Taxpayers may hold preliminary discussions with the State IRBM Director / Special Branch Director regarding the voluntary disclosures that will be made, if necessary, subject to the discretion of the State IRBM Director / Special Branch Director. However, discussion without detailed taxpayer information will not be entertained.
- 7.6.6. A confirmation letter of receipt of the Voluntary Disclosure Form for TP Case will be issued to the taxpayer by the State IRBM / Special Branch within five (5) working days.
- 7.6.7. IRBM will review the submitted documents and will request additional information or call the taxpayer to provide an explanation at the IRBM if necessary.
- 7.6.8. Taxpayers who fail to submit the complete documents and information as stated in paragraph 7.6.4 without reasonable grounds may result in their voluntary disclosure not be accepted.
- 7.6.9. If the documents are complete and the comparable analysis is accepted, then the voluntary disclosure becomes final and a notification will be issued to the taxpayer before the assessment is raised.

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7.6.10. If the comparable analysis needs to be adjusted, then the adjustments to the comparable analysis will be made and a notification will be issued to the taxpayer before the tax calculation is finalised and the assessment is raised.

7.6.11. If the documents submitted by the taxpayer are incomplete:

- a. an audit visit will be made or a letter of inquiry will be issued to the taxpayer;
- b. further review will be carried out on additional information obtained from the audit visit / letter of inquiry;
- c. if the comparable analysis is accepted, then the voluntary disclosure will be finalised; and
- d. if the comparable analysis needs to be adjusted, then the adjustment will be made and a notification will be issued to the taxpayer before the tax calculation is finalised and the assessment is raised.

7.6.12. The person who is allowed to make a voluntary disclosure on behalf of a taxpayer who is a company or body of persons is the person specified under subsection 75(1) of the ITA.

8. RIGHTS AND RESPONSIBILITIES

8.1 IRBM

8.1.1. The rights and responsibilities of the audit officers for transfer pricing cases are as listed in the TAF that is currently in force.

8.1.2. The audit officers are also responsible for informing the taxpayer in writing if the TPD received is incomplete and the notification must be made within fourteen (14) days after the submission of the TPD by the taxpayer.

8.2 Taxpayer

8.2.1. The rights and responsibilities of the taxpayers are as listed in the TAF that is currently in force.

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8.2.2. Apart from that, for the TP tax audit, taxpayers are also responsible for:

- a. preparing a complete TPD and submitting it to IRBM within the stipulated time;
- b. allowing the audit officers to interview the company personnels;
- c. allowing the use of copiers, telephones or other communication devices, the internet, electrical equipment, office space, furniture and electronic copy system facilities such as compact discs, pen drives, portable hard discs or any other storage media for auditing purposes; and
- d. ensuring that business documents that are stored overseas are prepared before the audit visit is carried out;
- e. ensuring that business documents that use language other than Bahasa Malaysia or English are translated into Bahasa Malaysia or English;
- f. providing cooperation to answer all questions raised where:
 - i. if the question posed is unclear, the taxpayer may request further clarification from the audit officers.
 - ii. if the taxpayer is not fluent in Bahasa Malaysia or English, the taxpayer must use the services of a translator during the interview session or discussions.
 - iii. if additional information is required during / after the audit visit, the taxpayer is also required to provide the additional information within the time specified.
 - iv. the taxpayer is considered to have committed an offence under the ITA provisions if he fails to cooperate in providing the required information.

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8.3 Approved Tax Agent

8.3.1. The rights and responsibilities of the approved tax agents are as listed in the TAF that is currently in force.

8.3.2. Apart from that, in carrying out their duties, the approved tax agents must be highly knowledgeable about taxation laws and tax practices, including those related to transfer pricing.

9. CONFIDENTIALITY OF INFORMATION

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

10. OFFENCE, PENALTY AND SURCHARGE

10.1 Structure of Penalty and Surcharge Rate for Transfer Pricing Audit Adjustment.

10.1.1. Penalty structure for transfer pricing adjustments applicable to basis periods commencing before 1st January 2021.

- a. In the event of an understatement or omission of income as a result of the audit findings, a penalty may be imposed under subsection 113(2) of the ITA equivalent to the amount of tax that has been undercharged (100%). However, for the purposes of this framework, the penalty rate that may be imposed under subsection 113(2) of the ITA is as follows:

Offence	Rate
Penalty for the first offence	15%
Penalty for the second offence	30%
Penalty for the third and subsequent offences	45%

The imposition of this penalty rate is in line with the imposition of penalties in TAF that are currently in force.

- b. However, the DGIR may exercise discretion in accordance with subsection 124(3) of the ITA to abate or remit the penalty that has been imposed.

10.1.2. Structure of the imposition of a surcharge for transfer pricing adjustments applicable to basis periods commencing on or after 1st January 2021.

- a. If an adjustment is made following the findings of a TP tax audit and results in an increase in income or a reduction of any deduction or loss, a surcharge may be imposed under subsection 140A(3C) of the ITA at a rate of up to 5% on the amount of the adjustment.
- b. A surcharge may still be imposed even if no assessment or additional assessment is raised because the surcharge rate is imposed on the amount of the transfer price adjustment.
- c. The surcharge rate under subsection 140A(3C) of the ITA for a voluntary disclosure that complies with paragraph 7.6 is 0% to 4%.

10.2 Structure of penalty under section 113B of the ITA for failure to submit a contemporaneous TPD.

- a. From the year of assessment 2023, a taxpayer who fails to submit a TPD within 14 days from the date of service of a written notice has committed an offence under subsection 113B(1) of the ITA for which if convicted, the taxpayer may be fined not less than RM20,000.00 and not more than RM100,000.00 or imprisonment for not more than 6 months or both.
- b. A prosecution action may be instituted if the taxpayer does not provide any response after the expiration of fourteen (14) days from the date of the written notice being served.
- c. If no prosecution is instituted, DGIR may impose a penalty of not less than RM20,000.00 and not more than RM100,000.00 for each year of assessment of the offence.

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- d. This penalty will be imposed at the final stage of the audit process for each year of assessment involved separately if:
- i. The TPD submitted to IRBM exceeds the fourteen (14) days period from the date of service of the written notice; or
 - ii. The TPD submitted to IRBM does not comply with the requirements under P.U. (A)165/2023 and MTPGL which are currently in force.
- e. The amount of penalty that will be imposed based on the period of delay in submitting the contemporaneous TPD is as follows:

No.	Period of Delay* (Number of days)	Penalty Amount subsection 113B(4)
1	Up to 7 days	RM20,000.00
2	More than 7 days up to 14 days	RM40,000.00
3	More than 14 days up to 21 days	RM60,000.00
4	More than 21 days up to 28 days	RM80,000.00
5	More than 28 days	RM100,000.00

*Note: *The period of delay is calculated from the expiration of a 14-day period from the date of service of the written notice until a complete TPD is submitted to IRBM.*

- f. A concession for the imposition of penalties under subsection 113B(4) of the ITA may be given to a taxpayer who has an accounting period that begins before 29th May 2023 which is the date gazette of the P.U.(A) 165/2023. Examples of situations where the concession applies are as follows:

Financial Year of the TPD	Financial Period of the TPD	Concession of subsection 113B(4) penalty applies?
TPD 2023	01/06/2022 until 31/05/2023	Yes
TPD 2023	01/01/2023 until 31/12/2023	Yes
TPD 2024	01/05/2023 until 30/04/2024	Yes

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Financial Year of the TPD	Financial Period of the TPD	Concession of subsection 113B(4) penalty applies?
TPD 2024	01/06/2023 until 31/5/2024	No
TPD 2024	01/01/2024 until 31/12/2024	No

11. COMPLAINT

The complaint procedures are as listed in the TAF that is currently in force.

12. PAYMENT PROCEDURES

- 12.1 If there is an imposition of taxes, penalties and surcharges resulting from audit adjustments, the payments must be made through an appointed agent or any IRBM Payment Counter.
- 12.2 The taxpayer is required to make full payment of taxes, penalties and surcharges resulting from the TP audit adjustments.
- 12.3 The IRBM may consider the taxpayer's application to pay additional taxes, penalties and surcharges in installments for a specified period.
- 12.4 Applications for instalment payments must be submitted to the relevant State IRBM Director / Special Branch Director for approval.
- 12.5 If the taxpayer fails to make the payment within the stipulated period or the installments period that has been agreed upon, an increase of 10% will be imposed on the remaining unpaid amount.

13. APPEAL

- 13.1 Subsection 97A (2) and sections 99 to 102 of the ITA provide rooms for taxpayers to appeal in relation to assessments raised by the IRBM.
- 13.2 A taxpayer who is aggrieved by the Notice of Assessment / Notification of Non-Chargeability may submit an appeal to the Special Commissioner of Income Tax within 30 days after the service of the Notice of Assessment / Notification of Non-Chargeability. The same

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appeal process is also applicable if the taxpayer wishes to appeal against the written notice of the imposition of a penalty under subsection 113B(4) of the ITA.

- 13.3 All appeals against the assessment shall be made through a complete Form Q to the respective State IRBM Director / Special Branch Director, except for appeals in relation to the Notice of Surcharge under subsection 140A(3C).
- 13.4 For taxpayers who are dissatisfied with the surcharge under subsection 140A(3C), they may submit an application in writing (other than Form Q) to remit the surcharge imposed to the State IRBM / Special Branch office that issued the notice imposing the surcharge.
- 13.5 A taxpayer who is resident in Malaysia may apply for help from the competent authority in Malaysia through the Mutual Agreement Procedures (MAP) if that taxpayer is not satisfied with the results of TP audit adjustments involving cross-border transactions with related companies in contracting partner states. If the taxpayer who makes an application for the MAP also makes an appeal through a Form Q, then the Form Q appeal will be submitted to the Special Commissioner of Income Tax after the determination of the MAP is obtained. Please refer to the MAP Guidelines which is currently in force on the IRBM website for more information.

14. EFFECTIVE DATE AND REVOCATION

This Transfer Pricing Tax Audit Framework is effective from 31 July 2025 and revokes the Transfer Pricing Audit Framework dated 24 December 2024.

**Director General of Inland Revenue,
Inland Revenue Board of Malaysia.**

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ATTACHMENT 1

INLAND REVENUE BOARD OF MALAYSIA VOLUNTARY DISCLOSURE FORM FOR TRANSFER PRICING CASES

1. Information of the company that makes the disclosure
 - 1.1 Reference No. (Registration No.) _____
 - 1.2 Income Tax No. _____
 - 1.3 Resident in Malaysia _____
 - 1.4 Date of commencement of operations _____
 - 1.5 Accounting period _____
 - 1.6 Basis period _____
2. Information of the company's director authorised to make disclosure
 - 2.1 Name _____
 - 2.2 Identification Card No. _____
 - 2.3 Address _____
 - 2.4 Gender _____
 - 2.5 Relationship with the company _____
3. Details of the voluntary disclosure
 - 3.1 Reported accounting period _____
 - 3.2 Relevant year of assessment _____
 - 3.3 Information to be reported _____
 - 3.4 Reason for voluntary disclosure _____
 - 3.5 First time making a voluntary disclosure? Yes ☐ No ☐
 - 3.6 Estimation of tax payable / adjustment _____

4. Declaration

I hereby declare that the information reported as above is true and the company has authorised me to make the voluntary disclosure on its behalf.

I am aware and understand that this disclosure will have the tax implications as stated in paragraph 3 above. If this disclosure is rejected, the Inland Revenue Board of Malaysia has the authority to raise the appropriate assessment based on the information provided.

Appended herewith are all the relevant information and related documents.

Name : _____
(Company Director)

Signature : _____

Date : _____